

EXHIBIT 6
DATE 2-18-05
HB HB528

February 17, 2005

Alan Olson Chair Federal Relations, Energy, and Telecommunications Committee
2005 Montana Legislature
P.O. Box 201706
Helena, MT 59620-1706

Dear Committee Members

SUBJECT: HB 670

HB 670 proposes to change voting requirements for municipal Board of Adjustments. Currently the law says that you need four affirmative votes for passage of variances, appeals etc. This bill proposes to change this to the "majority of those present and voting". This is a deliberate weakening of the threshold needed to gain a variance etc.

I don't know what the motive behind this change is but I suspect someone felt that they were wronged by a BOA decision when there were only 5 members present (this is the minimum required for a quorum). Under this scenario, you would need 4 of 5 affirmative votes rather than 3 for passage. Missoula recently changed the rules for their Board of Adjustment by adding the ability to appoint two additional alternates. This assures that there are 6-7 members present at each meeting. This problem could be fixed by simply adding the ability to appoint additional or alternate members.

By law, the proponent of a variance request or zoning change should bare the burden of proving they deserve it. If they have a strong case, they should have no problem assembling the required 4 votes. This bill would make it easier to secure these variances and zoning changes with the residents of adjoining property bearing the brunt of the negative consequences.

I oppose this bill because I feel it is unnecessary.

Sincerely,

Paul Sopko
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