

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 16, 1985

The subcommittee meeting of the Business and Labor Committee, pertaining to House Bill 127, was called to order by Chairman Bob Bachini on January 16, 1985 at 7:30 a.m. in Room 312-2 of the State Capitol Building, with all members present. The chairman asked that Representative Keyser, Clayton Bain, Chuck O'Reilly and Robert B. Evans meet to discuss the casual employment repealer. After a decision has been made, the above individuals will again meet with the subcommittee. Said meeting will be announced at a later date.

The meeting of the Business and Labor Committee was called to order by Vice-Chairman Les Kitselman on January 16, 1985 at 9:00 a.m. in Room 312-2 of the State Capitol Building.

ROLL CALL: All members were present, with the exception of Representative Robert Ellerd, who was excused by the chairman.

HOUSE BILL NO. 96: Hearing commenced on House Bill No. 96. Representative Gay Holliday, District #31, sponsor of the bill, explained that the purpose of this bill is to reduce from 180 to 60 days the grace period which an oil producer has to make payment of royalties after marketing oil and gas without paying interest in addition to the royalty. Ms. Holliday then distributed to committee members Exhibit 1, which outline the proposed amendments. Exhibit's 2 and 3 offer support from the County Commissioner's and the County Attorney of Musselshell County.

Proponent, Senator Larry Tveit, District #27, has worked with Ms. Holliday on this piece of legislation. The proposed amendments 2, 4 and 5 as shown on Exhibit 1 are unnecessary, stated Senator Tveit. He feels that 120 days after production, is sufficient time to allow an oil company to process the paperwork and pay royalty owners. Due to the computer era and with several oil companies having their bookkeeping systems set up on computers, amendment 1, should call for 120 days after the end of the month on new production.

Proponent Giles Gregoire representing Montana Land and Mineral Owners Association from Havre stated that many of their members have reported delays in receiving royalty checks. He is not aware of interest ever being paid on these delayed payments. The bill does protect the oil and gas industry, added Mr. Gregoire.

Proponent John Vardin of Roundup explained that most royalty payments are paid within 10 - 15 days from the time oil is marketed. He feels that 180 days is too long a period and that 60 days is ample time. The royalty owners do need protection and the 60 day allotment would provide sufficiency without burdening the companies, added Mr. Vardin.

Proponent Jerome Anderson of Billings, representing Shell Gas and Oil Company offered his support of HB 96 as amended. He stressed the importance of adding the language "after the end of the calendar month" as suggested by Senator Tveit.

Proponent Darvin VanDeGraaff, Executive Director of the Montana Petroleum Association is in support of HB 96 as amended.

Opponent Don Lee of Shelby, representing Montana Oil and Gas Association does see a real problem with HB 96, in determining the difference between old oil and new oil. He wonders how the distinction will be made. Mr. Lee's clients do not try to hold royalty money. In most instances when a payment is delayed, it is due to the attorney or title company, not the oil company, explained Mr. Lee.

Representative Driscoll questioned Mr. VanDeGraaff regarding the point made by Mr. Lee regarding old and new oil. Mr. VanDeGrouff explained that the proposed amendments to HB 96 do not address the old and new oil issue.

Representative Kadas asked Mr. VanDeGraaff why a longer period of time is needed for gas? He explained that gas is more complex and there are 23 different price ranges that gas can fall under.

Representative Kadas questioned Paul Verdon, the committee researcher to see if oil and new oil should be defined better in HB 96. Mr. Verdon, replied that the bill concerns the payment of royalties and not the distinction between old and new oil.

Representative Wallin asked Mr. Lee if he would agree with the amendments as proposed and leave the oil and new oil issue out. Mr. Lee was in agreement.

Representative Wallin addressed the same questions to Jerome Anderson. Mr. Anderson did agree and added that the bill does not say old and new, but says "first marketed production".

Representative Wallin asked Representative Holliday if 120 days would do for payment of all royalties, whether it be a first or a subsequent payment. Representative Holliday replied, "no".

Representative Simon questioned Mr. VanDeGraaff regarding the payment of interest. Mr. VanDeGrouff explained that there are problems concerning this. Additional administrative costs and time are the largest problems, added Mr. VanDeGrouff.

Representative Schultz asked Mr. VanDeGrouff where the money goes when the oil is sold and who received the interest from this money until it is distributed to the royalty owners. Mr. VanDeGrouff stated that the money goes into an escrow account. Jerome Anderson explained that an escrow account is not an interest bearing account, to his knowledge, but he would verify this information and get back to the committee.

There being no further discussion by proponents or opponents, all were excused by the vice-chairman and the hearing on House Bill 96 was closed.

Chairman Pavlovich, prior to the hearing on House Bill 132, asked Representative Waldron if he would prefer to present House Bill 132 on January 21st, at which time House Bill 162 will be presented, which Representative Waldron also sponsors. Both of these bills address fire equipment dealers. Representative Waldron and Chairman Pavlovich, decided to proceed as scheduled.

HOUSE BILL NO. 132: Hearing commenced on House Bill No. 132. Representative Waldron, District #58, sponsor of the bill, stated that the purpose of this bill is to repeal section 50-39-101, MCA, which requires a certificate of registration, permit, or license to sell, service, or install fire extinguishers, fire extinguishing systems, fire alarms, or fire alarm systems; and providing an immediate effective date. Representative Waldron explained that the state law requires the fire marshall to register those who sell, install or service fire equipment. It is not necessary to license the people who install the equipment, but necessary to license the equipment. Representative Waldron stated that the fee collected, does not cover the cost of providing this service and thus tax dollars are needed to pick up the difference. Representative Waldron suggested to the committee that they not take any action on this bill until House Bill No. 162 has been heard. Exhibit 4 was distributed to committee members by Representative Waldron.

Proponents Bob Kelly, State Fire Marshall and Mike Walker of the State Fire Marshall's Advisory Board, also asked the committee to defer action on House Bill 132 until House Bill 162 has been heard.

There being no further proponents or opponents, all were excused by the chairman and the hearing on House Bill No. 132,

was closed.

HOUSE BILL NO. 72: Hearing commenced on House Bill 132. Representative Kitselman, District #95, sponsor of the bill, distributed to committee members Exhibit 5, which outlines the proposals by the insurance department. This bill will allow for insurance companies to assess the interest charged on loans at a variable rate. The statutory rate is 8%. A variable interest rate will be reflective to current times, added Representative Kitselman.

Proponent Les Lobel, representing the American Council of Life Insurance submitted his written testimony, which is attached hereto as Exhibit 6.

Proponent Tony Ask of the Montana Insurance Department offered her support of House Bill 72.

Representative Schultz asked Les Lobel if this bill would be more beneficial to the large insured. Mr. Lobel explained that studies show that the large insurance holder borrows more than the small. When the larger entity borrows money at a low interest rate, the dividends to all of the insured's are lower. Mr. Ed Zimmerman from Washington D.C., representing the American Council of Life Insurance added that it is beneficial for these bodies to borrow at 8%, when they can reinvest at 14 or 15%. Mr. Zimmerman added that insurance companies want the best return on their money as is feasible, which in turn allows for lower premiums and for the company to be more competitive in the marketplace.

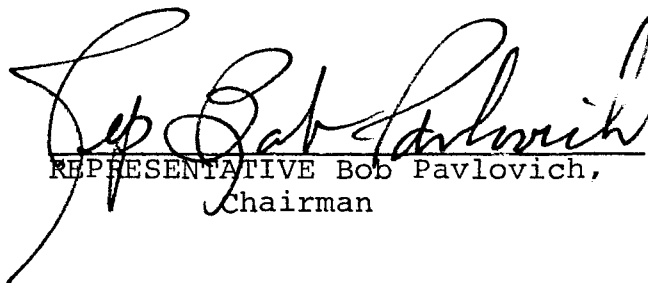
There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill No. 72 was closed.

ACTION ON HOUSE BILL NO. 72: Representative Kitselman moved that HB 72 DO PASS. Paul Verdon, committee researcher, asked Representative Kitselman if he could have a chance to rewrite the amendments as proposed. Representative Kitselman was in agreement and Chairman Pavlovich suggested the committee not take action until the amendments were prepared.

Representative Driscoll suggested that the committee defer action on House Bill 96 until the amendments are presented in written form.

Representative Schultz commented that he would like to research the escrow account issue, as raised in his question earlier.

ADJOURN: There being no further business before the committee,
the meeting was adjourned at 11:18 a.m.



REPRESENTATIVE Bob Pavlovich,
Chairman

DAILY ROLL CALL
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Jan. 16, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd			✓
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormich	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin	✓		

Amendments to HB 96

- 1) Title, line 5
Following: "60 DAYS"
Insert: "ON OLD PRODUCTION AND 120 DAYS ON NEW PRODUCTION"
- 2) Title, line 8
Following: "ROYALTIES"
Insert: "AND ALLOWING ANNUAL PAYMENT WHEN AGGREGATE DUE IS
LESS THAN \$10"
- 3) Page 1, line 21 through line 24
Following: "(2)"
Strike: all language through "lease" on line 24
Insert: "After production is marketed under an oil and gas
lease, the operator under the lease shall pay
oil and gas royalties to the royalty owner
(a) within 120 days after first marketed production,
and
(b) within 30 days after subsequent production is
marketed; but
(c) after the period specified in subsection (2)(a)
and 60 days after the production covered in
subsection (2)(b) "
- 4) Page 2, line 1
Following: "paid."
Insert: "(3)"
ReNUMBER: subsequent subsections
- 5) Page 2, line 4
Following: "\$50"
Insert: "; and may remit annually to a person entitled
to royalties the aggregate of 12 months' royalties
whenever the aggregate amount is less than \$10"

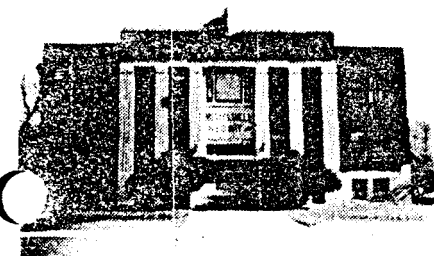


Exhibit 2
January 16, 1985
House Bill 96
Submitted by:
Rep. Holliday

County of Musselshell

ROUNDUP, MONTANA

FRANCIS L. DAWSON

Clerk & Recorder

WARREN SMITH

Assessor

CLINTON J. MOORE

Treasurer

BRIAN NEIDERT

JOHN L. PRATT

County Attorney

ALICE JOHNSON

Clerk of Court

JOHN RAE

Coroner

IRVING DODD

Public Administrator

EVELYN HATTERSCHE

Justice of the Peace

BOARD OF COUNTY COMMISSIONERS

JACK ELLIS

ROY W. McCAFFREE

HERSHEL M. ROBBINS

January 10, 1985

TO: Honorable chairman and committee on Business and Labor

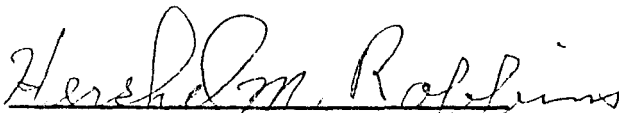
SUBJECT: House Bill # 96--" an act to decrease from 180 days to 60 days the number of days after marketing of oil and gas that an operator must pay royalties to a royalty owner before incurring interest on the unpaid royalties; amending section 82-10-103 MCA".

We, the Musselshell County Commissioners, do hereby give you our backing and full support on the above captioned bill or as amended for the following reasons:

The oil companies are presently entitled to defer royalty payments for their benefit and to the detriment of state, county, city and other owners in the way of interest earned and lost.

Federal freezes and cutbacks are placing an ever increasing burden on the states, counties and cities.

Sincerely,


Hershel M. Robbins, chairman


Roy W. McCaffree

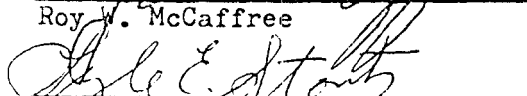

Lyle Stortz

Exhibit 3
January 16, 1985
House Bill 96
Submitted by:
Rep. Holliday



County of Musselshell

ROUNDUP, MONTANA

January 14, 1985

FRANCIS L. DAWSON
Clerk & Recorder
WARREN SMITH
Assessor
CLINTON J. MOORE
Treasurer
BRIAN NEIDHARDT
Sheriff

JOHN L. PRATT
County Attorney

ALICE JOHNSON
Clerk of Court

JOHN RAE
Coroner

IRVING DODDS
Public Administrator

EVELYN HATTERSCHEID
Justice of the Peace

BOARD OF COUNTY COMMISSIONERS

JACK ELLIS

ROY W. McCAFFREE

HERSHEL M. ROBBINS

Mrs. Gay Holliday
House of Representatives
P. O. Box 60, Capitol Station
Helena, Montana 59620

Re: House Bill 96

Dear Gay:

I'd like to compliment you on your efforts in support of House Bill 96. There is absolutely no legitimate reason to allow the oil producers to sit on the royalty owners money for a period of up to 180 days. The title work is completed by the oil companies before drilling is commenced so by commencement of the well, the oil companies know who the royalty owners are. In the event of production all that needs to be done is to circulate a division order. There is no good reason this can't be accomplished within at least sixty days.

The bill appears to me to be well drafted and I would hate to see any further amendments. I understand that there is already a proposed amendment to increase the proposed time period of sixty days to 120 days for new production. This would be an improvement but I feel that it is unnecessary. The sixty days in your original bill is very realistic.

As you know Musselshell County has numerous royalty interests that provide revenue to the County. I am familiar with these royalty interests and know that there are considerable delays in getting the County of Musselshell its royalty interest. Not only is this a problem for Musselshell County, it is also a problem for the individuals who have royalty interests in producing wells in this area. My partner was just involved in some

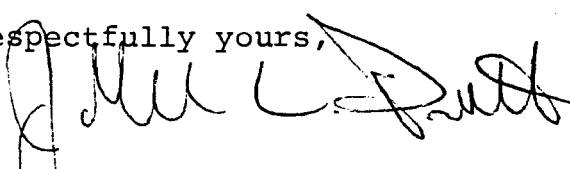
Mrs. Gay Holliday
January 14, 1985
Page Two

litigation in Federal Court where an oil company was withholding royalties from a local royalty owner. The suit was settled and the oil company agreed to pay somewhere in excess of \$100,000.00 in back royalties they had withheld from our client.

Your bill would have been extremely beneficial to the people we represented.

Once again, I would like to compliment you on your efforts on behalf of those who own royalties. It just plain makes good sense to prevent an oil company from sitting on someone else's money for up to six months without any type of penalty whatsoever. Congratulations on a fine bill that is in the public's interest.

Respectfully yours,



JOHN L. PRATT
County Attorney
Musselshell County

JLP:jjk

**State of Montana
Office of the Legislative Auditor**

Performance Audit

DEPARTMENT OF JUSTICE

Fire Marshal Bureau

This report contains recommendations concerning the Bureau's role and activities. These recommendations include:

- ▶ Modifying the current law requiring six-month inspections of all premises.
- ▶ Modifying the Montana Fire Incident Reporting System to reflect the needs of Montana fire departments.
- ▶ Improving bureau communication with local fire departments.
- ▶ Clarifying the responsibility for inspecting state-owned buildings.
- ▶ Improving the administration of the fire protection equipment dealer licensing and certification program.

Office of the Legislative Auditor
Room 135, State Capitol
Helena, Montana 59620

Exhibit 5
January 16, 1985
House Bill 132
Submitted by:
Rep. Kitselman

INSURANCE DEPARTMENT PROPOSALS FOR HB 72

Add new subsection to Section 4 on page 4 between subsections 7 and 8. New subsection would read:

"the ^{stance} subsection of the pertinent provisions of subsections (1) and (3) shall be set forth in the policies to which they apply."

Amend Section 7 on page 6 Codification Instructions Sections 1 through 5 will amend 33-20-109, MCA."

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Exhibit 6
January 16, 1985
House Bill 132
Submitted by:
Les Loble

HB 72 -- ADJUSTABLE POLICY
LOAN INTEREST RATE LEGISLATION

Mr. Chairman, ladies and gentlemen of the Committee. My name is Lester H. Loble, II. I represent the American Council of Life Insurance. ACLI has 615 member companies who write 95% of the life insurance in force in the United States today. In Montana there are 397 ACLI companies who write 96.5% of all ordinary life insurance written and 97% of all group life. Today I speak in support of HB 72, which is a model bill which was adopted by the National Association of Insurance Commissioners (NAIC). Attached to my remarks is a resolution adopted November 4, 1981 by the Conference on Insurance Legislators (COIL). This is an organization of state legislators such as yourselves who are interested in insurance legislation. Last session this bill was recommended unanimously by the Business and Industry Committee, passed second reading 76-8 and third reading 88-11. The Senate saw fit to kill it.

An insurance policy is a contract. For his part, the policy owner agrees to pay periodic premiums to the insurance company. For its part, the insurance company agrees to pay the face value of the policy when the insured dies. The insurance company is not a bank which holds insured's deposit. The insurance company must pay the full amount of the policy whether the insured dies in the second year the policy is in force or the 40th year the policy is in force. It is not returning the same premium dollars collected from each individual insured.

Whole life insurance policies by law must contain a provision permitting the policy owner to borrow money from the insurance company and secure the loan by the cash value of the policy. Given this requirement, it is only fair that the interest on the policy loan reflect current market conditions.

Let us consider the following:

1. Companies must make loans.
2. The loan rate currently cannot exceed 8%.
3. When cash is diverted to low interest rate loans the cash cannot be invested at market rates.
4. The overall return on investments is then reduced.
5. The investment return has a direct and immediate effect on premiums charged to the policyholder and dividends paid to the policyholder. The second attachment to my remarks shows a policy with an adjustable loan rate will have a bigger dividend than a policy with an 8% loan rate. This is because all of the company's investments backing this policy, including policy loans, will be made at the current market rate.
6. Premiums and dividends affect all policyholders whether they borrow or not.

Studies done by ACLI show that, by and large, the large policyholders borrow and the small ones don't. This means, in effect, that the small policyholders are subsidizing the borrowing of the large policyholders.

Of more dramatic concern to Montana, though, is this. Insurance companies have a most important role in capital formation here and elsewhere. Encouraging investment in Montana is

always a matter of legislative concern. The dollar value of mortgages owned by life insurance companies in Montana at year end 1983 was \$556,000,000.00 These are loans for farms, ranches, homes, office buildings and hotels. If a life insurance company is forced to loan its funds to policyholders at rates well below market then this very important source of capital for Montana will not be available.

Accordingly, HB 72 proposes a dynamic measure of the maximum loan rate. The loan rate for policies issued after October 1, 1985 could be structured so that it corresponded to the Moody's Composite Average Yield on Corporate Bonds. Moody's was chosen because it reflects the type of conservative investment that insurance companies make. If the Moody's composite index went up, the interest rate could go up. If the Moody's composite index came down then interest rates would have to come down. Raising the interest rate is optional under this bill but lowering it is mandatory.

As you can see from page 2, Section 4, line 8, of the bill, the bill provides for an option. A company may choose to remain under the existing law requiring a maximum interest rate of not more than 8% or it could insert the adjustable or flexible loan rate in its newly issued policies. Note on page 3 of the bill at line 2 the maximum rate must be calculated at least once a year but not more than four times a year. Unless the rate moved up or down half a percent or more, there could be no change in the interest rate of the policy. Note that at line 7 if there is an increase it is discretionary with the insurance company but at

line 10 if there is a decrease then it is not discretionary. The interest rate must come down.

On page 5, Section 5, line 8 is a provision which permits a life insurance company to agree with its existing customers that the current policy loan provision may be amended to conform with the statute. It is a principle of contract law that an existing contract may not be altered without the transfer of new consideration, that is, something valuable, from the party seeking the alteration to the other party. The value offered to existing policyholders is increased dividends. As an example of the attractiveness of increased dividends, Massachusetts Mutual Life Insurance Company and The Home Life Insurance Company have approached their policyholders in other states to see if they wanted to exchange increased dividends for a change in the policy language to conform to the statute. Massachusetts Mutual has had an acceptance rate of 55%. In other words 55% of the policyholders contacted felt that it was to their personal advantage to amend their insurance contracts to conform to the statute in order to receive increased dividends. Home Life is approaching its policyholders in phases. At the end of phase 1 it has had a 40% acceptance rate.

The balance of the bill sets forth the notice requirements so that the policy holder understands exactly how the policy loan will work.

Adjustable policy loan rates are permissible in all other states and the District of Columbia either by law or regulation.

We solicit your support for HB 72 and thank you for your attention.

I have with me Mr. Ed Zimmerman, an attorney from ACLI. We will be happy to answer any questions which you may have. Thank you.

RESOLUTION NO. 3

Variable Loan Interest Rates

WHEREAS, our economy has for the past two years continued to experience extraordinarily high market interest rates, while interest rates on loans against whole life insurance policies are generally limited by statute to a maximum of 8%; and

WHEREAS, this spread between market interest rates and policy loan interest rates has created an unprecedented demand by policyholders for loans, which demand has in turn caused severe cash flow problems for life insurance companies, and an increased subsidization by small policyholders of large policyholders; and

WHEREAS, in response to these problems the National Association of Insurance Commissioners at its December 1980 meeting adopted a Model Policy Loan Interest Rate Bill which permits life insurance policies to contain a provision for a fully adjustable interest rate tied to a corporate bond index which reflects market rates as an alternative to the 8% maximum rate; and

WHEREAS, in June 1981, committees of the National Association of Insurance Commissioners and the Conference of Insurance Legislators jointly issued a statement urging support of the new Model Policy Loan Interest Rate Bill;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Insurance Legislators, in convention assembled this 4th day of November, 1981 in Kansas City, Missouri, recognizing these events and the continuing problems resulting from statutorily fixed policy loan interest rates, adopt the National Association of Insurance Commissioners Model Policy Loan Interest Rate Bill as a Conference of Insurance Legislators Model Policy Loan Interest Rate Bill and support and urge its enactment in each state.

Illustrative Dividends Based on Current Dividend Scale

NEW YORK LIFE INSURANCE COMPANY

Whole Life Non-Smoker
 AGE: Male 35
 Annual Premium: \$1,482
 Face Amount: \$100,000

<u>End of Policy Year</u>	<u>8% Rate</u>	<u>Adjustable Rate</u>	<u>% Increase</u>
1	\$ 0	\$ 0	0
2	0	0	0
3	194	194	0
4	237	272	13.0%
5	284	355	20.0%
6	332	440	24.5%
7	381	528	28.0%
8	432	620	30.0%
9	484	712	32.0%
10	535	807	34.0%
11	591	904	35.0%
12	681	1,005	32.0%
13	775	1,111	30.0%
14	874	1,220	28.0%
15	973	1,331	27.0%
16	1,074	1,447	26.0%
17	1,178	1,565	25.0%
18	1,283	1,685	24.0%
19	1,389	1,807	23.0%
20	1,500	1,933	22.0%

WITNESS STATEMENT

Name Giles Gregoire Committee On Business - Labor
Address Shamba Rte, Bx 376 - Haute Meule 59501 Date Jan. 16, 1985
Representing Montana Land & Mineral Owners Assoc Support ✓
Bill No. HR 96 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Most of the area represented by our association is presently involved in the production of natural gas.
2. Many of our members have reported long delays in receiving their royalty checks after all division orders, communitization agreements have been completed. I am not aware of any interest having been paid on these delayed payments.
3. This bill appears to protect the oil & gas industry except as Section 4 suggests as determining proper ownership & the terms in doing this.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITOR'S REGISTER

HOUSE Business and Labor

COMMITTEE

BILL House Bill 96

DATE January 16, 1985

SPONSOR Rep. Holliday

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE Business and Labor

COMMITTEE

BILL House Bill 132

DATE January 16, 1985

SPONSOR Rep. Waldron

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE Business and Labor

COMMITTEE

BILL House Bill 72

DATE January 16, 1985

SPONSOR Rep. Kitselman

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.