

HOUSE BILL NO. 380

INTRODUCED BY BRADLEY, RAMIREZ, SCHYE,  
D. BROWN, CHRISTIAENS, MAZUREK

IN THE HOUSE

January 23, 1985	Introduced and referred to Committee on Judiciary.
February 16, 1985	Committee recommend bill do pass. Report adopted.  Bill printed and placed on members' desks.
February 18, 1985	Second reading, do pass.  Considered correctly engrossed.
February 19, 1985	Third reading, passed.  Transmitted to Senate.

IN THE SENATE

February 21, 1985	Introduced and referred to Committee on Business and Industry.
March 14, 1985	Committee recommend bill be concurrent in. Report adopted.
March 19, 1985	Second reading, concurred in.
March 21, 1985	Third reading, concurred in. Ayes, 47; Noes, 0.  Returned to House.

IN THE HOUSE

March 22, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1                                    HOUSE BILL NO. 380  
 2 INTRODUCTION BY *Sandra Ramirez* *John David Bram*  
 3 *Christiane Thayer*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING  
 5 NONDUPLICATION PROVISIONS FROM RURAL COOPERATIVE UTILITIES  
 6 LAW; AMENDING SECTIONS 35-18-105 AND 35-18-106, MCA."  
 7

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

9 Section 1. Section 35-18-105, MCA, is amended to read:

10 "35-18-105. Permissible purposes for incorporation.  
 11 Cooperative nonprofit membership corporations may be  
 12 organized under this chapter for the following purposes:

13 (1) for the purpose of supplying electric energy and  
 14 promoting and extending the use thereof in rural areas, as  
 15 provided in this chapter;

16 (2) for the purposes of making generally available in  
 17 rural areas adequate telephone service, cable television  
 18 service, or broadband facilities through the improvement and  
 19 expansion of existing telephone, cable television, or  
 20 broadband facilities and the construction and operation of  
 21 such additional facilities as are required to assure the  
 22 availability of such service to the widest practicable  
 23 number of rural users thereof; ~~provided that nonduplication~~  
 24 ~~of lines, facilities, or systems providing reasonably~~  
 25 ~~adequate service will result therefrom."~~

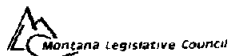
1 Section 2. Section 35-18-106, MCA, is amended to read:  
 2 "35-18-106. Powers of cooperatives. A cooperative  
 3 shall have power to:

4 (1) sue and be sued in its corporate name;  
 5 (2) have perpetual existence;  
 6 (3) adopt a corporate seal and alter the same at  
 7 pleasure;

8 (4) become a member in one or more other cooperatives  
 9 or corporations or to own stock therein;

10 (5) construct, purchase, take, receive, lease as  
 11 lessee, or otherwise acquire and to own, hold, use, equip,  
 12 maintain, and operate and sell, assign, transfer, convey,  
 13 exchange, lease as lessor, mortgage, pledge, or otherwise  
 14 dispose of or encumber electric transmission and  
 15 distribution lines or systems, electric generating plants,  
 16 electric refrigeration plants, telephone lines, facilities  
 17 or systems (but not telegraph or radio broadcasting services  
 18 or facilities) as defined by law, lands, buildings,  
 19 structures, dams, plants and equipment, and any and all  
 20 kinds or classes of real or personal property whatsoever,  
 21 which shall be deemed necessary, convenient, or appropriate  
 22 to accomplish the purpose for which the cooperative is  
 23 organized;

24 (6) purchase or otherwise acquire and own, hold, use,  
 25 and exercise and sell, assign, transfer, convey, mortgage,



1 pledge, hypothecate, or otherwise dispose of or encumber  
2 franchises, rights, privileges, licenses, rights-of-way, and  
3 easements;

4 (7) borrow money and otherwise contract indebtedness  
5 and issue notes, bonds, and other evidences of indebtedness  
6 therefor and secure the payment thereof by mortgage, pledge,  
7 deed of trust, or any other encumbrance upon any or all of  
8 its then owned or after-acquired real or personal property,  
9 assets, franchises, revenues, or income;

10 (8) construct, maintain, and operate electric  
11 transmission and distribution lines or telephone, cable  
12 television, or broadband lines, facilities, or systems  
13 along, upon, under, and across all public thoroughfares,  
14 including without limitation all roads, highways, streets,  
15 alleys, bridges, and causeways and upon, under, and across  
16 all publicly owned lands, subject, however, to the same  
17 requirements in respect of the use of such thoroughfares and  
18 lands as are imposed by the respective authorities having  
19 jurisdiction thereof upon corporations constructing or  
20 operating electric transmission and distribution lines or  
21 systems or telephone lines, facilities, or systems;

22 (9) exercise the power of eminent domain in the manner  
23 provided by the laws of this state for the exercise of that  
24 power by corporations constructing or operating electric  
25 transmission and distribution lines or systems or telephone

1 lines, facilities, or systems;

2 (10) conduct its business and exercise any or all of  
3 its powers within or without this state;

4 (11) adopt, amend, and repeal bylaws;

5 (12) in the case of corporations organized under the  
6 provisions of 35-18-105(1):

7 (a) generate, manufacture, purchase, acquire,  
8 accumulate, and transmit electric energy and distribute,  
9 sell, supply, and dispose of electric energy in rural areas  
10 to its members, to governmental agencies and political  
11 subdivisions, and to other persons not in excess of 10% of  
12 the number of its members;

13 (b) make loans to persons to whom electric energy is  
14 or will be supplied by the cooperative for the purpose of  
15 and otherwise to assist such persons in wiring their  
16 premises and installing therein electrical and plumbing  
17 fixtures, appliances, apparatus, and equipment of any and  
18 all kinds and character and, in connection therewith,  
19 purchase, acquire, lease, sell, distribute, install, and  
20 repair such electrical and plumbing fixtures, appliances,  
21 apparatus, and equipment and accept or otherwise acquire and  
22 sell, assign, transfer, endorse, pledge, hypothecate, and  
23 otherwise dispose of notes, bonds, and other evidences of  
24 indebtedness and any and all types of security therefor;

25 (c) make loans to persons to whom electric energy is

1 or will be supplied by the cooperatives for the purpose of  
2 and otherwise to assist such persons in constructing,  
3 maintaining, and operating electric refrigeration plants;

4 (13) in the case of corporations organized under the  
5 provisions of 35-18-105(2):

6 (a) improve and expand existing telephone lines,  
7 facilities, and systems in rural areas and construct,  
8 acquire, operate, and furnish such additional telephone  
9 lines, facilities, and systems as are required to assure the  
10 availability of adequate telephone service to the widest  
11 practicable number of rural users thereof, ~~provided that no~~  
12 ~~duplication of lines, facilities, or systems providing~~  
13 ~~reasonably adequate service will result therefrom;~~

14 (b) make loans to persons to whom telephone service is  
15 or will be supplied by the cooperative for the purpose of  
16 and otherwise to assist such persons in wiring their  
17 premises for telephone service and installing therein  
18 telephone fixtures, appliances, apparatus, and equipment of  
19 any and all kinds and character and, in connection  
20 therewith, purchase, acquire, lease, sell, distribute,  
21 install, and repair such telephone fixtures, appliances,  
22 apparatus, and equipment and accept or otherwise acquire and  
23 sell, assign, transfer, endorse, pledge, hypothecate, and  
24 otherwise dispose of notes, bonds, and other evidences of  
25 indebtedness and any and all types of security therefor;

1 (14) do and perform any and all other acts and things  
2 and have and exercise any and all other powers which may be  
3 necessary, convenient, or appropriate to accomplish the  
4 purpose for which the cooperative is organized."

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 380

INTRODUCED BY Bradley Ramirez Judge David Brown  
Christiane Morgan

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING  
NONDUPLICATION PROVISIONS FROM RURAL COOPERATIVE UTILITIES  
LAW; AMENDING SECTIONS 35-18-105 AND 35-18-106, MCA."

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

Section 1. Section 35-18-105, MCA, is amended to read:

"35-18-105. Permissible purposes for incorporation.

Cooperative nonprofit membership corporations may be  
organized under this chapter for the following purposes:

(1) for the purpose of supplying electric energy and  
promoting and extending the use thereof in rural areas, as  
provided in this chapter;

(2) for the purposes of making generally available in  
rural areas adequate telephone service, cable television  
service, or broadband facilities through the improvement and  
expansion of existing telephone, cable television, or  
broadband facilities and the construction and operation of  
such additional facilities as are required to assure the  
availability of such service to the widest practicable  
number of rural users thereof, ~~provided that nonduplication  
of lines, facilities, or systems providing reasonably  
adequate service will result therefrom.~~

Section 2. Section 35-18-106, MCA, is amended to read:

"35-18-106. Powers of cooperatives. A cooperative  
shall have power to:

(1) sue and be sued in its corporate name;

(2) have perpetual existence;

(3) adopt a corporate seal and alter the same at  
pleasure;

(4) become a member in one or more other cooperatives  
or corporations or to own stock therein;

(5) construct, purchase, take, receive, lease as  
lessee, or otherwise acquire and to own, hold, use, equip,  
maintain, and operate and sell, assign, transfer, convey,  
exchange, lease as lessor, mortgage, pledge, or otherwise  
dispose of or encumber electric transmission and  
distribution lines or systems, electric generating plants,  
electric refrigeration plants, telephone lines, facilities  
or systems (but not telegraph or radio broadcasting services  
or facilities) as defined by law, lands, buildings,  
structures, dams, plants and equipment, and any and all  
kinds or classes of real or personal property whatsoever,  
which shall be deemed necessary, convenient, or appropriate  
to accomplish the purpose for which the cooperative is  
organized;

(6) purchase or otherwise acquire and own, hold, use,  
and exercise and sell, assign, transfer, convey, mortgage,



1 pledge, hypothecate, or otherwise dispose of or encumber  
2 franchises, rights, privileges, licenses, rights-of-way, and  
3 easements;

4 (7) borrow money and otherwise contract indebtedness  
5 and issue notes, bonds, and other evidences of indebtedness  
6 therefor and secure the payment thereof by mortgage, pledge,  
7 deed of trust, or any other encumbrance upon any or all of  
8 its then owned or after-acquired real or personal property,  
9 assets, franchises, revenues, or income;

10 (8) construct, maintain, and operate electric  
11 transmission and distribution lines or telephone, cable  
12 television, or broadband lines, facilities, or systems  
13 along, upon, under, and across all public thoroughfares,  
14 including without limitation all roads, highways, streets,  
15 alleys, bridges, and causeways and upon, under, and across  
16 all publicly owned lands, subject, however, to the same  
17 requirements in respect of the use of such thoroughfares and  
18 lands as are imposed by the respective authorities having  
19 jurisdiction thereof upon corporations constructing or  
20 operating electric transmission and distribution lines or  
21 systems or telephone lines, facilities, or systems;

22 (9) exercise the power of eminent domain in the manner  
23 provided by the laws of this state for the exercise of that  
24 power by corporations constructing or operating electric  
25 transmission and distribution lines or systems or telephone

1 lines, facilities, or systems;

2 (10) conduct its business and exercise any or all of  
3 its powers within or without this state;

4 (11) adopt, amend, and repeal bylaws;

5 (12) in the case of corporations organized under the  
6 provisions of 35-18-105(1):

7 (a) generate, manufacture, purchase, acquire,  
8 accumulate, and transmit electric energy and distribute,  
9 sell, supply, and dispose of electric energy in rural areas  
10 to its members, to governmental agencies and political  
11 subdivisions, and to other persons not in excess of 10% of  
12 the number of its members;

13 (b) make loans to persons to whom electric energy is  
14 or will be supplied by the cooperative for the purpose of  
15 and otherwise to assist such persons in wiring their  
16 premises and installing therein electrical and plumbing  
17 fixtures, appliances, apparatus, and equipment of any and  
18 all kinds and character and, in connection therewith,  
19 purchase, acquire, lease, sell, distribute, install, and  
20 repair such electrical and plumbing fixtures, appliances,  
21 apparatus, and equipment and accept or otherwise acquire and  
22 sell, assign, transfer, endorse, pledge, hypothecate, and  
23 otherwise dispose of notes, bonds, and other evidences of  
24 indebtedness and any and all types of security therefor;

25 (c) make loans to persons to whom electric energy is

1 or will be supplied by the cooperatives for the purpose of  
 2 and otherwise to assist such persons in constructing,  
 3 maintaining, and operating electric refrigeration plants;

4 (13) in the case of corporations organized under the  
 5 provisions of 35-18-105(2):

6 (a) improve and expand existing telephone lines,  
 7 facilities, and systems in rural areas and construct,  
 8 acquire, operate, and furnish such additional telephone  
 9 lines, facilities, and systems as are required to assure the  
 10 availability of adequate telephone service to the widest  
 11 practicable number of rural users thereof, ~~provided that no~~  
 12 ~~duplication of lines, facilities, or systems providing~~  
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 15 or will be supplied by the cooperative for the purpose of  
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 20 therewith, purchase, acquire, lease, sell, distribute,  
 21 install, and repair such telephone fixtures, appliances,  
 22 apparatus, and equipment and accept or otherwise acquire and  
 23 sell, assign, transfer, endorse, pledge, hypothecate, and  
 24 otherwise dispose of notes, bonds, and other evidences of  
 25 indebtedness and any and all types of security therefor;

1 (14) do and perform any and all other acts and things  
 2 and have and exercise any and all other powers which may be  
 3 necessary, convenient, or appropriate to accomplish the  
 4 purpose for which the cooperative is organized."

-End-



HOUSE BILL NO. 380

INTRODUCED BY

*Sanjay Ramrez*  
*Christiane Thayer*

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(4) become a member in one or more other cooperatives  
or corporations or to own stock therein;

(5) construct, purchase, take, receive, lease as  
lessee, or otherwise acquire and to own, hold, use, equip,  
maintain, and operate and sell, assign, transfer, convey,  
exchange, lease as lessor, mortgage, pledge, or otherwise  
dispose of or encumber electric transmission and  
distribution lines or systems, electric generating plants,  
electric refrigeration plants, telephone lines, facilities  
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or facilities) as defined by law, lands, buildings,  
structures, dams, plants and equipment, and any and all  
kinds or classes of real or personal property whatsoever,  
which shall be deemed necessary, convenient, or appropriate  
to accomplish the purpose for which the cooperative is  
organized;

(6) purchase or otherwise acquire and own, hold, use,  
and exercise and sell, assign, transfer, convey, mortgage,

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7 deed of trust, or any other encumbrance upon any or all of  
8 its then owned or after-acquired real or personal property,  
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10 (8) construct, maintain, and operate electric  
11 transmission and distribution lines or telephone, cable  
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13 along, upon, under, and across all public thoroughfares,  
14 including without limitation all roads, highways, streets,  
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16 all publicly owned lands, subject, however, to the same  
17 requirements in respect of the use of such thoroughfares and  
18 lands as are imposed by the respective authorities having  
19 jurisdiction thereof upon corporations constructing or  
20 operating electric transmission and distribution lines or  
21 systems or telephone lines, facilities, or systems;

22 (9) exercise the power of eminent domain in the manner  
23 provided by the laws of this state for the exercise of that  
24 power by corporations constructing or operating electric  
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2 (10) conduct its business and exercise any or all of  
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4 (11) adopt, amend, and repeal bylaws;

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23 otherwise dispose of notes, bonds, and other evidences of  
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25 (c) make loans to persons to whom electric energy is

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 7 facilities, and systems in rural areas and construct,  
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1 (14) do and perform any and all other acts and things  
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 4 purpose for which the cooperative is organized."

-End-

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D. BROWN, CHRISTIAENS, MAZUREK

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(2) for the purposes of making generally available in rural areas adequate telephone service, cable television service, or broadband facilities through the improvement and expansion of existing telephone, cable television, or broadband facilities and the construction and operation of such additional facilities as are required to assure the availability of such service to the widest practicable number of rural users thereof; ~~provided that nonduplication of lines, facilities, or systems providing reasonably~~

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(1) sue and be sued in its corporate name;

(2) have perpetual existence;

(3) adopt a corporate seal and alter the same at pleasure;

(4) become a member in one or more other cooperatives or corporations or to own stock therein;

(5) construct, purchase, take, receive, lease as lessee, or otherwise acquire and to own, hold, use, equip, maintain, and operate and sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, telephone lines, facilities or systems (but not telegraph or radio broadcasting services or facilities) as defined by law, lands, buildings, structures, dams, plants and equipment, and any and all kinds or classes of real or personal property whatsoever, which shall be deemed necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized;

(6) purchase or otherwise acquire and own, hold, use,

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1 and exercise and sell, assign, transfer, convey, mortgage,  
2 pledge, hypothecate, or otherwise dispose of or encumber  
3 franchises, rights, privileges, licenses, rights-of-way, and  
4 easements;

5 (7) borrow money and otherwise contract indebtedness  
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23 (9) exercise the power of eminent domain in the manner  
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 19 telephone fixtures, appliances, apparatus, and equipment of  
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 21 therewith, purchase, acquire, lease, sell, distribute,  
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1 indebtedness and any and all types of security therefor;

2 (14) do and perform any and all other acts and things  
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-End-