

SENATE BILL NO. 428

INTRODUCED BY ETCHART

IN THE SENATE

February 15, 1983	Introduced and referred to Committee on Local Government.
February 18, 1983	Committee recommend bill do pass. Report adopted.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 35; Noes, 14. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Local Government.
March 17, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 21, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in.

IN THE SENATE

March 23, 1983	Returned to Senate with amendments.
April 5, 1983	Second reading, pass consideration. Motion to refer to Committee on Rules.

April 8, 1983

On motion, Conference
Committee requested and
appointed.

April 14, 1983

Conference Committee reported.

April 16, 1983

Second reading, report
adopted.

Conference Committee report
adopted by House.

April 18, 1983

Third reading, report adopted.

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 438
2 INTRODUCED BY Ed Christ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING
5 ESTABLISHMENT OF COUNTY WEATHER MODIFICATION AUTHORITIES
6 WITH TERMINATION AFTER 5 YEARS; PROVIDING FOR A LEVY OF UP
7 TO 2 MILLS EACH YEAR; AND PROVIDING AN IMMEDIATE EFFECTIVE
8 DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Definitions. As used in [this act], the
12 following definitions apply:

13 (1) "Authority" means a county weather modification
14 authority established pursuant to [section 2, 6, 8, or 10].

15 (2) "Commission" means a county weather modification
16 authority commissioner appointed pursuant to [section 2, 6,
17 8, or 10].

18 Section 2. Weather modification authority created by
19 petition -- expiration -- reinstatement. (1) Upon receipt of
20 a valid petition signed by at least 51% of the qualified
21 electors of a county, as determined by the vote cast for the
22 office of governor at the last preceding general election, a
23 board of county commissioners may by resolution create a
24 weather modification authority. The board of county
25 commissioners shall appoint five residents of the county as

1 weather modification authority commissioners from those
2 names set forth in the petition and designated by the
3 petitioners to be appointed commissioners. If any of the
4 five candidates named in the petition to be appointed
5 commissioner is unable or refuses for any reason to accept
6 appointment as commissioner or is disqualified by not
7 meeting residence requirements as an elector in the county,
8 the board of county commissioners shall name an appointee to
9 fill the position. Each commissioner shall serve a 5-year
10 term of office. If any commissioner submits his resignation
11 in writing to the board of county commissioners or becomes
12 unable or disqualified for any reason after accepting
13 office, the board of county commissioners shall name an
14 appointee to fill the vacancy. The board of county
15 commissioners may remove any commissioner from office
16 whenever it appears, by competent evidence and after
17 hearing, that the commissioner has been guilty of
18 misconduct, malfeasance, crime in office, or gross
19 incompetency. A vacancy occurring otherwise than by
20 expiration of term of office must be filled for the
21 unexpired term.

22 (2) Any authority created pursuant to this section
23 expires 5 years after the date of the initial appointment of
24 the commissioners. Any unexpended funds remaining in the
25 name of the authority after all proper bills and expenses

1 have been paid must be transferred into the county general
2 fund by the officers of the authority on or before the
3 5-year termination date provided by this section. However,
4 all unexpended funds remaining in the name of the authority
5 after all proper bills and expenses have been paid shall
6 remain in the name of the authority if the board of county
7 commissioners of such county by resolution creates a weather
8 modification authority and all its powers in accordance with
9 [section 6].

10 (3) Nothing in this section prevents renewal of an
11 authority for another 5 years by petition of the qualified
12 electors in the same manner as the initial authority was
13 created.

14 (4) If more than one petition is filed with the board
15 of county commissioners on or about the same time, the
16 petition with the highest percentage of the qualified county
17 electors voting for the office of governor at the last
18 preceding general election must be selected by the board of
19 county commissioners. However, the petition with the
20 highest percentage must have the signatures of at least 40%
21 of the qualified electors in the county, and the sum total
22 of all qualified electors signing all petitions filed must
23 equal at least 60% of the qualified electors in the county.
24 If the name of the same elector appears on two or more
25 petitions, the name must be stricken from both petitions.

1 Section 3. Petition content. (1) The petition for the
2 creation of a weather modification authority and for
3 appointment of commissioners shall contain:

4 (a) a title with the heading "Petition for Creation of
5 (insert name of county) Weather Modification Authority";

6 (b) the following paragraph: We, the undersigned
7 qualified electors of (name of county), state of Montana,
8 request that the (name of county) board of county
9 commissioners create by resolution a (name of county)
10 weather modification authority and appoint the following
11 five qualified electors of the county to 5-year terms of
12 office as commissioners for the (name of county) weather
13 modification authority:

14 (Here insert the name and address of each proposed
15 commissioner for the (name of county) weather modification
16 authority.)

17 (c) the following paragraph: We, the undersigned
18 qualified electors of the (name of county), state of
19 Montana, are notified that the creation of the (name of
20 county) weather modification authority and the appointment
21 of its commissioners by the (name of county) board of county
22 commissioners will grant the authority the power to certify
23 to the board of county commissioners a mill levy tax not to
24 exceed 2 mills upon the net taxable valuation of property in
25 the county for a weather modification fund, which tax may be

1 levied in excess of the mill levy limit fixed by law for
 2 taxes for general county purposes and that such fund must be
 3 used for weather modification activities in conjunction with
 4 the state of Montana. We, the undersigned, understand that
 5 the authority requested in this petition expires 5 years
 6 after the creation of the weather modification authority,
 7 except that the board of county commissioners may by
 8 resolution create a weather modification authority and all
 9 its powers, including the power to certify a tax levy as
 10 provided in [section 5], for one or more 5-year periods in
 11 accordance with [section 6].

12 (d) A heading, "Committee for Petitioners", followed
 13 by this statement: The following electors of (name of
 14 county), state of Montana, are authorized to represent and
 15 act for us and shall constitute the "Committee for the
 16 Petitioners" in the matter of this petition and all acts
 17 subsequent thereto.

18 (2) All signatures to such petition must be numbered
 19 and dated by month, day, and year. The name must be written,
 20 with residence address and post-office address, including
 21 the county of residence.

22 (3) An affidavit must be attached to each petition and
 23 sworn to under oath before a notary public by the person
 24 circulating each petition, attesting to the fact that he
 25 circulated the petition and that each of the signatures to

1 the petition is the genuine signature of the person whose
 2 name it purports to be and that each such person is a
 3 qualified elector in the county in which the petition was
 4 circulated.

5 Section 4. Commissioners -- compensation -- meetings
 6 -- officers -- disbursements. (1) A commissioner may receive
 7 no compensation for his services. Certificates of
 8 appointment must be filed with the county clerk and
 9 recorder.

10 (2) The powers of each authority are vested in its
 11 commissioners. A majority of the commissioners constitutes a
 12 quorum for the purpose of conducting the business of the
 13 authority. A majority of the commissioners constitutes a
 14 quorum, but action may not be taken by the authority except
 15 by an affirmative vote of not less than a majority of all
 16 the commissioners. A chairman, vice-chairman, secretary, and
 17 treasurer must be elected from among the commissioners. An
 18 authority may delegate to one or more of its commissioners
 19 such powers or duties as it considers proper.

20 (3) The secretary shall keep minutes of official
 21 meetings and shall include all official business, such as
 22 operations requested, and all authorizations for payment of
 23 weather modification authority funds.

24 (4) Disbursements authorized by the authority must be
 25 made by check signed by the chairman and the treasurer of

the authority. Official policies must be entered into the minutes. An annual report must disclose funds received and expended, and a copy of the report must be filed with the county clerk and recorder. The annual report must be presented at a public meeting called for such purpose.

Section 5. Tax certified by weather modification authority -- disposition of proceeds. (1) The authority may certify annually to the board of county commissioners a tax of not to exceed 2 mills upon the taxable valuation of the property in the county for a weather modification fund. The tax must be levied by the board of county commissioners and may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes. The weather modification fund may be used only for weather modification activities in conjunction with the department. The tax certified by the authority is limited to the period of existence of the authority.

(2) The money in the weather modification fund must be invested to earn interest at the rate most advantageous to the fund, consistent with law and prudent business practice.

Section 6. Creation of authority by resolution. (1) When an authority is about to expire, the board of county commissioners may by resolution authorize the creation of such weather modification authority and all its powers, including the power to certify a tax levy as provided by

[section 5], for an additional 5-year period if the resolution authorizing the creation of such authority is adopted by the board of county commissioners before the date prescribed in the preceding resolution for its termination. Upon passing such resolution for the creation of the authority, the board of county commissioners shall appoint five commissioners to 5-year terms of office, subsequently filling vacancies in the manner prescribed by [section 2].

(2) The board may create the authority for subsequent 5-year periods by following the procedure provided in this section.

Section 7. Procedure for abolishment of authority by recall petition -- petition form -- disposition of funds.

(1) After 51% of the qualified electors of a county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, petition the board of county commissioners of their county to recall the commissioners of an authority created pursuant to [section 2] and to abolish the authority, the board of county commissioners shall adopt a resolution recalling all commissioners of such authority and abolishing their offices and the authority until a weather modification authority is created by petition in accordance with [section 2].

(2) A recall petition must have a title with the heading, "Recall Petition for the Abolishment of (insert

1 name of county) Weather Modification Authority". The recall
 2 petition must incorporate a paragraph stating its purpose in
 3 clear language and must comply with all requirements
 4 prescribed in subsections (1)(d), (2), and (3) of [section
 5 3] relating to petition content, committee for petitioners,
 6 petition details, affidavits, and persons circulating such
 7 petitions.

8 (3) If the board of county commissioners adopts a
 9 resolution recalling all commissioners of a weather
 10 modification authority and abolishing the authority, all
 11 unexpended funds remaining in the name of the authority,
 12 after all proper bills and expenses have been paid, must be
 13 transferred to the county general fund by the weather
 14 modification authority commissioners on the effective date
 15 of the resolution. If outstanding valid bills are unpaid
 16 after that date, the board of county commissioners may pay
 17 such obligations from money in the county general fund.

18 Section 8. Creation of authority by election. When a
 19 petition signed by not less than 20% of the qualified
 20 electors of the county, as determined by the vote cast for
 21 the office of governor at the last preceding gubernatorial
 22 election, requesting an election upon the establishment of a
 23 weather modification authority is presented to the board of
 24 county commissioners not later than 90 days prior to the
 25 next general election, the board of county commissioners

1 shall submit the question to the electors of the county at
 2 the next general election. Upon approval by a majority of
 3 the votes cast, the board of county commissioners shall by
 4 resolution establish an authority as described in [section
 5 2] with all powers set out in [this act], including the
 6 power to certify a tax levy as provided by [section 5].

7 Section 9. Abolishment of authority by election. When
 8 a petition signed by not less than 20% of the qualified
 9 electors of the county, as determined by the vote cast for
 10 governor in the last preceding gubernatorial election,
 11 requesting an election upon the abolishment of an authority
 12 created pursuant to [section 6 or 8] is presented to the
 13 board of county commissioners not later than 90 days prior
 14 to the next general election, the board of county
 15 commissioners shall submit the question to the electors of
 16 the county at the next general election. Upon approval by a
 17 majority of the votes cast, the board of county
 18 commissioners shall abolish the authority as of December 31
 19 following the election. All unexpended funds remaining in
 20 the name of the authority after all proper bills and
 21 expenses have been paid must be deposited in the general
 22 fund of the county.

23 Section 10. Creation of authority by vote after
 24 resolution of county commissioners. The board of county
 25 commissioners of any county may, by resolution after a

1 public hearing, submit the question of the creation of a
2 weather modification authority to the electors of the county
3 at the next countywide election. Upon approval by a majority
4 of the votes cast, the board of county commissioners shall
5 pass a resolution creating an authority as described in
6 [section 2]. Such an authority has all powers provided by
7 this chapter, including the authority to levy a tax as
8 provided by [section 5].

9 Section 11. County budget waived for first
10 appropriation -- conditions. The provisions of 7-6-2342
11 apply if an emergency condition requiring prompt expenditure
12 occurs immediately after an authority has been created by
13 resolution of the board of county commissioners and after
14 certification of a mill levy by the authority. In that case
15 and only for the initial or first appropriation for the
16 authority, the county commissioners may appropriate from
17 money not otherwise appropriated in the general fund, money
18 necessary to carry out the provisions of [this act].
19 However, the appropriation may not exceed an amount equal to
20 the amount that would be raised by a 2-mill levy upon the
21 taxable valuation of the property in the county.

22 Section 12. Declaration of emergency -- hearing --
23 request to department. (1) After receiving a petition
24 requesting an operation to increase precipitation, initiate
25 precipitation, or suppress hail and bearing the signatures

1 of at least 50 registered electors of the county, the
2 commissioners of an authority shall, within 15 days after
3 receiving the petition, publish notice of a public hearing
4 on the request at least once in a newspaper of general
5 circulation published within the county and conduct the
6 hearing.

7 (2) If after the hearing a majority of the
8 commissioners finds that a weather emergency exists
9 requiring such an operation, the authority may by resolution
10 request the department to enter into an agreement, pursuant
11 to 85-3-103(7), with a licensee designated by the authority
12 to perform the operation specified by the authority.

13 Section 13. County appropriation. An authority that
14 has requested the department to enter into an agreement for
15 an operation shall appropriate to the department from the
16 county weather modification fund the amount that the
17 department determines is necessary to provide the county
18 with the operation.

19 Section 14. Codification instruction. Sections 1
20 through 13 are intended to be codified as an integral part
21 of Title 85, chapter 3, and the provisions of Title 85,
22 chapter 3, apply to sections 1 through 13.

23 Section 15. Effective date. This act is effective on
24 passage and approval.

-End-

Approved by Comm.
on Local Government

Senate BILL NO. *428*

INTRODUCED BY *Uhlir*

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING
ESTABLISHMENT OF COUNTY WEATHER MODIFICATION AUTHORITIES
WITH TERMINATION AFTER 5 YEARS; PROVIDING FOR A LEVY OF UP
TO 2 MILLS EACH YEAR; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [this act], the
following definitions apply:

(1) "Authority" means a county weather modification
authority established pursuant to [section 2, 6, 8, or 10].

(2) "Commission" means a county weather modification
authority commissioner appointed pursuant to [section 2, 6,
8, or 10].

Section 2. Weather modification authority created by
petition -- expiration -- reinstatement. (1) Upon receipt of
a valid petition signed by at least 51% of the qualified
electors of a county, as determined by the vote cast for the
office of governor at the last preceding general election, a
board of county commissioners may by resolution create a
weather modification authority. The board of county
commissioners shall appoint five residents of the county as

weather modification authority commissioners from those
names set forth in the petition and designated by the
petitioners to be appointed commissioners. If any of the
five candidates named in the petition to be appointed
commissioner is unable or refuses for any reason to accept
appointment as commissioner or is disqualified by not
meeting residence requirements as an elector in the county,
the board of county commissioners shall name an appointee to
fill the position. Each commissioner shall serve a 5-year
term of office. If any commissioner submits his resignation
in writing to the board of county commissioners or becomes
unable or disqualified for any reason after accepting
office, the board of county commissioners shall name an
appointee to fill the vacancy. The board of county
commissioners may remove any commissioner from office
whenever it appears, by competent evidence and after
hearing, that the commissioner has been guilty of
misconduct, malfeasance, crime in office, or gross
incompetency. A vacancy occurring otherwise than by
expiration of term of office must be filled for the
unexpired term.

(2) Any authority created pursuant to this section
expires 5 years after the date of the initial appointment of
the commissioners. Any unexpended funds remaining in the
name of the authority after all proper bills and expenses

1 have been paid must be transferred into the county general
2 fund by the officers of the authority on or before the
3 5-year termination date provided by this section. However,
4 all unexpended funds remaining in the name of the authority
5 after all proper bills and expenses have been paid shall
6 remain in the name of the authority if the board of county
7 commissioners of such county by resolution creates a weather
8 modification authority and all its powers in accordance with
9 [section 6].

10 (3) Nothing in this section prevents renewal of an
11 authority for another 5 years by petition of the qualified
12 electors in the same manner as the initial authority was
13 created.

14 (4) If more than one petition is filed with the board
15 of county commissioners on or about the same time, the
16 petition with the highest percentage of the qualified county
17 electors voting for the office of governor at the last
18 preceding general election must be selected by the board of
19 county commissioners. However, the petition with the
20 highest percentage must have the signatures of at least 40%
21 of the qualified electors in the county, and the sum total
22 of all qualified electors signing all petitions filed must
23 equal at least 60% of the qualified electors in the county.
24 If the name of the same elector appears on two or more
25 petitions, the name must be stricken from both petitions.

1 Section 3. Petition content. (1) The petition for the
2 creation of a weather modification authority and for
3 appointment of commissioners shall contain:

4 (a) a title with the heading "Petition for Creation of
5 (insert name of county) Weather Modification Authority";

6 (b) the following paragraph: We, the undersigned
7 qualified electors of (name of county), state of Montana,
8 request that the (name of county) board of county
9 commissioners create by resolution a (name of county)
10 weather modification authority and appoint the following
11 five qualified electors of the county to 5-year terms of
12 office as commissioners for the (name of county) weather
13 modification authority:

14 (Here insert the name and address of each proposed
15 commissioner for the (name of county) weather modification
16 authority.)

17 (c) the following paragraph: We, the undersigned
18 qualified electors of the (name of county), state of
19 Montana, are notified that the creation of the (name of
20 county) weather modification authority and the appointment
21 of its commissioners by the (name of county) board of county
22 commissioners will grant the authority the power to certify
23 to the board of county commissioners a mill levy tax not to
24 exceed 2 mills upon the net taxable valuation of property in
25 the county for a weather modification fund, which tax may be

1 levied in excess of the mill levy limit fixed by law for
 2 taxes for general county purposes and that such fund must be
 3 used for weather modification activities in conjunction with
 4 the state of Montana. We, the undersigned, understand that
 5 the authority requested in this petition expires 5 years
 6 after the creation of the weather modification authority,
 7 except that the board of county commissioners may by
 8 resolution create a weather modification authority and all
 9 its powers, including the power to certify a tax levy as
 10 provided in [section 5], for one or more 5-year periods in
 11 accordance with [section 6].

12 (d) A heading, "Committee for Petitioners", followed
 13 by this statement: The following electors of (name of
 14 county), state of Montana, are authorized to represent and
 15 act for us and shall constitute the "Committee for the
 16 Petitioners" in the matter of this petition and all acts
 17 subsequent thereto.

18 (2) All signatures to such petition must be numbered
 19 and dated by month, day, and year. The name must be written,
 20 with residence address and post-office address, including
 21 the county of residence.

22 (3) An affidavit must be attached to each petition and
 23 sworn to under oath before a notary public by the person
 24 circulating each petition, attesting to the fact that he
 25 circulated the petition and that each of the signatures to

1 the petition is the genuine signature of the person whose
 2 name it purports to be and that each such person is a
 3 qualified elector in the county in which the petition was
 4 circulated.

5 Section 4. Commissioners -- compensation -- meetings
 6 -- officers -- disbursements. (1) A commissioner may receive
 7 no compensation for his services. Certificates of
 8 appointment must be filed with the county clerk and
 9 recorder.

10 (2) The powers of each authority are vested in its
 11 commissioners. A majority of the commissioners constitutes a
 12 quorum for the purpose of conducting the business of the
 13 authority. A majority of the commissioners constitutes a
 14 quorum, but action may not be taken by the authority except
 15 by an affirmative vote of not less than a majority of all
 16 the commissioners. A chairman, vice-chairman, secretary, and
 17 treasurer must be elected from among the commissioners. An
 18 authority may delegate to one or more of its commissioners
 19 such powers or duties as it considers proper.

20 (3) The secretary shall keep minutes of official
 21 meetings and shall include all official business, such as
 22 operations requested, and all authorizations for payment of
 23 weather modification authority funds.

24 (4) Disbursements authorized by the authority must be
 25 made by check signed by the chairman and the treasurer of

1 the authority. Official policies must be entered into the
2 minutes. An annual report must disclose funds received and
3 expended, and a copy of the report must be filed with the
4 county clerk and recorder. The annual report must be
5 presented at a public meeting called for such purpose.

6 Section 5. Tax certified by weather modification
7 authority -- disposition of proceeds. (1) The authority may
8 certify annually to the board of county commissioners a tax
9 of not to exceed 2 mills upon the taxable valuation of the
10 property in the county for a weather modification fund. The
11 tax must be levied by the board of county commissioners and
12 may be levied in excess of the mill levy limit fixed by law
13 for taxes for general county purposes. The weather
14 modification fund may be used only for weather modification
15 activities in conjunction with the department. The tax
16 certified by the authority is limited to the period of
17 existence of the authority.

18 (2) The money in the weather modification fund must be
19 invested to earn interest at the rate most advantageous to
20 the fund, consistent with law and prudent business practice.

21 Section 6. Creation of authority by resolution. (1)
22 When an authority is about to expire, the board of county
23 commissioners may by resolution authorize the creation of
24 such weather modification authority and all its powers,
25 including the power to certify a tax levy as provided by

1 [section 5], for an additional 5-year period if the
2 resolution authorizing the creation of such authority is
3 adopted by the board of county commissioners before the date
4 prescribed in the preceding resolution for its termination.
5 Upon passing such resolution for the creation of the
6 authority, the board of county commissioners shall appoint
7 five commissioners to 5-year terms of office, subsequently
8 filling vacancies in the manner prescribed by [section 2].
9 (2) The board may create the authority for subsequent
10 5-year periods by following the procedure provided in this
11 section.

12 Section 7. Procedure for abolishment of authority by
13 recall petition -- petition form -- disposition of funds.
14 (1) After 51% of the qualified electors of a county, as
15 determined by the vote cast for the office of governor at
16 the last preceding gubernatorial election, petition the
17 board of county commissioners of their county to recall the
18 commissioners of an authority created pursuant to [section
19 2] and to abolish the authority, the board of county
20 commissioners shall adopt a resolution recalling all
21 commissioners of such authority and abolishing their offices
22 and the authority until a weather modification authority is
23 created by petition in accordance with [section 2].

24 (2) A recall petition must have a title with the
25 heading, "Recall Petition for the Abolishment of (insert

1 name of county) Weather Modification Authority". The recall
 2 petition must incorporate a paragraph stating its purpose in
 3 clear language and must comply with all requirements
 4 prescribed in subsections (1)(d), (2), and (3) of [section
 5 3] relating to petition content, committee for petitioners,
 6 petition details, affidavits, and persons circulating such
 7 petitions.

8 (3) If the board of county commissioners adopts a
 9 resolution recalling all commissioners of a weather
 10 modification authority and abolishing the authority, all
 11 unexpended funds remaining in the name of the authority,
 12 after all proper bills and expenses have been paid, must be
 13 transferred to the county general fund by the weather
 14 modification authority commissioners on the effective date
 15 of the resolution. If outstanding valid bills are unpaid
 16 after that date, the board of county commissioners may pay
 17 such obligations from money in the county general fund.

18 Section 8. Creation of authority by election. When a
 19 petition signed by not less than 20% of the qualified
 20 electors of the county, as determined by the vote cast for
 21 the office of governor at the last preceding gubernatorial
 22 election, requesting an election upon the establishment of a
 23 weather modification authority is presented to the board of
 24 county commissioners not later than 90 days prior to the
 25 next general election, the board of county commissioners

1 shall submit the question to the electors of the county at
 2 the next general election. Upon approval by a majority of
 3 the votes cast, the board of county commissioners shall by
 4 resolution establish an authority as described in [section
 5 2] with all powers set out in [this act], including the
 6 power to certify a tax levy as provided by [section 5].

7 Section 9. Abolishment of authority by election. When
 8 a petition signed by not less than 20% of the qualified
 9 electors of the county, as determined by the vote cast for
 10 governor in the last preceding gubernatorial election,
 11 requesting an election upon the abolishment of an authority
 12 created pursuant to [section 6 or 8] is presented to the
 13 board of county commissioners not later than 90 days prior
 14 to the next general election, the board of county
 15 commissioners shall submit the question to the electors of
 16 the county at the next general election. Upon approval by a
 17 majority of the votes cast, the board of county
 18 commissioners shall abolish the authority as of December 31
 19 following the election. All unexpended funds remaining in
 20 the name of the authority after all proper bills and
 21 expenses have been paid must be deposited in the general
 22 fund of the county.

23 Section 10. Creation of authority by vote after
 24 resolution of county commissioners. The board of county
 25 commissioners of any county may, by resolution after a

1 public hearing, submit the question of the creation of a
2 weather modification authority to the electors of the county
3 at the next countywide election. Upon approval by a majority
4 of the votes cast, the board of county commissioners shall
5 pass a resolution creating an authority as described in
6 [section 2]. Such an authority has all powers provided by
7 this chapter, including the authority to levy a tax as
8 provided by [section 5].

9 Section 11. County budget waived for first
10 appropriation -- conditions. The provisions of 7-6-2342
11 apply if an emergency condition requiring prompt expenditure
12 occurs immediately after an authority has been created by
13 resolution of the board of county commissioners and after
14 certification of a mill levy by the authority. In that case
15 and only for the initial or first appropriation for the
16 authority, the county commissioners may appropriate from
17 money not otherwise appropriated in the general fund, money
18 necessary to carry out the provisions of [this act].
19 However, the appropriation may not exceed an amount equal to
20 the amount that would be raised by a 2-mill levy upon the
21 taxable valuation of the property in the county.

22 Section 12. Declaration of emergency -- hearing --
23 request to department. (1) After receiving a petition
24 requesting an operation to increase precipitation, initiate
25 precipitation, or suppress hail and bearing the signatures

1 of at least 50 registered electors of the county, the
2 commissioners of an authority shall, within 15 days after
3 receiving the petition, publish notice of a public hearing
4 on the request at least once in a newspaper of general
5 circulation published within the county and conduct the
6 hearing.

7 (2) If after the hearing a majority of the
8 commissioners finds that a weather emergency exists
9 requiring such an operation, the authority may by resolution
10 request the department to enter into an agreement, pursuant
11 to 85-3-103(7), with a licensee designated by the authority
12 to perform the operation specified by the authority.

13 Section 13. County appropriation. An authority that
14 has requested the department to enter into an agreement for
15 an operation shall appropriate to the department from the
16 county weather modification fund the amount that the
17 department determines is necessary to provide the county
18 with the operation.

19 Section 14. Codification instruction. Sections 1
20 through 13 are intended to be codified as an integral part
21 of Title 85, chapter 3, and the provisions of Title 85,
22 chapter 3, apply to sections 1 through 13.

23 Section 15. Effective date. This act is effective on
24 passage and approval.

-End-

1 *Senate* BILL NO. *428*2 INTRODUCED BY *Etchart*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING
5 ESTABLISHMENT OF COUNTY WEATHER MODIFICATION AUTHORITIES
6 WITH TERMINATION AFTER 5 YEARS; PROVIDING FOR A LEVY OF UP
7 TO 2 MILLS EACH YEAR; AND PROVIDING AN IMMEDIATE EFFECTIVE
8 DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Definitions. As used in [this act], the
12 following definitions apply:

13 (1) "Authority" means a county weather modification
14 authority established pursuant to [section 2, 6, 8, or 10].

15 (2) "Commission" means a county weather modification
16 authority commissioner appointed pursuant to [section 2, 6,
17 8, or 10].

18 Section 2. Weather modification authority created by
19 petition -- expiration -- reinstatement. (1) Upon receipt of
20 a valid petition signed by at least 51% of the qualified
21 electors of a county, as determined by the vote cast for the
22 office of governor at the last preceding general election, a
23 board of county commissioners may by resolution create a
24 weather modification authority. The board of county
25 commissioners shall appoint five residents of the county as

1 weather modification authority commissioners from those
2 names set forth in the petition and designated by the
3 petitioners to be appointed commissioners. If any of the
4 five candidates named in the petition to be appointed
5 commissioner is unable or refuses for any reason to accept
6 appointment as commissioner or is disqualified by not
7 meeting residence requirements as an elector in the county,
8 the board of county commissioners shall name an appointee to
9 fill the position. Each commissioner shall serve a 5-year
10 term of office. If any commissioner submits his resignation
11 in writing to the board of county commissioners or becomes
12 unable or disqualified for any reason after accepting
13 office, the board of county commissioners shall name an
14 appointee to fill the vacancy. The board of county
15 commissioners may remove any commissioner from office
16 whenever it appears, by competent evidence and after
17 hearing, that the commissioner has been guilty of
18 misconduct, malfeasance, crime in office, or gross
19 incompetency. A vacancy occurring otherwise than by
20 expiration of term of office must be filled for the
21 unexpired term.

22 (2) Any authority created pursuant to this section
23 expires 5 years after the date of the initial appointment of
24 the commissioners. Any unexpended funds remaining in the
25 name of the authority after all proper bills and expenses

1 have been paid must be transferred into the county general
 2 fund by the officers of the authority on or before the
 3 5-year termination date provided by this section. However,
 4 all unexpended funds remaining in the name of the authority
 5 after all proper bills and expenses have been paid shall
 6 remain in the name of the authority if the board of county
 7 commissioners of such county by resolution creates a weather
 8 modification authority and all its powers in accordance with
 9 [section 6].

10 (3) Nothing in this section prevents renewal of an
 11 authority for another 5 years by petition of the qualified
 12 electors in the same manner as the initial authority was
 13 created.

14 (4) If more than one petition is filed with the board
 15 of county commissioners on or about the same time, the
 16 petition with the highest percentage of the qualified county
 17 electors voting for the office of governor at the last
 18 preceding general election must be selected by the board of
 19 county commissioners. However, the petition with the
 20 highest percentage must have the signatures of at least 40%
 21 of the qualified electors in the county, and the sum total
 22 of all qualified electors signing all petitions filed must
 23 equal at least 60% of the qualified electors in the county.
 24 If the name of the same elector appears on two or more
 25 petitions, the name must be stricken from both petitions.

1 Section 3. Petition content. (1) The petition for the
 2 creation of a weather modification authority and for
 3 appointment of commissioners shall contain:

4 (a) a title with the heading "Petition for Creation of
 5 (insert name of county) Weather Modification Authority";

6 (b) the following paragraph: We, the undersigned
 7 qualified electors of (name of county), state of Montana,
 8 request that the (name of county) board of county
 9 commissioners create by resolution a (name of county)
 10 weather modification authority and appoint the following
 11 five qualified electors of the county to 5-year terms of
 12 office as commissioners for the (name of county) weather
 13 modification authority:

14 (Here insert the name and address of each proposed
 15 commissioner for the (name of county) weather modification
 16 authority.)

17 (c) the following paragraph: We, the undersigned
 18 qualified electors of the (name of county), state of
 19 Montana, are notified that the creation of the (name of
 20 county) weather modification authority and the appointment
 21 of its commissioners by the (name of county) board of county
 22 commissioners will grant the authority the power to certify
 23 to the board of county commissioners a mill levy tax not to
 24 exceed 2 mills upon the net taxable valuation of property in
 25 the county for a weather modification fund, which tax may be

levied in excess of the mill levy limit fixed by law for taxes for general county purposes and that such fund must be used for weather modification activities in conjunction with the state of Montana. We, the undersigned, understand that the authority requested in this petition expires 5 years after the creation of the weather modification authority, except that the board of county commissioners may by resolution create a weather modification authority and all its powers, including the power to certify a tax levy as provided in [section 5], for one or more 5-year periods in accordance with [section 6].

(d) A heading, "Committee for Petitioners", followed by this statement: The following electors of (name of county), state of Montana, are authorized to represent and act for us and shall constitute the "Committee for the Petitioners" in the matter of this petition and all acts subsequent thereto.

(2) All signatures to such petition must be numbered and dated by month, day, and year. The name must be written, with residence address and post-office address, including the county of residence.

(3) An affidavit must be attached to each petition and sworn to under oath before a notary public by the person circulating each petition, attesting to the fact that he circulated the petition and that each of the signatures to

the petition is the genuine signature of the person whose name it purports to be and that each such person is a qualified elector in the county in which the petition was circulated.

Section 4. Commissioners -- compensation -- meetings -- officers -- disbursements. (1) A commissioner may receive no compensation for his services. Certificates of appointment must be filed with the county clerk and recorder.

(2) The powers of each authority are vested in its commissioners. A majority of the commissioners constitutes a quorum for the purpose of conducting the business of the authority. A majority of the commissioners constitutes a quorum, but action may not be taken by the authority except by an affirmative vote of not less than a majority of all the commissioners. A chairman, vice-chairman, secretary, and treasurer must be elected from among the commissioners. An authority may delegate to one or more of its commissioners such powers or duties as it considers proper.

(3) The secretary shall keep minutes of official meetings and shall include all official business, such as operations requested, and all authorizations for payment of weather modification authority funds.

(4) Disbursements authorized by the authority must be made by check signed by the chairman and the treasurer of

1 the authority. Official policies must be entered into the
2 minutes. An annual report must disclose funds received and
3 expended, and a copy of the report must be filed with the
4 county clerk and recorder. The annual report must be
5 presented at a public meeting called for such purpose.

6 Section 5. Tax certified by weather modification
7 authority -- disposition of proceeds. (1) The authority may
8 certify annually to the board of county commissioners a tax
9 of not to exceed 2 mills upon the taxable valuation of the
10 property in the county for a weather modification fund. The
11 tax must be levied by the board of county commissioners and
12 may be levied in excess of the mill levy limit fixed by law
13 for taxes for general county purposes. The weather
14 modification fund may be used only for weather modification
15 activities in conjunction with the department. The tax
16 certified by the authority is limited to the period of
17 existence of the authority.

18 (2) The money in the weather modification fund must be
19 invested to earn interest at the rate most advantageous to
20 the fund, consistent with law and prudent business practice.

21 Section 6. Creation of authority by resolution. (1)
22 When an authority is about to expire, the board of county
23 commissioners may by resolution authorize the creation of
24 such weather modification authority and all its powers,
25 including the power to certify a tax levy as provided by

1 [section 5], for an additional 5-year period if the
2 resolution authorizing the creation of such authority is
3 adopted by the board of county commissioners before the date
4 prescribed in the preceding resolution for its termination.
5 Upon passing such resolution for the creation of the
6 authority, the board of county commissioners shall appoint
7 five commissioners to 5-year terms of office, subsequently
8 filling vacancies in the manner prescribed by [section 2].

9 (2) The board may create the authority for subsequent
10 5-year periods by following the procedure provided in this
11 section.

12 Section 7. Procedure for abolishment of authority by
13 recall petition -- petition form -- disposition of funds.

14 (1) After 51% of the qualified electors of a county, as
15 determined by the vote cast for the office of governor at
16 the last preceding gubernatorial election, petition the
17 board of county commissioners of their county to recall the
18 commissioners of an authority created pursuant to [section
19 2] and to abolish the authority, the board of county
20 commissioners shall adopt a resolution recalling all
21 commissioners of such authority and abolishing their offices
22 and the authority until a weather modification authority is
23 created by petition in accordance with [section 2].

24 (2) A recall petition must have a title with the
25 heading, "Recall Petition for the Abolishment of (insert

name of county) Weather Modification Authority". The recall petition must incorporate a paragraph stating its purpose in clear language and must comply with all requirements prescribed in subsections (1)(d), (2), and (3) of [section 3] relating to petition content, committee for petitioners, petition details, affidavits, and persons circulating such petitions.

(3) If the board of county commissioners adopts a resolution recalling all commissioners of a weather modification authority and abolishing the authority, all unexpended funds remaining in the name of the authority, after all proper bills and expenses have been paid, must be transferred to the county general fund by the weather modification authority commissioners on the effective date of the resolution. If outstanding valid bills are unpaid after that date, the board of county commissioners may pay such obligations from money in the county general fund.

Section 8. Creation of authority by election. When a petition signed by not less than 20% of the qualified electors of the county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, requesting an election upon the establishment of a weather modification authority is presented to the board of county commissioners not later than 90 days prior to the next general election, the board of county commissioners

shall submit the question to the electors of the county at the next general election. Upon approval by a majority of the votes cast, the board of county commissioners shall by resolution establish an authority as described in [section 2] with all powers set out in [this act], including the power to certify a tax levy as provided by [section 5].

Section 9. Abolishment of authority by election. When a petition signed by not less than 20% of the qualified electors of the county, as determined by the vote cast for governor in the last preceding gubernatorial election, requesting an election upon the abolishment of an authority created pursuant to [section 6 or 8] is presented to the board of county commissioners not later than 90 days prior to the next general election, the board of county commissioners shall submit the question to the electors of the county at the next general election. Upon approval by a majority of the votes cast, the board of county commissioners shall abolish the authority as of December 31 following the election. All unexpended funds remaining in the name of the authority after all proper bills and expenses have been paid must be deposited in the general fund of the county.

Section 10. Creation of authority by vote after resolution of county commissioners. The board of county commissioners of any county may, by resolution after a

1 public hearing, submit the question of the creation of a
2 weather modification authority to the electors of the county
3 at the next countywide election. Upon approval by a majority
4 of the votes cast, the board of county commissioners shall
5 pass a resolution creating an authority as described in
6 [section 2]. Such an authority has all powers provided by
7 this chapter, including the authority to levy a tax as
8 provided by [section 5].

9 Section 11. County budget waived for first
10 appropriation -- conditions. The provisions of 7-6-2342
11 apply if an emergency condition requiring prompt expenditure
12 occurs immediately after an authority has been created by
13 resolution of the board of county commissioners and after
14 certification of a mill levy by the authority. In that case
15 and only for the initial or first appropriation for the
16 authority, the county commissioners may appropriate from
17 money not otherwise appropriated in the general fund, money
18 necessary to carry out the provisions of [this act].
19 However, the appropriation may not exceed an amount equal to
20 the amount that would be raised by a 2-mill levy upon the
21 taxable valuation of the property in the county.

22 Section 12. Declaration of emergency -- hearing --
23 request to department. (1) After receiving a petition
24 requesting an operation to increase precipitation, initiate
25 precipitation, or suppress hail and bearing the signatures

1 of at least 50 registered electors of the county, the
2 commissioners of an authority shall, within 15 days after
3 receiving the petition, publish notice of a public hearing
4 on the request at least once in a newspaper of general
5 circulation published within the county and conduct the
6 hearing.

7 (2) If after the hearing a majority of the
8 commissioners finds that a weather emergency exists
9 requiring such an operation, the authority may by resolution
10 request the department to enter into an agreement, pursuant
11 to 85-3-103(7), with a licensee designated by the authority
12 to perform the operation specified by the authority.

13 Section 13. County appropriation. An authority that
14 has requested the department to enter into an agreement for
15 an operation shall appropriate to the department from the
16 county weather modification fund the amount that the
17 department determines is necessary to provide the county
18 with the operation.

19 Section 14. Codification instruction. Sections 1
20 through 13 are intended to be codified as an integral part
21 of Title 85, chapter 3, and the provisions of Title 85,
22 chapter 3, apply to sections 1 through 13.

23 Section 15. Effective date. This act is effective on
24 passage and approval.

-End-

AMENDMENTS TO SENATE BILL 428

March 17, 1983

Third Reading Copy (blue)

BE AMENDED AS FOLLOWS:

1. Title, line 7.

Following: "YEAR;"

Insert: "AMENDING SECTION 85-3-104, MCA;"

2. Page 1, line 15.

Strike: "Commission"

Insert: "Commissioner"

3. Page 5, lines 3 and 4.

Following: "activities" on line 3

Strike: "in conjunction with the state of Montana"

Insert: "as provided by [section 12]"

4. Page 7, line 15.

Following: "activities"

Strike: "in conjunction with the department"

Insert: "as provided by [section 12]"

5. Page 11, line 23.

Following: line 22

Strike: "request to department"

Insert: "determination of need for weather modification operation"

6. Page 12, line 9.

Following: "may" on line 9

Strike: the remainder of subsection (2)

Insert: "proceed with the activities needed to initiate and conduct the requested operation."

7. Page 12, lines 13 through 18.

Strike: section 13 in its entirety

Renumber: subsequent sections

8. Page 12.

Following: line 18

Insert: "Section 14. Section 85-3-104, MCA, is amended to read: "85-3-104. Nonliability of state and agents for acts of private persons. Nothing in this chapter shall be construed to impose or accept any liability or responsibility on the part of the state, the board, the department, ~~or~~ any state officials or employees or a county weather authority, its officers or employees, for any weather modification and control activities of any private person or group."

9. Page 12, line 20.
Following: "through"
Strike: "13"
Insert: "12"

10. Page 12, line 22.
Following: "through"
Strike: "13"
Insert: "12"

AND AS AMENDED
BE CONCURRED IN

April 11 1983

CONFERENCE COMMITTEE ON
AMENDMENTS TO SENATE BILL 428
(Report No. 1, 10:00 A.M.)

Mr. President:

We, your conference committee on amendments to Senate Bill 428, met and considered House Local Government Committee amendments to the third reading copy (blue). We recommend as follows:

That the House recede from House Local Government Committee amendment number 1 and 8;

That the Senate acede to House Local Government Committee amendments number 2 through 7 and 9 and 10; and

That this Conference Committee report on Senate Bill 428 be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

Strike House Local Government Committee amendments number 1 and 8.

FOR THE SENATE

Etchart
ETCHART, CHAIR

H. Hammond
HAMMOND

D. Eck
ECK

FOR THE HOUSE

Schye
SCHYE, CHAIR

Holliday
HOLLIDAY

Vinger
VINGER

SENATE BILL NO. 428
INTRODUCED BY ETCHART

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING
ESTABLISHMENT OF COUNTY WEATHER MODIFICATION AUTHORITIES
WITH TERMINATION AFTER 5 YEARS; PROVIDING FOR A LEVY OF UP
TO 2 MILLS EACH YEAR; ~~AMENDING SECTION 85-3-104, MCA;~~ AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [this act], the
following definitions apply:

(1) "Authority" means a county weather modification
authority established pursuant to [section 2, 6, 8, or 10].

(2) "~~Commissioner~~" "~~COMMISSIONER~~" means a county weather
modification authority commissioner appointed pursuant to
[section 2, 6, 8, or 10].

Section 2. Weather modification authority created by
petition -- expiration -- reinstatement. (1) Upon receipt of
a valid petition signed by at least 51% of the qualified
electors of a county, as determined by the vote cast for the
office of governor at the last preceding general election, a
board of county commissioners may by resolution create a
weather modification authority. The board of county
commissioners shall appoint five residents of the county as

weather modification authority commissioners from those
names set forth in the petition and designated by the
petitioners to be appointed commissioners. If any of the
five candidates named in the petition to be appointed
commissioner is unable or refuses for any reason to accept
appointment as commissioner or is disqualified by not
meeting residence requirements as an elector in the county,
the board of county commissioners shall name an appointee to
fill the position. Each commissioner shall serve a 5-year
term of office. If any commissioner submits his resignation
in writing to the board of county commissioners or becomes
unable or disqualified for any reason after accepting
office, the board of county commissioners shall name an
appointee to fill the vacancy. The board of county
commissioners may remove any commissioner from office
whenever it appears, by competent evidence and after
hearing, that the commissioner has been guilty of
misconduct, malfeasance, crime in office, or gross
incompetency. A vacancy occurring otherwise than by
expiration of term of office must be filled for the
unexpired term.

(2) Any authority created pursuant to this section
expires 5 years after the date of the initial appointment of
the commissioners. Any unexpended funds remaining in the
name of the authority after all proper bills and expenses

1 have been paid must be transferred into the county general
 2 fund by the officers of the authority on or before the
 3 5-year termination date provided by this section. However,
 4 all unexpended funds remaining in the name of the authority
 5 after all proper bills and expenses have been paid shall
 6 remain in the name of the authority if the board of county
 7 commissioners of such county by resolution creates a weather
 8 modification authority and all its powers in accordance with
 9 [Section 6].

10 (3) Nothing in this section prevents renewal of an
 11 authority for another 5 years by petition of the qualified
 12 electors in the same manner as the initial authority was
 13 created.

14 (4) If more than one petition is filed with the board
 15 of county commissioners on or about the same time, the
 16 petition with the highest percentage of the qualified county
 17 electors voting for the office of governor at the last
 18 preceding general election must be selected by the board of
 19 county commissioners. However, the petition with the
 20 highest percentage must have the signatures of at least 40%
 21 of the qualified electors in the county, and the sum total
 22 of all qualified electors signing all petitions filed must
 23 equal at least 60% of the qualified electors in the county.
 24 If the name of the same elector appears on two or more
 25 petitions, the name must be stricken from both petitions.

1 Section 3. Petition content. (1) The petition for the
 2 creation of a weather modification authority and for
 3 appointment of commissioners shall contain:

4 (a) a title with the heading "Petition for Creation of
 5 (insert name of county) Weather Modification Authority";

6 (b) the following paragraph: We, the undersigned
 7 qualified electors of (name of county), state of Montana,
 8 request that the (name of county) board of county
 9 commissioners create by resolution a (name of county)
 10 weather modification authority and appoint the following
 11 five qualified electors of the county to 5-year terms of
 12 office as commissioners for the (name of county) weather
 13 modification authority:

14 (Here insert the name and address of each proposed
 15 commissioner for the (name of county) weather modification
 16 authority.)

17 (c) the following paragraph: We, the undersigned
 18 qualified electors of the (name of county), state of
 19 Montana, are notified that the creation of the (name of
 20 county) weather modification authority and the appointment
 21 of its commissioners by the (name of county) board of county
 22 commissioners will grant the authority the power to certify
 23 to the board of county commissioners a mill levy tax not to
 24 exceed 2 mills upon the net taxable valuation of property in
 25 the county for a weather modification fund, which tax may be

1 levied in excess of the mill levy limit fixed by law for
 2 taxes for general county purposes and that such fund must be
 3 used for weather modification activities ~~in-conjunction-with~~
 4 ~~the-state-of-Montana AS PROVIDED BY [SECTION 12]~~. We, the
 5 undersigned, understand that the authority requested in this
 6 petition expires 5 years after the creation of the weather
 7 modification authority, except that the board of county
 8 commissioners may by resolution create a weather
 9 modification authority and all its powers, including the
 10 power to certify a tax levy as provided in [section 5], for
 11 one or more 5-year periods in accordance with [section 6].

12 (d) A heading, "Committee for Petitioners", followed
 13 by this statement: The following electors of (name of
 14 county), state of Montana, are authorized to represent and
 15 act for us and shall constitute the "Committee for the
 16 Petitioners" in the matter of this petition and all acts
 17 subsequent thereto.

18 (2) All signatures to such petition must be numbered
 19 and dated by month, day, and year. The name must be written,
 20 with residence address and post-office address, including
 21 the county of residence.

22 (3) An affidavit must be attached to each petition and
 23 sworn to under oath before a notary public by the person
 24 circulating each petition, attesting to the fact that he
 25 circulated the petition and that each of the signatures to

1 the petition is the genuine signature of the person whose
 2 name it purports to be and that each such person is a
 3 qualified elector in the county in which the petition was
 4 circulated.

5 Section 4. Commissioners -- compensation -- meetings
 6 -- officers -- disbursements. (1) A commissioner may receive
 7 no compensation for his services. Certificates of
 8 appointment must be filed with the county clerk and
 9 recorder.

10 (2) The powers of each authority are vested in its
 11 commissioners. A majority of the commissioners constitutes a
 12 quorum for the purpose of conducting the business of the
 13 authority. A majority of the commissioners constitutes a
 14 quorum, but action may not be taken by the authority except
 15 by an affirmative vote of not less than a majority of all
 16 the commissioners. A chairman, vice-chairman, secretary, and
 17 treasurer must be elected from among the commissioners. An
 18 authority may delegate to one or more of its commissioners
 19 such powers or duties as it considers proper.

20 (3) The secretary shall keep minutes of official
 21 meetings and shall include all official business, such as
 22 operations requested, and all authorizations for payment of
 23 weather modification authority funds.

24 (4) Disbursements authorized by the authority must be
 25 made by check signed by the chairman and the treasurer of

the authority. Official policies must be entered into the minutes. An annual report must disclose funds received and expended, and a copy of the report must be filed with the county clerk and recorder. The annual report must be presented at a public meeting called for such purpose.

Section 5. Tax certified by weather modification authority -- disposition of proceeds. (1) The authority may certify annually to the board of county commissioners a tax of not to exceed 2 mills upon the taxable valuation of the property in the county for a weather modification fund. The tax must be levied by the board of county commissioners and may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes. The weather modification fund may be used only for weather modification activities ~~in-conjunction-with-the-department~~ AS PROVIDED BY [SECTION 12]. The tax certified by the authority is limited to the period of existence of the authority.

(2) The money in the weather modification fund must be invested to earn interest at the rate most advantageous to the fund, consistent with law and prudent business practice.

Section 6. Creation of authority by resolution. (1) When an authority is about to expire, the board of county commissioners may by resolution authorize the creation of such weather modification authority and all its powers, including the power to certify a tax levy as provided by

[section 5], for an additional 5-year period if the resolution authorizing the creation of such authority is adopted by the board of county commissioners before the date prescribed in the preceding resolution for its termination. Upon passing such resolution for the creation of the authority, the board of county commissioners shall appoint five commissioners to 5-year terms of office, subsequently filling vacancies in the manner prescribed by [section 2].

(2) The board may create the authority for subsequent 5-year periods by following the procedure provided in this section.

Section 7. Procedure for abolishment of authority by recall petition -- petition form -- disposition of funds.

(1) After 51% of the qualified electors of a county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, petition the board of county commissioners of their county to recall the commissioners of an authority created pursuant to [section 2] and to abolish the authority, the board of county commissioners shall adopt a resolution recalling all commissioners of such authority and abolishing their offices and the authority until a weather modification authority is created by petition in accordance with [section 2].

(2) A recall petition must have a title with the heading, "Recall Petition for the Abolishment of [insert

1 name of county) Weather Modification Authority". The recall
 2 petition must incorporate a paragraph stating its purpose in
 3 clear language and must comply with all requirements
 4 prescribed in subsections (1)(d), (2), and (3) of [section
 5 3] relating to petition content, committee for petitioners,
 6 petition details, affidavits, and persons circulating such
 7 petitions.

8 (3) If the board of county commissioners adopts a
 9 resolution recalling all commissioners of a weather
 10 modification authority and abolishing the authority, all
 11 unexpended funds remaining in the name of the authority,
 12 after all proper bills and expenses have been paid, must be
 13 transferred to the county general fund by the weather
 14 modification authority commissioners on the effective date
 15 of the resolution. If outstanding valid bills are unpaid
 16 after that date, the board of county commissioners may pay
 17 such obligations from money in the county general fund.

18 Section 8. Creation of authority by election. When a
 19 petition signed by not less than 20% of the qualified
 20 electors of the county, as determined by the vote cast for
 21 the office of governor at the last preceding gubernatorial
 22 election, requesting an election upon the establishment of a
 23 weather modification authority is presented to the board of
 24 county commissioners not later than 90 days prior to the
 25 next general election, the board of county commissioners

1 shall submit the question to the electors of the county at
 2 the next general election. Upon approval by a majority of
 3 the votes cast, the board of county commissioners shall by
 4 resolution establish an authority as described in [section
 5 2] with all powers set out in [this act], including the
 6 power to certify a tax levy as provided by [section 5].

7 Section 9. Abolishment of authority by election. When
 8 a petition signed by not less than 20% of the qualified
 9 electors of the county, as determined by the vote cast for
 10 governor in the last preceding gubernatorial election,
 11 requesting an election upon the abolishment of an authority
 12 created pursuant to [section 6 or 8] is presented to the
 13 board of county commissioners not later than 90 days prior
 14 to the next general election, the board of county
 15 commissioners shall submit the question to the electors of
 16 the county at the next general election. Upon approval by a
 17 majority of the votes cast, the board of county
 18 commissioners shall abolish the authority as of December 31
 19 following the election. All unexpended funds remaining in
 20 the name of the authority after all proper bills and
 21 expenses have been paid must be deposited in the general
 22 fund of the county.

23 Section 10. Creation of authority by vote after
 24 resolution of county commissioners. The board of county
 25 commissioners of any county may, by resolution after a

public hearing, submit the question of the creation of a weather modification authority to the electors of the county at the next countywide election. Upon approval by a majority of the votes cast, the board of county commissioners shall pass a resolution creating an authority as described in [section 2]. Such an authority has all powers provided by this chapter, including the authority to levy a tax as provided by [section 5].

Section 11. County budget waived for first appropriation -- conditions. The provisions of T-6-2342 apply if an emergency condition requiring prompt expenditure occurs immediately after an authority has been created by resolution of the board of county commissioners and after certification of a mill levy by the authority. In that case and only for the initial or first appropriation for the authority, the county commissioners may appropriate from money not otherwise appropriated in the general fund, money necessary to carry out the provisions of [this act]. However, the appropriation may not exceed an amount equal to the amount that would be raised by a 2-mill levy upon the taxable valuation of the property in the county.

Section 12. Declaration of emergency -- hearing -- request-to-department DETERMINATION OF NEED FOR WEATHER MODIFICATION OPERATION. (1) After receiving a petition requesting an operation to increase precipitation, initiate

precipitation, or suppress hail and bearing the signatures of at least 50 registered electors of the county, the commissioners of an authority shall, within 15 days after receiving the petition, publish notice of a public hearing on the request at least once in a newspaper of general circulation published within the county and conduct the hearing.

(2) If after the hearing a majority of the commissioners finds that a weather emergency exists requiring such an operation, the authority may by-resolution request--the-department-to-enter-into-an-agreement--pursuant to-65-3-103(f)--with-a-licensee-designated-by-the--authority to--perform-the-operation-specified-by-the-authority PROCEED WITH THE ACTIVITIES NEEDED TO INITIATE AND CONDUCT THE REQUESTED OPERATION.

Section-13--County--appropriations--An-authority-that has-requested-the-department-to-enter-into-an-agreement--for an--operation--shall--appropriate-to-the-department-from-the county--weather--modification--fund--the--amount--that--the department--determines--is--necessary--to-provide-the-county with-the-operations

SECTION 13. SECTION 85-3-104, MCA, IS AMENDED TO READ:
"85-3-104. Nonliability of state and agents for acts of private persons. Nothing in this chapter shall be construed to impose or accept any liability or

1 responsibility on the part of the state, the board, the
2 department, or any state officials or employees, ~~or a county~~
3 ~~weather authority, its officers or employees,~~ for any
4 weather modification and control activities of any private
5 person or group."

6 Section 14. Codification instruction. Sections 1
7 through ~~13~~ 12 are intended to be codified as an integral
8 part of Title 85, chapter 3, and the provisions of Title 85,
9 chapter 3, apply to sections 1 through ~~13~~ 12.

10 Section 15. Effective date. This act is effective on
11 passage and approval.

-End-

SENATE BILL NO. 428

INTRODUCED BY ETCHART

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING
ESTABLISHMENT OF COUNTY WEATHER MODIFICATION AUTHORITIES
WITH TERMINATION AFTER 5 YEARS; PROVIDING FOR A LEVY OF UP
TO 2 MILLS EACH YEAR; ~~AMENDING SECTION 2-6-101, MCA~~ AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [this act], the
following definitions apply:

(1) "Authority" means a county weather modification
authority established pursuant to [section 2, 6, 8, or 10].

(2) ~~"Commissioner"~~ "COMMISSIONER" means a county weather
modification authority commissioner appointed pursuant to
[section 2, 6, 8, or 10].

Section 2. Weather modification authority created by
petition -- expiration -- reinstatement. (1) Upon receipt of
a valid petition signed by at least 51% of the qualified
electors of a county, as determined by the vote cast for the
office of governor at the last preceding general election, a
board of county commissioners may by resolution create a
weather modification authority. The board of county
commissioners shall appoint five residents of the county as

weather modification authority commissioners from those
names set forth in the petition and designated by the
petitioners to be appointed commissioners. If any of the
five candidates named in the petition to be appointed
commissioner is unable or refuses for any reason to accept
appointment as commissioner or is disqualified by not
meeting residence requirements as an elector in the county,
the board of county commissioners shall name an appointee to
fill the position. Each commissioner shall serve a 5-year
term of office. If any commissioner submits his resignation
in writing to the board of county commissioners or becomes
unable or disqualified for any reason after accepting
office, the board of county commissioners shall name an
appointee to fill the vacancy. The board of county
commissioners may remove any commissioner from office
whenever it appears, by competent evidence and after
hearing, that the commissioner has been guilty of
misconduct, malfeasance, crime in office, or gross
incompetency. A vacancy occurring otherwise than by
expiration of term of office must be filled for the
unexpired term.

(2) Any authority created pursuant to this section
expires 5 years after the date of the initial appointment of
the commissioners. Any unexpended funds remaining in the
name of the authority after all proper bills and expenses

1 have been paid must be transferred into the county general
 2 fund by the officers of the authority on or before the
 3 5-year termination date provided by this section. However,
 4 all unexpended funds remaining in the name of the authority
 5 after all proper bills and expenses have been paid shall
 6 remain in the name of the authority if the board of county
 7 commissioners of such county by resolution creates a weather
 8 modification authority and all its powers in accordance with
 9 [section 6].

10 (3) Nothing in this section prevents renewal of an
 11 authority for another 5 years by petition of the qualified
 12 electors in the same manner as the initial authority was
 13 created.

14 (4) If more than one petition is filed with the board
 15 of county commissioners on or about the same time, the
 16 petition with the highest percentage of the qualified county
 17 electors voting for the office of governor at the last
 18 preceding general election must be selected by the board of
 19 county commissioners. However, the petition with the
 20 highest percentage must have the signatures of at least 40%
 21 of the qualified electors in the county, and the sum total
 22 of all qualified electors signing all petitions filed must
 23 equal at least 60% of the qualified electors in the county.
 24 If the name of the same elector appears on two or more
 25 petitions, the name must be stricken from both petitions.

1 Section 3. Petition content. (1) The petition for the
 2 creation of a weather modification authority and for
 3 appointment of commissioners shall contain:

4 (a) a title with the heading "Petition for Creation of
 5 (insert name of county) Weather Modification Authority";

6 (b) the following paragraph: We, the undersigned
 7 qualified electors of (name of county), state of Montana,
 8 request that the (name of county) board of county
 9 commissioners create by resolution a (name of county)
 10 weather modification authority and appoint the following
 11 five qualified electors of the county to 5-year terms of
 12 office as commissioners for the (name of county) weather
 13 modification authority:

14 (Here insert the name and address of each proposed
 15 commissioner for the (name of county) weather modification
 16 authority.)

17 (c) the following paragraph: We, the undersigned
 18 qualified electors of the (name of county), state of
 19 Montana, are notified that the creation of the (name of
 20 county) weather modification authority and the appointment
 21 of its commissioners by the (name of county) board of county
 22 commissioners will grant the authority the power to certify
 23 to the board of county commissioners a mill levy tax not to
 24 exceed 2 mills upon the net taxable valuation of property in
 25 the county for a weather modification fund, which tax may be

1 levied in excess of the mill levy limit fixed by law for
 2 taxes for general county purposes and that such fund must be
 3 used for weather modification activities ~~in-conjunction-with~~
 4 ~~the-state-of-Montana~~ AS PROVIDED BY [SECTION 12]. We, the
 5 undersigned, understand that the authority requested in this
 6 petition expires 5 years after the creation of the weather
 7 modification authority, except that the board of county
 8 commissioners may by resolution create a weather
 9 modification authority and all its powers, including the
 10 power to certify a tax levy as provided in [section 5], for
 11 one or more 5-year periods in accordance with [section 6].

12 (d) A heading, "Committee for Petitioners", followed
 13 by this statement: The following electors of (name of
 14 county), state of Montana, are authorized to represent and
 15 act for us and shall constitute the "Committee for the
 16 Petitioners" in the matter of this petition and all acts
 17 subsequent thereto.

18 (2) All signatures to such petition must be numbered
 19 and dated by month, day, and year. The name must be written,
 20 with residence address and post-office address, including
 21 the county of residence.

22 (3) An affidavit must be attached to each petition and
 23 sworn to under oath before a notary public by the person
 24 circulating each petition, attesting to the fact that he
 25 circulated the petition and that each of the signatures to

1 the petition is the genuine signature of the person whose
 2 name it purports to be and that each such person is a
 3 qualified elector in the county in which the petition was
 4 circulated.

5 Section 4. Commissioners -- compensation -- meetings
 6 -- officers -- disbursements. (1) A commissioner may receive
 7 no compensation for his services. Certificates of
 8 appointment must be filed with the county clerk and
 9 recorder.

10 (2) The powers of each authority are vested in its
 11 commissioners. A majority of the commissioners constitutes a
 12 quorum for the purpose of conducting the business of the
 13 authority. A majority of the commissioners constitutes a
 14 quorum, but action may not be taken by the authority except
 15 by an affirmative vote of not less than a majority of all
 16 the commissioners. A chairman, vice-chairman, secretary, and
 17 treasurer must be elected from among the commissioners. An
 18 authority may delegate to one or more of its commissioners
 19 such powers or duties as it considers proper.

20 (3) The secretary shall keep minutes of official
 21 meetings and shall include all official business, such as
 22 operations requested, and all authorizations for payment of
 23 weather modification authority funds.

24 (4) Disbursements authorized by the authority must be
 25 made by check signed by the chairman and the treasurer of

1 the authority. Official policies must be entered into the
2 minutes. An annual report must disclose funds received and
3 expended, and a copy of the report must be filed with the
4 county clerk and recorder. The annual report must be
5 presented at a public meeting called for such purpose.

6 Section 5. Tax certified by weather modification
7 authority -- disposition of proceeds. (1) The authority may
8 certify annually to the board of county commissioners a tax
9 of not to exceed 2 mills upon the taxable valuation of the
10 property in the county for a weather modification fund. The
11 tax must be levied by the board of county commissioners and
12 may be levied in excess of the mill levy limit fixed by law
13 for taxes for general county purposes. The weather
14 modification fund may be used only for weather modification
15 activities ~~in-conjunction-with-the-department~~ AS PROVIDED BY
16 [SECTION 12]. The tax certified by the authority is limited
17 to the period of existence of the authority.

18 (2) The money in the weather modification fund must be
19 invested to earn interest at the rate most advantageous to
20 the fund, consistent with law and prudent business practice.

21 Section 6. Creation of authority by resolution. (1)
22 When an authority is about to expire, the board of county
23 commissioners may by resolution authorize the creation of
24 such weather modification authority and all its powers,
25 including the power to certify a tax levy as provided by

1 [section 5], for an additional 5-year period if the
2 resolution authorizing the creation of such authority is
3 adopted by the board of county commissioners before the date
4 prescribed in the preceding resolution for its termination.
5 Upon passing such resolution for the creation of the
6 authority, the board of county commissioners shall appoint
7 five commissioners to 5-year terms of office, subsequently
8 filling vacancies in the manner prescribed by [section 2].
9 (2) The board may create the authority for subsequent
10 5-year periods by following the procedure provided in this
11 section.

12 Section 7. Procedure for abolishment of authority by
13 recall petition -- petition form -- disposition of funds.
14 (1) After 51% of the qualified electors of a county, as
15 determined by the vote cast for the office of governor at
16 the last preceding gubernatorial election, petition the
17 board of county commissioners of their county to recall the
18 commissioners of an authority created pursuant to [section
19 2] and to abolish the authority, the board of county
20 commissioners shall adopt a resolution recalling all
21 commissioners of such authority and abolishing their offices
22 and the authority until a weather modification authority is
23 created by petition in accordance with [section 2].

24 (2) A recall petition must have a title with the
25 heading, "Recall Petition for the Abolishment of (insert

1 name of county) Weather Modification Authority". The recall
 2 petition must incorporate a paragraph stating its purpose in
 3 clear language and must comply with all requirements
 4 prescribed in subsections (1)(d), (2), and (3) of [section
 5 3] relating to petition content, committee for petitioners,
 6 petition details, affidavits, and persons circulating such
 7 petitions.

8 (3) If the board of county commissioners adopts a
 9 resolution recalling all commissioners of a weather
 10 modification authority and abolishing the authority, all
 11 unexpended funds remaining in the name of the authority,
 12 after all proper bills and expenses have been paid, must be
 13 transferred to the county general fund by the weather
 14 modification authority commissioners on the effective date
 15 of the resolution. If outstanding valid bills are unpaid
 16 after that date, the board of county commissioners may pay
 17 such obligations from money in the county general fund.

18 Section 8. Creation of authority by election. When a
 19 petition signed by not less than 20% of the qualified
 20 electors of the county, as determined by the vote cast for
 21 the office of governor at the last preceding gubernatorial
 22 election, requesting an election upon the establishment of a
 23 weather modification authority is presented to the board of
 24 county commissioners not later than 90 days prior to the
 25 next general election, the board of county commissioners

1 shall submit the question to the electors of the county at
 2 the next general election. Upon approval by a majority of
 3 the votes cast, the board of county commissioners shall by
 4 resolution establish an authority as described in [section
 5 2] with all powers set out in [this act], including the
 6 power to certify a tax levy as provided by [section 5].

7 Section 9. Abolishment of authority by election. When
 8 a petition signed by not less than 20% of the qualified
 9 electors of the county, as determined by the vote cast for
 10 governor in the last preceding gubernatorial election,
 11 requesting an election upon the abolishment of an authority
 12 created pursuant to [section 6 or 8] is presented to the
 13 board of county commissioners not later than 90 days prior
 14 to the next general election, the board of county
 15 commissioners shall submit the question to the electors of
 16 the county at the next general election. Upon approval by a
 17 majority of the votes cast, the board of county
 18 commissioners shall abolish the authority as of December 31
 19 following the election. All unexpended funds remaining in
 20 the name of the authority after all proper bills and
 21 expenses have been paid must be deposited in the general
 22 fund of the county.

23 Section 10. Creation of authority by vote after
 24 resolution of county commissioners. The board of county
 25 commissioners of any county may, by resolution after a

1 public hearing, submit the question of the creation of a
 2 weather modification authority to the electors of the county
 3 at the next countywide election. Upon approval by a majority
 4 of the votes cast, the board of county commissioners shall
 5 pass a resolution creating an authority as described in
 6 [section 2]. Such an authority has all powers provided by
 7 this chapter, including the authority to levy a tax as
 8 provided by [section 5].

9 Section 11. County budget waived for first
 10 appropriation -- conditions. The provisions of 7-6-2342
 11 apply if an emergency condition requiring prompt expenditure
 12 occurs immediately after an authority has been created by
 13 resolution of the board of county commissioners and after
 14 certification of a mill levy by the authority. In that case
 15 and only for the initial or first appropriation for the
 16 authority, the county commissioners may appropriate from
 17 money not otherwise appropriated in the general fund, money
 18 necessary to carry out the provisions of [this act].
 19 However, the appropriation may not exceed an amount equal to
 20 the amount that would be raised by a 2-mill levy upon the
 21 taxable valuation of the property in the county.

22 Section 12. Declaration of emergency -- hearing --
 23 request-to-department DETERMINATION OF NEED FOR WEATHER
 24 MODIFICATION OPERATION. (1) After receiving a petition
 25 requesting an operation to increase precipitation, initiate

1 precipitation, or suppress hail and bearing the signatures
 2 of at least 50 registered electors of the county, the
 3 commissioners of an authority shall, within 15 days after
 4 receiving the petition, publish notice of a public hearing
 5 on the request at least once in a newspaper of general
 6 circulation published within the county and conduct the
 7 hearing.

8 (2) If after the hearing a majority of the
 9 commissioners finds that a weather emergency exists
 10 requiring such an operation, the authority may by resolution
 11 request--the-department-to-enter-into-an-agreement-pursuant
 12 to-85-3-103(7)--with-a-licensee-designated-by-the-authority
 13 to--perform-the-operation-specified-by-the-authority PROCEED
 14 WITH THE ACTIVITIES NEEDED TO INITIATE AND CONDUCT THE
 15 REQUESTED OPERATION.

16 Section-13--County-appropriation--An-authority-that
 17 has-requested-the-department-to-enter-into-an-agreement--for
 18 an-operation--shall--appropriate-to-the-department-from-the
 19 county--weather--modification--fund--the--amount--that--the
 20 department--determines--is--necessary--to-provide-the-county
 21 with-the-operation.

22 ~~SECTION-13--SECTION-85-3-103--MAY-IS-AMENDED-TO-READ:~~
 23 ~~"85-3-104--Notiability-of-state-and-agents--for--acts~~
 24 ~~of--private--persons--Nothing--in--this--chapter--shall-be~~
 25 ~~construed--to--impose--or--accept--any--liability--or~~

1 responsibility--on--the--part--of--the--state, the board, the
2 department, or any state officials or employees ~~of a county~~
3 ~~weather authority~~ ~~its officers~~ ~~or employees~~ for any
4 weather modification and control activities of any private
5 person or group."

6 Section 13. Codification instruction. Sections 1
7 through ~~13~~ 12 are intended to be codified as an integral
8 part of Title 85, chapter 3, and the provisions of Title 85,
9 chapter 3, apply to sections 1 through ~~13~~ 12.

10 Section 14. Effective date. This act is effective on
11 passage and approval.

-End-