

MINUTES OF THE MEETING  
HOUSE COMMITTEE ON LEGISLATIVE ADMINISTRATION  
MONTANA STATE LEGISLATURE

January 25, 1985

The meeting of the Legislative Administration Committee was called to order by Chairman Menahan at 11:10 a.m., Friday, January 25, in Room 104 of the State Capitol Building.

ROLL CALL: Members present were Menahan, Keyser, Brown, Donaldson, Grady, and Zabrocki. Others present were Diana Dowling, Executive Director of the Legislative Council, and Ed Smith, Chief Clerk of the House.

Chairman Menahan explained that the purpose of the meeting was to discuss problems with Daktronics. Because the system was not operational at the beginning of the session and because of problems with the contract, he suggested that another contract should be drawn up and that the amount of \$107,000 should be divided into at least three payments, the last payment to be made at the end of the session to insure the system is maintained.

Diana Dowling indicated that the new system had decreased the work necessary for the Council to insert votes into the Journal. One person now does what it took three people to do two sessions ago.

Ed Smith added that the meeting was called at the urging of Valencia Lane, staff attorney for the Legislative Council. She felt that because the terms of the contract were not met, a new contract should be requested.

More discussion followed on the question of the contract terms not being met and the amount being divided into three payments to insure adherence to the contract. Keyser asked how much interest was being paid. Menahan replied that none was being paid at this time because the contract had not yet been signed. Ed Smith indicated that he did not feel that Daktronics had acted professionally or that the system was operational when they had said it would be. Menahan agreed that there were problems with the system not being operational on time, but that one thing in Daktronics' favor was that Don Liles was a competent maintenance person.

Diana Dowling said she thought the committee should know that Jim Morgan did deal in good faith and should expect to be paid at the time the machine was installed. She agreed it may be wise to withhold part of the payment, but that should be negotiated with Jim Morgan to determine what would be reasonable. A maintenance contract also needs to be purchased.

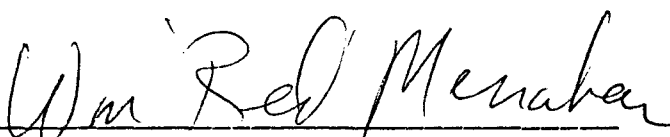
Ed Smith said that Valencia Lane had suggested that the contract should be carefully studied because some parts were not covered, and she felt those issues needed to be spelled out. He reiterated that he felt that Daktronics had acted unprofessionally and that this was a pattern.

After more discussion, Menahan said the committee should have Valerie Lane draw up a contract to send to Daktronics. Questions were discussed on the maintenance contract, and it was agreed that perhaps Don Liles would be a good resource person as far as what should be covered under the contract. It was also suggested that the number of service calls to Don Liles be kept track of. Ed Smith said that Valencia Lane had suggested that in the future the committee could use a bidding process that would not compel the committee to take the lowest bid, and that might prevent similar problems.

MOTION: Representative Keyser moved that the committee contact Daktronics and negotiate with them what is needed in the contract and maintenance agreement and what will be paid when. Motion carried unanimously.

Ed Smith requested authorization to go ahead and pay for a leased back-up printer. MOTION: Representative Donaldson moved that the lease on the extra printing machine be paid. Discussion followed on the necessity for a back-up printer and cost, which is \$395 per month. Motion carried unanimously.

The meeting was adjourned at 11:38 a.m.

  
\_\_\_\_\_  
CHAIRMAN WILLIAM "RED" MENAHAN

# HOUSE MEMBERS

REX MANUEL  
CHAIRMAN  
RALPH S. EUDAILY  
ROBERT L. MARKS  
JOHN VINCENT

# SENATE MEMBERS

ALLEN C. KOLSTAD  
VICE CHAIRMAN  
M. K. DANIELS  
PAT M. GOODOVER  
CARROLL GRAHAM



## Montana Legislative Council

State Capitol  
Helena, MT. 59620

(406) 4443064

January 4, 1985

DIANA S. DOWLING

EXECUTIVE DIRECTOR  
CODE COMMISSIONER

ELEANOR ECK

ADMINISTRATIVE ASSISTANT

MARILYNN NOVAK

DIRECTOR, LEGISLATIVE SERVICES

ROBERT PERSON

DIRECTOR, RESEARCH

SHAROLE CONNELLY

DIRECTOR, ACCOUNTING DIVISION

ROBERT C. PYFER

DIRECTOR, LEGAL SERVICES

Ed Smith, Chief Clerk  
Montana House of Representatives  
Capitol Station  
Helena MT 59620

Dear Ed,

This is in response to your request that I review all available documents relating to the contract between Daktronics, Inc. and the Montana House of Representatives to upgrade the House's voting system, including the proposed "Municipal Lease and Option Agreement" submitted by Asset Leasing, and all documents found in the Legislative Council's file on this subject.

The contract, to date, appears to consist of Daktronic's Technical Proposal dated May 4, 1984; its Financial Proposal dated May 5, 1984 (of which I have not been able to find a copy); its Financial Proposal Revision dated June 7, 1984; the Letter of Intent from the Montana Legislative Council, dated June 26, 1984; and Daktronic's Purchase Order No. 4253, dated August 25, 1984 (of which we have a copy of the front page only and no copy of any terms and conditions which may be a part of the Purchase Order).

It appears that the House has contracted with Daktronics, Inc., on a sole-source basis, to upgrade its existing voting system for \$214,967.00, as evidenced by Daktronic's Purchase Order No. 4253, dated August 25, 1984. This contract is for the following:

Basic System	\$107,535.00
Bill Calendar Update	95,757.00
Option 1A - Independent operation of displays	6,657.00
Option 1B - Floppy disk storage and additional software	<u>5,018.00</u>
Total	\$214,967.00

Ed Smith  
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Daktronics has offered a third-party leasing arrangement with Asset Leasing, which has submitted its proposed financing agreement calling for 6 periodic payments of \$50,293.00 each, for a total cost of \$301,758.00 (including \$86,791.00 in interest). Daktronic's financial proposal provides that "the lease may be bought out at any time".

It is my understanding that Daktronics has recently informed you and others that it will not be able to supply or install the Bill Calendar Update feature of the contract (contract price = \$95,757.00) until the middle of February 1985. I further understand that certain, as yet unidentified, features of the Basic System are not yet installed or functional. The contract did provide, as indicated in the Letter of Intent, that "time is of the essence" and that the new system was to be installed well before the start of the session in January 1985. The Purchase Order provides that the terms of payment are "100% upon completion", and the proposed financing agreement provides that the State's duty to make payments begins upon the "commencement date", which is the date on which the system is accepted by the State as indicated on the Certificate of Acceptance. It appears that the House of Representatives' obligation to make payments under the contract has not yet accrued and that Daktronics, Inc., is in breach of its duties and obligations under the contract, entitling the House to damages for the breach.

You should immediately send Daktronics, Inc., formal, written notification, or written confirmation of verbal notification, that its proposed substituted delivery date for the Bill Calendar Update system is unacceptable and that failure to have that feature installed and operational by the beginning of the session is considered a material breach of its duties under the contract. It is important that the House does not do anything to waive the delay in performance; as, for example, by acceptance of performance after the beginning of the session.

The House should not sign the proposed financing agreement with Asset Leasing in any case. The contract should be between the vendor and the State only. The House could sign a similar document with Daktronics, Inc., which preserves the duties and obligations between the parties. Daktronics, Inc., could then assign its right to payments under the document to Asset Leasing. If this option is chosen, the financing document should be revised as appropriate.

Ed Smith  
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In light of the fact that Daktronics, Inc., has performed some of its duties under the contract and has supplied some features of the system which, apparently, the House can and does wish to use in the upcoming session, I suggest that an attempt should be made, as soon as possible, to negotiate a revised contract with Daktronics. This contract should reflect accurately and with specificity all features of the system that have actually been supplied and installed by Daktronics; any features which the House will allow Daktronics to install after the session begins, any appropriate and fair set-off in contract price for the damages occasioned the House by Daktronics' delay in performance related to the Bill Calendar Update system (or a reservation of right to sue for damages); a revised contract price; and, of course, all necessary terms and conditions to preserve the House's rights under the contract. I further suggest that in light of the reduced contract, the House should pay off the contract in full and avoid financing charges all together.

My comments are based on the information at my disposal, which is not fully complete. If the House should decide to pursue a suit for damages against Daktronics, Inc., more extensive legal review would be required and assistance should be requested from the Office of the Attorney General. I hope my comments are of help to you. If you have any questions, please feel free to call.

Sincerely,



M. Valencia Lane  
Staff Attorney

cc: Diana S. Dowling, Executive Director  
House Committee on Legislative Administration

DSDIII/hm/Ed Smith 1/4

# Daktronics Leasing Company

## EQUIPMENT LEASE

331-32nd Avenue

P.O. Box 128

Brookings, South Dakota

605/692-6145

LESSOR: DAKTRONICS LEASING COMPANY (herein called "Lessor")

LEASE NO. \_\_\_\_\_

COMMENCEMENT DATE January 14, 1985

ORIGINAL EQUIPMENT COST \_\_\_\_\_

LESSEE: Montana House of Representatives

LESSEE'S ADDRESS: State Capitol

Helena, Montana 59601

1. LEASE: Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the following personal property (herein called "Equipment") upon the terms and conditions set forth:

Description: (Manufacturer or Other Identification)  
General Electric 3400 Printer

MODEL NO. \_\_\_\_\_

SERIAL NO. \_\_\_\_\_

Place of Installation: Same as above

Street Address

Helena

City

County

Montana

State

2. TERM AND RENT. The term of this lease for each item of equipment shall commence at the time of execution and acceptance of this agreement by lessor or at the time of equipment installation ready for use, whichever occurs last, and shall continue for a period of approximately 4 months. As rent for the Equipment throughout the term hereof, Lessee hereby agrees to pay Lessor the sum of \$ 395.00 plus taxes of \$ 0.00 for a total remittance of \$ 395.00 per month beginning 30 days after the lease commencement and the same amount on the same day of each consecutive month thereafter for the term hereof, 0.00 and last 0.00 payments in the amount of \$ 0.00 being payable at the time of signing this Agreement. Payments shall be payable at the office of Lessor in Brookings, South Dakota, or at any place otherwise designated by Lessor. In the event Lessee shall continue to use the display system beyond the term without execution of a new Agreement, Lessee shall continue to be bound by all the terms and conditions of this Agreement while holding over in possession of Lessor's display system.

3. ADDITIONAL EQUIPMENT. Upon approval of Lessor, additional items of Equipment may be subjected to the terms of this Agreement for such term and at such rates as may be mutually agreed upon. Such additional Equipment will be described in a supplemental schedule and this Agreement shall apply to such additional Equipment as though presently set forth herein.

4. WARRANTIES. Lessee agrees that it has selected each item of Equipment based upon its own judgment. LESSOR WARRANTIES EQUIPMENT ONLY AS STATED IN ITS STANDARD WARRANTY STATEMENT.

5. TITLE. Title to Equipment shall at all times remain in Lessor, and Lessee, at its own cost and expense, shall protect and defend the title of Lessor. The Equipment shall remain personal property irrespective of its use or manner of attachment to realty, and Lessee agrees to take such action at its expense as may be necessary to prevent any third party from acquiring any interest in the Equipment as a result of its attachment to realty.

6. LAW; TAXES AND INDEMNITY. Lessee shall comply with all laws and regulations relating to the Equipment, and shall promptly pay when due all license fees, assessments, registration fees, and sales, use, property, excise and other taxes now or hereafter imposed by any governmental body or agency upon the Equipment, or the use thereof or the rentals hereunder excluding, however, any taxes on or measured by Lessor's net income. Lessee agrees to indemnify and save Lessor harmless against any and all claims, costs, expenses, damages and liabilities arising from or pertaining to the use of the Equipment. Any fees, taxes, or other charges paid by Lessor upon failure of Lessee to make such payments, shall at Lessor's option become immediately due from Lessee to Lessor. The indemnities contained in this paragraph shall survive the termination of this Agreement.

7. USE; ASSIGNMENT. Lessee will cause the Equipment to be operated in accordance with any applicable manufacturer's manuals or instructions, by competent and duly qualified personnel only, in accordance with applicable governmental regulations, if any, and for business purposes only. Lessee agrees not to sell, assign, sublet, pledge, hypothecate, or otherwise encumber or suffer a lien upon or against any interest in this Agreement or the Equipment or to remove the Equipment from its place of installation without Lessor's written consent.

8. LESSEE'S DEFAULT. The following events shall constitute defaults on the part of the Lessee hereunder: the failure of the Lessee to pay any installment of rental promptly when the same shall become due; any breach or failure of the Lessee to observe or perform any of its other obligations hereunder; the insolvency or bankruptcy of the Lessee or the making by the Lessee of an assignment for the benefit of the creditors, or the consent of the Lessee to the appointment of a trustee or receiver, or the appointment without its consent, of a trustee or receiver for the Lessee or for a substantial part of its property; the institution by or against the Lessee of bankruptcy, reorganization, arrangement, or insolvency proceedings. Upon the occurrence of any such event, Lessor may at its option declare this Agreement to be in default and may do one or more of the following with respect to any or all Equipment as Lessor in its sole discretion shall elect, to the extent permitted by applicable law then in effect: (a) cause Lessee to (and Lessee agrees that it will), upon written demand of Lessor and at Lessee's expense, promptly return any or all Equipment to Lessor in accordance with all of the terms of Paragraph 12 hereof, or Lessor, at its options, may enter upon the premises where such Equipment is located and take immediate possession of and remove the same, all without liability to Lessor for damage to property or otherwise; (b) sell any or all of the Equipment at public or private sale, with or without notice to Lessee or advertisement, or otherwise dispose of, hold, use, operate, lease to others or keep idle such Equipment, all as Lessor in its sole discretion may determine and all free and clear of any rights of Lessee and without any duty to account to Lessee for such action or inaction or for any proceeds with respect thereto; (c) by written notice to Lessee, cause Lessee to (and Lessee agrees that it will) pay to Lessor (as liquidated damages for loss of a bargain and not as a penalty) on the date specified in such

notice an amount (plus interest thereon at the rate of 8% per annum from said date to the date of actual payment) equal to all unpaid rent payments which absent a default would have been payable hereunder for the full term thereof; and/or (d) Lessor may exercise any other right or remedy which may be available to it under applicable law or proceed by appropriate court action to endorse the terms hereof or to recover damages for the breach hereof or to rescind this Agreement as to any or all Equipment. In addition, Lessee shall continue to be liable for all indemnities under this agreement and for all legal fees and costs and expenses resulting from the foregoing defaults or the exercise of Lessor's remedies, including placing any Equipment in the condition required by Paragraph 12 hereof. No remedy referred to in this Paragraph is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity. No express or implied waiver by Lessor of any default shall constitute a waiver of any other default by Lessee or a waiver of any of Lessor's rights.

9. **NOTICES.** Any notices and demands required to be given hereunder shall be given to the parties in writing and by regular mail at the address herein set forth, or to such other address as the parties may hereafter substitute by written notice.

10. **REPAIRS; LOSS AND DAMAGE.** Lessee, at its own cost and expense, shall keep all Equipment in good repair, condition and working order and shall furnish all parts, mechanisms, devices, and servicing required therefor. All such parts, mechanisms and devices shall immediately become the property of the Lessor and part of the Equipment for all purposes hereof in the event that any item of Equipment shall become lost, stolen, destroyed, damaged beyond repair or rendered permanently unfit for use for any reason, or in the event of any condemnation, confiscation, theft or seizure or requisition of title to or use of such item. Lessee shall promptly pay to Lessor an amount equal to the aggregate unpaid rent payments for the full term of the lease of such item, whereupon such items shall become the property of Lessee and Lessor will transfer to Lessee, without recourse or warranty, all of Lessor's right, title and interest, if any, therein.

11. **INSURANCE.** Lessee shall obtain on the Equipment, at its own expense, property damage and liability insurance in such amounts, against such risks, in such form and with such insurers as shall be satisfactory to Lessor; provided, however, that the amount of property damage insurance shall not be less than the greater of the full replacement value of the Equipment or the installments of rent then remaining unpaid hereunder. Each insurance policy will name Lessee as an insured and Lessor as an additional insured, and shall contain a clause requiring the insurer to give to Lessor at least 10 days' prior written notice of any alteration in the terms of such policy or of the cancellation thereof. At Lessor's option, Lessee shall furnish to Lessor a certificate of insurance carrier or other evidence satisfactory to Lessor that such insurance coverage is in effect, provided, however, that Lessor shall be under no duty either to ascertain the existence of or to examine such insurance or to advise Lessee in the event such insurance shall not comply with the requirements hereof.

12. **RETURN OF EQUIPMENT.** Upon expiration of the lease of each item of Equipment, Lessee, at its own expense, will immediately return such equipment in the same condition as when delivered to Lessee, ordinary wear and tear excepted to Lessor at such location as Lessor shall designate. If in the installation of the display system it shall be necessary to remove or alter any portion of the premises, building, fixtures or equipment, upon removal of the display system Lessor shall not be responsible for replacement or restoration of the same.

13. **FURTHER ASSURANCES.** Lessee will promptly execute and deliver to Lessor such further documents and take such further action as Lessor may request in order to more effectively carry out the intent and purpose hereof including, without limitation, (i) the filing of this Agreement in accordance with the laws of any applicable jurisdictions and (ii) the taking of such further action as Lessor may deem desirable to fully protect Lessor's interest hereunder in accordance with the Uniform Commercial Code or other applicable law. Lessee hereby authorizes Lessor to effect any such filing as aforesaid (including the filing of any financing statements under the Uniform Commercial Code without the signature of Lessee), and, at the option of Lessor, Lessor's cost and expenses with respect thereto shall constitute additional rent, payable on demand.

14. **NON-CANCELLABLE LEASE.** This Agreement cannot be cancelled or terminated except as expressly provided herein.

15. **PERFORMANCE.** On Acceptance of this Agreement, Lessor shall commence construction of the display system and prosecute the work thereon with due diligence until completion. As a condition of this Agreement, performance of this and all other acts required to be performed by the Lessor under the terms and conditions of this Agreement shall be subject to delays by strikes, breakage, fires, unforeseen commercial delays, governmental restriction, acts of God, or other casualties beyond control of Lessor.

16. **DELAYS.** If the equipment is completed and delivered to Lessee and Lessor is prevented from installing or unable to install it for a period of time in excess of 30 days due to conditions beyond Lessors control, Lessor has the option to commence the monthly rental payment, or a percentage thereof, upon written notice to lessee of completion and delivery of the equipment.

17. **RISK OF LOSS.** In the event of damage or destruction of the display system by any cause, Lessor shall have the right either to rebuild the display system, extending the term of this Agreement, for such period of time as may be necessary to make up the full time term thereof, or of terminating his Agreement in which event Lessee shall be refunded all unearned deposits and shall not be obligated to pay further monthly rentals for the display system. Lessor must notify Lessee in writing, within 14 days from notification of damage or destruction of the display system by the Lessee, of the intention of Lessor to rebuild the display system or terminate this Agreement.

18. **DISCLAIMER OF WARRANTIES.** This Agreement is made on the express understanding that there are no express or implied warranties other than those contained in this Agreement and that there are no warranties of any kind, express or implied, that the goods shall be merchantable or fit for any particular use or purpose, nor are there any warranties which extend beyond on those set forth herein. In any event, the Lessee or any third person shall not be entitled to any damages, including but not limited to consequential damages, arising out of or in connection with the use or performance of the display system.

19. **GENERAL.** It is expressly understood that by the acceptance of this Agreement, all prior Agreements are superceded hereby and all claims and demands thereon except for any amount that may be due Lessor for display systems used by the user, are fully satisfied and hereby released.

The sales representative is acting as a special agent and all representatives and all agreements not herein set forth are being waived.

No termination or modifications of this Agreement shall be binding upon Lessor, unless such termination or modification shall be in writing and approved by an officer or Lessor, either attached to or endorsed on this Agreement.

All the terms and conditions hereon shall be binding upon and insured to the benefit to the successors, assigns, and legal representatives of the respective parties, but the interest of the Lessee herein shall be transferrable through operation of law or otherwise only with the prior written consent of Lessor.

20. **MISCELLANEOUS.** Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions thereof, and any such unenforceability in any jurisdiction shall not render unenforceable such provisions in any other jurisdiction. To the extent permitted by applicable law Lessee hereby waives any provision of law which renders any provision hereof unenforceable in any respect. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. Time is of the essence in this Agreement. The captions in this Agreement are for convenience only and shall not define or limit any of the terms hereof. This Agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of South Dakota, including all matters of construction, validity and performance.

THIS AGREEMENT, consisting of Sections 1 through 20 hereof, correctly sets forth the entire Agreement between Lessor and Lessee. No agreements or understandings pertaining to the lease of this equipment shall be binding on either of the parties hereto unless specifically set forth in this Agreement. The term "Lessee" as used herein shall mean and include any and all Lessees who sign hereunder, each of whom shall be jointly and severally bound thereby.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_. By execution hereof, the signer hereby certifies that he has read this Agreement, and that he is duly authorized to execute this lease on behalf of Lessee.

LESSOR:

DAKTRONICS LEASING COMPANY

BY \_\_\_\_\_  
Representative

LESSEE:

\_\_\_\_\_  
Individual/Partnership/Corp.

ADDRESS \_\_\_\_\_

ACCEPTED BY \_\_\_\_\_

BY \_\_\_\_\_

TITLE

DATE

TITLE

DATE



# DAKTRONICS, INC.

331 Thirty-Second Avenue  
Post Office Box 128  
Brookings, S.D. 57006-0128 USA  
Telephone 605/692-6145  
Toll Free 800/843-9879 (Exc AK, HI and SD)  
Telex: 29-5013 DAKTRONCS BKNG

## LETTER OF TRANSMITTAL

DATE	1-23-85	JOB NO.
ATTENTION		
Mr. Ed Smith		
RE		

TO Chief Clerk  
State Capitol  
Helena, Montana 59620

### GENTLEMEN:

WE ARE SENDING YOU ☒ Attached ☐ Under separate cover via \_\_\_\_\_ the following items:

- ☐ Shop drawings ☐ Prints ☐ Plans ☐ Samples ☐ Specifications  
☐ Copy of letter ☐ Change order ☐ \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION

### THESE ARE TRANSMITTED as checked below:

- ☐ For approval ☐ Approved as submitted ☐ Resubmit \_\_\_\_\_ copies for approval  
☐ For your use ☐ Approved as noted ☐ Submit \_\_\_\_\_ copies for distribution  
☐ As requested ☐ Returned for corrections ☐ Return \_\_\_\_\_ corrected prints  
☐ For review and comment ☐ \_\_\_\_\_  
☐ FOR BIDS DUE \_\_\_\_\_ 19 \_\_\_\_\_ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS Per telephone conversation with Al Abramson, we are sending a copy of the letter sent January 11, 1985.

COPY TO \_\_\_\_\_

SIGNED:

*J. Morgan Ly AA*

White - Addressee  
Yellow - File  
Pink - Second Copy

If enclosures are not as noted, kindly notify us at once.





**DAKTRONICS INC.**

331 THIRTY-SECOND AVENUE  
POST OFFICE BOX 128  
BROOKINGS, SOUTH DAKOTA 57006-0128 U.S.A.  
TELEX 29-5013 DAKTRONCS BKNG  
TOLL FREE 800/843-9879 (Exc. AK, HI, and SD)  
TELEPHONE 605/692-6145

January 11, 1985

COPY

Mr. Ed Smith  
Chief Clerk  
State Capitol  
Helena, Montana 59620

RE: Status on Voting System Purchase Order

Based on our discussion in Helena on January 4, it is apparent you are concerned about being sure that Daktronics has provided all that was to be provided for the basic (voting) system. Let me offer a bit of history of what has transpired up to this point, and what our position is at this time.

The scenario began with my travelling to Helena at the request of JoAnne Owens, at no expense or obligation to the State of Montana, on December 16, 1983. The purpose of my visit was to observe the legislature in action and make recommendations (proposal) for an updated system that would better serve the legislature. Our proposal dated May 4, 1984, includes a copy of a roll call printout taken that day. (Exhibit A, page 3) This roll call has a great number of pencil marks to indicate pairs, excused, in the chair, vote, etc. The proposal also includes detailed drawings and narrative explaining what could be done to handle these situations with an updated system so the vote record could be generated correctly electronically, thus making the diskette and the hard copy correct as produced by the machine. Note also that it is specifically stated in the proposal (Section 8, page 28) that the disk data storage unit would be reused as is for the time being. I would like to point out a number of things which Daktronics did for the State under the contract, at no additional cost to the State, which were clearly not called for under the contract; for example:

1. The Speaker's console is specified only to have new displays to replace the old displays. Daktronics provided an entire new console with a brass faceplate.

2. There was no obligation at all to do anything with the existing Sound console. However, in order to make a better finished installation, we opted at our own expense to rebuild the wood portion of the Sound Operator's console. (The metal switchplate on this console is itself part of the sound system and nothing was done with it since it is not our equipment.)
3. A dual disk drive unit was substituted for the much older single drive unit that was existing. This provides two significant advantages to the State: first of all, there is built in redundancy; secondly, the newer unit is much more readily serviceable than the old unit, (i.e. parts availability).
4. A last item that Daktronics agreed to after the fact, was to add the capability to retrieve a vote from the diskette AFTER THE VOTE HAS BEEN RESET (but the same day). The reason I agreed to do this was that at the time I estimated the software to be relatively minor, and I felt it would be a nice addition to the system. As it turns out, the software to do this is a little more involved than anticipated. Because time was of the essence, I therefore instructed our software people to let that go for the time being and get all the essential functions working. Therefore, although the hardware for this function has been implemented, the software has not. (Note that the capability to edit a vote after printing, and then to reprint is operative in the system at this time.)

Daktronics will implement this Retrieve from Disk function within the next 30 days or at a time mutually agreed to by you and Daktronics. However, we feel the fact we are a little late in providing a "freebee" should not be considered non-performance on the Purchase Order requirements.

5. Daktronics has also agreed to, at its own expense, have Don Liles, our local Service Representative, be on site for the first weeks session. This is at your request because you indicated you felt unsure of the new system.

In my recent visit to Helena, I provided additional services, namely training your staff on operation of the system and working out procedural details for transferring the vote record from the voting system to data processing. Your staff seems very capable and, in my opinion, they are prepared to do a good job with the system for the session.

Mr. Ed Smith  
January 11, 1985  
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With the above background, I would request that you, as Chief Clerk of the House, sign off on acceptance of the basic system, with the note that Daktronics will provide a Retrieve from Disk function as discussed above.

Next, I would like to address briefly the bill calendar, items 2, 3, and 4 on the Purchase Order. After considerable deliberation, the committee decided to purchase the new bill calendar along with the voting system update. It is important to point out that, even though the bill calendar and the basic (voting) system were included on one Purchase Order, they are entirely separate systems. The voting system performance is in no way affected by the presence or absence of the new bill calendar system.

Per a phone call I received from Representative Menahan on December 27, 1984, Daktronics understands that the Committee has elected to cancel these items on the Purchase Order. This cancellation was based on Daktronics not being able to get the installation complete by start of session.

For the record, I would like to point out that about mid-November I notified Ms. JoAnne Owens by phone that we were experiencing problems that were affecting delivery of the bill calendar (technical problems and parts delivery delays) and that we would not be able to get it installed until February. Ms. Owens indicated she didn't feel that would cause a major problem, as the calendar in January would not be real heavy.

I assured Ms. Owens that Daktronics would schedule installation around the legislature's schedule, including working weekends and/or evenings as required so that there would be no interruption or disruption to the legislature. The nature of the new bill calendar is such that installation is very straightforward. It could be accomplished over a weekend. An hours training and practice would have an operator set to go.

If the State were to reconsider, Daktronics would like to discuss this item further and renegotiate an acceptable installation date that everyone could be comfortable with. Until such time, we will proceed on the basis that those items on the Purchase Order have been cancelled by the State.

An Acceptance Agreement is enclosed for your review and signature. We ask that you return one signed copy. If there is any reason you feel that the system does not at this time meet all requirements as defined in the proposal, please communicate reason in writing to Daktronics.

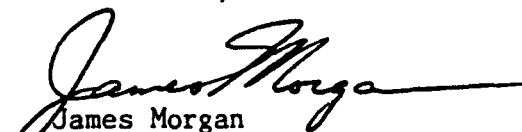
Note that the purpose of this acceptance is merely to authorize payment, and does not in any way reduce or alter Daktronics warranty obligations, except as specifically stated.

Mr. Ed Smith  
January 11, 1985  
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An invcice for the amount of the basic system is being sent with a copy of this letter to Ms. Diana Dowling's attention. I feel that Daktronics has performed on the basic system 100% plus, and payment is justifiably due at this time.

Thank you for your consideration.

DAKTRONICS, INC.

  
James Morgan  
Vice President/Engineering

Enclosure

cc: Ms. Diana Dowling Executive Director  
Legislative Council

Representative William Menahan, Chairman  
House Legislative Administration Committee

JM:la

DAKTRONICS, INC.

PRODUCT ACCEPTANCE AGREEMENT

DAKTRONICS PROJECT #3172

CUSTOMER: Montana House of Representatives

ADDRESS: State Capitol, Helena, Montana

PRODUCT DESCRIPTION: Item 1: Basic System of Purchase Order dated  
August 25, 1984

ACCEPTANCE DATE: January 10, 1985

It is hereby agreed that the Daktronics product(s) described above  
has been installed and tested and for all intents and purposes is  
is fully operational.

Furthermore, all necessary operator training has been conducted and  
the local service arrangement is satisfactory.

All new equipment provided under this agreement is warranted through  
December 13, 1985. Service on same will be provided at no cost to  
the State of Montana, providing service instance is not due to abuse  
or neglect by the State. (Note that existing parts of the system are  
not covered by this warranty.)

This acceptance statement does not in any way reduce or alter the terms  
and conditions of the original agreement.

As part of this agreement, Daktronics agrees to provide a Retrieve From  
Disk function at no additional cost to the State, understanding that  
this was not part of the original agreement. This function will be  
handled as a warranty obligation. Daktronics will provide this  
function within 30 days of the signing of this agreement, or at a time  
to be mutually agreed upon by the Chief Clerk and Daktronics.

DAKTRONICS, INC.

MONTANA HOUSE OF REPRESENTATIVES

Signed: James Morgan Signed: \_\_\_\_\_

Title: Vice Pres. Title: \_\_\_\_\_

Date: 1/11/85 Date: \_\_\_\_\_

DF-1252



**DAKTRONICS, INC.**

P.O. BOX 128 BROOKINGS, S.D. 57006

605/692-6145 TOLL FREE 800/843-9879 (Exc. AK, HI and SD) TELEX: 29-5013 DAKTRONCS BKNG

Jim Morgan V P /Engineering

Montana House of Representatives  
State Capitol  
Helena, MT 59601

SOLD  
TO

331 32ND AVENUE  
BROOKINGS, SD 57008  
TELEPHONE (605) 692-6145

Systems Displays  
Scoreboards Timers

Same as 'Sold To' if Blank

INVOICE NO. 8677

INVOICE DATE 1/11/85

Make Payment from this Invoice  
No Return Goods Accepted  
Without Prior Authorization

SHIP  
TO

CUSTOMER ORDER NO. 4253	SOLD BY	TERMS	Due Upon Receipt		OUR ORDER NO. C3172
F.O.B. POINT	SHIPPED VIA	PREPAID	COLLECT	SHIPPING DATE	
QUANTITY AND UNIT	DESCRIPTION				UNIT PRICE
Item 1	Basic System				\$107,535.00
					PAY THIS AMOUNT ▶ \$107,535.00

We hereby certify that these goods were produced in compliance with all applicable requirements of Section 6, 7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof.

ORIGINAL INVOICE



# DAKTRONICS, INC.

P.O. Box 128

Brookings, S.D. 57006

605-692-6145

## PURCHASE ORDER

Customer: Montana House of Representatives

Order No. **Nº 4253**

Address: State Capitol, Helena, Montana

Date August 25, 1984

Address of Equipment: SAME

Terms: ~~50% With Order~~  
~~50% Upon Delivery~~  
~~Net 30 days~~ **100% UPON COMPLETION**

I/We hereby order for purchase under the terms and conditions of this agreement, incorporated herein by reference, the following product(s):

### Product Description:

The following documents are hereby appended to and made an integral part of this Purchase Order

Daktronics Technical Proposal dated May 4, 1984.

Daktronics Financial Proposal dated May 5, 1984.

Daktronics Financial Proposal Revision dated June 7, 1984.

Letter of Intent from Montana Legislative Council dated June 26, 1984.

Item 1: Basic System..... \$107,535.00

Item 2: Bill Calendar Update - Replace lamps with LED's, new controller.... 95,757.00

Item 3: Option 1A - Independent operation of displays..... 6,657.00

Item 4: Option 1B - Floppy disk storage and additional software for

bill calendar console..... 5,018.00

**TOTAL \$214,967.00**

~~The order does not include the following~~ NOTE: This agreement will be converted to a lease agreement immediately after signature of this document by both parties.

Total Equipment Cost \$214,967.00

Deposit -0-

Plus City and State Sales Tax N/A

Balance \$214,967.00

Total With Tax \$214,967.00

This purchase order is authorized and agreed to this  
Day of 8/29, 19 84.

This P.O. is authorized and agreed to this  
Day of \_\_\_\_\_, 19\_\_\_\_.

SELLER: **DAKTRONICS, INC.**

BY: \_\_\_\_\_  
SALES REPRESENTATIVE

ACCEPTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

By: Rep. W. T. Monahan  
PURCHASER: \_\_\_\_\_  
INDIVIDUAL - PARTNERSHIP - CORPORATION

For: Montana House of Representatives

TITLE: \_\_\_\_\_





**DAKTRONICS INC.**

331 THIRTY-SECOND AVENUE  
POST OFFICE BOX 128  
BROOKINGS, SOUTH DAKOTA 57008-0128 U.S.A.  
TELEX 29-5013 DAKTRONCS BKNG  
TOLL FREE 800/843-9879 (Exc. AK, HI, and SD)  
TELEPHONE 605/692-6145

August 25, 1984

House of Representatives  
% Legislative Council  
State Capitol  
Helena, Montana 59620

Attn: Diana Dowling

Re: Voting System & Bill Calendar Update

We are enclosing the proposed Purchase Order for your consideration and signature to initiate the purchase of the voting system bill calendar display updates. The prices are adjusted to compensate for the elimination of progress payments as per our letter of June 26, 1984 at \$2,414.00 per \$100,000.00 of original quote price.

Summary of price adjustments are as follows:

Basic System..... \$105,000.00 x 1.02414 = \$107,535.00

Bill Calendar - LED Display and New Controller  
..... \$ 93,500.00 x 1.02414 = \$ 95,757.00

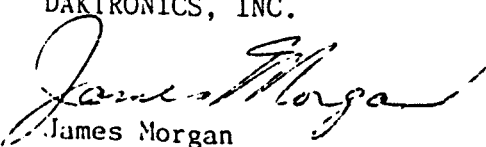
Option 1A - Independent Display Operation  
..... \$ 6,500.00 x 1.02414 = \$ 6,657.00

Option 1B - Floppy Disk Storage for Bill Calendar Display  
..... \$ 4,900.00 x 1.02414 = \$ 5,018.00

A signed Purchase Order is a necessary step in getting the lease agreement established. Immediately upon receipt of the signed Purchase Order we will initiate the transfer to a lease agreement, either 3 or 5 year per your instruction.

Thank you for your continued interest in Daktronics products and services.

DAKTRONICS, INC.

  
James Morgan  
Vice President/Engineering

Enclosure  
JM:la



**DAKTRONICS INC.**

331 THIRTY-SECOND AVENUE  
POST OFFICE BOX 128  
BROOKINGS, SOUTH DAKOTA 57006-0128 U.S.A.  
TELEX 29-5013 DAKTRONCS BKNG  
TOLL FREE 800/843-9879 (Exc. AK, HI, and SD)  
TELEPHONE 605/692-6145

June 7, 1984

House of Representatives  
% Legislative Council  
State Capitol  
Helena, Montana 59620

Attn: Ms. Diana Dowling

Re: Voting System Update Proposal

As requested in the meeting with the Legislative Administration Committee and other interested parties on May 18, 1984, under the chairmanship of Representative Menahan, Daktronics is pleased to offer a revision to its Financial Proposal dated May 5, 1984 as follows:

PURCHASE PRICE

BASIC SYSTEM: No change

BILL CALENDAR DISPLAY

The system as originally proposed is entirely separate from the voting system, electronically. Also the two displays are proposed to operate in parallel. That is, both show the same information at any given time.

To enhance the functionality of this display several additional options are offered:

OPTION 1A. Additional hardware and software to allow displays to operate independently to give a total character capacity of 480 characters.

PRICE..... \$ 6,500.00

OPTION 1B. Additional hardware and software, including a dual floppy disk on the bill calendar control console, to allow entry of amendments and motions for display. Provide capability to switch instantaneously from a bill calendar display to an amendment display to a motion display and back to a bill calendar display. Allow storage of any display format on floppy disk, with recall for display at a later time.

No interface link between voting system controller and bill calendar controller is included.

PRICE..... \$ 4,900.00

OPTION 1C. Provide a hardware interface with all necessary software to link the Bill Calendar system and the voting system controllers to allow a fully integrated operation of the two systems to include:

1. Display of information entered at the Clerk's console such as Bill no., sponsor and motions on the bill calendar display.
2. Transfer of amendment information from the Bill Calendar controller to the voting system, thus allowing printing and storage on the floppy disk that is used to transfer data to the Legislative Services Computer.

The bill calendar operator would at all times have master control of what is to be displayed on the bill calendar display. Daktronics, as part of this option, would work with the Legislative Services computer staff to determine the desired format for storage of amendments to facilitate transfer to the Legislative Services computer.

Prerequisite: Purchase of Option 1B above.

PRICE..... \$24,000.00

OPTION 1D. Provide yellow colored LED's on bill calendar in lieu of red.

ADD..... \$ 6,500.00

#### MAINTENANCE CONTRACT

The House of Representatives has procured a full-service maintenance contract from Daktronics in past years on a biannual basis. Because a full one year warranty is included in the purchase price of the new equipment this number will be reduced for the first biennium after installation of the equipment. The amount of reduction during the first biennium will depend on the amount of equipment purchased. This amount will be determined as follows:

First Biennium Price = Status Quo Price - 1.75% x Purchase Price

The maintenance contract price for the biennium after the first biennium will be calculated by adjusting the Status Quo Price by an amount for each purchased item as follows:

Basic Proposal	+	\$300.00
Option 1		N/C
Option 1A	+	60.00
Option 1B	+	120.00
Option 1C	+	600.00
Option 1D		N/C
Option 2	+	40.00
Option 3		N/A
Option 4	+	600.00
Option 5	+	300.00 per line
Option 6		N/A

The status quo price above is defined as the price that would be paid for maintenance on the system if no equipment were purchased at this time. This price is adjusted from biennium to biennium based on a metals products price index. The current biennium maintenance contract price is \$4,636.00. It is anticipated that the status quo price for the next biennium would be on the order of a 5% - 8% increase from the current price.

A copy of the current maintenance contract form is enclosed for reference.

Note that the price for all options quoted is contingent on purchase and installation concurrent with the purchase of the basic system update. Purchase of options at a later date may cause a significant increase in price due to administration and travel cost associated with handling that option(s) by itself.

#### LEASE/PURCHASE PLAN

Daktronics is pleased to offer a lease purchase plan as requested. Daktronics uses a third party leasing arrangement. Payment period can be set up as monthly, quarterly, semi-annually, or annually. A copy of the lease contract form is enclosed for your review.

The payment rate schedule is fixed, based on current interest rates, the day the lease agreement is signed. Based on today's rates, the payments on a \$100,000.00 purchase would be as follows:

	<u>MONTHLY</u>	<u>ANNUAL</u>
3 year lease:	36 @ \$ 3,354.00	3 @ \$37,632.00
5 year lease:	60 @ \$ 2,324.00	5 @ \$25,551.00

First payment is due the day lease commences. The lease may be bought out at any time.

I will be in touch with you next week to discuss any questions you might have, and what the next step should be.



James Morgan  
Vice President/Engineering

cc: JoAnn Owens, Chief Clerk

JM:la

HOUSE MEMBERS

REX MANUEL  
CHAIRMAN  
RALPH S. EUDAILY  
ROBERT L. MARKS  
JOHN VINCENT

SENATE MEMBERS

ALLEN C. KOLSTAD  
VICE CHAIRMAN  
M. K. DANIELS  
PAT M. GOODOVER  
CARROLL GRAHAM



## Montana Legislative Council

State Capitol  
Helena, MT. 59620  
(406) 449-3064

DIANA S. DOWLING

EXECUTIVE DIRECTOR  
CODE COMMISSIONER

ELEANOR ECK

ADMINISTRATIVE ASSISTANT

MARILYNN NOVAK

DIRECTOR, LEGISLATIVE SERVICES

ROBERT PERSON

DIRECTOR, RESEARCH

SHAROLE CONNELLY

DIRECTOR, ACCOUNTING DIVISION

ROBERT C. PYFER

DIRECTOR, LEGAL SERVICES

June 26, 1984

Daktronics, Inc.  
Attn: Mr. James Morgan  
331 Thirty-second Avenue  
Brookings SD 57006

Gentlemen:

You are hereby notified that the House of Representatives, State of Montana, wishes to purchase from Daktronics an update to the existing voting system. At this time the Basic Proposal as described in the Technical Proposal dated May 4, 1984, and the Financial Proposal and first revision to same dated May 5, 1984, and June 7, 1984, respectively, are the extent of this purchase. However, the State reserves the right to review other options and notify Daktronics of intent to purchase same, until July 10, 1984.

It is the intent of the State to lease the equipment from Daktronics, with the option to buy out the lease at any time. It is understood Daktronics will offer a third-party leasing arrangement and that the lease payment schedule will be determined as soon as the order is accepted by the leasing company.

The State also agrees to reimburse Daktronics for additional financing costs that Daktronics will incur since progress payments will not be made as per the Financial Proposal of May 4, 1984. This financing cost is predetermined to be \$2,414.00 per \$100,000.00 of the contract amount. (This amount is arrived at as follows:  $1/2$  of amount  $\times$   $1/3$  year  $\times$  14.5%.) Or, for the \$105,000.00 base price system, an additional \$2,535.00. This amount will be due upon acceptance of the system, and may be either paid outright by the State or added to the lease amount, as desired by the State.

As time is of the essence, the State urges Daktronics to proceed immediately with work on the system to insure installation well

Daktronics, Inc.  
Page Two  
June 26, 1984

in advance of the start of the session in January 1985. Further word on acceptance of options, if any, will be forwarded to you as soon as possible.

We further certify that we are authorized to sign this letter of intent for the State of Montana.

---

William Menahan  
Chairman, House Legislative  
Administration Committee

  
Diana S. Dowling  
Executive Director  
Legislative Council

MGMT2/ee/Daktronics 6/26

June 19, 1984

Daktronics, Inc.  
Attn: Mr. James Morgan  
331 Thirty-second Avenue  
Brookings, South Dakota 57006

Dear Mr. Morgan:

You are hereby notified that the House of Representatives, State of Montana, wishes to purchase from Daktronics an update to the existing voting system. At this time the Basic Proposal as described in the Technical Proposal dated May 4, 1984, and the Financial Proposal and first revision to same dated May 5, 1984 and June 7, 1984, respectively, is the extent of this purchase. However, the State reserves the right to review other options and notify Daktronics of intent to purchase same, until July 10, 1984.

It is the intent of the State to lease the equipment from Daktronics, with the option to buy out the lease at any time. It is understood Daktronics will offer a third party leasing arrangement and that the lease payment schedule will be determined as soon as the order is accepted by the leasing company.

The State also agrees to reimburse Daktronics for additional financing costs which Daktronics will incur since progress payments will not be made as per the Financial Proposal of May 4, 1984. This financing cost is pre-determined to be \$2,414.00 per \$100,000.00 of the contract amount. (This amount is arrived at as follows:  $1/2$  of amount  $\times$   $1/3$  year  $\times$  14.5%.) Or, for the \$105,000.00 base price system an additional \$2,535.00. This amount will be due upon acceptance of the system, and may be either paid outright by the State or added to the lease amount, as desired by the State.

As time is of the essence, the State urges Daktronics to proceed immediately with work on the system to insure installation well in advance of the start of the session in January 1985. Further word on acceptance of options, if any, will be forwarded to you as soon as possible.

I further certify that I am authorized to sign this letter of intent for the State of Montana.

Signed

State of Montana





*The Big Sky Country*

## MONTANA STATE HOUSE OF REPRESENTATIVES

January 28, 1985

Jim Morgan  
Vice President/Engineering  
Daktronics, Inc.  
P.O. Box 128  
Brookings, SD 57006-0128

Dear Jim:

The Committee on Legislative Administration met on January 25 and discussed the situation regarding the voting update system that was recently installed in the House Chamber.

It was the decision of the Committee that because the contract negotiated with Daktronics was not met on the stipulated time table that had been agreed to previously, a new contract should be negotiated for the purchase of the voting update equipment. It also is the decision of the Committee to cancel the bill calendar display order.

Ms. Valencia Lane, staff attorney for the Legislative Council, will be in contact with you in regard to drafting a new contract, and your cooperation with her will be appreciated. If you have any questions, please don't hesitate to call upon me. We look forward to an equitable settlement with Daktronics.

Sincerely,

*Wm 'Red' Menahan*

William "Red" Menahan  
Chairman  
Committee on Legislative Administration

nd  
cc: Diana Dowling  
Valencia Lane

**STANDING COMMITTEE REPORT**

**January 28** ..... 19 **85** .....

**MR. SPEAKER,**

We your committee on Legislative Administration and Bills and Journal recommend that the following employees be hired for the Forty-Ninth Legislature:

**Pages for the Week of January 28 - February 2, 1985**

Sonya Habel  
Rebecca Lutz  
Scott Llewellyn  
Richard Sorenson  
Jennifer Hurst  
Tracey Neal  
Cindy Thomas

**Page to the Republican Leader, Effective January 26, 1985**

Angie Petrosky

and that the following employees be terminated:

**Secretary to the Assistant Chief Clerk, Effective January 25, 1985**

Joe Robinson

**Page to the Republican Leader, Effective January 26, 1985**

Betsy Kropp

*Wm. 'Red' Manahan*  
William "Red" Manahan  
Chairman.

STANDING COMMITTEE REPORT

February 4

1985

MR. SPEAKER,

We your committee on Legislative Administration and Bills and Journal recommend that the following employees be hired for the Forty-Ninth Legislature:

Pages for the Week of February 4 - February 9, 1985

Molly Minnehan

Sindy Coffey

Jo Ellen Schlekewy

Kathy Heffernan

Maya Farris

John Cote

Michelle Quale

Page for the Week of January 28 - February 2, 1985

Deanne Rapp

*Ed Mendon*  
Chairman