

MINUTES OF THE MEETING  
STATE ADMINISTRATION COMMITTEE  
MONTANA STATE SENATE

January 18, 1983

The meeting of the State Administration Committee was called to order by Chairman Pete Story on January 18, 1983 at 10:30 a.m. in Room 331 of the State Capitol, Helena, Montana.

ROLL CALL: Roll was called and all members were present.

The meeting was opened to the hearing on SENATE BILL NO.100.

SENATE BILL NO. 100: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO GOVERNMENT; AMENDING SECTIONS 2-15-401, 7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114, 13-27-105, 15-14-305, 15-24-922, 15-31-114, 15-31-509, 15-57-109, 19-6-203, 19-7-202, 22-1-218, 46-30-301, MCA; AMENDING SECTION 4, CHAPTER 520, LAWS OF 1981 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SUCH AMENDMENT; AND REPEALING SECTIONS 2-15-1627, 7-13-2249, AND 15-31-542, MCA.

SENATOR MAZUREK introduced the bill in place of SENATOR GRAHAM who was called out of town due to illness in the family.

SENATOR MAZUREK stated that this is a code commissioner bill that makes no change in the law but that it has a ten million dollar error. EXHIBIT 1 was distributed to the committee, which is Chapter 520 from the last session. The codes commission intention was to clarify this section of the law. Last session the small business investment increased from twenty to thirty percent and was told that credit was to be a two year increase and would drop back to 20% this year. That is what section 19 of the bill intended to do. Apparently when the department of revenue saw this bill, in making the budget prejections for this year, both the LFA and the budget office has treated this bill as repealing the investment tax credit. Instead of back from thirty to twenty next year, they treated it as being gone entirely, the result is, there is \$10 million projected in the general fund that will not be there.

LEE HEIMAN, Legislative Council, reviewed the changes with the committee as indicated on EXHIBIT 2.

In reference to Section 2, line 3-4 and top of 5, SENATOR TOWE asked if they were changing the dates. MR. HEIMAN said it was a time frame within Title 14 and that it involves mechanics.

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In reference to Sect. 13 SENATOR TOWE asked what it had to do with the caterpillar Tractor case. MR. HEIMAN stated that it had nothing to do with it, it was just clarification.

There being no proponents and no opponents, questions were called from the committee. There were no questions.

The meeting CLOSED on SENATE BILL 100.

SENATE BILL NO. 104: S.B. 104 was introduced by SENATOR KEATING of Billings, Montana, District 32. S.B. 104 is "AN ACT TO ESTABLISH A SELF-GOVERNING BOARD FOR REGULATION AND LICENSURE OF EMPLOYMENT AGENCIES; AMENDING SECTIONS 39-5-102, 39-5-103, 39-5-202 THROUGH 39-5-209, 39-5-301, 39-5-303, 39-5-311, AND 39-5-401 THROUGH 39-5-403, MCA."

Senator Keating stated that there's about 25 employment agencies in the state and 17 or 18 are members of the employment agency association. They are under the administration and regulation of the Department of Labor for the past 10 years or so and two years ago there were changes made in the codes as to the fees they charge and other regulations.

Senator Keating impressed the committee that these employment agencies were private and independent business that provide goods and services. He stated that it is voluntary with no requirements and anyone can go there for their services and they should not have requirements on how to conduct their business as well as being subjected to audits. They would like to be more independent and under the Department of Commerce rather than the Department of Labor.

PROPOSERS were called.

CORY BEMIS, president of Private Employment Association of Montana. She expressed their desire to become independent as they are a private enterprise and do not like being harassed by Labor and Industry. She stated that unless they were ethical, they would not be in business.

BUD CLEM, of Clem's Placement Service in Bozeman, Montana, said that they have the right to be a business as a private enterprise. He said they believe they can regulate their own people better than under government jurisdiction. He has not been harassed but has had the department of labor in three or four times since they have been in business which has been unnecessary; also, that they do not compete with job service.

JOHN ELDER of Acme Personnel of Billings testified in support of SB 104. He stressed the professionalism and said he would like to see the services that they offer more professional and feel that they could strongly regulate themselves.

There were no other proponents.

OPPONENTS were called.

DAVID HUNTER, Commissioner of Labor and Industry testified to the committee. He stated that he recognized that these businesses were private industry and also felt that they did not compete with job service. He stated that the laws on the books are workers' protection laws. The laws that apply are standard laws. He remarked that there are those who apply shoddy service and it is a big problem when times are hard and people are desperately looking for work. There are operators that come in and advertise overseas jobs and then move out. He said that this bill sets up a board of four members of private agencies. He said the board of horseracing is now being changed by a bill introduced to change the members of the board as they find having members on the board that are involved in the business is a conflict of interest. He also stated that he feels when it is necessary to close down someone who might be viewed as a competitor that he believed the department of labor is much more capable of doing that quickly.

SHIRLEY MILLER, Bureau Chief of the Department of Commerce, testified as an opponent. She said that SB 104 is incompatible with the system that professional occupational licensing for two major reasons; one is that all of their boards are totally funded by fees generated by licenses, second is that all of their boards who licenses these professional individuals, in order to be licensed, must first pass an examination based on standards and criteria exercised by national organizations of professional peers.

MARY GARRETT of the professional licensing bureau in the Department of Commerce, opposed to SB 104 on a financial basis and on technical basis that this bill provides for will-making powers but not other powers of the board. She stated that the department has field staff all over the state to answer to these complaints and they do not.

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TERRY MURPHY, representing the Montana Farmers Union, spoke in opposition to SB 104 citing an incident that happened in the hiring of a secretary through an agency in Great Falls. The secretary in question had applied through an agency there and was referred to them for a two month fulltime job. The amount of time spent by the agency was minimal but their charge to her for finding the job was \$85. She was hired for \$850 per month. As it turned out, she was found to be efficient and they kept her on. The agency continued calling them to find out if she was still working and how she was doing. When it was decided to keep this secretary on permanently, the agency billed her for \$477.52. After the agencies continued threats to collect, they contacted the department of labor who wrote to the employment agency stating that their charges were out of line. Eventually the letters and demands quit and Mr. Murphy stated that he was sure it was due to the department of labors efforts to control this.

CORY BEMIS stated that many people that are caught in illegitimate business.

There were no other proponents and no opponents.

CHAIRMAN STORY called for questions from the committee.

SENATOR TOWE asked Ms. Bemis how she felt about a board not being able to act immediately.

CORY BEMIS stated that they are always seeking things out and that they do not always agree with the board.

SENATOR TOWE asked what about the response the department of commerce made in that it would cost more than they would be able to charge in fees.

MS. BEMIS stated that it does not cost anyone else that amount of money.

SENATOR KEATING said that the department of commerce said that they were preparing some kind of a fiscal note. He was told it would cost them \$17,000 which is quite high, since there is only 25 agencies and there would probably be 17 association members and they would have to come up with \$1,000 apiece. He said that he began to check around and found like boards, for instance the sanitarians, which there is 173 members and they paid a total of \$3783.00 in one year and \$2100.00 in another year.

SENATOR TOWE asked if he thought it would take a full time employee and MS. CORY stated no. DICK KANE of the Labor Dept.

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stated that he could not answer for the Department of Commerce, but that he issues the licenses himself, reviews the contracts, someone else does the typing of the letters and if there is a complaint, they have to send someone out. He said he does not believe 1 FTE is unreasonable.

SENATOR STORY asked how many complaints have been processed.

MR. KANE said there have been about 15 since the 1st of October 1981, which does not include the unlicensed people that are advertising. They do monitor three of the larger cities papers for these ads.

SENATOR MARBUT asked how they feel about lay people on the board and Cory Bemis and John Elder voiced no objection.

SENATOR MARBUT asked if they review all the contracts and MR. KANE stated that they do not, only on a form at the time of licensing.

Since there were some unanswered questions in the committee's mind, Chairman Story selected SENATOR HAMMOND and SENATOR TOWE as a SUBCOMMITTEE.

Other comments were that Ms. Bemis said they were aware of the extreme fee they would have to pay but it would be worth it.

SENATOR STIMATZ remarked that the Montana unfair trade and protection act is in the department of commerce.

The meeting closed on the hearing of S.B. 104.

SENATOR TOWE MOVED for reconsideration of SENATE BILL 48. PASSED.

SENATE BILL 48 was presented for RECONSIDERATION.

SENATOR TOWE explained the amendment saying that it seems that the section put in section one was put there to provide machine: ballots would be different than paper ballots but it has been amended.

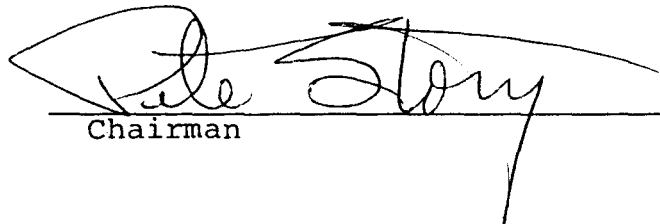
DAVE COGLEY reaffirmed this and stated that they have also amended the title for the same purpose.

SENATOR TOWE MOVED that they strike from SB 48, section 1 and the corresponding amendment to the title. Question was called. MOTION PASSED unanimously.

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SENATOR TOWE then MOVED that HOUSE BILL NO. 48 do pass as amended. MOTION PASSED unanimously.

There being no further business, the meeting adjourned at 11:45.

  
Chairman

## ROLL CALL

STATE ADMINISTRATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1/18/83

[illegible]

Each day attach to minutes.







AN ACT TO CLARIFY THE STATUTES ALLOWING THE INVESTMENT CREDIT; AND TO INCREASE THE SMALL BUSINESS INVESTMENT CREDIT TO 30 PERCENT OF THE FEDERAL CREDIT; AMENDING SECTIONS 15-30-161, 15-30-162, AND 15-31-123, MCA; AND PROVIDING APPLICABILITY DATES.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 15-30-161, MCA, is amended to read:

**"15-30-161. Purpose and definition.** The purpose of 15-30-162 is to allow individuals, estates, and trusts, *including those owning an interest in partnerships and in small business corporations electing to be taxed under the provisions of 15-31-202*, to take the investment credit as provided for in 15-30-162 in order to stimulate capital investment by the small business sector."

Section 2. Section 15-30-162, MCA, is amended to read:

**"15-30-162. Investment credit.** (1) There is allowed as a credit against the taxes imposed by 15-30-103 and 15-30-104 a percentage of the credit allowed with respect to certain depreciable property under section 38 of the Internal Revenue Code of 1954, as amended, or as section 38 may be renumbered or amended.

(2) The amount of the credit allowed for the taxable year is the sum of:

(a) 30% of the amount of credit determined under section 46(a)(2) of the Internal Revenue Code of 1954, as amended, or as section 46(a)(2) may be renumbered or amended;

(b) the investment credit carryovers carried to the taxable year as provided in subsection (4); and

(c) the investment credit carrybacks carried to the taxable year as provided for in subsection (4).

(3) Notwithstanding the provisions of subsection (2), the investment credit allowed for the taxable year may not exceed the taxpayer's tax liability for the taxable year. In the event the taxpayer's tax liability for the taxable year exceeds \$5,000, the investment credit may not exceed \$5,000 plus 50% of the tax liability in excess of \$5,000. In the case of a husband and wife who file separate returns, the investment credit may not exceed \$2,500 plus 50% of the tax liability in excess of \$2,500 unless the spouse of the taxpayer has no qualified investment for and no unused credit carryback or carryover to the taxable year of the spouse that ends with or within the taxpayer's taxable year.

(4) If any part of the investment credit is not applied against the tax liability for the taxable year because of the limitations imposed under subsection (3), the unused portion shall be carried back and carried forward in accordance with the provisions of section 46(b) of the Internal Revenue

Code of 1954, as amended, or as section 46(b) may be renumbered or amended."

(5) The investment credit allowed by this section is subject to recapture as provided for in section 47 of the Internal Revenue Code of 1954, as amended, or as section 47 may be renumbered or amended."

Section 3. Section 15-31-123, MCA, is amended to read:

**"15-31-123. Investment credit.** (1) The purpose of this section is to allow small businesses to take an investment credit as provided for in subsection (3) and to stimulate capital investment by the small business sector.

(2) For the purposes of this section, "small business" means a business that is eligible to elect to be taxed under the provisions of 15-31-202 whether or not such election is made.

(3) There is allowed as a credit against the taxes imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage of the credit allowed with respect to certain depreciable property under section 38 of the Internal Revenue Code of 1954, as amended, or as section 38 may be renumbered or amended.

(4) The amount of the credit allowed for the taxable year is the sum of:

(a) 30% of the amount of credit determined under section 46(a)(2) of the Internal Revenue Code of 1954, as amended, or as section 46(a)(2) may be renumbered or amended;

(b) the investment credit carryovers carried to the taxable year as provided in subsection (6); and

(c) the investment credit carrybacks carried to the taxable year as provided for in subsection (6).

(5) Notwithstanding the provisions of subsection (4), the investment credit allowed for the taxable year may not exceed the taxpayer's tax liability for the taxable year. In the event the taxpayer's tax liability for the taxable year exceeds \$5,000, the investment credit may not exceed \$5,000 plus 50% of the tax liability in excess of \$5,000.

(6) If any part of the investment credit is not applied against the tax liability for the taxable year because of the limitations imposed under subsection (5), the unused portion shall be carried back and carried forward in accordance with the provisions of section 46(b) of the Internal Revenue Code of 1954, as amended, or as section 46(b) may be renumbered or amended.

(7) The investment credit allowed by this section is subject to recapture as provided for in section 47 of the Internal Revenue Code of 1954 as amended, or as section 47 may be renumbered or amended."

Section 4. **Applicability.** This act is applicable only to taxable year beginning after December 31, 1980, and before January 1, 1983.

Approved April 29, 1981.

EXHIBIT 1  
re: SB100

re: SB100

2-15-1627 GOVERNMENT STRUCTURE AND ADMINISTRATION

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2-15-1617. Renumbered 2-15-1851. Sec. 4, Ch. 274, L. 1981.

2-15-1618. Renumbered 2-15-1852. Sec. 4, Ch. 274, L. 1981.

2-15-1619. Renumbered 2-15-1853. Sec. 4, Ch. 274, L. 1981.

2-15-1620 through 2-15-1624 reserved.

2-15-1625. Renumbered 2-15-1856. Sec. 4, Ch. 274, L. 1981.

2-15-1626. Renumbered 2-15-1857. Sec. 4, Ch. 274, L. 1981.

2-15-1627. Board of massage therapists. (*Terminated — see compiler's comment*)

History: (1) thru (3)En. Sec. 3, Ch. 302, L. 1967; Sec. 66-2903, R.C.M. 1947; amd. and redes. 82A-1602.14 by Sec. 284, Ch. 350, L. 1974; Sec. 82A-1602.14, R.C.M. 1947; (4)En. 82A-1602 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 10, Ch. 250, L. 1973; amd. Sec. 1, Ch. 285, L. 1973; amd. Sec. 1, Ch. 57, L. 1974; amd. Sec. 1, Ch. 58, L. 1974; amd. Sec. 1, Ch. 84, L. 1974; amd. Sec. 1, Ch. 99, L. 1974; amd. Sec. 354, Ch. 350, L. 1974; Sec. 82A-1602, R.C.M. 1947; R.C.M. 1947, 82A-1602(part), 82A-1602.14; amd. Sec. 17, Ch. 247, L. 1981.

**Compiler's Comments**

*Board of Massage Therapists Terminated:*  
The Board of Massage Therapists was not reestablished by the 1981 Legislature, thus it

terminated on July 1, 1981, as provided in 2-8-103. Section 2-15-1627 has not been repealed, but the Code Commissioner has not codified it because it is obsolete.

2-15-1628. Renumbered 2-15-1858. Sec. 4, Ch. 274, L. 1981.

2-15-1629 and 2-15-1630 reserved.

2-15-1631. Renumbered 2-15-1861. Sec. 4, Ch. 274, L. 1981.

2-15-1632. Renumbered 2-15-1862. Sec. 4, Ch. 274, L. 1981.

2-15-1633 through 2-15-1640 reserved.

2-15-1641. Renumbered 2-15-1866. Sec. 4, Ch. 274, L. 1981.

2-15-1642. Repealed. Sec. 14, Ch. 497, L. 1979.

History: (1) thru (4)En. 82A-1602.23 by Sec. 360, Ch. 350, L. 1974; amd. Sec. 1, Ch. 378, L. 1977; Sec. 82A-1602.23, R.C.M. 1947; (5)En. 82A-1602 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 10, Ch. 250, L. 1973; amd. Sec. 1, Ch. 285, L. 1973; amd. Sec. 1, Ch. 57, L. 1974; amd. Sec. 1, Ch. 58, L. 1974; amd. Sec. 1, Ch. 84, L. 1974; amd. Sec. 1, Ch. 99, L. 1974; amd. Sec. 354, Ch. 350, L. 1974; Sec. 82A-1602, R.C.M. 1947; R.C.M. 1947, 82A-1602(part), 82A-1602.23.

2-15-1643. Repealed. Sec. 195, Ch. 575, L. 1981.

History: (1) thru (3)En. Sec. 2, Ch. 105, L. 1931; re-en. Sec. 4139, R.C.M. 1935; Sec. 66-2102, R.C.M. 1947; amd. and redes. 82A-1602.1 by Sec. 194, Ch. 350, L. 1974; Sec. 82A-1602.1, R.C.M. 1947; (4)En. 82A-1602 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 10, Ch. 250, L. 1973; amd. Sec. 1, Ch. 285, L. 1973; amd. Sec. 1, Ch. 57, L. 1974; amd. Sec. 1, Ch. 58, L. 1974; amd. Sec. 1, Ch. 84, L. 1974; amd. Sec. 1, Ch. 99, L. 1974; amd. Sec. 354, Ch. 350, L. 1974; Sec. 82A-1602, R.C.M. 1947; R.C.M. 1947, 82A-1602(part), 82A-1602.1.

2-15-1644. Renumbered 2-15-1867. Sec. 4, Ch. 274, L. 1981.

2-15-1645 through 2-15-1650 reserved.

**7-13-2248. Repealed.** Sec. 407, Ch. 571, L. 1979.

History: En. Sec. 7, Ch. 242, L. 1957; amd. Sec. 6, Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, L. 1967; amd. Sec. 3, Ch. 257, L. 1974; amd. Sec. 2, Ch. 310, L. 1975; amd. Sec. 2, Ch. 521, L. 1975; amd. Sec. 3, Ch. 296, L. 1977; R.C.M. 1947, 16-4507(part).

**7-13-2249. Proclamation of election.** The proclamation of election shall conform in all respects to the general state law governing the conduct of general elections now or hereafter in force and applicable thereto, except as otherwise provided herein.

History: En. Sec. 7, Ch. 242, L. 1957; amd. Sec. 6, Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, L. 1967; amd. Sec. 3, Ch. 257, L. 1974; amd. Sec. 2, Ch. 310, L. 1975; amd. Sec. 2, Ch. 521, L. 1975; amd. Sec. 3, Ch. 296, L. 1977; R.C.M. 1947, 16-4507(part).

**7-13-2250 through 7-13-2253. Repealed.** Sec. 407, Ch. 571, L. 1979.**Compiler's Comments****Histories of Repealed Sections:**

**7-13-2250 through 7-13-2253.** En. Sec. 7, Ch. 242, L. 1957; amd. Sec. 6, Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, L. 1967; amd. Sec. 3, Ch. 257, L. 1974; amd. Sec. 2, Ch. 310, L. 1975; amd. Sec. 2, Ch. 521, L. 1975; amd. Sec. 3, Ch. 296, L. 1977; R.C.M. 1947, 16-4507.

**7-13-2254. Provision for vote by corporate property owner.** Where a corporation owns real property within the boundaries of the district, the president, vice-president, or secretary of such corporation shall be entitled to cast a vote on behalf of the corporation.

History: En. Sec. 8, Ch. 242, L. 1957; amd. Sec. 1, Ch. 258, L. 1959; amd. Sec. 7, Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, L. 1967; amd. Sec. 4, Ch. 257, L. 1974; amd. Sec. 3, Ch. 521, L. 1975; R.C.M. 1947, 16-4508(part).

**7-13-2255. Provision for vote by nonresident property owner.** An elector owning real property within the district need not reside within the district in order to vote.

History: En. Sec. 8, Ch. 242, L. 1957; amd. Sec. 1, Ch. 258, L. 1959; amd. Sec. 7, Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, L. 1967; amd. Sec. 4, Ch. 257, L. 1974; amd. Sec. 3, Ch. 521, L. 1975; R.C.M. 1947, 16-4508(part).

**7-13-2256. Canvass of vote.** (1) The board of county commissioners shall canvass the returns of the first election, and thereafter, except as provided in this part and part 23, the board of directors shall meet as a canvassing board and duly canvass the returns within 4 days after any district election, including any district bond election.

(2) If the district lies in more than one county, the board of county commissioners whose county contains the largest percentage of the territory of said district shall canvass the returns of the first election.

History: En. Sec. 8, Ch. 242, L. 1957; amd. Sec. 1, Ch. 258, L. 1959; amd. Sec. 7, Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, L. 1967; amd. Sec. 4, Ch. 257, L. 1974; amd. Sec. 3, Ch. 521, L. 1975; R.C.M. 1947, 16-4508(part).

**7-13-2257. Repealed.** Sec. 407, Ch. 571, L. 1979.

History: En. Sec. 7, Ch. 242, L. 1957; amd. Sec. 6, Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, L. 1967; amd. Sec. 3, Ch. 257, L. 1974; amd. Sec. 2, Ch. 310, L. 1975; amd. Sec. 2, Ch. 521, L. 1975; amd. Sec. 3, Ch. 296, L. 1977; R.C.M. 1947, 16-4507(19).

**7-13-2258. Effect of failure to qualify for office.** If a person elected fails to qualify, the office shall be filled as if there were a vacancy in such office as provided in 7-13-2262.

History: En. Sec. 7, Ch. 242, L. 1957; amd. Sec. 6, Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, L. 1967; amd. Sec. 3, Ch. 257, L. 1974; amd. Sec. 2, Ch. 310, L. 1975; amd. Sec. 2, Ch. 521, L. 1975; amd. Sec. 3, Ch. 296, L. 1977; R.C.M. 1947, 16-4507(20).

notice, the department's action shall become final unless within the 30-day period the taxpayer appeals in writing from the action of said department to the state tax appeal board. If such appeal is made, the board shall grant the taxpayer an oral hearing. After consideration of the appeal and evidence presented, the board shall forthwith mail notice to the taxpayer of its determination. The board's determination is final when it mails notice of its action to the taxpayer.

History: En. Sec. 1, Ch. 186, L. 1963; amd. Sec. 68, Ch. 405, L. 1973; R.C.M. 1947, 84-1508.1(part).

**15-31-533 through 15-31-540 reserved.**

**15-31-541. Site of failure to act — evidence.** The failure to do any act required by or under the provisions of this chapter shall be deemed an act committed in the office of the department of revenue in Helena, Montana. The certificates of the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required by or under the provisions of this chapter shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.

History: En. Sec. 8, Ch. 166, L. 1933; re-en. Sec. 2303.4, R.C.M. 1935; amd. Sec. 63, Ch. 516, L. 1973; R.C.M. 1947, 84-1512.

**15-31-542. Action on false or fraudulent return.** In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, the tax may be assessed or a proceeding in court for the collection of such tax may be begun without assessment at any time.

History: En. Sec. 9, Ch. 166, L. 1933; re-en. Sec. 2303.5, R.C.M. 1935; R.C.M. 1947, 84-1513.

**15-31-543. Penalties.** (1) If any corporation shall refuse or neglect to make a return at the time hereinbefore specified in each year or shall render a false or fraudulent return, such corporation shall be liable to a penalty of not exceeding \$5,000 and may be adjudged by a court of competent jurisdiction to forfeit the right to continue to engage in business in the state as such corporation until the license fee, together with all penalties and costs, shall be paid, which forfeiture may be enforced by the attorney general by proper proceedings in court.

(2) Every officer or employee of any corporation or other person who, without fraudulent intent, shall fail to make, render, sign, or verify any return or to supply any information within the time required by or under the provisions of this chapter shall be liable to a penalty of not more than \$100 to be imposed, assessed, and collected by the department of revenue in the same manner as is provided in this chapter with regard to delinquent taxes.

History: (1)En. Sec. 6, Ch. 79, L. 1917; re-en. Sec. 2301, R.C.M. 1921; re-en. Sec. 2301, R.C.M. 1935; Sec. 84-1506, R.C.M. 1947; (2)En. Sec. 12, Ch. 166, L. 1933; re-en. Sec. 2303.8, R.C.M. 1935; amd. Sec. 66, Ch. 516, L. 1973; Sec. 84-1516, R.C.M. 1947; R.C.M. 1947, 84-1506, 84-1516.

**15-31-544. Statute of limitations.** (1) Except as provided in subsection (2), an action to collect a past-due tax imposed pursuant to this chapter or to enforce a provision of this chapter must be brought within 5 years of the due date of the tax or the date of filing the return, whichever is later.

1983 Legislature  
Code Commissioner Bill - Summary

Senate Bill No. 100

AN ACT TO GENERALLY REVISE THE LAWS RELATING TO GOVERNMENT; AMENDING SECTIONS 2-15-401, 7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114, 13-27-105, 15-17-305, 15-24-922, 15-31-114, 15-31-509, 15-57-109, 19-6-203, 19-7-202, 22-1-218, 46-30-301, MCA; AMENDING SECTION 4, CHAPTER 520, LAWS OF 1981 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SUCH AMENDMENT; AND REPEALING SECTIONS 2-15-1627, 7-13-2249, AND 15-31-542, MCA.

Section 1. 2-15-401. Deletes subsection (13) requiring the secretary of state to report changes of names to the legislative council for publication in the session laws. Under 27-31-205, by 1979 amendment, such name changes are reported to the legislative council directly by clerks of district courts. Senate Bill 46 proposes to repeal 27-31-205 so that this requirement will be totally obsolete.

Section 2. 7-2-2709. The section provides that the governor by election proclamation is to set a date for county consolidation or abandonment elections. The 1979 revision of election laws eliminated the governor's election proclamation. Amendment would delete reference to an election proclamation, replacing it with a joint resolution of the boards of county commissioners of all the counties affected by a consolidation or abandonment.

Section 3. 7-3-219. This section was enacted in 1975 with the idea that HB 122, 1977, would pass and provide, in Title 7, some election procedures. Delete "as provided in this title" twice in section -- there are no such provisions in Title 7. Only relevant election procedures are in Title 13.

Section 4. 7-3-314. See section 3.

Section 5. 7-3-413. See section 3.

Section 6. 7-3-513. See section 3.

Section 7. 7-21-2114. There is no state examiner -- his duties relating to local government are now a responsibility of the department of administration.

Section 8. 13-27-105. The effective date of constitutional amendments is July 1 following passage under Article XIV, sections 8 and 9, Montana constitution.

Section 9. 15-17-305. Inserted "of county commissioners" after "board" because 15-17-101(3) defines board as state tax

appeal board and the reference in this section is to the board of county commissioners.

Section 10. 15-24-922. The "various boards herein named" were consolidated under the board of livestock during executive reorganization.

Section 11. 15-31-114. Subsection (2)(b)(ii)(C) was declared unconstitutional because of retroactive application against persons who had complied with the current law in computing losses in the year they occurred, but later being held accountable for taxes on those prior years because of recent changes in tax law. First Federal Savings and Loan Assoc. v. Department of Revenue, \_\_\_ M \_\_\_, \_\_\_ P2d. \_\_\_, 39 St. Rep. 1802 (1982). (Note: As of October 29, 1982, First Federal Savings and Loan Assoc. v. Department of Revenue, supra, may come up for rehearing before the Montana Supreme Court. This amendment may have to be changed if a different decision is made upon rehearing.)

Section 12. 15-31-509. Section 15-31-542 was held to have been repealed in St. v. King Colony Ranch, 137 M. 145, 350 P2d. 841 (1960), by a later enactment. Section 15-31-542 was also held not to have been reenacted by inclusion of the internal reference in this section after the date of the King Colony case because its inclusion was made without any legislative indication that reenactment was ever contemplated. Caterpillar Tractor Co. v. Department of Revenue, \_\_\_ M \_\_\_, \_\_\_ P2d. \_\_\_, 39 St. Rep. 1245 (1982).

Section 15-31-544 was added to this section because it is a general statute of limitation affecting the whole chapter. Section 15-31-544 was enacted in 1981 and should have been referenced in this section.

Section 13. 15-31-526. Caterpillar Tractor Co. v. Department of Revenue, \_\_\_ M \_\_\_, \_\_\_ P2d. \_\_\_, 39 St. Rep. 1245 (1982) was involved with limitations dates for actions in the collections of corporate taxes. This section is amended to clarify that an action by the attorney general is governed by the same limitations that apply to the department of revenue.

Section 14. 15-57-109. Between 1977 and 1979 this section provided that \$5.00 of the license money was to go to funding administration of unfair trade practices laws contained in Title 30, chapter 14, part 2. The final sentence of the section was probably helpful during that time to specify departmental responsibilities.

Section 15. 19-6-203. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-6-101(1).

Section 16. 19-7-202. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-7-101(1).

Section 17. 22-1-218. Section 2-15-401(13) at one time exempted the secretary of state from provisions regarding libraries in the publication of session laws. The legislative council now publishes the session laws.

Section 18. 46-30-301. Typographical error. Reads "his" in the Uniform Criminal Extradition Act.

Section 19. Section 4, Ch. 520, L. 1981. Chapter 520, L. 1981, accomplished two purposes: It revised and clarified provisions on small business investment and raised the small business investment credit from 20% to 30%. The revision and clarification provisions should be permanent law -- only the increase in the small business investment credit should be temporary. If sec. 4, Ch. 520, L. 1981, was to operate on the total bill needless confusion would arise from the termination of the clarification provisions. The amendment would keep the termination provisions applicable to the percentage increase but would make the general revisions part of permanent law. This section, under the coordination instruction in section 20, would not affect any 1983 amendments on the percentage rate. This section would become effective upon passage and approval and apply as of January 1, 1983 to ensure that there is no gap in the effectiveness and applicability of the clarification provisions.

Section 20. Coordination instruction. See explanation for section 19.

Section 21. Effective date. See explanation for section 19.

Section 22. Repealer.

A. 2-15-1627. The board of massage therapists was terminated under the sunset provisions of 2-8-103 in 1981. This section, establishing the board, was not repealed during the 1981 session.

B. 7-13-2249. Proclamation of elections for county water and/or sewer districts. There are no longer proclamations of elections.

C. 15-31-542. Repealed by a later enactment. See explanation for section 12.



# STANDING COMMITTEE REPORT

JANUARY 14

19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE BILL ~~SENATE~~ No. 48

Respectfully report as follows: That SENATE Bill No. 48

Introduced bill be amended as follows:

1. Title, line 5  
Following: "BALLOTS"  
Strike: "TO BE USED IN VOTING MACHINES  
AND DEVICES"
2. Title, line 10  
Following: "AMENDING"  
Strike: "SECTIONS 13-17-206 AND"  
INSERT: "SECTION"
3. Page 1, line 14 through line 19  
Following: line 13  
Strike: section 1 in its entirety  
Renumber: subsequent section

~~RECAP:~~

Continued...

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STATE ADMINISTRATION  
SENATE BILL NO 48  
PAGE 2

4. Page 2, line 17  
Following: "(3)"  
Strike: "If a county uses voting machines or  
devices and if"  
Insert: "If"
5. Page 2, line 18  
Following: "requests"  
Insert: "in writing at the time ballots from that  
county are submitted to the secretary of state  
for certification"
6. Page 2, line 18  
Following: "requests,"  
Strike: "voting machine or device"  
Insert: "such"
7. Page 2, line 20  
Following: "(2) (a)"  
Insert: ", (2) (e),"
8. Page 2, line 21  
Following: "requests"  
Strike: ", "
9. Page 2, line 24  
Following: "election"  
Strike: "registrar"  
Insert: "judge"

And, as so amended, DO PASS