

MINUTES OF THE MEETING  
BUSINESS & INDUSTRY COMMITTEE  
MONTANA STATE SENATE

February 22, 1985

The 28th meeting of the Business & Industry Committee met at 10 a.m. on February 22 in Room 410 of the Capitol Building. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: All committee members were present except for Senator Neuman who was excused.

CONSIDERATION OF SENATE BILL 423: Senator Mike Halligan, Senate District 29 of Missoula is the chief sponsor of this bill. He explained the purpose of the bill is to deal with the delayed funds availability policy of financial institutions. The focus of the bill is to shorten the time that financial institutions can hold a check before crediting it to an account. He referred to a study that had been done by MontPirg which dealt with the problems that have been incurred because of checks being delayed. He explained that different banks have much different policies regarding checks.

PROPOSERS: Julie Dalsoglio, representing MONTPIRG, a non-profit, non-partisan research group, stated the study they conducted found there was a great deal of inconsistency in the length of time that a bank holds customer's checks before crediting them to their account. Delays cause inconvenience in getting access to funds and causes hardships for some, especially those with limited incomes. She submitted a letter from Mrs. Marcie Anderson of Missoula who had experienced difficulties with a disability check she receives monthly. (EXHIBIT 1) She further explained many university students have had problems too. She stated the banks state the reason it takes so long is because it takes that length of time to clear a check and for their own protection but she felt this was not sufficient reasons for the delays that are occurring. This measure would set mandated clearing times for checks, allow exceptions to the clearing time when a bank would not receive provisional credit within three days and require a notice of check hold policies be sent to all customers. (EXHIBIT 2)

OPPOSERS: Robert McNellis, Vice-President of the Federal Reserve Bank of Minneapolis and Managing Officer for the Helena branch, spoke in opposition of the bill. He explained he had had ten years of experience with the Helena branch and explained the process that is involved in getting full and final collection on a check. There might be a wide variety of reasons for a check being delayed such as distance between institutions, transportation delays, equipment failure, power failures, misrouting by computer, etc. He gave the committee two samples of the step by step process that is involved in transfers. (EXHIBIT 3) He stated the schedule contained in Senate Bill 423 does not reflect the actual time of collection of most items nor allow for problems with a check. Les Alke, representing the Montana Bankers Association, explained there are several myths

concerning the banks that are just not true. Among these are that banks hold back credit to the account of a depositor, that banks profit from depositors funds before the depositor earns interest, and that many customers have problems because of delayed deposit availability. On new accounts opened with out-of-state checks, they felt they were very justified withholding until the check has been cleared. (EXHIBIT 4) There are presently three states that require a notice be sent to their customers concerning delays of credit. He gave the committee a sample of a handout notice. (EXHIBIT 5) He stated the banks would have no objection to sending out such a notice. Mike Dalton, Vice-President of the Valley Bank in Helena, opposed the bill because of the way it was drafted specifically for banks and not saying all financial institutions. He stated his banks offers provisional credit and these accounts start earning interest as soon as they begin receiving credit. He feels the precautions with new accounts especially are necessary and this bill would take away those safeguards they have now. They already let their customers know of the delays that are possible now. Jerry Overmier, of First Bank of Helena, stated they feel the bill in its present form is unworkable and should apply to all financial institutions not just banks. (EXHIBIT 6)

Questions were then asked from the committee. Senator Gage asked Les Alke about the provisional credit time period and Les Alke stated they are given provisional credit the day they put the deposit in but they have a hold on withdrawing of funds to protect themselves until the checks have cleared. Senator Williams asked about the costs to the customers of the delays and was told they were greatly exaggerated. Senator Goodover wondered why they did not say financial institutions in the drafting of the bill and Julie Dalsoglio explained this was an oversight. Julie Dalsoglio was asked if this was a continuing problem with Mrs. Anderson and she said that it was. Les Alke stated he felt we were only hearing one side of the story that there may have been problems before with a certain depositor. Senator Christiaens asked if banks currently notify people of the delays possible and was told by Mr. Alke that some do now but he felt most banks would not object to doing so. Senator Goodover felt with the new technology there should not be so many delays but was told that the check still has to be presented over the counter for final collection so that the signatures can be checked, etc. Les Alke stated this is a fairly new area of legislation and felt Montana should not be in the vanguard, that we should let others see how it goes first. Senator Halligan stated in closing he had no problems with referring to financial institutions into the bill. He explained you can get provisional credit but you still do not have access to those funds till the check is cleared. This affects many businesses and individuals and involves large sums of money.

He noted there is a provision in the bill for dealing with new accounts for background checks.

CONSIDERATION OF SENATE BILL 445: Senator Chris Christiaens, Senate District 17, Cascade County, explained this bill will exempt nonprofits and civic organizations from certain gambling laws and rules. This was patterned after a North Dakota non-profit gaming law. He explained it addresses amounts of money that can be paid out, and that non-profits can retain up to 1/2 of the value of the prizes for their benefit.

PROPOSERS: There were no proposers.

OPPOSERS: Bob Durkee, from the Montana Tavern Association opposes this bill because it discriminates against their tax-paying business establishments which are denied these same privileges. (EXHIBIT 7) Kathy Campbell, representing the Montana Council of Churches, was concerned about special treatment for non-profits. The way she understood the bill, the license would have to be obtained from the Secretary of State and the local governments would be losing control. She could see a potential for abuse of the law and urged its defeat.

Questions were then called for. Senator Gage asked Senator Christiaens if there were any restrictions on card games and bingo on the amount that could be paid out and was told there was not. Senator Christiaens was approached by some local organizations such as the Elks in Great Falls to draft this legislation. He explained there is a provision that on sports pools there is a limit of \$1 per ticket and \$100 limit. Senator Goodover wondered about the licensing requirements. He felt the way it was drafted the local authorities would lose the control they have had. Senator Christiaens then closed the hearing on Senate Bill 445.

CONSIDERATION OF SENATE BILL 450: Senator Christiaens, Senate District 17, Cascade County, explained his bill was brought about because of the omission of including consumer loan firms from being exempted from usuary laws that were passed in 1983. It would expand the law to include some of the consumer loan firms so they would be governed the same as other financial institutions.

PROPOSERS: Jerry Loerndorf, representing the Montana Consumer Finance Corporation, stated this bill puts Montana's consumer loan companies in the same position as all other regulated banks in the state. Consumer loans used to be a high risk category and they would like to be able to package them the same way other institutions are able to. He explained the bill would require one amendment to make it apply only to loans on which charges are made on an interest-bearing basis.

OPPONENTS: There were no opponents.

Questions were then called for from the committee. Senator Halligan asked why consumer loan licensees were excluded last session from this legislation and Jerry Loerndorf explained it was just an oversight. Senator Christiaens closed by stating he felt consumer loan firms should be under the same rules and regulations as others and urged its passage.

DISPOSITION OF SENATE BILL 428: Senator Christiaens stated he had reservations about this bill concerning who would fall under the regulations and would like more research done before legislation is passed. Senator Williams then moved to TABLE Senate Bill 428. The motion carried.

DISPOSITION OF SENATE BILL 450: Senator Thayer moved to ADOPT the amendments to Senate Bill 450 which would insert language to add a new subsection 7 and would apply only to loans on which charges are made on an add-on basis and not apply to loans on which charges are made on an interest-bearing basis. The motion carried. Senator Thayer then moved to PASS AS AMENDED Senate Bill 450. The motion carried. (EXHIBIT 8)

CONSIDERATION OF SENATE BILL 438: Senator Tom Towe, Senate District 46, Billings, explained this bill fine tunes the beginning farmers bill passed last session. The program was made largely ineffective due to federal regulations that went into effect after the measure was passed. They want to put the \$250,000 net worth in the evaluation section of the bill into the qualification section which is necessary for federal rules. They want the applicant's inability to get credit anywhere stricken so that one would not have to prove his inability to be able to obtain credit. On page 4 they would like to strike \$200 million and insert \$40 million so that the total amount of bonds outstanding at any one time may not exceed \$40 million. (EXHIBIT 9) He felt the \$200 million was just not necessary.

PROPOSERS: Michael Murphy, Administrator of the Department of Agriculture, speaking for Keith Kelly, Director, supports the passage of Senate Bill 438 with the proposed amendment concerning the bonding limit. He feels this is a much more realistic limit to assure the excellent bond rating now enjoyed. (EXHIBIT 10)

Questions were then called for. There were none. The hearing was closed on Senate Bill 438.

DISPOSITION OF SENATE BILL 438: Senator Christiaens then moved TO PASS the amendments proposed by Senator Towe regarding the striking of the \$200 and the insertion of \$40 million. The motion carried. Senator Weeding then moved TO PASS AS AMENDED Senate Bill 438. The motion carried.

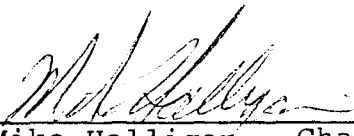
DISPOSITION OF SENATE BILL 445: Senator Christiaens introduced Al Donahue from Great Falls who stated for many organizations this bill would be very beneficial. Senator Williams made a motion to TABLE Senate Bill 445. Senator Kolstad then made a substitute motion to DO PASS Senate Bill 445. Senator Thayer felt the bill would not really accomplish anything. Senator Christiaens stated it was his intention to help those organizations that currently did not have this option. Senator Gage expressed concern about cutting out the local government's authority over licensing. Senator Kolstad then withdrew his motion. Senator Christiaens then moved that Senate Bill 445 DO PASS. The committee voted no with Senator Christiaens voting yes. The committee then voted on Senator Williams motion to TABLE the bill. This motion carried with one dissenting vote from Senator Christiaens.

DISPOSITION OF SENATE BILL 353: Senator Williams was a little apprehensive about encouraging people to get into buying a business and then having it become insolvent. Senator Goodover was concerned that it might be discriminatory to get preference for an employee-owned business loan. Senator Thayer felt the measure might not be doing what Senator Lybeck originally intended for it to do. Senator Fuller then moved TO PASS the amendment to insert "at least" after line 20 of the bill. This motion carried. Senator Fuller then moved to PASS AS AMENDED Senate Bill 353. There was some discussion about the owning of 51% of the stock. Senator Goodover wondered if we shouldn't add an amendment saying employee-owned enterprise means any individual or enterprise that owns 51% of the stock. Senator Fuller felt everything in the bill refers to plural or more than one. The committee wanted it understood that enterprise also includes individuals. The motion to PASS AS AMENDED carried. (EXHIBIT 11)

DISPOSITION OF SENATE BILL 394: Senator Gage wondered why the Milk River districts felt they could not negotiate with Chester and Liberty County. Senator Fuller stated the reason that Montana Renewable Resources, Inc. is involved is because they feel it is a good investment. He stated too the power rates may be dropping down to 3.5 cents and the investment might have some problems if the rate goes down that low. Steve Browning, stated that all the businesses involved are in it to make a profit and selling at 3.5 cents per kilowatt hour would not make any money. Senator Weeding wondered if the 80 mile canal through the district is also a major problem and Senator Kolstad said this was true. He stated he felt they would have difficulties getting this canal with the opposition they are now facing from the landowners. Senator Kolstad felt the major issue was just whether or not an outside entity can come in and build without the impacted area having any voice. He made a motion to DO PASS Senate Bill 394. Senator Williams wanted to know who all was involved in trying to build the project and was told the Milk River Irrigation District, Montana Renewable Energy Resources, Inc. and now Gillette, Wyoming would like to construct the hydro-electric plant.

Steve Browning stated they have been working for quite some time to negotiate with the Milk River Irrigation District on an agreement between all the parties involved and if this could be resolved it might be an excellent vehicle to stop the Gillette people from coming into the state to build the project. Senator Thayer stated he had heard conflicting stories about the attempts at negotiations. Senator Weeding said he felt if the bill were to pass the Milk River Districts felt they would be written off forever. Senator Goodover stated he felt it was a big enough issue that it should be resolved on the floor in debate. The motion to DO PASS carried with Senator Weeding, Senator Thayer, Senator Halligan and Senator Fuller voting no.

The meeting was adjourned at noon.

  
Mike Halligan, Chairman

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