1999 HOUSE FINANCE AND TAXATION

HB 1277

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1277

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 18, 1999

Tape Number	Side A	Side B	Meter #
1		x	33 - Tape #2
Committee Clerk Signature Janice Stein			

Minutes:

REP. BELTER Opened the hearing.

REP. REX BYERLY, WILLISTON, Introduced the bill as the prime sponsor.

This bill changes the method of how we deal with capital credits within rural electric co-ops. The first part deals with when a capital credit has to be paid out and the second half deals with capital credits that they cannot find the person to whom they belong. He stated the phrase that needed to be changed was "from time to time". He said such a phrase is not definable in law. He stated the only businesses that are exempt from the abandoned property law, at this point in time, are the electric co-ops.

REP. BELTER Asked how the five year time span was arrived at in the bill.

REP. BYERLY Stated that Rep. Keiser had an amendment to that particular section of the bill.

The amendmend, if adopted, will remove the five year clause. He has some alternate wording that he would like to have the committee members consider.

REP. GEORGE KEISER, BISMARCK, Testified in support of the bill. Stating that it was not the intention in drafting this bill to have a significant impact on the co-op's. We do recognize, the way the bill is drafted, it was pointed out, that it would close every electric co-op within the state. That was not what we were intending with the bill. Rep. Keiser submitted an amendment to the bill which takes out the five year, but rather, addresses the problem with the situation where a constituent leaves the area of the co-op and would like to be paid out. There is no place where we allow someone to keep someone else's money and use it for all of these years and not require them to pay interest.

REP. BELTER If a customer is with this for two years and gets their money, why should they get it, and I had to wait twenty seven years?

REP. KEISER If you haven't left the system, you are still receiving the benefit of the lower rate as an investment. Those people who stay in the system, help insure a lower rate. They should understand the relationship between their investment and the rate. When someone leaves the system, they no longer have the benefit of those dollars working for them.

REP. GROSZ Felt it would be unfair for the two year customer to get the benefit of everyone else's investment, then after two years run with his money, and really never really added anything to the co-op.

REP. KEISER Disagreed with that comment, he felt the amount you paid is proportionate to your contribution in any given year. He stated you don't have to be in the system two years, before you earn capital credits, and those dollars go toward the entire system.

REP. GROSZ Felt it was not fair that new members came in and had the same benefits as the people who had paid for twenty seven years.

REP. KEISER The fairness has been, if you have been in twenty seven years or two years, if you get out of the system, you can be paid out in full.

REP. DORVAN SOLBERG, CHAIRMAN OF THE BOARD OF MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, Testified in opposition of the bill. See attached written testimony.

SEN. HARVEY TALLACKSON, DIST. 16, Testified in opposition of the bill. Gave an example of what happened in the co-op he belongs to. They have used their own funds to operate the co-op. If this bill would pass, Nodak Electric would have to borrow ten million dollars, and would have to raise their rates substantially. This bill would cause chaos in every rural electric.

REP. BOB HEUTHER, DIST. 27, Testified in opposition of the bill. He stated the capital credits in their co-op earn a margin of the profits they have. These capital credits are used for the betterment of the system. He stated he has been on the board for years, and the co-op has run on a zero margin just to be able to deliver the rates. Their equity runs in the neighborhood of twenty five percent. If we were to follow through with this bill, it would require about a fourteen million dollar loan, which would take us down to ten percent equity, I don't think you would see a bank go on that. That would be about a forty nine percent rate increase at one time.

REP. JAMES KERZMAN, DIST. 35, Testified in opposition of the bill. He stated he is a director in a sparsely populated co-op, with about three thousand miles of line and about that many members. He stated they have about forty percent equity, with about sixty percent being financed. We have been running a very efficient co-op, but something like this would be devestating. When we have an estate to settle, which we do, we actually have to dip into our own reserves. It gets to be a very complicated issue, but I think it is best dealt with locally.

REP. FROELICH Commented, that people that are in there for only two years, they have the time and choice to change these rules when they are members.

REP. KERZMAN Stated that was right.

GARY JACOBSON, BASIN ELECTRIC POWER COOPERATIVE, Testified in opposition of the bill. See written testimony.

ORDEAN NYGREN, GENERAL MANAGER OF CAPITAL ELECTRIC COOPERATIVE, Testified in opposition of the bill. See written testimony.

BRUCE CARLSON, GENERAL MANAGER OF VERENDRYE ELECTRIC COOPERATIVE, VELVA, ND, Testified in opposition of the bill. See written testimony.

REGINAL RUDOLPH, GENERAL MANAGER OF MC LEAN ELECTRIC COOPERATIVE, GARRISON, ND, Testified in opposition of the bill. See written testimony.

RICHARD SCHLOSSER, NORTH DAKOTA FARMERS UNION, Testified in opposition of the bill. Our organization has always been a strong supporter of co-op's and cooperative's principals, one of these principals pertinent to governments. I think this is the heart of what this bill addresses. Gave a background and history of the James Valley Cooperative at Edgeley, ND. The board of directors there are charged with the delivery of a reliable and affordable electricity. In effect, this bill would tie the board's hands by infringing on them the responsibility of determining how and when to pay out capital credits. That cooperative has to meet certain criteria that are required by lenders. This bill also requires that the unclaimed capital credits be deposited with state abandoned property office. Electric cooperatives have policies put in place by the membership to insure that every attempt is made to contact that patron to whom that check was issued, and is held there in perpetuity for that member to come and collect. Capital credits should be held with the rightful owner, the members not the state.

With no further testimony, the hearing was closed.

COMMITTEE ACTION

Committee members discussed the amendments submitted by Rep. Keiser during his testimony.

REP. KROEBER Made a motion to adopt the amendments.

REP. NICHOLAS Second the motion.

After discussion regarding the amendments, committee members felt the amendments didn't make the bill any better. REP. KROEBER and REP. NICHOLAS withdrew their motions to adopt the amendments.

REP. GROSZ Made a motion for a DO NOT PASS.

REP. RENNER Second the motion. MOTION CARRIED

13 Yes 0 No 2 Absent

REP. GROSZ Was given the floor assignment.

Please type or use black pen to complete

Date 1-18-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1277

House HOUSE FINANCE & TAX Committee

☐ Subcommittee on

☐ Conference Committee

Identify or check where appropriate

Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Rep. Grosz Seconded By Rep. Renner

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH	✓	
RENNERFELDT	✓				
CLARK	✓				
FROELICH	A				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER	✓				
MICKELSON	A				
NICHOLAS	✓				
RENNER	✓				
SCHMIDT	✓				
WARNER	✓				
WIKENHEISER	✓				

Total 13 (Yes) 0 (No)

Absent 2

Floor Assignment Rep. Grosz

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE

HB 1277: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1277 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

HB 1277

House Finance and Tax Committee
January 18, 1999
HB 1277
Testimony of Rep. Dorvan Solberg

Mr. Chairman and committee members: I speak in opposition to HB 1277. As chairman of the board of Mountrail-Williams Electric Cooperative, I believe this measure is unnecessary and interferes with our board's ability to be fair to all our members and to keep our rates as low as possible.

North Dakota's electric cooperatives have been in business for more than fifty years. Throughout this time, the cooperatives have allocated their margin to patrons with the understanding that the retirement of a member's equity or capital credits is determined by the board of directors or the membership through the co-op's bylaws. When a patron receives a capital credit allocation, this does not mean that the patron has an immediate right to the return of his equity. It is retained by the co-op for the benefit of all members, just as the equity of the earliest members was retained for the benefit of current members. Think of capital credit allocations like savings bonds. A savings bond may have a face value of $100 but if you cash it in early, it may only be worth $50 or $60. Any forced acceleration in the retirement of allocated capital credits would create a windfall benefit to those receiving their capital credits early, unless it is paid at a discount.

Mountrail-Williams Electric Cooperative is currently on an 18 year rotation for retirement of capital credits. It appears to be the intent of this legislation to require a five year rotation. To understand how this bill could affect a cooperative financially, suppose you had 18 years remaining on a 20 year home mortgage. Now, suppose the legislature passed a law requiring that you pay this mortgage off in five years. You would probably have to sell your home or go through foreclosure. This bill could have just as profound an affect on rural electric cooperatives.

This bill would also require that rural electric cooperatives forward any unclaimed member revenue to the state abandoned property office. This is contrary to section 10-15-34.1 that provides that any forfeited member capital of a domestic cooperative, except credit unions, shall revert to the cooperative as contributed capital. Most rural electric cooperatives are incorporated under both chapter 10-13 and chapter 10-15. Why should rural electric cooperatives be subject to different rules than other North Dakota cooperatives?

Perhaps the intent of this bill is to allow those who leave a co-op's system to obtain their capital credits early. In our cooperative, we allowed early retirement of capital credits at the request of oil companies who moved out of state. We bought back the capital credits at a discount, 20 cents on the dollar, and all members and former members were given the same right to an early retirement of capital credits. The co-op membership decided that this was fair. That is the co-op way. If we allowed only former members to receive capital credits early without a discount, it would represent a windfall to former patrons at the expense of those who continue to buy electricity from the cooperative. Do our hard-hit farmers and ranchers really need more to worry about?

Mr. Chairman and members of the committee, I urge the committee to recommend a "do not pass" on this bill. There is no need for any legislation like HB 1277. Co-op members and directors should determine the best financial plan for the co-op, including how best to treat all members fairly. Thank you.

TESTIMONY BEFORE THE NORTH DAKOTA HOUSE FINANCE AND TAXATION COMMITTEE, REP. W. BELTER, CHAIRMAN, ON HB 1277, "DISTRIBUTION OF ELECTRIC COOPERATIVE REVENUES," BY GARY JACOBSON, REPRESENTING BASIN ELECTRIC POWER COOPERATIVE, JANUARY 18, 1999.

Mr. Chairman, I am Gary Jacobson and I represent Basin Electric Power Cooperative.

Basin Electric, a consumer-owned regional energy cooperative, founded in 1961, is headquartered in Bismarck. The Cooperative operates 3,304 megawatts of electric generating capacity for its 117 rural electric member systems in the eight states of Colorado, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota and Wyoming.

Basin Electric and its subsidiaries are primarily in the business of energy supply, but they also provide other services that rural Americans need and use. Basin Electric and its subsidiaries employ nearly 1800 people.

In addition to the challenging physical and engineering aspects of providing daily energy needs for nearly 1 and ½ million people in the upper Great Plains region, Basin Electric is in a constant process of managing the very substantial financial aspects of its operations.

Basin Electric is a "three-tier" Generation and Transmission Cooperative (G&T). Basin Electric generates and transmits supplemental electric power to its ten "Class A" members. These "Class A" members, in turn, deliver the power to the distribution cooperatives across the region.

Just as the "Class A" members return capital credits to the distribution cooperatives and the distribution cooperatives return capital credits to their consumer-owners who may be residences, farmers, ranchers and/or business operations, Basin Electric returns capital credits to the Cooperative's consumer-owner-members, its "Class A Member-Systems."

HB 1277, sponsored by Reps. Byerly and Keiser, would erode Basin Electric's equity and impair Basin Electric's ability to fund future electric facilities in North Dakota on a reasonable cost basis. As in all private enterprises, a company's equity-to-asset ratio is an all-important-credit factor in obtaining lower cost financing. The major impact of this bill would be a reduction of Basin Electric's member owner equity. This would lead to a negative impact on Basin Electric's credit worthiness and, ultimately, its competitive position to supply reasonable cost power to its rural members in North Dakota and the other seven surrounding states.

If the Cooperative were required, by HB 1277, to return capital credits in a five-year time-frame, the reduction of Basin Electric's equity would be perceived by nation rating agencies such as Moodys Investors Service and Standard and Poors as an impairment of the financial stability of Basin Electric. This perception could translate into a reduced credit rating for Basin Electric and in turn higher financing cost, possibly making it too expensive to build additional facilities in North Dakota.

For the past several years the Basin Electric Board of Directors has approved a retirement of capital credits on an fifteen year average revolving basis. This fifteen year retirement policy has allowed Basin Electric to maintain a minimum level of equity necessary to support its credit worthiness and allowed the Board of Directors the flexibility to provide consistent level patronage retirements to its member owners.

This bill would impose state regulations on democratically governed cooperatives and endanger their continued existence. Cooperatives such as Basin Electric are private businesses, controlled by Boards of Directors which are elected by member owners to make the business decisions which are the most beneficial for the members. This bill will take away from the consumer members of rural electric cooperatives their ability to make the business decisions of a private enterprise and allow it to be made by government legislation.

If this bill had been legislated into existence before 1961, I doubt that Basin Electric, as a regional cooperative, would have headquartered in North Dakota. HB 1277 would have given a signal to developing cooperatives such as Basin Electric that the state, in its position vis-à-vis rural electric cooperatives, could very likely be unfriendly to ALL cooperatives! And, incredibly, in this individualistic-oriented state, it would make note that the state was willing and eager to interfere with the internal management and operations of private business.

Basin Electric wishes to be on record as very much opposed to HB 1277.

TESTIMONY OF ORDEAN "LARS" NYGREN
MANAGER OF CAPITAL ELECTRIC COOPERATIVE, INC.
TO THE HOUSE FINANCE AND TAXATION COMMITTEE
HOUSE BILL 1277
MONDAY, JANUARY 18, 1999

Mr. Chairman and members of the committee, my name is Ordean Nygren. Some of you may know me by my nickname of Lars. I am the General Manager of Capital Electric Cooperative, Inc., headquartered here in Bismarck. We provide electric service to over 9,400 consumers in Burleigh and southern Sheridan counties. I am here today to testify in opposition to House Bill 1277.

Capital Electric began providing service to its consumers in 1947. In the formation of the cooperative, members signed a membership application form and paid a $5.00 fee. That is the same requirement today. A membership form and a $5.00 fee. We are not a stock cooperative or a stock corporation. We do not issue Class A Stock or Class C Stock. The equity in the cooperative is derived through the patronage capital of the members. This is comprised of the year end margins of the cooperative which also contain the allocated margins from our Federated cooperatives such as Basin Electric Power Cooperative and Central Power Electric Cooperative, along with the Cooperative Finance Corporation.

If this proposed law were in effect in 1960, I doubt that you would have a Basin Electric Power Cooperative today. You probably would not have any electric cooperatives.

Let me briefly explain. In order to obtain financing for the Leland Olds Generating Station near Stanton, electric distribution cooperatives such as Capital Electric had to come up with cash, in the form of equity, in order to obtain financing from REA. REA demanded equity capital. The equity capital came from the patronage capital of the distribution cooperatives, which were made in Basin Electric. If you would have had a five-year retirement cycle at that time, such capital investments could not have been made.

Our primary lender, the Rural Electrification Administration (REA), or, as it is now known, the Rural Utilities Service, or RUS, has specific financial requirements which we as borrowers are required to meet. The requirements are both on the minimum operating margins of the cooperative, and on the retirement of these margins, or equity of the cooperative. Each cooperative is responsible for establishing the necessary rates and policies in meeting these requirements. In addition, each cooperative now has to meet the requirements of its supplemental lender.

RUS will only provide up to 70% of any approved loan amount requested by Capital Electric Cooperative. Our other lender is the National Rural Utilities Cooperative Finance Corporation, or CFC. CFC is a federated cooperative, owned by the electric cooperatives. In order to meet the supplemental financing needs of the nation's cooperatives, we needed to form our own financing organization. In order to help form this financing organization, Capital Electric Cooperative had to make equity investments in CFC. This came from the patronage capital of the members.

If we had a five-year retirement cycle, the economic burden placed on the cooperative would not provide for this equity investment in the Cooperative Finance Corporation.

My point is that Capital Electric is dependent upon other federated cooperatives, which we have had to build and make equity investments in. A five-year retirement cycle simply is too extreme a retirement cycle for a capital intensive industry, such as electric cooperatives, to support.

On the debt side of the ledger, we obtain loan funds from RUS and CFC for terms of up to 35 years. On our equity side of the ledger, we are currently trying to maintain a 17 year capital credit retirement rotation cycle with our membership. This is what the current rate level has been providing for, while at the same time, providing for a competitive cost of electric service in the Bismarck area.

Since the inception of Capital Electric Cooperative, we have retired to our members all capital credits, including those of our power suppliers, Central Power and Basin Electric, as well as capital credits received from CFC, up to the year 1984. Those that stood in line first to provide the patronage capital to allow Capital Electric to grow are also the first ones in line to receive their capital credit retirement. It does not make any difference if you were a member for one year or for 30 years. The retirement order has been and continues to be the same for all. Even though some members may have provided significantly more patronage capital than other members, the point of retirement is the order in which the patronage was received. This has provided for a fair and equitable basis for retirement of capital. The only basis whereby one may step out of line to receive patronage capital early is in the case of the death of a natural member. The deceased member's estate is given an option to continue in line or, to accommodate the estate of the deceased person, they may apply for a discounted payment. The payment is discounted because the money would not ordinarily be paid out in today's dollars.

This accommodation was determined reasonable by our membership when they approved it in our bylaws.

I believe the membership did not feel too many folks would look upon death as a means of trying to accelerate a capital credit retirement. However, even with this membership-approved accommodation to estates, it lengthens the rotation cycle for the first in, first out method.

The legislature, for over 50 years in Capital's case, has recognized that the issue of capital credit retirement can best be met by leaving the decision making process at the local level of the cooperative. Let the members determine the basis of capital credit retirement.

It should be noted that any capital credit retirement rotation, or order of retirement, has one important condition that must be met, and that is that the financial condition of the Cooperative will not be impaired by the retirement. A five-year capital credit retirement rotation cycle clearly becomes an impairment on an electric cooperative.

Accordingly, we are opposed to House Bill 1277. Thank you.

TESTIMONY OF BRUCE CARLSON
MANAGER OF VERENDRYE ELECTRIC COOPERATIVE, INC.
TO THE HOUSE FINANCE AND TAXATION COMMITTEE
HOUSE BILL 1277
MONDAY, JANUARY 18, 1999

Chairman Belter and members of the Finance and Taxation Committee, my name is Bruce Carlson, the general manager of Verendrye Electric Cooperative, Velva, North Dakota. I represent approximately 8,000 member/owners who receive Verendrye power through about 9,800 meters in six counties in the north central part of the state. I am here to offer strong opposition to HB 1277 for the following reasons:

1) The financial impact will be devastating. "Capital Credits", or what is commonly called a dividend, are the return of remaining member revenue after paying expenses. For Verendrye to retire all capital credits (dividends) earned prior to 1995, as this bill would mandate, would require $6,528,767 in additional revenue. Since Verendrye does not have this much cash and since neither the federal government nor our supplemental lender would loan this huge amount without collateral, it would require a massive rate increase of 48%, or $.03/kwh. This would mean a "hit" of $817/active member on average to just to meet the dividend retirement as required under this proposed legislation.

2) RUS (the Rural Utilities Service, formerly the REA) requires that we obtain an equity ratio of at least 30% in order to retire capital credits above 25% of our previous year's margins. I'm proud that Verendrye Electric's equity is only 24.5% because our goal is to keep rates as low as possible for our member-owners rather than to grow equity. By comparison our last year's retirement was $260,000. If HB1277 becomes law, in order for VEC to meet our RUS mortgage requirement and federal mandate, we will need $2.1 million dollars in additional revenue to bring equity levels up to 30%. This would result in an additional

13.4% rate increase above the 48% outlined above for a total increase of over 61%!!

3) This forced retirement would mean taking money, through a severe rate increase, from current members to subsidize dividend (capital credits) payments to those who are no longer members of the cooperative. These non-active members would not suffer a rate increase but would receive this early windfall. This is simply unfair. Also, this would be a windfall for many large out of state corporations who understand and accept the present rotation.

4) This forced early retirement would destroy our ability to compete effectively in any deregulated market. In fact, though deregulation remains only a discussion topic, we feel strong pressure to be competitive with other area electric and gas utilities, especially in selling heat and air conditioning service.

5) Verendrye already offers a unique method of retiring member capital credits. Our member owners approved a by-law change that allows retiring dividends in a combination of first-in, first-out and last-in, first-out basis. In other words, those who received Verendrye power in 1997 got a dividend as did those who were on our line in 1977. The previous long wait for dividend checks is a thing of the past. VEC members approve of our current capital credit retirement policy. We retire capitol credits based on old allocations and new allocations with nearly all members getting a retirement check annually.

6) As most of you know, cooperatives are governed by the member-owners who buy power from us through an elected board of directors. This proposal would violate a key principle of cooperatives, that of local control. The 1997 membership vote by the "owners" of the cooperative at the annual meeting changed the way capitol credits are retired at Verendrye. This was done after considerable review by the VEC Member Advisory Committee. Our board enacts policies to benefit the membership. If the members disagree, they can simply replace the board. This

legislation would mean state interference with a North Dakota member owned private corporation. Our 60 years of member ownership and control would be violated under this legislation.

7) This proposal will undoubtedly adversely affect many North Dakota cooperatives in addition to the rural electrics. The result will be a higher cost of living throughout the state for our rural neighbors who already suffer hard times. Many rural folks are served by several different cooperatives. Severe rate increases for each would be devastating to our already fragile rural and small town economy if similar legislation were made applicable to them.

   For example, North Prairie Rural Water, our sister cooperative, would need to increase rates by 193 per cent to raise the additional $1,981,000 to retire capital credits earned before 1994. This would mean an average rate increase of $807 for each of their 1,475 members who are also served by Verendrye Electric Cooperative. This would be a double hit, followed by additional forced rate increases from other area nonprofit co-ops under future similar legislation affecting them.

In summary, this is a bad proposal that would bring considerable hardship to many in order to benefit a few. I urge you to give it a unanimous "do not pass" recommendation after which it should be killed by the full House. Thank you for allowing me to testify.

TESTIMONY OF REGINAL RUDOLPH
MANAGER OF MCLEAN ELECTRIC COOPERATIVE, INC.
TO THE HOUSE FINANCE AND TAXATION COMMITTEE
HOUSE BILL 1277
MONDAY, JANUARY 18, 1999

Good Morning, my name is Reginal Rudolph. I am the General Manager of McLean Electric Cooperative in Garrison, ND.

McLean Electric serves approximately 2,900 meters located exclusively within McLean County. Comparatively, McLean Electric is the second smallest distribution cooperative in the state of North Dakota.

This morning I would like to explain the effects House Bill #1277 will have on the members of McLean Electric.

House Bill #1277 will have an immediate and critically negative impact on the ratepayers of McLean Electric. In order to comply with the proposed bill, the cooperative will be required to increase rates to its members a staggering 32.3%, exclusive of any wholesale power increases that will definitely follow in the wake of this bill. To put into perspective the impact of this bill, the estimated increase has the phenomenal potential of equaling all the rate increases since August 26, 1945, the day the cooperative was formed.

House Bill #1277 if passed, could force rates up, a dollar figure equal to fifty-four years of normal operations.

Additionally, the 32.3% increase at the distribution cooperative level is only a short-term projection. Basin Electric Power Cooperative of Bismarck and Central Power Electric

Cooperative of Minot, McLean Electric's generation and transmission suppliers would be obligated to retire capital credits already allocated to our cooperative forcing millions of dollars in rate increases to other electric distribution cooperatives in the state. Going further in the financial analysis, assuming a lender would provide financing to convert equity to debt and take a secondary lien position behind the Federal Government, debt costs would rise immediately 49% and continue to escalate as the weighted average cost of capital becomes increasingly debt dominated.

Up to this point I haven't described the impact to the rural residents of McLean County, The individual consumer of McLean Electric would be required to pay an additional $353 dollars per year on a bill now that averages $1,104. Totaling the individual impact of all members in McLean County, the cooperative would be required to generate just over a million additional dollars from the rural economy to rotate capital credits in accordance with the proposed House Bill #1277. My concern about passage of this bill is usage will be curtailed due to excessive rate increases causing further financial distress on the existing and future members of the cooperative. This is called a death spiral, a term coined by Leland Olds, an electric cooperative pioneer in North Dakota.

Additionally, implementation of House Bill #1277 removes all discretion of the board of directors to manage the financial welfare of McLean Electric Cooperative. Capital management is the second largest cost of the cooperative behind purchased power costs and most important tool in keeping rates as low as possible. Financial theory states if an excess of either debt or equity is obtained the cooperative will operate at higher cost than necessary. From an equity management forecast model prepared for McLean Electric Cooperative, the optimum level of equity to keep the rates as low as possible is 34%, under House Bill #1277 equity of the cooperative will initially fall to 12.5% and debt increase to 87.5%. HB 1277 will require McLean

Electric to obtain a level of debt that imbalances the financial security of the cooperative.

In summary, this bill will unnecessarily cripple McLean Electric and its member-owners. With only one and one-half meters per mile, and a plant investment of one dollar in plant for only thirty-three cents of revenue it is clear the rural electric family is providing a valuable service to North Dakota. I feel this proposed amended will drastically impair McLean Electric's ability to provide reasonable priced electricity to its members. I urge to the committee to stop passage of this bill.

HB1277 January 18, 1999

Testimony of:

Pam Geiger, Director
Mor-Gran-Sou Electric Cooperative
Flasher, ND

Mr. Chairman, members of the committee, for the record my name is Pam Geiger and I am here today as a director and a representative of Mor-Gran-Sou Electric Cooperative which serves Morton, Grant, and Sioux Counties and is headquartered in Flasher, ND.

Our cooperative consists of 4,200 consumers covering approximately 4,800 square miles. That equates to 1.4 consumers per mile of line.

Mor-Gran-Sou Electric opposes HB1277 on a number of basic principals, two of which I will touch on today.

On the surface HB1277 looks good, but if passed, it will put our cooperative in dire financial straights. It will force us to make decision at the cooperative that frankly; I cannot fathom at this time.

Second, electric cooperatives, through their members and boards, have successfully managed their affairs for over 50 years. North Dakota having some of the lowest electric rates in the United States evidences this.

Our members, through their board of directors, have full authority to set retirement schedules. They've determined when and how their capital credits are managed.

HB1277 strips away the electric cooperative member's authority without regard to their wishes or forethought of the unfair and unrealistic burdens it will cause on existing members.

Mr. Chairman, members of this committee, thank you for this opportunity to speak to you today and I urge you to send a "Do Not Pass" recommendation to the full House on HB1277.