

HOUSE BUSINESS AND INDUSTRY

January 22, 1981

SUMMARIES FOR

HOUSE BILL 188 -

Introduced by Rep. Sales, repeals the law providing and requiring store licenses.

HOUSE BILL 189 -

Introduced by Rep. Sales, limits use of industrial development revenue bonds to non-profit corporations or to provide relief to any private enterprise that has an unusual and unexpected burden placed on it by federal or state laws or regulations.

HOUSE BUSINESS AND INDUSTRY

Rep. W. Jay Fabrega, Chairman, called the Business and Industry Committee to order on January 22, 1981, at 8:00 a.m., in Room 129, Capitol Building, Helena, MT to hear House Bills 188 and 189. All members present.

HOUSE BILL 188 -

Rep. WALTER R. SALES, District 79, Lewistown, sponsor of HB 188, said HB 188 would remove the whole Chapter 57, Title 15 of the codes. This chapter defines a store. Vending machines aren't stores. It is necessary to have a license to operate a store, except for grain merchandisers. He read and explained all of Chapter 57 to the committee. Merchants think obtaining this \$11 license is a hassle. Rep. Sales asked the committee to review his bill, listen to the opposition to it and determine if there is any good reason for it to continue and if not, get rid of it.

DAVE GOSS, Billings Chamber of Commerce, Billings, feels the present state licensing department is a nuisance to everyone - the state and to store owners. See his testimony attached - EXHIBIT A.

JON MEREDITH, Department of Revenue, Helena, supports HB 188, saying this license was imposed when property taxes were way down and this way was used as a means of obtaining additional revenue many years ago.

OPPONENTS: None

Rep. Sales closed to answer questions from the committee.

The revenue impact for this license for 1980 would be \$307,521. See EXHIBIT B, Revenue Department further explanation of license revenues.

Meredith explained the law is difficult to enforce and the Department of Revenue would like to get rid of it. There are no taxes involved as far as taxes per se are concerned.

HOUSE BILL 189 -

REP. WALTER R. SALES, sponsor, explained HB 189 adversely restricts the use of industrial revenue bonds. People most interested in the use of industrial revenue bonds will be opposed to the bill as presented, but he hoped that their testimony will help save a good idea. Present law allows local governments to make financing of projects found to be in the public interest with industrial revenue bonds, and this financing has been used in many wonderful ways - Triangle Cement plant when required to spend \$3 million in antipollution controls used IDR bonds with county approval. Power companies have used IDRs for pollution control equipment; construction of hospitals; new industries introduced into the state have used them.

In some cases such financing has been used for highly questionable projects - downright abuse when allowed to be used by the wrong projects.

Local officials at first were discriminating, but this type of financing is now being abused. Congress is right now threatening to take away the tax privileges of these bonds. They want these bonds to be helpful to the state and be used properly and in the true public interest. He hoped testimony of the opponents will be presented with this purpose in mind.

PROPOSERS: None

OPPOSERS:

Please see the Visitors' Register for persons who are opposed to HB 189.

BRUCE A. MACKENZIE, Vice President and General Counsel for D. A. Davidson & Co., Great Falls, opposes HB 189. DAD does not feel there has been an abuse of IDRs in Montana, and this bill should not pass in its present form. Issuance of this type of bonds increases employment, tax base to the community, and economic development. The present law prevents any abuse provided it is operated in an economic manner. HB 189 would put the burden on industry to prove that it has been subjected to an unusual and unexpected burden. Only new regulations that impact a business would be looked at. DAD has written over \$60 million in capital investments in Montana, projects which would have been excluded otherwise. IDR bonds are very attractive because of their tax exempt status. Montana is a capital short state and needs to attract investment.

He would favor forming a blue ribbon commission to study this for two years and come out with some provisions. Federal capital should not be restricted since Montana needs this. See written testimony, EXHIBIT A.

DAVE GOSS, Billings Area Chamber of Commerce, Billings, opposes HB 189 in its present form. Montana has problems with distance, transportation, and IDR bonds have given Montana one of the few tools for development and would hate to lose this tool in attracting industry. He agrees with Bruce Mackenzie and hopes the use of them is not taken from one extreme to the other. He feels it is necessary although difficult to decide just which proposed project would be in the best public interest. IDR bonds do offer a very important tool in economic development in Montana. He urges caution. See written testimony, EXHIBIT B.

JOHN LOPACH, Great Falls Economic Growth Council assistant director, Great Falls, sets three priorities for use of IDR bonds - businesses and industries which export goods from the state; businesses which export services from the state; and also new businesses which would export goods or services from the state. These would all bring a new cash flow into Montana.

Redevelopment areas designated under the laws of Montana in order to strengthen the tax base in order to revitalize them would want to use this refinancing tool. It would not be used to finance land, buildings,

and fixed assets outside Montana which do not bring any cash flow into a community. It is one of the really strong incentives that we have to offer in Montana in order to hold businesses that are already here otherwise there will be a situation where an out-of-state owner wants to sell a business and one of the possibilities is that the new owner wants to move that business out of the state. New economic development in this state would want this law, but it is questionable as to whether it is proper in connection with the meaning of the law.

DON PEOPLES, Butte-Silver Bow local government, Butte, stands in opposition to the bill because of the financial plight of the cities and towns. The bill as proposed would create more difficulty for Montana cities and towns which largely depend on property tax and need every means possible to expand that tax base. He feels their local government has used this program very wisely after looking at projects very carefully. Any move to restrict development in Montana is not a wise move. Approved MacKenzie's suggestion for a study. They are largely dependent on the utilization of IDR bonds to provide local matching funds. He urged the committee to give serious consideration to the bill, and if there are abuses and inequities, to take care of them by amendments after a considerable amount of study has been done. It is unwise to consider HB 189 as proposed.

DONALD KERNS, City of Helena Redevelopment Department, Helena, strongly supports statements made by the other people testifying on this bill and simply stressed the belief that responsible local government officials are using this tool in a discreet and careful manner. Helena has developed an extensive plan that an applicant has to go through in order to be sure the request for issuance of IDR bonds meets public interest. For redevelopment in Helena issuance of as much as \$16-18 million in IDR bonds will be called for. If denied the use of this tool, those redevelopment projects will not come to pass. Do not pass.

DANIEL COOK, representing himself and the architecture industry, feels IDRs are very popular now and some projects are totally out without it. Interest rates are so high now that a project cannot generate enough cash flow to make up the difference each month. He cited various projects that have proven the worth of using IDR bonds. See his testimony EXHIBIT C. Everything has risen and the cost of building is almost prohibitive. He is very much opposed to HB 189.

CY JAMISON, City Councilmember, Billings, opposes HB 189 because it takes away a method of financing that is enjoyed by every other state. See EXHIBIT D.

JANELLE FALLAN, Montana Chamber of Commerce, Helena, said there is a great deal of concern this session with economic development at all levels, by a lot of small businesses, too. We should keep something when it is going good for us. See EXHIBIT E.

MAE NAN ELLINGSON, Deputy City Attorney, Missoula, said the City of Missoula is strongly opposed to HB 189. Her testimony and Resolution #3991 of the Council of the City of Missoula are attached - EXHIBIT F.

RICK TUCKER, State Auditor in the Securities Division, opposes also. The registration provisions on IDR bonds takes care of abuses in other states and in other areas. Abuses in Montana are at a minimum and cannot be stopped because they are in the nonprofit area. If a committee is established, the department would be only too happy to work with them to curtail whatever abuses that might arise. Abuses that are happening can be cured from a registration and not by taking them away from the business or industry that might be using this type of financing.

QUESTIONS:

In response to various questions from committee members, it appears that such bonds are looked upon as being loans. There are a number of projects for development in Montana that are seeking this type of funding. Many cities have developed guidelines for issuance and DAD has been responsive to this need.

Such bonding is considered to be the obligation of the private enterprise. The economic impact on a community has the effect of helping the bonding capacity. Montana and Montana communities do not have the stability and economic base satisfactory to getting a better bond rating. IDRs help the bonding capacity of communities and increase the tax base so a community can raise more money for borrowing.

Tucker said there is no federal law at this time for control of any abuses. Various states require all IDR bonds that do not meet a specific exemption, such as nonprofit, are required to go across the desk of an investment examiner. K-Mart didn't come across their desk, but they would have started questioning because people didn't want it in that area. Any of the abuses that we might find would be taken care of by registration under the MT Securities Act. Pennsylvania has been the worst abuser - one community can authorize a project outside of its boundaries. MacKenzie said the guidelines in Montana are responsibly handled by paying attention to the law.

What is considered an abuse in one community might not be considered an abuse in another. Local level hearings would be necessary to determine this, Rep. Kessler thought. Editorials have pointed out plenty of abuses - some have been indicted. He hoped that a review committee would be a result of this hearing and that possibly there would be public knowledge that the state was trying to do something reasonable with this.

The sponsor wants somebody to take a look at what is happening, but doesn't want to do away with this type of financing. Congress is looking at the tax exempt status of IDRs very closely. We are using them properly in Montana. Good projects far outnumber bad ones. He feels that local control has failed significantly. Final say will rest with the local government in determining unexpected public need after a hearing.

Rep. Ellerd thinks there has been discrimination and agrees that somebody should make a study of it. The sponsor said IDRs do absorb a tremendous amount of money out of the normal financing arena and when used there would not be available to the other. When given tax exemption status to so many things, it does affect what others have to pay.

Rep. Fabrega said the principle of IDR bonds is to help development take place and it is felt the taxes collected from the new enterprise will offset, if not immediately in the longer term, any momentary loss.

Rep. Vincent suggested a resolution asking for an interim study be initiated by the committee to study those abuses or so that a committee bill be written. Rep. Sales does think there are better people in the state that are directly interested in this type of funding who should protect a good law by cleaning up their own act.

Rep. Sales closed saying he appreciated the people who showed up in opposition to HB 189 because they are the people who can provide the guidelines. Rep. Ellison wants copies of guidelines which the researcher will get for him.

MacKenzie doesn't think there is imminent federal control on tax exemption removal; it wouldn't pass because of Republicans being in control at the moment.

Tucker mentioned the material for such a study might be unavailable at the present time. There is no place except at the Securities office where which bonds are or will be recommended.

MacKenzie doesn't feel there have been abuses. He suggested the committee be constituted of members of the industry. Any committee should include industry impacted persons and others who are interested. He would speak against an interim committee. You have a community taking a look at the project and the viability of a project. Guidelines will be established by the community and let the local officials decide. He does not think a committee should be established.

EXECUTIVE SESSION -

Rep. Kitselman moved HB 189 DO NOT PASS. He felt the Act has been to give incentives for industries to locate in Montana and give industry a boost in general - very, very worthwhile project. Industry recognizes that there are some problems with that and industry should be allowed time to work out problems. Shouldn't shut something down. The motion carried unanimously.

Some discussion was had on HB 188 as to whether such a tax should be collected yet since it was initiated in 1933, and if this license were eliminated, are there other such licenses that could be done away with. Some licenses require inspections and do other things, but with this license there is no other reason for it. It was proposed that some further study be done on other licenses to see if they could be done away with also.

#11

1/22/81

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Rep. Metcalf said the intent of the Legislature is to provide a big package of tax relief. Sometimes you do these little things and fund good programs and that provides better tax relief in the long run.

There was extra money in an earmarked account from licenses just sitting in an account and which was put back into the general fund. It was suggested the appropriations committee study the economic impact.

HOUSE BILL 175 - Rep. Pavlovich moved DO NOT PASS. A floater license cannot be sold at this time - it can only be inherited. Money can be borrowed on it. At the end of five years those floater licenses will become permanent licenses. The motion of Do Not Pass carried by a 14-5 vote. Reps. O'Hara, Ellerd, Kitselman, Vincent, Fabrega voted against the motion.

HOUSE BILL 185 - Rep. Vincent moved HB 185 DO NOT PASS. He felt this proposal might be unconstitutional. Rep. Ellerd made a substitute motion that HB 185 DO PASS. He feels there has been stalling of projects through court procedures, and that HB 185 has merit. There was disagreement because of lack of any specific examples. Rep. Andreason didn't want to see the idea killed, but wanted to see implementation this way killed. Instead of calling people into court, he would rather see another way of doing it found. Rep. Andreason then made a motion for all motions pending that action be postponed on HB 185. The vote for postponement was 13-6.

The committee further discussed possibilities of amending HB 185, but felt the title did not allow for amending that would put the burden of proof elsewhere. It would be necessary to adjust current law to accommodate the intent of the sponsors of this bill. The spirit of this bill has support, but the implementation has some problems. This proposed law is too general. Each specific law referred to on page 2(2) is a threat to labor and to environments. It would affect labor specifically.

The meeting adjourned at 10:45 a.m.



Jo Lahti, Secretary



REP. W. J. FABREGA, CHAIRMAN

VISITORS' REGISTER

HOUSE COMMITTEE

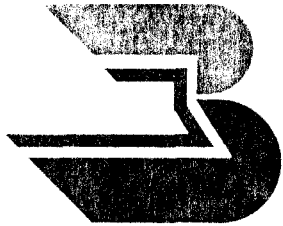
LL _____ Date _____

NSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



June 1968

HOUSE BILL 188

The Billings Area Chamber of Commerce supports House Bill 188.

The Chamber feels that the required licensing of stores by the state is a nuisance to both the State and to the businessmen. In a newspaper article a few months ago, former Montana Governor Tom Judge was quoted as saying "...the tax is a nuisance for businesses, and state government doesn't collect enough revenue from it to justify...the purpose of state tax laws is to produce essential revenues not to harass business and individuals."

The Chamber also feels the state license is a nuisance to businesses, especially considering the numerous other state licenses a business may be required to have. For example, a person who decides to open a small grocery store with self-service gas pumps probably would be required to have the following state licenses and permits.

1. A petroleum license from the Weights and Measures Division.
2. A special fuel dealers license from the Motor Fuels Tax Division if diesel is sold.
3. A license from the Misc. Tax Division to sell cigarettes.
4. A drug license from the Board of Pharmacy to sell aspirin.
5. A beer distributors license from the liquor division.
6. A Department of Livestock License to sell eggs.
7. A Department of Business Regulation license to sell milk.
8. A Department of Health License to sell hot sandwiches.
9. Plus the businessman must enroll in Unemployment Compensation, Workers Compensation, and the State Withholding Tax.

While this may be an extreme example, the Chamber believes it shows that the State is already doing a good job of licensing businesses, and therefore does not need to require a business license that does not generate that much revenue.

The Billings Area Chamber of Commerce urges your support of House Bill 188.



STATE OF MONTANA

DEPARTMENT OF REVENUE

MITCHELL BUILDING
HELENA, MONTANA 59601

February 3, 1981

MEMORANDUM

TO: House Business and Industry Committee

FROM: John M. Clark *Jmc*
Deputy Director

SUBJECT: House Bill 188

You have asked for additional information concerning the Chain Store License Tax (Title 15, chapter 57, M.C.A.). This provision was enacted in 1939. Apparently it was envisioned as a revenue raising measure. There are no issues of public health or protection connected with the license. The chapter is silent as to anything (for instance, no business has been closed for failure to license) other than a monetary penalty for failing to license for the year. Tax revenue goes directly to the general fund.

The schedule of rates is as follows:

	Gross receipts less than or equal to \$350,000 annually	Gross receipts greater than \$350,000 annually
1st store	\$11.00	\$ 11.00
2nd store	\$13.50	\$ 56.00
3rd store	\$21.00	\$106.00
4th store	\$28.50	\$156.00
5th store	\$36.00	\$206.00
6th store and additional stores	\$44.50	\$206.00

Enterprises with many retail outlets pay a proportionally larger amount than an enterprise which features a single store.

The Department estimates that about 1,000-1,200 hours of employee time is involved in administering and enforcing this law each year. Administrative costs (personnel, printing, postage, data processing, and some travel for enforcement) are on the order of \$9,000-\$10,000 annually. Since collections are at the \$300,000 level, the tax which returns revenue of about \$30.00 for each dollar spent, is one of the most expensive for the state to administer.



STATE OF MONTANA

DEPARTMENT OF REVENUE

MITCHELL BUILDING
HELENA, MONTANA 59601

February 9, 1981

MEMORANDUM

TO: Ellen Feaver
Director

FROM: James Madison, Administrator
Miscellaneous Tax Division

A handwritten signature, likely of James Madison, is written in ink next to the "FROM:" line.

SUBJECT: Montana Store Licenses - Chain Operations

As you requested the following information is furnished concerning store licenses issued for 1979.

Total number of licenses issued:
12,521 retail
1,217 wholesale

Of the above total approximately 1,681 retail licenses were issued to businesses with two or more stores (chain operations). These chain stores accounted for approximately \$80,656.00 in license fees.

VISITORS' REGISTER

HOUSE COMMITTEE

LL 189

Date 1-2-2001

SPONSOR _____

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



2-26-71 A
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SUMMARY OF TESTIMONY

TO: House Business and Industry Committee

FROM: Bruce A. MacKenzie, Vice President and General Counsel
D.A. Davidson & Co.

RE: HB 189

House Bill 189, relating to Industrial Development Revenue Bonds (IDR Bonds) would amend present statutory provisions ~~in~~ such a manner as to prohibit the use of IDR Bonds for all enterprises, except non-profit corporations, unless the entity could convince a governing body that it was subject to an "unusual and unexpected burden" imposed upon it by the passage of state or federal laws or regulations.

This additional requirement would severely limit the ability of cities and counties to issue IDR Bonds. The phrase "unusual and unexpected burden" does not lend itself to easily determined objective standards. Further, the phrase implies that only new regulations which impose a burden upon an industry could be considered by a governing body since the burden must be "unexpected." Therefore, companies ~~are~~ presently burdened by OSHA, ~~existing laws, regulations such as tax laws,~~ environmental standards--such as pollution control, would not qualify for Industrial Bonds since none of these burdens could be ~~viewed~~ as "unusual" or "unexpected."

We view these amendments as imposing upon the existing statutory provisions a very narrow purpose for which IDR ~~financing~~ could be ~~properly~~ used and which would prohibit many of the same type of capital improvement projects that many local communities have ~~authorized~~ ^{bonded} under existing guidelines. Montana and its local communities are searching for ways to attract new business, stimulate new capital growth, and retain its existing businesses. Amendments such as these would restrict the existing statutory provisions which were originally intended to induce business to locate or develop within a community and stimulate economic development.

As an example of the restrictive nature of these amendments, it is our opinion that of the more than 45 Bond issues representing in excess of

60 million dollars of capital improvement projects financed with IDR Bonds by D.A. Davidson & Co., only 9 ~~of those projects~~ would qualify under the guidelines imposed by the amendments. Those that could not be financed would include nursing homes in Whitefish, Deerlodge, and Carbon County, a new lumber mill in Judith Gap, a bottling and canning plant in Great Falls, a chisel plow factory in Fort Benton, and a sheet metal fabricating facility in Belgrade. These and ~~two~~ ^{many} other projects that would be excluded by the proposed amendments have provided the type of increased economic development that Montana communities are so desperately trying to attract.

Under Montana's present IDR statutes and the case law interpreting its provisions, there are existing guidelines which establish criteria for a local community to use in determining whether the bonds should be issued. ~~for a particular project.~~ MCA Section 90-5-103 requires that the bonds be issued only if it is determined that a public purpose would be served. The Montana Supreme Court, in Fickes vs. Missoula County, determined that a public purpose would be found if the project receiving the benefit of the bonds would increase employment in the area, increase the tax base of the community, and help to create economic stability. These criteria provide a valid measure of whether or not the bonds should be used for a particular capital improvement project. Further, the local governing body is in a unique position to evaluate whether these conditions would be met, given ~~the~~ ^{true} economic circumstances of their communities. If the governing body abuses its discretion, there are statutory provisions which allow the public to overturn their decision and reject the project. Most importantly, the communities have available a method of financing which they can use to induce business to locate or remain in their community and over which they exercise control.

Montana presents unique problems from the standpoint of raising capital for improvements. There is a lack of large financial institutions capable of financing ~~large~~ ^{major} capital improvement projects. Lending limits of many ~~bonds~~ ^{banks} are too low to allow them to lend the type of funds necessary for many of the projects. Small corporations in the state are unable to raise venture capital through the equity market because of their size. Conventional debt markets, if available, are too expensive ^{given} ~~in~~ today's interest ^{rate} ~~climate~~ to finance major projects. The IDR Bond, however, is an alternative which provides the capital necessary for needed economic development while still being attractive to the borrower because of the lower interest rate and also attractive to the investor because of the tax-exempt income. The bonds allow for the raising of the capital locally so that Montana's funds are reinvested into the state and offer an attractive inducement for out-of-state business.

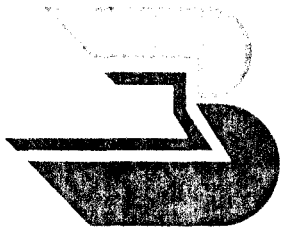
In summary, we believe that the present industrial development bond law is achieving the original purpose for which it was enacted. The bonds ~~have~~ ^{have} stimulated economic development through the fostering of numerous capital improvement projects throughout Montana. Guidelines exist which provide local governing bodies with criteria to reject projects, which would abuse the concept while still allowing projects that are found to serve the communities economic needs. ~~The~~ ^{The} proposed amendments would alter the focus of the local governments inquiry from the communities best interests to whether a particular business has been burdened. The proposed amendments

place a higher priority on ^{relieving} ~~reviving~~ the economic burdens of a particular business than on alleviating the economic problems of Montana's local communities. The proposed amendments would prohibit many of the same type of projects previously financed with IDR Bonds which are ^{now} ~~not~~ contributing to the economic stability of the communities in which they are located.

It is our belief that these amendments are contrary to the original intent of this legislature in enacting the industrial development law and would stifle economic development by effectively curtailing one of the few methods which provides capital improvement financing within Montana. We respectfully request the committee to recommend a DO NOT PASS for House Bill 189.

effusion

Billings Area
CHAMBER OF COMMERCE



HOUSE BILL 189

The Billings Area Chamber of Commerce is opposed to House Bill 189.

While some people may feel that there have been past abuses of the use of Industrial Development Revenue Bonds, the Chamber believes that this bill takes the question of the use of I. D. R. Bonds from one extreme and moves it to the other extreme.

The Chamber is also concerned about the impact the bill would have on the ability to attract new job-producing industries to Montana. Montana is already at a disadvantage in attracting new industry to the state because of such things as our tax structure and distance from the market centers of the country. Therefore, we would hate to see this bill pass and thus place a virtual ban on the use of I. D. R. Bonds as one of our few tools of economic development.

The Chamber urges you to defeat House Bill 189.

Handwritten signature



Exhibit C

January 21, 1981

Jay Fabrega, Chairman
House Jobs & Industry Committee
State Legislature
State of Montana
Helena, MT 59601

Dear Mr. Chairman:

This letter is in reference to House Bill #189.

I definitely oppose this bill under the grounds that it would severely limit the amount of new construction and new jobs which would be available to Montanans.

I have been involved in many Industrial Revenue Projects in the last several years of which I will recap a few:

1. The 151 unit Copper King Inn Travelodge in Butte. This project was totally financed by Industrial Revenue Bonds after it was determined that it was totally infeasible to construct this project with traditional financing. The Industrial Revenue Bonds made the project feasible and we were able to start construction and complete this building by June of 1980. On this project I was both the Architect and major stockholder. The project now employs over 115 part and full time personnel. The project contributes approximately \$80,000 per year to the Silver Bow County tax base.
2. Renovation of the Great Falls Tribune Building, Great Falls. This building was renovated after the Great Falls Tribune moved to its new location. The renovation consisted of completely gutting out the building to its original shell and making the new building perform as a modern office structure. This building has employed over 80 persons for the last 9 months in the construction industry. It also has allowed the expansion of IFG Leasing in Great Falls. The total number of employees in the Tribune Building now numbers over 140, with over 40 of these being new jobs. The Tribune Building property taxes will bring into Cascade County over 3 times the original property taxes that the building had prior to completion. Without Industrial Revenue Bonds this project could not have possibly been financed especially in the high interest rates that we have been through in the past 6 months.

3. The Silver State Building, Great Falls. This particular structure was slated for demolition. It was purchased by Mr. Graybill, Mr. Ostrem and myself in late 1978. Industrial Revenue Bond issue was used for the financing on this project. Again, this project employed many people during the construction, it brought more people into downtown Great Falls, and it has increased the tax base for the City of Great Falls and Cascade County.
4. The Triple Crown Motor Inn, Great Falls. This issue amounted to a \$750,000 Industrial Revenue Bond issue and allowed the Triple Crown Motor Inn to build in downtown Great Falls. This has been an extremely important anchor for the downtown area since it brings more people into this area on a permanent basis at night and weekends where the downtown has previously been dead. This has also employed an addition 12 to 14 persons which were not employed in the community previous to this time. The property taxes on this property are substantially greater than the bare land which existed prior to the Industrial Revenue Bond Issue. If this project wasn't financed by Industrial Revenue Bonds it would not have been feasible to build and would have resulted in no new employment for the area.

As you can see from the above examples and the many other projects throughout the State of Montana, the Industrial Development Revenue Bonds are essential to continued growth of the State. Without these bonds, we would just as well forget about any new construction projects and any growth in the area of buildings.

I highly encourage you to defeat this House Bill at the earliest possible date. Please be reminded that all of the new jobs I talk about are paying State Income Tax and I am sure are paying more Income Tax than the loss of revenue that the State receives from the Industrial Revenue Bonds.

If you have any questions concerning these or my testimony please call at any time.

Professionally yours,



Daniel W. Cook
Partner

DWC:pc

January 22, 1981
Room 129

TESTIMONY PROVIDED BY CY JAMISON, COUNCILMEMBER, TO HOUSE COMMITTEE ON
BUSINESS AND INDUSTRY AS IT RELATES TO HOUSE BILL 189.

My name is Cy Jamison, I am a City Councilmember from Billings, Montana, and I represent the City of Billings today. The City of Billings opposes HOUSE BILL 189 because it would take away a method of financing that has been used to fund in excess of \$88,000,000 worth of projects in Billings during the past three years. The facilities constructed by use of industrial revenue bonds have resulted in the creation of more than 2,500 jobs during this same period.

In this time of capital shortage, it is amazing that someone wants to take the privilege of using industrial revenue bonds away from Montana while it continues to be enjoyed by nearly every other state. Industrial bonds sell at less interest rates than do other bonds because the owners of the bonds do not have to pay state and federal income taxes on the interest received from these bonds. The major loss is to IRS. When the Federal government is ready to take action to curtail the use of industrial development revenue bonds for all states, then we should be quick to follow in their footsteps. To pass HOUSE BILL 189 would be denying our business and industrial community an opportunity that their counterparts, and in some cases their competitors, enjoy in all the states around us. We urge you to oppose HOUSE BILL 189.

NAME Janith Fullen BILL No. 189
ADDRESS Box 1730 DATE 1/22/81
WHOM DO YOU REPRESENT Montana Chamber
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

IDR bonds are important for
economic development. Sufficient
controls on their application
are already provided in MT
law

Exhibit F

TO: MEMBERS OF HOUSE, BUSINESS AND INDUSTRY COMMITTEE
FROM: CITY OF MISSOULA
RE: OPPOSITION TO HOUSE BILL NO. 189
DATE: JANUARY 21, 1981

The City of Missoula is strongly opposed to House Bill No. 189 and limiting the use of Industrial Development Revenue Bonds to non-profit corporations and businesses burdened by passage of laws and regulations.

We are cognizant, however, of widespread concern about the use and abuse of tax-free Industrial Development Revenue Bonds and the strong desire to curb those abuses. We do not feel that House Bill No. 189 is the best method of achieving that goal for several reasons:

1. The tax-exempt status of Industrial Development Revenue Bonds is a creature of the Internal Revenue Code and Congressional action. To the extent that I.D.R.B.'s are being abused, the abuse is occurring nationwide. The effect of tightening up the use of the bonds in Montana only has the effect of reducing the amount of capital available for Montana projects, and not really addressing the problem.
2. Industrial Development Revenue Bonds, if properly used, serve a legitimate and valuable purpose by allowing local governmental entities to encourage much needed development, particularly in economically depressed times. They are a particularly useful tool to a community like Missoula which is trying to stimulate growth and development in an urban renewal area. House Bill No. 189 would kill these efforts.
3. The determination of what enterprises have been unexpectedly burdened by state or federal laws or regulations would be very difficult to make.

The City of Missoula has been very judicious in its approval of Industrial Development Revenue Bonds. I am attaching for your consideration a copy of Resolution No. 3991 that outlines our policy for issuing such bonds so that you understand that we take very seriously the privilege of issuing these bonds. We do not intend to abuse this privilege.

The City of Missoula respectfully requests that House Bill No. 189 be given a "do not pass" recommendation.

Respectfully submitted,

Mae Nan Ellingson
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Deputy City Attorney

MNE/jd
Attachment

A RESOLUTION OF THE COUNCIL OF THE CITY OF MISSOULA ESTABLISHING A POLICY RELATING TO THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS BY THE CITY OF MISSOULA.

WHEREAS, Section 90-5-101 of the Montana Code Annotated provides a procedure whereby Industrial Revenue Bonds can be issued by cities for "commercial manufacturing, agricultural, and industrial projects, along with recreational and tourism facilities, retirement homes, hospitals, medical facilities, and long-term facilities"; and

WHEREAS, the City of Missoula has established an Urban Renewal Agency and an Urban Renewal Plan with the goal of revitalizing the downtown business area; and

WHEREAS, the City recognizes the possibility of using Industrial Revenue Bonds as a mechanism to stimulate economic development within the Urban Renewal District; and

WHEREAS, the City Council of Missoula is desirous of establishing a policy to follow in considering requests for the use of Industrial Revenue Bonds to finance commercial ventures,

NOW, THEREFORE, BE IT RESOLVED:

Section 1. That the City Council will issue Industrial Revenue Bonds when they find that it is in the public interest of the City of Missoula to do so. In measuring the public interest, the City will consider among other things:

- A) The number of employees that will be employed by the business concern involved in the Industrial Revenue Bond Issue.
- B) The public improvement that will be made by the industry to support their new facility.
- C) Whether the proposed facility is within the Urban Renewal District and in keeping with the comprehensive plan of the City and the Urban Renewal Plan.
- D) Feasibility of the new facility being built if Industrial Revenue Bonds are not used.
- E) The new facilities will not have an adverse effect on the City.
- F) Testimony elicited at the public hearing required by Section 90-5-104.
- G) Recommendation of the Urban Renewal Agency.

Section 2. An applicant for Industrial Development Revenue Bonds shall submit the following material to the City Finance Officer:

- a. The City of Missoula's application for IDR financing, signed by the owner or chief executive officer of the company which will be liable for paying off the bonds.
- b. An initial resolution, in proper form, directing that public notice be given as provided by law. The resolution will be approved by the City Attorney.
- c. A letter from the underwriter, investment banker, or financial consultant representing to the City that he has evaluated the financial ability of the applicant and he is of the opinion that the applicant has the financial and management capability to fulfill all obligations to be imposed by the proposed transaction, and that the bonds can be successfully marketed or placed. A copy of the financial statements of the applicant which were reviewed and upon which the opinion is based must be included.

- d. Letter from the proposed bond attorney stating that he is prepared to grant a favorable preliminary opinion relating to the qualifications of the project under Montana statutes.
- e. A statement from the underwriter holding the City, its officials and employees, harmless of any error, misstatement or omission in any official statement.
- f. A deposit payable to the City according to the schedule adopted by the City Commission.
- g. A statement indemnifying the City, its officers, and employees from any liability, or damages incurred in connection with the issuance of bonds, as shown in Exhibit A, attached to the application.

Section 3. The application shall be accompanied by an application fee of \$400.00 to cover the cost of establishing the public hearing and other administrative costs relating to the issue. If the issue is approved the applicant shall pay an additional fee of \$2.00 per thousand for each \$1,000.00 worth of bonds issued. A credit shall be granted equal to the initial fee paid.

Section 4. Upon receipt of the material required in Sections 2 and 3 herein, the City Finance Officer shall cause the same to be reviewed by the necessary staff. After receipt of appropriate approvals from staff, the initial resolution shall be referred to the Urban Renewal Agency for its recommendation. The resolution shall then be placed on the agenda of the City Council Finance Committee and the agenda of the City Council for consideration.

Section 5. The City reserves the right to approve the bond attorney that will issue the legal opinion of the Industrial Development Revenue Bonds. The cost of such legal opinion will be paid by the business enterprise for whom the bonds are issued.

INTRODUCED, READ, PASSED, AND ADOPTED the 14th day of January, 1980.

ATTEST:

APPROVED:

Grace Barrett /s/
City Clerk

Bill Cregg /s/
Mayor

(SEAL)