

February 3, 1977

Chairman Brand called the meeting to order at 9:00 a.m., all members were present.

Dick Hargesheimer submitted his summary - see attachment #1.

HB 512-Rep. Metcalf, sponsor--I introduced this on behalf of the Historical Society. Some amendments have been submitted to clarify a few things. (see attachment #1 for 2 of the amendments, see committee report for the remainder)

BRIAN COCKHILL, State Archivist--see attachment #3 for his testimony.

NO OPPONENTS

BRAND-Is the Secretary of State required to keep records about pardons? COCKHILL-When the vault was being worked on, some papers were destroyed.

HJR 36-Rep. Conroy, sponsor--This resolution urges elected officials to increase the number of Indians on boards and bureaus. This is presented in the hope of promoting better relations between whites and Indians in Montana. I think this will help promote some harmony.

MICHAEL PICHETTE, Democratic Party Secretary--This was part of the current Democratic Party Platform, and I support it. This resolution would enact that portion.

REP. FRANCIS BARDANOUVE--I am a co-sponsor, and a proponent.

MERLE LUCAS, Coordinator of Indian Affairs, Department of Community Affairs--To my knowledge, there are somewhere around 24 - 26 boards and bureaus in Montana, and only 2 Indian people who sit on these -- one on the Human Rights Commission, and one on the Board of Education. I would like to urge this committee to recommend DO PASS.

DWIGHT BILLEDEAUX--The bureaucracy must be reminded that there ought to be people of a particular group helping to determine their own destiny. If Indians were represented, we could at least say we had a chance to have our say. If you point your finger at any group and say that they are at fault, there are still 3 fingers pointed at yourself. Montana leads the nation in what has been done for Indians, and we would hope that you will pass this. (for further testimony by Mr. Billedeaux, see attachment #4)

HARRIETT MELOY, State Historical Society--As a point of information, Joe Medicinecrow is on the Historical Society Board.

HB 493-Rep. Harper, sponsor--This is a housecleaning bill. The governor, by executive order, changed the designation of the Historical Society from under the Fish and Game commission. The wording of this act reflects the change in administration. The word "architectural" has been added to what is considered historical.

AL THOMPSON, Montana Historical Society--We are ready to assume responsibility for administration of the act. The transfer was made with full cooperation of Fish and Game, and the governor. This bill provides specific means for protection of designated sites; it is therefore appropriate that the act be administered by the Society.

BARDANOUVE-What budgetary implications does this have for the Historical Society?
THOMPSON-The original act did not provide a specific sum of money, but the projects do not use large staffs. It would be useful to have additional funds, but we could

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absorb the new program. The nature of the administration of the Antiquities Act doesn't require an outlay of cash to administer. Travel, per diem, and expenses are the main outlays. BARDANOUVE--Could you specify what type of work you will do under this bill. THOMPSON--It would involve contact with owners of specific historic sites and following up with agreements between such; whereby the society would put the site on the state historical register, provide for marking of the site, and for the society to obtain a court injunction to restrain or prevent governmental action which might affect the site. FEDA--What does Fish and Game say? THOMPSON--Since there are no opponents, I would think they don't mind. I believe it was unanimously approved by the commission; but I don't have any documents to that effect.

HB 506--Rep. Harrington, sponsor--This is relative to voluntary indication of party preference. This just sets up a voluntary system of partisanship.

MICHAEL PICHETTE, Democratic Party Secretary--We took a platform position that people registering to vote should have the voluntary option to note their party preference; because there is no place to note that, there are only two ways to become a member--to be elected, and to pay dues to the party of your choice. Both parties have minimal fees. Membership in political parties is pretty loose. There's no way you can register as a party member in this state. This would be voluntary. It should be noted that this doesn't require re-registration, and would only cover people who aren't registered now or who re-register. There's no new work for clerks and recorders except to make it clear that no one is required to note this. It would make available a list of people who choose to show this preference. Eventually, there would be a large number of people on these lists. I hope for DO PASS.

KEN DUNHAM, representing Florence Hagan of the Republican Party--We support this. (for further testimony, see attachment #5)

OPPONENTS

MAGGIE DAVIS, League of Women Voters--I caution you about voluntary check-offs. We have had some registrations rejected because of some people refusing to add this. It would be a problem of educating the clerk and recorders.

HARRINGTON--We have had people who didn't put their Social Security numbers, and the cards were rejected; but once the clerk and recorders get the word that this is voluntary, the problem could be cleared up. TURNER--Was the Social Security number mandatory in 1975? HARRINGTON--As far as we could see in the law, it wasn't. JO ANN WOODGERD--The law says that the clerk "may ask"; but it seems that the clerks don't have enough knowledge of statutory language to understand the permissivity of "may".

HB 392--Rep. Tower, sponsor--The Coal Tax Trust Fund was voted in for the benefit of the people in Montana for the future. In my business, which has grown alot in the past 5 years, the next step we take is out of town. (he explained a few concepts of small business) I want to take the Coal Tax Trust Fund and divide it among the banks of Montana. (he presented amendments, see committee report) The Constitutional amendment says that a vote of 3/4 of the legislature could vote to dip into this fund. Pledged securities are a problem. (he went into a lengthy discourse on banking techniques) This would sever the Coal Tax money from the other types of deposits. Banks want to keep 7% of their lending capital on loan. I don't know what the replacement effect would be, but I wanted to use this money for businessmen in the state. Banks don't have the money to lend, it is very difficult to get a conventional

mortgage loans anymore. I feel that with business growth that we expect in the state, it would be good to get the money out without creating anymore work for any boards, etc. We will give up some interest, but the investment in the state is worth it.

HAROLD PITTS, Montana Bankers' Association--With tongue in cheek, it seems to me that anytime a bank related individual appears here, legislators think there is an ulterior motive. I fairly well know the banking industry in Montana; and we have always been short of capital, and thus have had to import it. We have to see how to get some money circulating in Montana. Because of our situation, we are not in a position to bid large amounts to industry. If in some way, you could get even a portion of this money available to banks and savings and loans, it would be good for the state. I agree with Tower that we are forced to turn things down that are good for the community because we don't have the operating capital.

JIM HOWETH, State Board of Investments--We are not really proponents, but I have discussed this with Tower several times, and worked over the administrative problems. Naturally, we are always aware of our liabilities. We are always looking behind ourselves. One problem that we see - we aren't sure that you can declare something prudent by statute. Should a loss occur with the funds, would the liability come back to the board members in terms of the prudence of the investment? This is a problem we see in administration.

TOWER-I felt this was an opportunity for Montana to become capitally self-sufficient, and possibly a capital exporter. This is a start. It isn't much money banking-wise. This is about 12 million a year, so it isn't much. There are some other bills to give low interest loans for winterization, and middle income housing. If the housing board wanted to put a project in the community, the toughest person to work with is a banker. You may have a loss in an area, but I still feel the benefits to the state are well worth the risk. The capital requirements here are pretty tough.

TURNER-Where do you presently go for money? PITTS-Seattle or New York. As a banker, I don't approve of going out of state to get the money. MULAR-Do lines 15-18 on page 8 remain intact? TOWER-Yes, this is changed from the OPM statute because they require a bond. What we are doing now is giving them some quick liquidity. This are just a sale of bonds to the state for a little liquidity. MULAR-You are adopting the Ordinary Prudent Man rule? HAUKE-In our investment law now, we are governed by the prudent man rule, and any other funds we invest are under the same thing. What we are concerned with is that after purchase, should a loss occur, my board is afraid of being sued. There are suits which have been carried out under this act. There have been judgements awarded on this statute, so should a loss occur, would we be liable. MULAR-What if we used the good faith concept? HAUKE-My board suggested that we leave the liability with the prudent man act; because in the long run you are talking about alot of money, and the board has to decide whether the bank is capable of paying the money back. BARDANOUE-Assuming you were the investment officer, and you made investments against the prudent man rule, what would your board do? PITTS-They would hang me. BARDANOUE-So the board may reject any of this with your amendment; and the banks could pick up all money available? TOWER-Yes.

HB 508-Rep. Kvaalen, sponsor--There were two statutes about bid security - one required two, and the other required three. The commissioner decided to go with the later option, and take three bids. The departments have been ignoring the three bid proposition, because in many instances it was difficult to get even two bids. It got to be time consuming and frustrating. If we go with this it would be even worse. This

was brought to my attention by Mr. Hanson, and he is here to testify.

SONNY HANSON, Montana Technical Council--The problem with this is that in rural areas, we usually only have one bidder; so I have had arrangements in Eastern Montana where friendly contractors have allowed me to list their names on the bid to make it legal. Lines 21-25 on page 2 don't change the advertising requirements, neither does it deviate from the changes made by the state. This just says that if you have one responsible bidder, you can give it to him. It requires a 10% bid bond, and the amount of a surety.

CLARENCE HESTER, Department of Administration--We support these revisions. We operate both large and small contracts; and large ones are often broken up into 3 separate contracts--mechanical, electrical and general. We presently have trouble getting 2 bidders, and on some small things it is hard to get 1. To require 3 bids would almost put us out of business on half of the bids we let. We have to rebid if we don't get 2. We lose time and money.

JACK CROSSER, Director, Department of Administration--The delay in addressing this is unfortunate. It is expensive and I don't like the methods we have to go through now just to comply with the law.

REP. EDWARD LIEN, Circle, Montana--For some time, I worked for State Lands; and they have to have 2.5% of the money from the lands returned to the resource. We let bids on land leveling projects - that isn't too lucrative a business, and they usually had one or two men who always bid - so you either relet or go through subterfuges. You have a list of contractors, and they get a personal notification of each job. This bill is necessary, and it in no way jeopardizes the state's ability to let bids. This statute now makes law breakers out of these people.

KVAALLEN--Sometimes I think one bid would be letting ourselves out on a limb. In some areas there's a lot of money involved, there are a number of bids - but this applies generally to relatively small projects, When you look at the projects going on around the state that are small, you understand.

EXECUTIVE SESSION

O'Connell told the committee that her subcommittee on HB's 302 and 249 still had been unable to meet with both sponsors, but that a meeting was scheduled for Friday, February 4.

Robbins told the committee that his subcommittee on HJR 29 - campaigning on Malmstrom Air Force Base - had had an attorney look over the resolution. The attorney recommended no changes, and neither did the subcommittee, so it was up to the committee to do what they liked.

HJR 29-Smith moved DO NOT PASS, Turner seconded; the motion carried with Robbins, Bardanouve, Menahan, O'Connell and Brand voting no.

HB 488-Feda moved DO PASS, Bardanouve seconded, and the motion carried unanimously.

HB 512-O'Connell moved DO PASS, Bardanouve seconded, and the motion carried unanimously.

HB 392-Lien moved DO PASS, with Feda seconding.

BARDANOUE-I think this makes the Bank of England look like small time. By the year 2000, it could cost us millions. I am sure your concern is for distributing this money in the state. We have a good investment rule. When you waiver the prudent man rule, you are opening yourself up for being stuck with things. Your amendments mess it up by prohibiting any competition--taking away the Board's right to turn them down. This fund is projected, and if the legislators don't rob it, in 25 years you could have 2 billion dollars at the mercy of Montana bankers. LIEN-Perhaps by 2000 the increased business activity will balance the increased interest. I don't believe the Montana bankers are in that shaky a condition, and I feel the money should be sent back to the communities. TURNER-As far as this prudent man rule, who determines whether the investments are being done in a prudent manner now? BARDANOUE-I don't see how you lose any money with what you are saying. The only way you can lose money on a long term investment is if the company goes completely bankrupt. There's a vast difference between private stock investment and the state investment in long term - government entities can go on forever. I don't want to waiver the prudent man statement. TURNER-We do need more capital investment. MENAHAN-When it's environmental, you don't want it. If you believe in growth, we shouldn't restrict ourselves to sending money only where we get the most back. We give environmentalists hell when they try to protect the state and yet here we are giving the banks a break. TURNER-We aren't giving the banks a break, we are giving the private citizen who needs a loan money. Growth is a factor we have to deal with in this state. BARDANOUE-Under the present law, Montana banks are not prohibited from bidding on this money. MENAHAN-How much did the revenue investment fund make last year? BARDANOUE-It was up to 8%, but with lower interest I would say 6 - 7 percent. Several hundred million, because you are dealing with the retirement fund, and general fund money. The general fund money has to be in a liquid position. TOWER-From my experience with banks, they don't want to go over 80% in loans. So, if they have over 100 million in deposits, they will divide that up among different loans. The amount they can loan to one individual would increase - otherwise, there won't be enough money around to carry the ranchers and cattlemen. Apparently, land values have little to do with capital available. The money isn't available to loan to these people. If we don't get the deposits up, there will be less money in there when we need it. The capital requirements of banks are examined very closely. They have strict instructions. State and national bank auditors are not pre-announced. Banks can't loan more than a certain amount of capital to one person. They have been to district court, and want to go to the Supreme Court in an effort to build capital. If they get below a 7% ratio of capital to deposits, they can't loan money. This would help finance power companies. They go out of state now, and get low interest loans. We have 2 or 3 ways to attract industry. We can give them a tax break to come in, or we can provide low interest rates because supply is lower than demand. They do have ways of restricting the bids. BARDANOUE-Mr. Turner asked if I had investments - I have 5 shares in the bank which Kropp is President of. "tink, tink, hear the pennies fall, they were meant for Jesus, but the preacher gets them all" TOWER-The ability to reject bids was left out of the amendments - Paul Caruso suggested that we leave this out; but I have no objection to this being put back into the bill. Caruso says they have the power already to reject bids.

Ryan moves to consider the bill tomorrow when the amendments have been written properly. Turner seconded the motion, but it failed. Turner moved to include the stricken material in the amendments. Seconded by Bardanouve, this motion carried unanimously. Turner moved AS AMENDED DO PASS - the motion carried 9 - 6, with Brand, Bardanouve, Menahan, O'Connell, Robbins, and Ryan voting no.

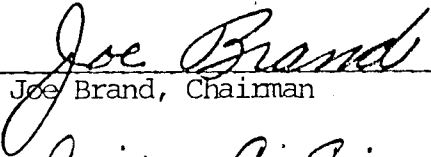
HB 493-O'Connell moved DO PASS, Ryan seconded, the motion passed unanimously.

HB 506-O'Connell moved to accept the amendments, Kanduch seconded, and the motion carried unanimously. O'Connell moved AS AMENDED DO PASS, Robbins seconded, and the motion carried with Ryan voting no.


HB 508-Kropp moved DO PASS, Bardanouve seconded, and the motion carried with Ryan voting no.

HJR 36-Smith moved DO PASS, O'Connell seconded, the motion carried unanimously.

MEETING ADJOURNED - 10:50 a.m.



Joe Brand, Chairman



Anita C. Sierke, Secretary