

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 24, 1979

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 10:00 a.m.

ROLL CALL: All members were present.

Chairman Hazelbaker stated the bill under consideration is Senate Bill 84 which is an agency bill by request of the Department of Business Regulation. Chairman Hazelbaker called on Senator Blaylock, sponsor of the bill.

SENATE BILL 84: Senator Blaylock stated the Department needs the authority it has requested when it has reason to believe some bad banking practices are going on and they can issue a cease and desist order. There is no act presently on the books today. The Department has come up with a number of amendments which are attached.

Mr. Kent Kleinkopf, director of the Department of Business Regulation, said his department is requesting this legislation for the main reason that currently they do not have any authority to handle problems that arise in banks to assist the institution in solving its problems. This is ultimately for the protection of the consumer through safety and soundness of the institution to be regulated. Montana is one of the very few states that does not have a cease and desist order.

The Federal Reserve Board and the FDIC have both informed the Department that in the next few years they are going to be pulling out of the primary regulation of state banks to a great degree and rely on the state to enforce regulations. Therefore, the role of the Department of Business Regulation will be increasing substantially in the future.

Mr. Les Alke, Administrator of the Financial Division for the Department of Business Regulation and Mr. Harold Pitts of the Montana Bankers Association both spoke in support of the bill and recommended its passage.

Mr. Phil Sandquist, president of the First Security Bank of Bozeman said he was opposed to this bill because he felt it was unnecessary since all banks are either members of the Federal Reserve System or FDIC.

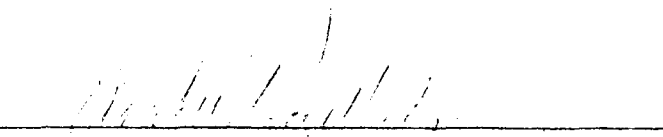
Senator Lowe asked Mr. Kleinkopf why we needed further investigation because these other agencies are investigating on a regular basis.

Mr. Kleinkopf replied that the process of examination is an ongoing process that takes place every day. All banks are to be examined each year. There is not enough personnel to examine state banks. The federal authorities must be called in for a cease and desist action.

There was a general discussion on banking practices in Montana.

No action was taken on Senate Bill 84. The Committee wanted time to look over the corrected amendments.

ADJOURN: There being no further business, the meeting was adjourned at 11:10 a.m.


FRANK HAZELBAKER, CHAIRMAN

BILL TO BE HEARD BY
THE SENATE BUSINESS AND INDUSTRY COMMITTEE

JANUARY 24, 1979

Bill
SB 84

Sponsor
Blaylock

By request of the Department of Business Regulation. Gives the department director the power to issue a cease and desist order against a financial institution which is engaging or about to engage in an unsound practice or is violating or about to violate a law or rule. (Section 2 (1)). The order may require the institution to take affirmative action to correct conditions resulting from the unsound practice (p. 3, l. 14-15). The bill gives the director power to remove an officer or board member on similar grounds (p. 5, l. 19-25; p. 6, l. 1-6). Under the bill, both powers are exercised following notice and hearing, except that a temporary cease and desist order (Section 4) is effective immediately (p. 4, l. 19-20) and an officer or board member suspension (Section 7) is also effective immediately (p. 9, l. 1-2). All actions of the director are reviewable in district court (p. 13, l. 4-6).

PROPOSED AMENDMENTS
SENATE BILL NUMBER 84

1. Page 2, Line 10

Following: " (1) If "

Strike: " in the opinion of the director any institution is
engaging or has engaged or "

2. Page 2, Line 12

Following: " that "

Strike: " the "

Insert: " any "

3. Page 2, Line 13

Following: " is "

Insert: " engaging, or has engaged or is "

4. Page 2, Line 15

Following: " or "

Strike: " the director has reasonable cause to believe that
the institution "

5. Page 3, Line 8

Following: " established "

Insert: " by the preponderance of the evidence "

6. Page 3, Line 17

Following: the first " of "

Strike: " 30 "

Insert: " 45 "

7. Page 4, Line 19

Following: " practice. "

Insert: " Such order shall contain a statement of the facts
constituting the alleged violation or unsafe or unsound
practice. "

8. Page 5, Line 17

Following: " office "

Strike: " Whenever in the opinion of "

Insert: " whenever "

9. Page 5, Line 19

Following: " law "

Insert: " involving dishonesty or breach of trust "

10. Page 5, Line 17

Following: " director "

Insert: " has reasonable cause to believe "

11. Page 6, Line 6

Following: " duty "

Insert: " , and such violation or practice or breach of fiduciary
duty is one involving personal dishonesty on the part
of such board member or officer "

12. Page 6, Line 14

Following: " whenever "

Strike: " in the opinion of "

13. Page 6, Line 14

Following: " director "

Insert: " has reasonable cause to believe that "

14. Page 7, Line 19

Following: " established "

Insert: " by the preponderance of the evidence "

15. Page 9, Line 1

Following: " institution. "

Insert: " The notice shall contain a statement of the facts
constituting grounds for the order and shall fix a time,
not later than 10 days from the date of the service of the
notice, at which a hearing will be held to afford the
board member or officer the opportunity to respond. "

16. Page 10, Line 6

Following: " involving "

Strike: " embezzlement, "

Insert: " dishonesty or "

17. Page 10. Line 7

Following: " trust "

Strike:"or similar crime, "

18. Page 9, Line 13

Following: " after "

Strike: " any board member, officer, or other person has been suspended
from office or prohibited from participation in the
conduct of the affairs of an institution "

Insert: " the hearing provided "

19. Page 10, Line 12

Following: " individual "

Insert: " The notice shall contain a statement of the facts
constituting grounds for the order and shall fix a place
and time, not later than 10 days from the date of the
notice at which a hearing will be held to afford the board
member or officer the opportunity to respond. "

20. Page 10, Line 17

Following: " after "

Strike: " any board member, officer, or other person has been suspended
from office or prohibited from participation in the
conduct of the affairs of an institution "

Insert: " the hearing provided "

21. Page 14, Line 13

Following: " (sections 1 through 13) "

Insert: " shall be made upon individual board members and officers
by personal service and may be made upon institutions "

22. Page 14, Line 13

Following: " (sections "

Strike: " 6 "

Insert: " 5 "

NAME: PHIL HARPER DATE: 1-24-79

ADDRESS: BOSTON, MA

PHONE: 387-0641

REPRESENTING WHOM? FIRST SEC BANK

APPEARING ON WHICH PROPOSAL: SB-84

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Donald Pitts DATE: 1-24-79

ADDRESS: Helena, Montana

PHONE: 442-7109

REPRESENTING WHOM? Montana Bankers Assoc.

APPEARING ON WHICH PROPOSAL: S.B. 54

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE

1/24/99

COMMITTEE ON

BILL NO. 834

VISITOR'S REGISTER

NAME	REPRESENTING	Check Off	
		Support	Oppo
BRIAN R. WITT	Montana Bankers Assoc. Intern		
Eric Hess	Mont. Ind. Bankers Assoc.		
Bob Wood	DEPT OF BUSINESS REGULATION	<input checked="" type="checkbox"/>	
W. Wake	" "	<input checked="" type="checkbox"/>	
Scott Kleinfelger	" "	<input checked="" type="checkbox"/>	

(Please leave prepared statement with Secretary)