

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 28, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on January 28, 1983, at 10:30 a.m., in Room 404, State Capitol.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF SENATE BILL 174: Senator Matt Himsl, sponsor of the bill, stated this bill was by request of the Board of Investments. This bill would remove the restriction that issuers of commercial paper available for state investments would have to have a ratio of 1 1/2 to 1 of assets to current liabilities including current liabilities on any long term debt. He handed the committee a proposed amendment which would strike the word "prime" and insert the words "the highest". This amendment is attached to the minutes. (Exhibit No. 1) Senator Himsl's testimony is attached to the minutes. (Exhibit No. 2)

PROPOSERS TO SENATE BILL 174: Senator Roger Elliott, co-sponsor of the bill, stated the language in the present law has the wording including long-term debt. They need to set up one full year of payments into the long-term debt. That is not a very good measuring tool when you are looking for liquidity of commercial paper or the ability to repay. He considered an amendment excluding the current portion of long-term debt. However, the Rating Bureau does take into consideration the liquidity and we are limiting the Board to the highest rating for the State by investing in that type of short term debt.

Rod Young, Board of Investments, stated the parent companies do not do the financing. They have set up separate companies for that purpose. They do not have any commercial paper. Besides providing higher yield they can buy commercial paper to mature at a certain date. All others, they have to buy as they are offered on the market. They are limited to 10% on any one account. They estimate they can perhaps put \$30 million into commercial paper.

There were no further proposers and no opponents.

ACTION ON SENATE BILL 156: Senator Goodover stated he had asked Staff Attorney Greg Petesch to draw up a committee bill to Senate Bill 156. Senator Goodover made a motion that we withdraw the request for a committee bill to Senate Bill 156.

CONSIDERATION OF SENATE BILL 249: Senator Tom Towe, sponsor of the bill, stated this bill addresses a question of usury. He gave the committee his proposed amendments which he would like inserted into the bill. These amendments are attached to the minutes. (Exhibit No. 3). He did want to make it clear that this bill does not in any way affect regulated lenders or does not affect retail installment sales. Regulated lenders are not the only people who lend money, occasionally you and I loan money. If you borrow money from a bank at 14% and turn around and let your friend borrow it, you cannot loan it to him for higher than 11 1/2% under the

current law. You have to take a loss. When interest rates were at 20% the highest you could charge was 15%. At the present time the bank is at 14% but the highest you can charge is 11 1/2%. You can't afford to put out that money and get less than the bank. If you are going to release the banks from the usury limits then we have to address the private lenders. In this bill he proposed that we move the interest rate to 20%. What happens when the prime rate goes back up to 20%? He has suggested that the Department of Commerce may adjust the percentage to a higher percent. Maybe we should say the published prime rate. The Department of Commerce may make this change only once every 120 days.

Representative Jay Fabrega, co-sponsor of Senate Bill 249, stated if these amendments were not in the bill he would have to oppose it. He feels there is a need for this bill.

George Bennett, Attorney, stated the amendments that Senator Towe suggested takes care of the problems that the bankers had. He feels there is still a problem with the bill. If you recall, these interest rates in the 1981 session, the amendments to them were given a two-year life. He thinks what he is doing by Section 1 is amending a suspended section in Representative Fabrega's bill. Instead of going to the codes they went to the session laws and amended the effective date of the session law instead of the code. You may want to either amend the permanent section or do something to your bill.

Senator Towe stated to his recollection one section was temporary and one was revived July 1, 1983. Staff Attorney Petesch stated the proposed amendment is a coordinated section to go with House Bill 64.

John Cadby, Montana Bankers Association, stated he supported the bill. This is really an economic capital bill which provides for risky loans. By passage of this bill you are actually helping the economic development of Montana.

QUESTIONS FROM THE COMMITTEE:

Senator Christiaens stated I think there is a need to identify the prime rate in that different banks get their prime rates from different places. Senator Towe stated we could insert "the 9th Federal Reserve District".

Senator Goodover stated say you borrow \$20,000 at 14% and you put it out to your friend at 20% and 120 days later it dropped 4%, wouldn't you then refinance your loan? Senator Towe stated he thinks the Department of Commerce would adjust the rate. He wants to make sure that loan does not go at less than prime rate.

ACTION ON HOUSE BILL 63:

Senator Regan stated she would like to amend the bill because if they are going to charge 18% let it be 18%. The 18% figured on the adjusted month-end balance if you translated it figures to

23%. Senator Regan moved that the Committee strike lines 11 through 16, page 2. Senator Gage seconded the motion.

Senator Goodover stated he has copies of statements and all other states except for Montana do it this way. For Montana residents the finance charge is averaged. It is his understanding that this creates a real problem. Senator Regan stated the bigger stores and such have massive computers. We are not changing anything. All she wants to do is change the language and call it 18% provided they tell you the interest rate is charged at 23%.

Senator Christiaens spoke against the motion. If you go out and borrow your money at 20% and charge the customer 18% or 1 1/2% on the unpaid balance, at the end of the billing cycle you are losing the interest earned on that.

On Roll Call Vote, Senator Regan's motion failed by a vote of 5-3. This Roll Call Vote is attached to the minutes.

Senator Goodover made the motion that House Bill 63 Be Concurred In. Senator Lee seconded the motion. The Committee voted 7-1 that HOUSE BILL 63 BE CONCURRED IN.

ACTION ON SENATE BILL 174: Senator Fuller made the motion that the proposed amendment to Senate Bill 174 Be Adopted. Senator Christiaens seconded the motion. The committee voted unanimously, by voice vote, that the proposed amendments to SENATE BILL 174 BE ADOPTED.

Senator Goodover made a motion that Senate Bill 174 As Amended Do Pass. Senator Lee seconded the motion. The Committee voted unanimously, by voice vote, that SENATE BILL 174 AS AMENDED DO PASS.

ACTION ON SENATE BILL 84: Senator Lee asked that we pass Senate Bill 84 for the day. Senator Kolstad suggested that a subcommittee be formed to work with the House Subcommittee to come to a solution to this problem. Senator Severson thought this was reasonable so this could be settled. Senator Kolstad appointed Senator Goodover, Senator Lee, and Senator Regan to work on this as a committee of three.

ACTION ON SENATE BILL 249: Senator Regan asked that this bill be held until Monday for Executive Action. Senator Christiaens would like an amendment regarding the 9th Federal District. Staff Attorney Petesch will go ahead and take care of this amendment.

ACTION ON SENATE BILL 62: Staff Attorney Petesch explained the proposed amendments to the committee. The committee reinserted "for a member of the family". Mr. Tippy's proposal would strike subsection 4 from line 4 on page 8 through line 12 on page 5 in its entirety. What you are doing here is changing the law entirely in regard to these people. Many of these breweries set up an arrangement with a distributor whereby he will distribute their beer. You may have to grandfather some people in or you will be cutting them out now. There are no quotas on the distributorship

licenses. If they want to handle two types of beer this might be prohibited. Senator Regan asked if the Department of Revenue had been notified about this amendment? Senator Kolstad stated it was his understanding that Senator Turnage was in contact with the Department of Revenue regarding this.

Senator Lee made a motion that the proposed amendments to Senate Bill 62 Be Adopted. Senator Goodover seconded the motion. The Committee voted unanimously, by voice vote, that the proposed amendments to SENATE BILL 62 BE ADOPTED. Senator Regan asked that we hold this bill until Monday so that we can make sure the Department of Revenue has been contacted.

CONSIDERATION OF SENATE BILL 105: Thomas Keating, sponsor of this bill, stated two years ago the Legislature made some changes in the employment agencies in part specifically by deleting the pay scale that was written into the codes and allowed the agencies to charge fees in accordance with the contracts as approved by the Department of Labor. In cutting that portion of the codes, the intent was that the employment agencies and the clients seeking employment could agree upon a fee that would be equal to the percentage of the first year salary of the person seeking work and whatever the annual salary that was agreed to between both would be the figure on which the fee would be based. However, in the interim, it was determined that the wording was confusing so the Department of Labor was interpreting that wording in a way that was different from the intent when the law was passed. If an individual and agency agreed upon a years salary the agency would base their fee on that amount. However, if the person left the job before the job was up he then earned less than the average wage or salary and the Department interpreted the law to say that the fee would need to be based upon the earnings rather than the projected fee. As a consequence, the department was telling them to rebate. They have clarified this and hope this should clear up some problems.

PROPOSERS TO SENATE BILL 105: John Elder, Acme Personnel, Billings, stated they want the word "projected" to be placed before the word income. It was the intent of the Legislature in 1981 when this bill was passed to have this word in. If the person worked 50 days they could get 1/2 of their fee back. The interpretation that the Department of Labor had if a person worked 50 days they would only pay a percentage so the 100-day guaranty is meaningless. They passed the 100-day guaranty last time in the Legislature. This circumvents it. It has caused a lot of confusion with them and the Department of Labor. The Department of Labor has been interpreting as for the full year. If a person goes to work and gets three raises in the first year, they do not charge them for it. If a person is hired on a half-time basis and gets full-time, they don't go back and adjust their fee. Their fee schedule is based on an annual projected income. A fair and equitable situation would be to put the word "projected" in there. If you want to look at the other states, Colorado, Oregon and others are based on the first months salary. California can go either monthly or yearly.

Roger Koopman, Career Concepts, stated the crux of the issue is that this is a confusing matter. When the Legislature passed the bill two years ago that changed the fee schedule that would be based on annual salary instead of monthly. He was disappointed that the Department interpreted the bill as it did. The 100-day guaranty is siding with the Department's interpretation and that does not square with the original law. It would establish what the original intent of the law that was passed two years ago. It would protect the job security and create a situation that we have in most of our states.

OPPONENTS TO SENATE BILL 105: Don Judge, Montana State AFL-CIO, stated he opposed this bill. His testimony is attached to the minutes. (Exhibit No. 4)

Dick Cain stated he was neither an opponent or proponent. He wanted to make the Committee aware there would be a dramatic increase in fees if this law were passed. We have seen cases where a person who has worked four days was charged \$42.00, 12 days for \$115.20, etc. These are the types of fees that would be charged.

QUESTIONS FROM THE COMMITTEE:

Senator Gage asked do you have any information that would indicate why those people worked those number of days? Mr. Cain stated no.

Senator Severson stated under this bill they would pay the total fee agreed on irregardless of whether they worked that full year or not. Senator Keating stated if for any reason they left that job within the first 100 days they would have a rebate.

Senator Dover stated currently the Department is interpreting that the agency fee should be adjusted to the period of time that the person worked if it is less than one year. The reply was yes once the 100-day period has passed. If the employee left the position within six months (180 days) he would not be entitled to any rebate because he would have passed the 100-day period. The Department is now saying since he only worked 180 days instead of 100 the agency has to give back half of the fee.

Senator Severson asked is that 100 working days or calendar days. Senator Keating stated calendar days.

Senator Severson asked if that man loses his job through no fault of his own would he still pay the fee? The reply was yes.

Senator Dover asked if the man works at \$5.00 per hour for 50 days and he received \$7.00 per hour for 50 days that doesn't change? Mr. Cain stated at the present time if that person works six months and earns half of the annual salary the fee can only be based on what was actually earned. If it increases he is entitled to charge at the higher rate.

Senator Gage asked are the unemployment agencies regulated by the amount they can charge in a fee or can that be negotiated? Mr. Cain stated at the present time the private employment agencies submit a contract and they are allowed to charge whatever percent of fee that is worked out between them and the prospective employee. But it does have to be based on the percentage of annual income.

Senator Keating stated he hopes we keep in mind that there is a Job Service in the State which is free service to anyone. The employment agencies are private businesses and are for hire if someone wants to engage their services. Anyone who signs a contract does so at their own free will. Often it is the employer who is looking for an employee and in many cases the employer pays the fee. The employment agencies do not compete with Job Service. The employment agencies do a service of finding the right person for the right job and it is apparent that they earn their fee. This will clarify the fee to be charged, clarifies the intent, and allows the agencies to do their work efficiently.

There being no further questions from the Committee, the hearing was closed on Senate Bill 105.

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


ALLEN C. KOLSTAD, CHAIRMAN

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

DATE 1-28-83

[illegible]

STANDING COMMITTEE REPORT

January 28

19 83

PRESIDENT

MR.

BUSINESS AND INDUSTRY

We, your committee on

SENATE

174

having had under consideration Bill No.

SENATE

174

Respectfully report as follows: That Bill No.

introduced bill, be amended as follows:

1. Page 2, line 4.

Following: "of"

Strike: "prime"

Insert: "highest"

And, as so amended

DO PASS

4/0.

STANDING COMMITTEE REPORT

January 28

19 83

MR. **PRESIDENT**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOUSE** Bill No. **63**

FABREGA (CHRISTIAENS)

Respectfully report as follows: That **HOUSE** Bill No. **63**

BE CONCURRED IN

~~XXXXXX~~
~~DO PASS~~

p/c

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 1-28-83

House

Bill No. 63 Time _____

NAME	YES	NO
PAUL F. BOYLAN		
B. F. CHRIS CHRISTIAENS		✓
HAROLD L. DOVER		
DAVID FULLER		✓
DELWYN GAGE	✓	
PAT M. GOODOVER		✓
GARY P. LEE, VICE CHAIRMAN		✓
PAT REGAN	✓	
PAT M. SEVERSON	✓	
ALLEN C. KOLSTAD, CHAIRMAN		✓

Mimi Fancher
Secretary

ALLEN C. KOLSTAD
Chairman

Motion: Strike lines 11 through 16, page 2.

(Include enough information on motion -- put with yellow copy of committee report.)

SENATE BILL 174

(Bd of Investments)

SENATOR HIMSL

Senate Bill 174 would remove the restriction (page 2) that issuers of commercial paper available for state investments would have to have a ratio of $1\frac{1}{2}$ to 1 of assets to current liabilities including current liabilities of any long term debt.

The Board of Investments manages about \$500 million in short term funds. Montana Certificates of Deposit, Bank Acceptance, Overnight Repo -- (government securities sold and repurchased) and U. S. Treasury Bills are most often bought because of their high quality. However, commercial paper (unsecured short term notes) issued for less than 270 days are a predominate instrument in the market place and usually pay significantly higher yields.

About 2/3 of all the finance companies and bank holding companies are eliminated by the ratio requirement. I am told that John Deere Credit, General Electric Credit, General Motors Acceptance Corp., Sears Credit etc., cannot qualify -- yet the parent companies guarantee the short term commercial paper.

Commercial paper is rated by a national service so we propose that on page 2, line 4, the word "prime" be replaced by "the highest" -- to further insure the highest quality

commercial paper for any state investment.

This change is recommended by the Board of Investments, appears to be a prudent change, and I trust you will agree.

SUBMITTED BY: Senator Matt Himsl
January 28, 1983
EXHIBIT NO. 2

PROPOSED AMENDMENTS TO SENATE BILL 174 - INTRODUCED BILL

1. Page 2, line 4.
Following: "commercial paper of"
Strike: "prime"
Insert: "the highest"

Proposed Amendment to SB 249

1. Title, line 5.

Following: "LIMITS"

Insert: "FOR PRIVATE PARTIES"

2. Title, line 7.

Following: "AMENDING"

Strike: "SECTIONS"

Insert: "SECTION"

Following: "31-1-107,"

Strike: remainder of line 7 through "32-3-601," on line 8

3. Page 2, line 20.

Following: line 19

Strike: sections 2 through 6 in their entirety

Renumber: subsequent sections

4. Page 9, line 20.

Following: line 19

Insert: "Section 3. Coordination instruction. If HB 64 is passed and approved, including section 1 which removes the termination provision of chapter 275, L. 1981, a subsection (4) shall be added to [Section 1] of this bill which will read "(4) The provisions of this section do not apply to regulated lenders as defined in 31-1-111.""

Renumber: subsequent section.



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF DON JUDGE ON SENATE BILL 105, BEFORE THE SENATE BUSINESS
AND INDUSTRY COMMITTEE, JANUARY 28, 1983

Mr. Chairman, members of the committee, I am Don Judge, representing the Montana State AFL-CIO. I am here today to testify against Senate Bill 105, which would base the fee charged by an employment agency on an applicant's projected annual income. The current law provides that an applicant must pay a fee based on his income during his first year of employment. That means that applicants pay fees based on the actual income which they receive during the time they hold the job. Currently, there is a 100 day refund provision, which provides that for applicants who are placed on a job which they lose in less than 100 days, for whatever reason, the fee charged by the agency will be reduced by 1% of the fee for each calendar day remaining of the 100 days.

The Montana State AFL-CIO has a convention position against exorbitant employment fees.

This bill would allow for fees which are exorbitant, and especially if the employee loses the job during the first year. That would alarm us at any time, but during the present economic recession, high unemployment and increasing business bankruptcies make job security very uncertain.

It is much more likely these days that an employee could lose a job during the first year. If this bill were passed, there would be an enormous difference in the fee owed to the private employment agency in the event of job loss.

For example, let us assume that an individual is placed on a job with

an annual salary of \$30,000, but the job only lasts three months. Under the present law, with a fee based on 7 percent of income actually received, (\$7,500 acutally received), that individual would owe the employment agency \$472.50, as adjusted for the 100 day provision. If this bill were passed, that individual would owe the employment agency \$4,050, as adjusted by the 100 day provision. That is a difference of \$3,577.50. It is totally unfair to require payment based on money that is not received, and would create a terrible economic burden on a worker out of a job. This one example is proportionate to fees for jobs with lower salaries, and I can cite additional examples, if you request.

In addition, as the policies of the Reagan Administration plunge the country even deeper into an economic recession, the Administration at the same time is cutting funds for local Job Service offices. Unless the Montana State Legislature provides for state funding, 17 of the state's 24 Job Service offices will be closed. More people would be forced to utilize private employment agencies to find a job. Therefore, we believe that it is more important than ever, that fees for private employment agencies be fair and just. Basing those fees on projected income is neither.

Please help Montana's unemployed workers by voting against Senate Bill 105.

Thank you.

[illegible]

BUSINESS & INDUSTRY

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: JOHN CADDY DATE: 1-28-83

ADDRESS: 706 HARRISON

PHONE: 443-4121 - 443-3536

REPRESENTING WHOM? MT BANKERS ASSN

APPEARING ON WHICH PROPOSAL: SB 249

DO YOU: SUPPORT? AMEND? ✓ OPPOSE?

COMMENTS: SUPPORT AMENDMENT to

SEC. 31-1-107 MCA, ONLY - DELETE

BALANCE OF BILL AS THEY CONFLICT

WITH HB 63 & 64, ALREADY PASSED.

AS AMENDED - SUPPORT

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: GEORGE DENNETT DATE: 1/28/83

ADDRESS: P.O. Box 1705 Helena 59629

PHONE: 442-8950

REPRESENTING WHOM? Mont. Blue Assn

APPEARING ON WHICH PROPOSAL: SB 249

DO YOU: SUPPORT? X AMEND? X OPPOSE?

COMMENTS: There are conflicts with H.B. 63
and H.B. 64

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Roger Koopman DATE: 1/28/83

ADDRESS: ~~2~~ 2304 W. Main, Bozeman

PHONE: 586-0231

REPRESENTING WHOM? Career Concepts

APPEARING ON WHICH PROPOSAL: SB 105

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: I wish to make an oral
statement in support of SB 105

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

John Elder

DATE:

1-28-82

ADDRESS:

2136 Green Terrace Dr. Billings

PHONE:

245-7094

REPRESENTING WHOM?

Private Employment Association of MT

APPEARING ON WHICH PROPOSAL:

SB 105

DO YOU:

SUPPORT?

✓

AMEND?

OPPOSE?

COMMENTS:

Asking That "projected" be placed
before income. 39-5-303

Intent of the ¹⁹⁸¹ legislature to have the
word projected in the law.

100 day guarantee at Times becomes
meaningless

Confusion has been the result.

We would like to be fair to all
parties concerned. Placing the word
projected ~~would~~ in the law would
remedy the situation

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: James H. Rowe DATE: 1/28/83

ADDRESS: P.O. Box 2174 Missoula MT 59806

PHONE: 543-8308

REPRESENTING WHOM? Personnel Systems Inc.

APPEARING ON WHICH PROPOSAL: SB-105

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS:

Through legislation passed in 1981, private Agencies
agreed to a Pro-Rated 100 Day Guarantee. Because of
the interpretation now being made by the State Dept of Labor,
a one (1) year guarantee is being imposed arbitrarily.

It is alleged it could force private employers out of business.
As such, this does constitute a direct violation of private
property.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Don Judy DATE: 1/28/83

ADDRESS: P.O. Box 1176 Helena

PHONE: 442-1708

REPRESENTING WHOM? MT STATE AFL-CIO

APPEARING ON WHICH PROPOSAL: S B 10 S

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

COMMENTS: Testimony submitted

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.