

MINUTES OF THE MEETING  
BUSINESS AND INDUSTRY COMMITTEE  
MONTANA STATE SENATE

February 2, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on February 2, 1983, at 10:00 a.m., in Room 404, State Capitol.

ROLL CALL: All members were present with the exception of Senator Boylan who was excused.

CONSIDERATION OF HOUSE BILL 132: Representative J. Melvin Williams, sponsor of this bill, stated this bill was recommended by the Revenue Oversight Committee. He pointed out the amended parts in the bill. The bill addresses a late fee for failure to pay the annual license fee for a liquor license on time. Even though the problem has existed for sometime, the Department has tried to resolve this. At the present time 60 licensees have not paid their license fee even though it was due June 30th. Even with the best efforts delinquencies have continued through December. The need for a late fee is clear. More than 1,000 licensees pay before June each year, but a penalty should be implemented for those who fail to pay their fees.

PROPOSERS TO HOUSE BILL 132: Ellen Feaver, Department of Revenue, stated this is a bill that was proposed for administrative efficiency purposes. Most licensees pay their license fees on time. The penalty for failure to pay on time should commensurate with the amount of license fee renewal. If the fee is not paid on time, 1/3 of the fee will be charged and it escalates to 100% over time. The investigators in their Department deal with liquor matters and fraud. In total they only have a five person equivalent dealing with liquor matters. They make sure that everything is being complied with. When we found out that it was taking an inordinate amount of time for the collectors to collect the annual fee she wanted to eliminate this cost of collecting by imposing a fee for late collection.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Fuller asked what range of fees are you talking about? Ms. Feaver stated renewal fees range from \$200 to \$800 for all-beverage licenses.

Senator Lee asked whether the penalties should be a little higher such as 2/3 to 3/3rds. We could come up with a stiffer penalty. Ms. Feaver stated that would be about what they would charge for failure to pay then we could go to a stricter action and eventually they could be shut down. She thinks these penalties will bring it down to a small number of late payments.

Senator Severson stated the bill reads "any kinds of licenses". Ms. Feaver stated this section is in the codes.

In closing, Representative Williams stated he thinks this is a good piece of legislation. It will help the Department of Revenue considerably and he feels that for people in the business it will create a

more equitable situation for those who abide by the law from those who do not.

Senator Gage stated there is no provisions for abating this penalty? Senator Severson stated they use the word "may" in most of the statutes so they have a provision to waive in cases where there is a good reason.

CONSIDERATION OF HOUSE BILL 134: Representative J. Melvin Williams, sponsor of the bill, stated this bill was also requested by the Revenue Oversight Committee. This is a bill that does what it says in the title. An act providing a 3-day application filing requirement for all-alcoholic beverage license catering endorsements and beer and table wine special permits; removing the Department of Revenue's investigatory duties for such endorsements and permits; and reducing the catering application fee. He pointed out the amendments to the bill, page 6, lines 3-4, where the fee was reduced from \$40 to \$35. and the 3-day requirement when you make application. The current 10-day requirements presents a substantial compliance problem since most are not aware of the 10-day period. The proposed amendment would reduce the 10-day filing time and the Department of Revenue states a 3-day requirement is all they need. The Department also seeks to amend the statute with regard to catering endorsements and permits. In regard to lowering the cost of the fee, it only costs about \$10 to handle. They thought the \$40. fee was unreasonable and in order to comply with the title, they only lowered it \$5. The House then raised the fee.

PROPONENTS TO HOUSE BILL 134: Ellen Feaver, Department of Revenue, explained the two kinds of permits. One is a special events permit and is available for selling beer and wine but not spirits. It is available for sports events, charitable events, etc. It is also used for fundraisers such as when a catastrophe occurs. This kind of permit is also used at the Grand Street Theatre, rodeos and fairs. Virtually any organization can make an application for this permit. The fee is \$30. and is for a very limited time, 2-3 day events. In comparison to that special permit they have a catering license where an all-beverage licensee can use it for weddings, parties, etc. A person already licensed with them can get a catering license; however, they have to be served by a regular licensee. There have been events where individuals were ready for the event and at the last minute they applied for the special permit to serve beer and wine. There is no reason for the 10-day requirement. They do not have enough investigators and since there are about 1,000 licenses issued per year they call the local law enforcement officials and ask them if they have any concerns regarding the permit. If they seem to have a problem they look into the matter further and then if necessary they can deny the permit. In most situations, they have no problems. All of this can be done within a day; however, the House felt more comfortable with a 3-day period. The reduction of the waiting period would also apply to the catering license.

OPPONENTS TO HOUSE BILL 134: Don Larson stated he opposed this bill. He stated the Montana Tavern Owners Association continues

to take an active part in the programs. He stated there is nothing to be gained if we reduced the 10-day period. The 10-day period would give the public more time to find out about the events. The Department indicated in their testimony they did not have the people to enforce this. Anyone who applied for the licenses knows the existence of this law. He hoped the Committee would not pass the bill.

QUESTIONS FROM THE COMMITTEE:

Senator Regan asked your concerns here are underage drinking and you seem to tie it with drunk driving. Are you assuming that only underage people who drink drive? Mr. Larson stated he maintains it is coming from the functions that are not controlled.

Senator Regan asked can you tell me of a kegger that received a permit from the Department? Mr. Larson stated no.

Senator Regan asked when you grant a permit do you check with the authorities to see if there is some kind of enforcement? Ms. Feaver stated yes.

Senator Regan asked would you ever issue a permit without some assurance from the locals that there would be some enforcement? Ms. Feaver stated her policy is always to check with them.

Senator Gage asked is the 3-days from the postage date or the date you receive the request? Ms. Feaver stated they have to have it in her hands three days in advance.

Senator Gage asked do they have to have the permit before the event? Ms. Feaver stated yes.

Senator Goodover asked in the title of the bill there is new wording removing the investigatory requirement? Ms. Feaver stated the amendment is on page 9. That is a requirement we do not fulfill at this point.

Senator Fuller asked will you be able to process these in time? Ms. Feaver stated ordinarily if they are in a hurry they will drive to Helena and hand deliver it.

Senator Fuller asked can you give the requirements for the catering license? Ms. Feaver stated not all all-beverage licensees get a catering license. You need to find a licensee and they have to agree to cater that event. You would have to pay for that. You also have to meet the regulations of the Department of Health and the local law officials.

Senator Kolstad stated in effect you piggyback on their license. Ms. Feaver stated yes.

In closing, Representative Williams stated the bill definitely helps the administrative problems in issuing permits. Going from 10-days to 3-days does not create any problems. He does think that with

the control of the local law enforcement and the approval of the Department of Health there should be no problems. He hoped the Committee could support this piece of legislation.

CONSIDERATION OF SENATE BILL 285: Senator Chris Christiaens, sponsor of this bill handed out proposed amendments to the Committee stating he changed the effective date from September 30, 1983, to June 30, 1983. Most of the plans will be renegotiated at that time. Also on page 2, line 15, following No. 1, he inserted the word "except". The bill that he is introducing is an act allowing the spouse of a retired public employee to remain a member of a group insurance plan or to convert a group insurance policy. He has been asked by several county employees to present this legislation. Currently and since 1977 it has been possible for insurance contracts or plans to be converted. However, it has not answered the plight of all the employees. This would answer that plight. With rising medical costs medicare does not cover all costs any longer. The purpose would be to allow the spouse or employee to remain a member of the group policy. The spouse perhaps does not qualify for additional insurance and they felt with this bill they would be allowed to continue with no additional cost. They could pay the cost themselves.

PROPOSERS TO SENATE BILL 285: Norma Seiffert, Chief Deputy Insurance Commissioner, stated they have seen this as a great problem among the older people and the ones who become eligible for Medicare. They supported this bill.

Celinda Lake, Women's Lobbyist, stated she also supported the bill.

There were no further proponents and no opponents.

ACTION ON SENATE BILL 285: Senator Christiaens made the motion that the proposed amendments to Senate Bill 285 Be Adopted. Senator Goodover seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendments to SENATE BILL 285 BE ADOPTED.

Senator Goodover made the motion that Senate Bill 285, As Amended Do Pass. Senator Fuller seconded the motion.

The Committee voted unanimously, by voice vote, that SENATE BILL 285 AS AMENDED DO PASS.

CONSIDERATION OF SENATE BILL 184: Senator Joseph Mazurek stated he is the sponsor of this bill. This bill is an update of the State Securities Act. The purpose is to modernize the act and to make some grammatical changes. It would give the Department the ability to grant exemptions from registration based on their determination that it would still protect the investors. It is critical for small businesses in Montana. It grants broader rulemaking authority to the Department and makes it more flexible to better operate the Department.

PROPOSERS TO SENATE BILL 184: Doug James, General Counsel for the Securities Commissioner stated the Securities Industry began consulting with the members of the industry and this bill is the end product of that. (Mr. Tucker passed out some material including amendments to the Committee. (Exhibit No. 2) Most of the changes are technical. Some of the changes are specifically to provide greater protection for Montana investors. Along with the proposed amendment he handed out explanations for the proposed amendments to the Montana Securities Act. (Exhibit No. 3) He stated the attached letters were to Mr. Tucker and received from Michael Mulroney, from the Law Offices of Luxan and Murfitt and Bruce Larson, indicating their support of this bill. (Exhibit No. 4)

Bruce MacKenzie, D. A. Davidson & Company, stated they supported the amendments to the State Security Law. He also supported the bill. His testimony is attached. (Exhibit No. 5)

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Lee asked what are you saying here that you are threatened with a lawsuit for doing what? Mr. James stated when they uncover a scam they would like the authority to turn that over to the Department of Revenue and consider bringing an indictment against people who are promoting fraudulent tax shelters. They also want a mandate saying they should cooperate with other state agencies.

Senator Gage asked on the last part on page 20, line 23-24 he assumes they have to be connected to governmental agencies or bodies? Mr. James stated yes.

Senator Goodover asked if all of these amendments are already in the bill? Mr. James stated yes except for the amendment on page 22, line 25, and the Statement of Intent.

The hearing was closed on Senate Bill 184.

ACTION ON SENATE BILL 184: Senator Goodover made the motion that the proposed amendments to Senate Bill 184 and the Statement of Intent Be Adopted. Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendment and the Statement of Intent to SENATE BILL 184 BE ADOPTED.

Senator Goodover made the motion that Senate Bill 184 As Amended Do Pass. Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that SENATE BILL 184 AS AMENDED DO PASS.

ACTION ON SENATE BILL 107: Senator Goodover stated he made a few phone calls and talked to insurance companies and have received some material in the mail. It appears to him that we have a bill that has an option for coverage for drug, alcoholism and mental illness.

He has received a list of all companies who have that in their policies now. Several include NWL, Blue Shield, Occidental, Travelers, Aetna and others presently have the coverage. He feels this service is available as it is without the need of this bill. The passage of the bill includes the unknown quality of a social worker. No one knows how many social workers there are. Mandatory inclusion of this in the insurance policy according to one Great Falls firm increases rates about 30% for those who are not now offering it manditorily but offering it at an option. In view of the fact that we do not know much about it, we are voting on something we do not have any idea what the impact is going to be.

Senator Kolstad stated he thinks it does have a certain amount of merit especially for the drug and alcoholism treatment centers. He thinks the amendments that Senator Lee has are acceptable.

Senator Lee stated your basic concern is with the social workers. Senator Goodover replied yes.

Senator Lee made the motion that on page 3, line 2, strike "social worker" and put a period after "psychologist". He thinks they should be involved somewhat. On page 2, line 25, following "center" insert "including charges by a licensed social worker affiliated with a treatment center". This would still allow a social worker affiliated by a treatment center to get payment.

Senator Kolstad stated it includes an important area that should be included.

Senator Fuller told the Committee he did not have the figures which were requested from Dennis Taylor and would have them tomorrow.

Senator Lee made the motion that page 2, line 25, after "treatment center" insert "including charges by a licensed social worker affiliated with the treatment center".

Senator Goodover asked licensed treatment center? Senator Lee stated yes. Senator Goodover seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendments to SENATE BILL 107 BE ADOPTED.

Senator Lee made the motion on page 3, line 2, after the word "psychiatrist" insert "or a psychologist", and strike the remaining language on line 2 and insert a period. The motion was seconded by Senator Fuller.

The Committee will hold the first amendments to change "have" to "select" until Friday and a bill can be drafted that will include all of the amendments. Staff Attorney Petesch will draft a bill.

ACTION ON HOUSE BILL 132: Senator Lee made the motion that House Bill 132 Be Concurred In. Senator Fuller seconded the motion.

Senator Lee stated he had a problem with the penalty. He thinks it is a real stiff penalty, but there were people here from the Tavern

Association who did not oppose it.

Senator Severson stated he thinks we are getting penalty happy.

Senator Kolstad stated these laws and regulations do not amount to much unless we have a penalty.

The Committee voted 7-1 with Senator Severson voting no that HOUSE BILL 132 BE CONCURRED IN. Senator Lee will carry this bill on the floor.

ACTION ON HOUSE BILL 134: Senator Gage made the motion that House Bill 134 Be Not Concurred In. Senator Christiaens seconded the motion.

The Committee voted by Roll Call Vote 6-2 with Senators Fuller and Regan voting no that HOUSE BILL 134 BE NOT CONCURRED IN. Senator Gage will carry this bill on the floor.

ACTION ON SENATE BILL 84: Senator Goodover stated there was a meeting this morning of three members of the Senate Subcommittee and one member Representative Harper of the House. They had two ideas proposed. They did not have consensus on either one. He gave the committee a proposed amendment. (Exhibit No. 6) The utilities will not accept the amendments that Senator Lee has and the home movers will not accept these.

Senator Lee stated regarding the above amendment, the problem with giving this to the Public Service Commission is that it would be an overkill to have them decide on something of this size. He is proposing the same motion that he made the other day to at least get something done today and that is to put it in the law that any building structure that is manufactured to be moved will pay the costs. He heard it may be unconstitutional and if so they could put in a severability clause. This amendment does not have anything to do with setting heights, it just says the utilities will not pay all the costs for these structures.

Senator Lee made the motion that we accept the amendments to Senate Bill 84. Senator Regan stated she agreed with them. This is going to take care of the bulk of the problem that the utilities have.

Senator Goodover stated as he understands the amendment it does not answer the problem as to who is going to pay what? If we are going to move on the bill, move on the bill as it is and put on the amendments on the floor. The Committee is putting amendments on this bill that are not in accordance with the people who wrote the bill. We should amend the bill on the floor.

Senator Lee stated the committee authorized the subcommittee to take action on this and two members of the subcommittee approved these amendments. Senator Dover seconded the motion.

Senator Fuller asked is this amendment consistent with the title? Staff Attorney Petesch stated it amends the title also.

Senator Severson stated he approved Senator Lee's amendments. He wants to get this thing settled so that we do not have it back again. The movers proposed a compromise on this of 26' and over they would pay and 26' and under the utilities would pay. I do not care if you go 26', 25', or 24', it has a reasonable chance of resolving this in the future. The utilities will make sure it is either at that level or underground. The utilities are not in favor of this but it is better than what they have today.

Senator Goodover made a substitute motion that Senate Bill 84 Do Pass. There was no second so the motion died.

Mr. Huss stated he saw some constitutional problems with Senator Lee's amendments. Staff Attorney Petesch stated he talked with at least half a dozen attorneys concerning this. None of them saw any problems. All agreed with his interpretation that this is the reasonable regulation of use of the highways.

The Committee voted, by Roll Call Vote, 7-2 with Senators Goodover and Kolstad voting no that the proposed amendments by Senator Lee to SENATE BILL 84 BE ADOPTED.

Senator Severson stated we should further amend the bill and have Mr. Petesch prepare the amendment to allow the heighth limit at 26'. Those structures that can pass under that would go at no charge, those higher would pay the cost of moving.

Senator Dover asked anywhere you move? Senator Lee stated yes.

Senator Severson stated this kind of approach would come close to solving this problem. Senator Lee seconded the motion.

Staff Attorney Petesch presumed it would go in Senator Lee's amendment where the permanent structure of less than 26' would not have to pay the costs. In regard to the prefab structures, he is not sure where it would fit.

Senator Goodover stated in Montana the people who are paying the rates are paying for the moves. If we have any consideration for the consumer there is no reason for one business to subsidize another business. The consumer is doing this.

Senator Dover stated he has some problems with this especially if it asks for anywhere and everywhere. It is something else to do it on the freeway but when you start on the back 40 the consumer is going to pay there.

Senator Severson stated Montana Power stated they use 30' poles. There is no question that this is a compromise that he thinks will partially settle the problem and down the road will settle the problem. This thing has been here three years that he knows of and it has failed everytime. This way it has a possibility of resolving itself down



the road. The movers are willing to accept this and it is better for the ratepayers.

Senator Goodover asked if the entire committee wanted to resolve this through the Public Service Commission?

Senator Lee stated when the housemovers ask the power companies how much it will cost to move from point A to point B they do not know. The utilities would move the house and send them the bill. You cannot do business on that type of premise. 26' is a compromise. At least it would put it in the books to work with. If we accept the 26' figure they can come back in two years and correct the problems. This way they could have some figures.

Senator Dover stated your first amendment that we passed makes it so prefab structures are covered. Now what you are trying to do no matter what is moved or where it is moved.... Senator Lee stated just existing structures.

Senator Dover stated anyway it has to be 26'.

Senator Goodover made a substitute motion that Senate Bill 84 As Amended Do Pass. Senator Dover seconded the motion.

Senator Lee made a substitute substitute motion that Senate Bill 84 As Amended Do Pass with the 26' language in it. Senator Dover seconded the motion.

Senator Severson stated he was opposed to the substitute substitute motion.

Senator Goodover stated we are talking about compromising. We are not doing that.

Senator Severson stated this is certainly a compromise.

The committee voted by Roll Call Vote 4-4 with Senators Christiaens, Fuller, Gage and Severson voting no.

Senator Goodover made a motion that we pass consideration on Senate Bill 84 for the day. Senator Lee seconded the motion. The committee voted unanimously, by voice vote, that we pass Senate Bill 84 for the day.

Senator Severson asked Staff Attorney Petesch to prepare the amendments which he wanted.

Senator Kolstad stated we would have Executive Action Thursday, February 3, 1983, to act on Senate Bills 84 and 107.

ADJOURN: There being no further business, the meeting adjourned at 12:00 noon.

  
ALLEN C. KOLSTAD, CHAIRMAN



# STANDING COMMITTEE REPORT

February 2,

1983

MR. **PRESIDENT**

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

having had under consideration **SENATE** Bill No. **184**

Respectfully report as follows: That **SENATE** Bill No. **184**  
be amended as follows:

1. Page 22, line 25.

Following: "exemption"

Insert: "under 30-10-105(16), the fee shall be established by the  
commissioner by rule. For a request for anyother exemption"

And, as so amended,

DO PASS

"Statement of Intent Attached"

g/c

**"Statement of Intent Senate Bill No. 184"**

A Statement of Intent is required for this bill because it grants the Securities Commissioner the authority to adopt rules exempting certain securities transactions from registration and to establish fees for granting such exemption. There is to be no exemption from the anti-fraud provisions of the Securities Act.

- 1) The legislature intends that the exemption rules:
  - a) Provide limited relief from the registration provisions of the Act for small and existing businesses that are attempting to raise a limited amount of funds; and
  - b) provide an exemption from the registration provisions of the Securities Act for transactions in securities when the securities involved are adequately regulated by other bodies.
- 2) The Legislature intends that the fee rules would establish a fee schedule to match the cost and complexity of the exemption. The Legislature does not intend that the state either lose or gain any revenue because of any exemption under 30-10-105(16).

# STANDING COMMITTEE REPORT

February 2

1983

MR. **PRESIDENT**

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

having had under consideration **SENATE** **285** Bill No.

Respectfully report as follows: That **SENATE** **285** Bill No.  
**be amended as follows:**

1. Page 2, line 14.  
Strike: "September"  
Insert: "June"

2. Page 2, line 15.  
Following: "(1)"  
Insert: ", except that the provisions relating to eligibility  
for medicare in subsections (1)(a) and (1)(b) may not be  
included,"

And, as so amended,

DO PASS

STANDING COMMITTEE REPORT

February 2 19 83

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 132

WILLIAMS (LEE)

Respectfully report as follows: That HOUSE Bill No. 132

BE CONCURRED IN

XXXXXX  
DO PASS

J.C.

STANDING COMMITTEE REPORT

February 2

1983

MR. **PRESIDENT**

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

having had under consideration **HOUSE** Bill No. **134**

**WILLIAMS (GAGE)**

Respectfully report as follows: That **HOUSE** Bill No. **134**

BE NOT CONCURRED IN

~~XXXXXX~~  
DO PASS

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2-2-83 Senate Bill No. 84 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: Senator Lee's Amendments Be Adopted.

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



ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2-2-83 Senate Bill No. 84 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: Do Pass As Amended.

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

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2-2-83 House Bill No. 134 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: Be Not Concurred In  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Proposed Amendments to SB 285

1. Page 2, line 14.

Following: line 13

Strike: "September"

Insert: "June"

2. Page 2, line 15.

Following: "(1)"

Insert: ", except that the provisions relating to eligibility  
for medicare in subsections (1)(a) and (1)(b) may not be  
included,"

Requested amendment to Senate Bill 184

Page 22, line 25

Page 23, line 1

(4) For a request for an exemption under  
30-10-105(16), the fee shall be established  
by the commissioner by rule. For a request  
for any other ~~an~~ exemption, the fee shall be  
\$50.00.

Statement of Intent

30-10-207(4) provides that the fee for a request for an exemption  
under 30-10-105(16) shall be established by the Commissioner by rule.  
It is contemplated that these rules would establish a fee schedule to  
match the cost and complexity of the exemption. Through this fee schedule,  
the state should neither gain any additional revenue nor lose any revenue  
because of any exemption under 30-10-105(16).

February 2, 1983

EXPLANATIONS FOR THE PROPOSED AMENDMENTS

TO THE MONTANA SECURITIES ACT:

SENATE BILL 184

By

Doug James  
General Counsel  
Montana Securities Department

1. Page 1,  
Lines 16-20      Section 30-10-102 would be amended to provide general guidelines for the Securities Act. These guidelines would serve as a foundation for an expanded philosophy of regulation.
2. Page 2,  
Lines 4 -7,  
10, 16-19      Section 30-10-103(2) would be amended for grammatical purposes and to provide an exemption from registration for salesmen who represent an issuer in effecting transactions involving securities that are exempt from registration under 30-10-104(12).
3. Page 12,  
Lines 11-15      Section 30-10-104(12) would be amended to make this exemption from registration more practical. This amendment would provide that the Commissioner must consider the guidelines of 30-10-102 when he considers granting this exemption.
4. Page 12,  
Lines 17-25  
Page 13,  
Lines 1-2      Section 30-10-104(13) would create an "exchange exemption", for securities listed on national and regional exchanges. This exemption existed in Montana prior to 1978 when it was eliminated from the Securities Act. The elimination of this exemption provided little additional protection for Montana investors and resulted in increased costs and expenses. Montana investors will be adequately protected with an exchange exemption partly because federal law mandates that the exchanges maintain a certain amount of self-regulation.
5. Page 13,  
Lines 10-23      Section 30-10-105(2) would be amended for grammatical purposes and to abolish the current manual exemption and to adopt a new NASDAQ exemption. The "manual exemption" provides Montana investors with little or no protection. An issuer can qualify for this exemption simply by paying a fee and submitting a balance sheet to the publisher of one of the manuals. The NASDAQ exemption is similar to the manual exemption in that they are both secondary trading exemptions. However, the NASDAQ exemption will provide additional protection for the Montana investor. To qualify for this new exemption, the issuer must satisfy the listing requirements of the National Association of Securities Dealers, Inc. (NASD). In other words, the issuer must meet certain minimum financial requirements in order to be listed by NASDAQ and to qualify for the exemption.
6. Page 15,  
Line 25  
Page 16,  
Line 3      Section 30-10-105(8) would be amended for grammatical purposes.
7. Page 18,  
Lines 5-7      Section 30-10-105(16) would be added to give the Securities Commissioner authority to adopt new administrative rules to exempt certain transactions from registration. (Please see the attached Statement of Intent).

- Page 2
8. Page 20      Section 30-10-107(7) would be added to provide the Securities  
Lines 16-24      Commissioner with a mandate to cooperate with other state  
                    and federal agencies.
9. Page 22      Section 30-10-209(2)(b) would be amended to provide for the  
Line 13          transfer of a salesman's license from one broker-dealer  
                    or issuer to another broker-dealer or issuer. Currently,  
                    the Securities Department processes all of the paper work  
                    to license each individual salesman. In the near future, the  
                    Securities Department will join a national registration  
                    system known as the Central Registration Depository (CRD).  
                    This system will expedite the registration process which will  
                    save the Securities Department and the securities industry  
                    time and money. It has been estimated that the CRD system  
                    will save the securities industry and securities regulators  
                    approximately 30 million dollars each year.
10. Page 20      Requested Amendment to Senate Bill 184. Section 30-10-207(4)  
Line 25          would be amended to provide that the fee for an exemption  
Page 23          under 30-10-105(16) would be established by the Commissioner by  
Line 1          rule. (Please see the attached Statement of Intent).

STATEMENT OF INTENT FOR 30-10-105(16)

The Commissioner may adopt rules to exempt certain securities transactions from the registration provisions of the Securities Act when an exemption would better serve the purposes of 30-10-102 than would registration. The rules would only provide for an exemption from the registration provisions of the Act. There is no exemption from the anti-fraud provisions of the Act.

It is contemplated that these rules would:

- a) Provide limited relief from the registration provisions of the Act for small and existing businesses that are attempting to raise a limited amount of funds; and
- b) provide an exemption from the registration provisions of the Act for transactions in securities when the securities involved are adequately regulated by other bodies.

STATEMENT OF INTENT FOR 30-10-207(4)

30-10-207(4) provides that the fee for a request for an exemption under 30-10-105(16) shall be established by the Commissioner by rule. It is contemplated that these rules would establish a fee schedule to match the cost and complexity of the exemption. Through this fee schedule, the state should neither gain any additional revenue nor lose any revenue because of any exemption under 30-10-105(16).

SUBMITTED BY: Doug James & Rick Tucker  
February 2, 1983  
EXHIBIT NO. 4

LAW OFFICES  
LUXAN & MURFITT  
MONTANA CLUB BUILDING  
P.O. Box 1144  
HELENA, MONTANA  
59624

H. J. LUXAN  
WALTER S. MURFITT  
MICHAEL J. MULRONEY  
GARY L. DAVIS  
TERRY B. COSGROVE  
DALE E. REAGOR  
PATRICK E. MELBY

January 27, 1983

PHONE 442-7450  
AREA CODE 406

RECEIVED  
STATE AUDITORS  
OFFICE  
JAN 20 1 49 PM '83  
HELENA, MONTANA

Mr. R.G. "Rick" Tucker  
Chief Deputy Securities Commissioner  
Mitchell Building  
P.O. Box 4009  
Helena, MT 59604

Re: SB-184

Dear Mr. Tucker:


I am chairman of the Subcommittee on Securities Laws of the State Bar of Montana.

The purpose of this letter is to state the Subcommittee's support for SB-184 containing revisions to the Securities Act of Montana. We believe the proposed amendments contained in SB-184 will be beneficial to investors and to the orderly and equitable administration of the Securities Act of Montana and urge its passage and adoption by the legislature.

Please introduce this letter as a statement of the Subcommittee's support for SB-184 at appropriate hearings on the bill.

Very truly yours,

LUXAN & MURFITT

  
by MICHAEL J. MULRONEY

MJM/gv



ALLEY, BURDETT & LARSON, P.C.

ATTORNEYS AT LAW

GRANVILLE M. ALLEY III  
GILBERT U. BURDETT  
BRUCE A. LARSON

TRANSWESTERN III, SUITE 301  
550 NORTH 29TH STREET  
P. O. BOX 20495  
BILLINGS, MT 59104  
PHONE (406) 259-7841

January 25, 1983

RECEIVED  
STATE AUDITORS  
OFFICE  
JAN 27 @ 23 AM '83  
HELENA, MONT.

Mr. Richard G. Tucker  
Chief Deputy Securities Commissioner  
Montana Securities Department  
P.O. Box 4009  
Helena, Montana 59601


Re: Legislation Proposed by the Securities Department

Dear Rick:

Please be advised that our firm wholeheartedly supports your efforts to revise Part 1 of the Securities Act of Montana. I have reviewed the legislation proposed by the Securities Department and find that it contains provisions which will greatly enhance the securities market in Montana. Furthermore, the proposed legislation should provide a base upon which further refinements, benefiting both the securities industry and the consumer, can be made.

As you are aware, the securities industry is undergoing rapid change. New securities "products" are now being marketed which were unheard of even five years ago. It is, therefore, important that the laws regulating that industry be updated to enable the Department to continue to protect the investing public without unduly restricting the growth and evolution of the securities market in Montana. In this regard, I wish to commend you in your efforts.

Very truly yours,



Bruce A. Larson

st



University of Montana  
Missoula, Montana 59812

January 7, 1983

Michael J. Mulroney, Esq.  
P.O. Box 1144  
Helena, Montana 59624

Re: PROPOSED CHANGES TO THE MONTANA SECURITIES LAW

Dear Mike:

I have reviewed the final draft of the proposed changes to Title 30, Part 10 which was forwarded by Bob Murdo by letter dated December 20, 1982. I believe that the changes are acceptable and would support them.

Cordially,

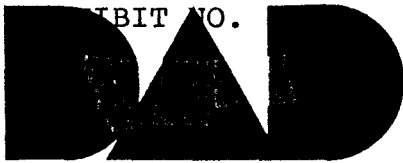
Ronald C. Wyse  
Professor of Law

cc: Robert M. Murdo, Esq.  
230 N. Ewing  
Helena, Montana 59601

Douglas James, Esq. ✓  
Staff Attorney  
Office of Montana Securities Commission  
State Capitol Building  
Helena, Montana 59601

SUBMITTED BY: Bruce McKenzie

February 2, 1983



Because you want your money to do more.

D.A.  
Davidson  
& Co.

Incorporated

Montana's Oldest  
Investment Firm

Davidson Building  
P.O. Box 5015  
Great Falls, Montana  
59403

(406) 727-4200

Offices: Billings,  
Bozeman, Butte,  
Havre, Helena, Kalispell,  
Missoula, Montana;  
Williston, North Dakota

Corporate Office:  
Davidson Building  
Great Falls,  
Montana 59401

Members:  
Midwest Stock  
Exchange Inc.  
Pacific Stock  
Exchange Inc.  
Securities Investor  
Protection Corp.

FEBRUARY 1, 1983

TO: SENATE BUSINESS AND INDUSTRY COMMITTEE  
SENATOR ALLEN C. KOLSTEAD, CHAIRMAN

FROM: BRUCE A. MACKENZIE, VICE PRESIDENT/GENERAL COUNSEL,  
D. A. DAVIDSON & CO.

RE: SENATE BILL 184

Members of the Committee:

D. A. Davidson & Co., as a member of the investment banking community, is directly affected by Montana securities laws in its everyday operations. The clarification of these statutes provided by Senate Bill 184 and the general updating of the provisions of the Montana Securities Act provided by the bill are supported by the Company.

We concur in all amendments proposed by the bill and, in particular, support the amendments which would grant to the Securities Commissioner's Office rulemaking capabilities which would add further clarification and flexibility to the Act.

The formation of investment capital and the investment capital markets require a clearly defined legal basis. Individuals engaged in this business must clearly understand the liabilities involved in engaging in the transactions that make up the capital market. Without clear definitions contained within the statutes and adequate interpretations through regulation, formation of capital is hindered. This has long-range implications for the economy of the state.

D. A. Davidson & Co. supports Senate Bill 184 and encourages its passage.

BAM:alc  
83-8

AMENDMENTS TO SENATE BILL 84

1. Amend Section 1, Page 2, Line 3,

Following: "structure."

Insert: "(2) The necessary and reasonable expense of raising or cutting the wires or of removing the poles for utilities subject to the jurisdiction of the public service commission shall be fixed and determined by the public service commission on the average cost per line or pole for time and materials expended. Such costs and expenses as determined by the public service commission shall thereafter become a part of the published rates and tariffs of such utilities. The rates and charges by rural cooperative electric and telephone utilities and others occupying or using the poles of all such utilities shall not exceed the charges established by the public service commission for utilities subject to its jurisdiction."

2. Amend Section 1, Page 2, Line 4,

Following: "("

Strike: "2"

Insert: "3"

DATE \_\_\_\_\_

COMMITTEE ON BUSINESS & INDUSTRY

## BUSINESS &amp; INDUSTRY

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Cindy Stordahl	Mont Home Economics Assoc			
Phil Strope	Mont Tavern Ass	HB 132 HB 154	✓	✓
Kay Miller	self			
Mavis Serhee	Mont Tavern Assoc			
Erin Grassieck	Mont Tavern Association			
Gen Meredith	DOR	HB 132	✓	
Robert W. Winters Jr	SELF	S 184	✓	
R.G. Tucker	State Auditor - Securities	S 184	✓	
Bruce A. MacKenzie	D.A. Davidson & Co	S 184	✓	
Douglas James	Montana Securities Dept	S-184	✓	
Darryl Meyer	Cascade County	SB 285	✓	

(Please leave prepared statement with Secretary)

NAME:

Mr. Ivers

DATE:

2/2/83

ADDRESS:

Dept of Revenue

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

HB 132

DO YOU:

SUPPORT?

✓

AMEND?

OPPOSE?

COMMENTS:

This bill would provide for  
treatment to all licensees since most  
pay fees on time.

The bill should substantially reduce  
administrative and collection costs due  
to late fees

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Ellie Linder

DATE:

ADDRESS:

Dept of Revenue

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

HB 134

DO YOU:

SUPPORT?

✓

AMEND?

OPPOSE?

COMMENTS:

Deleting a needless waiting period for special permits will better serve the people of Montana. The 10 day waiting period is a bureaucratic requirement without purpose.

Special permits are for the benefit of community events by and large. Many persons organizing these events are unaware of the 10 day requirement. The consequence of cancelling a community event for no real purpose is an absurd result.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

✓

NAME Donald W. Larson BILL NO. H-138  
ADDRESS 1801 9th Ave. DATE 2/2/83  
WHOM DO YOU REPRESENT Montana Tavern Assoc  
SUPPORT \_\_\_\_\_ OPPOSE ✓ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



NAME: R.G. "Rick" Tucker DATE: 2-2-83

ADDRESS: P.O. Box 4009 Helena, MT 59604

PHONE: 449-2040

REPRESENTING WHOM? State Auditor - Securities Dept

APPEARING ON WHICH PROPOSAL: S-184

DO YOU: SUPPORT? X AMEND? X OPPOSE?       

COMMENTS: Statements attached:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME Bruce A. MacKenzie BILL NO. SB 184

ADDRESS P.O. 5015 DATE 2/2/83

WHOM DO YOU REPRESENT D. A. Davidson & Co

SUPPORT ☒ OPPOSE ☐ AMEND ☐

☒ PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME: ROBERT W. MINTO, JR

DATE: 2/2/83

ADDRESS: P.O. BOX 4747

PHONE: 721-3400

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: SB 184

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: The revision are needed to

meet the change in the securities  
industry and give the department  
the needed flexibility to move quickly  
and responsively when the need  
arises

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: WILFRED (WILL) PFENNIG DATE: 2-2-83

ADDRESS: 141-14TH AVE S

PHONE: 454-1408

REPRESENTING WHOM? NCR CORP

APPEARING ON WHICH PROPOSAL: \_\_\_\_\_

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.