

49th LEGISLATURE, SECOND SPECIAL SESSION

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 25, 1986

The Business and Industry Committee meeting was called to order on the above date, in Room 410 of the State Capitol Building, at 2:00 p.m. by Chairman Mike Halligan.

ROLL CALL: All members present.

SENATE BILL 6: Senator Chris Christiaens, SD 17, Cascade County, explained that SB 6 is an act to include certain higher education facilities in the list of projects financed by the issuance of Industrial Revenue Bonds, and amends sections 90-5-101 and 90-5-108, MCA. It provides for an immediate effective date to include financing for higher education facilities of private non profits.

PROPOSERS: Jim Spring, Billings, Trustee of Rocky Mountain College. Full testimony attached as Exhibit #1. The bill, as amended will help support the college and provide the means to further advance the different ways to finance private college education.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Gage asked whether non-profit vo tech schools, such as beautician or horse-shoeing schools would qualify. Mae Nan Ellingson, Law Firm of Dorsey & Whitney, answered saying she is here only as a research person to answer technical questions. She referred the committee to page 2, line 5, saying there is a definition of an institution of higher education. It describes it as being an institution authorized to provide or operate educational facilities and providing a program of education beyond the highschool level. This could include vocational technical schools.

Senator Fuller asked Mr. Spring to comment on the importance of this bill being included in the call of the Special Session. Mr. Spring - Two major reasons. One, the effect the tax reform bill in Congress will have. It may not allow the possibility of having tax exempt bonds for private colleges. Second, at this particular time, Rocky Mountain College does have some friendly buyers available for some bonds and that may not be available in a year and a half from now. The primary issue is what is going to happen on the federal level.

Senator Fuller asked whether the definition of institution of higher education, etc., according to the bill, eliminated the university system. Carrol Krause, Montana University System, didn't think that would be the case. They do not use industrial revenue bonds to fund the university system. They use revenue bonds, but not industrial type. This

would cover 5 institutions in the State. Beauticians, etc., are licensed but are not called institutions of higher education in the sense of this definition. There are two bible colleges in the State that would fall into the classification of this definition.

Senator Halligan asked whether, in terms of tightening up that sub. (b) on page 2 of the definition providing a program of education beyond the high school level, had language saying that issues of 4 year degree or issues of BA been considered to make sure we are not including a lot more.

Mae Nan Ellingson replied they had not but those are alternatives. Some states under their higher education act have either limited them to 4 year degrees or 2 year programs or had language providing a course of study approved by the State. She said they could provide the committee other alternatives to tighten it up.

Senator Williams asked if these are the same industrial revenue bonds that the city of Great Falls or county would put out. Senator Christiaens answered, yes.

Senator Williams asked if the bond defaults, who holds the bag? Mae Nan Ellingson answered that the purchaser of the bond would have recourse against the maker of the obligation, which would be Rocky Mountain College. The way it would be structured, either the city or the county could issue the bond or the Montana Economic Development Board could issue the bond. The bond, itself, would contain language that says it is not a general obligation of either the city, county or the MEDB. It's an obligation that's limited only to loan repayments that are to be made by Rocky Mountain College. So, in the event of a default, the bond holders would have the right to sue Rocky Mountain College. Most likely the bonds would be secured by a mortgage on the facilities of Rocky Mountain College and they would either foreclose against the mortgage or receivables or something of that nature. No entity of the State or political subdivision would be liable for the repayment of the bond.

Senator Goodover asked whether there were delegates from other colleges. There were none.

Senator Halligan inquired as to whether Senator Christiaens had talked to the ACLU in regard to the separation of church and state. Senator Christiaens had talked to Mae Nan Ellingson who had researched work done for some of the church supported hospitals.

Mae Nan Ellingson in responding to the two bible colleges said because tax exempt bonds have not been issuable for non profit institutions of higher education in Montana previous to this legislation, their firm which specializes in the issuance of tax exempt bonds does not specifically

address the separation of church and state issue with respect to bonds for private institutions of higher learning. They have researched the issue with respect to providing tax exempt financing for church sponsored hospitals and nursing homes. The issues are the same. There is a US Supreme Court decision, Hunt vs. McNair, which upheld the issuance of revenue bonds to a Baptist supported institution of higher education on the grounds that the primary purpose of the institution was not the furtherance of religion but a secular purpose, that is, providing undergraduate college education. What would happen once this bill is passed, the Bond Council, whoever is chosen to do the bond issue, would undertake a thorough analysis of the issue and they would have to be absolutely clear and certain in their mind that there was no violation of either the US or Montana Constitutions before they would approve the issuance of the bonds.

Mr. Spring said, in respect to Rocky Mountain College, it is a church related school and not a church controlled school. Less than 3 to 5% of its funds come from any of the three churches.

Senator Christiaens, in closing, assured the committee that the other two private institutions not represented today are fully aware of the bill and are supportive. He had served on the President's Council and the Development Committee for the College of Great Falls and a full presentation was made to both Boards. Carroll had a similar presentation and was also supportive. Because of the difficulties in funding not only the public institutions of higher learning in the State of Montana, but also because of that same problem facing private institutions this is most timely. While the problems facing industrial revenue bonds and the tax situation are being addressed by Congress, it is important to act on this now. When the bill goes to the House, Representative Rehberg has agreed to carry it.

Hearing closed on SB 6.

DISPOSITION OF SB 6: Senator Thayer moved SB 6 DO PASS.
Motion carried.

Meeting adjourned at 3:40 p.m.


SENATOR MIKE HALLIGAN, Chairman

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1986

Date 3-25-86

SENATE
AT

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HALLIGAN, Chrmn.	✓		
SENATOR CHRISTIAENS, V.Chrmn.	✓		
SENATOR BOYLAN	✓		
SENATOR FULLER	✓		
SENATOR GAGE	✓		
SENATOR GOODOVER	✓		
SENATOR KOLSTAD	✓		
SENATOR NEUMAN	✓		
SENATOR THAYER	✓		
SENATOR WILLIAMS	✓		

Each day attach to minutes.

DATE March 25, 1986

COMMITTEE ON Business + Industry

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

BUSINESS + INDUSTRY
Exhibit #1
Mar. 25, 1986
SB6

TESTIMONY ON BEHALF OF SENATE BILL SIX

I HAVE COME TODAY TO SPEAK IN FAVOR OF SENATE BILL 6, AN ACT TO INCLUDE CERTAIN HIGHER EDUCATION FACILITIES IN THE LIST OF PROJECTS FINANCED BY THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS.

THE PURPOSE OF THIS LEGISLATION IS TO INCLUDE MONTANA'S PRIVATE NONPROFIT COLLEGES AMONG A VARIETY OF OTHER ENTITIES ALREADY AUTHORIZED AS ISSUERS.

THIS LEGISLATION IS RECEIVING BROAD-BASED, BIPARTISAN SUPPORT. THE RECOGNITION OF ITS POTENTIAL TO ENHANCE THE STRENGTH OF ONE OF OUR STATE'S SIGNIFICANT EDUCATIONAL AND ECONOMIC RESOURCES - OUR PRIVATE COLLEGES - HAS BROAD APPEAL.

THERE ARE THREE REASONS WHY I BELIEVE THIS LEGISLATION WARRANTS YOUR FAVORABLE CONSIDERATION AND A "DO PASS" RECOMMENDATION.

FIRST, UNDER THE CURRENT LAW, TITLE 90, CHAPTER 5, PART 1, MCA, A VARIETY OF PROFIT AND NONPROFIT ENTITIES MAY GENERATE REVENUE THROUGH THE ISSUANCE OF INDUSTRIAL DEVELOPMENT BONDS. INCLUDED AMONG THE CURRENTLY AUTHORIZED ISSUERS ARE COMMERCIAL, MANUFACTURING, AGRICULTURAL, AND INDUSTRIAL ENTERPRISES; RECREATION AND TOURIST FACILITIES ; MULTIFAMILY HOUSING; HOSPITALS; LONG-TERM CARE FACILITIES; AND SMALL-SCALE HYDROELECTRIC PRODUCTION FACILITIES WITH A CAPACITY OF 50 MEGAWATTS OR LESS.

THIS AMENDMENT TO EXISTING LAW WOULD PROVIDE PARITY FOR OUR PRIVATE COLLEGES BY INCLUDING THEM AMONG THE OTHER ENTITIES ALREADY PROVIDED SUCH AUTHORIZATION.

SECOND, THIS AMENDMENT PROMOTES CONTINUED ECONOMIC EFFICIENCY AND ACTIVITY THAT REPRESENT AN IMPORTANT BENEFIT TO OUR STATE.

AS YOU ARE AWARE, THE PRESENCE OF MONTANA'S THREE PRIVATE COLLEGES HAS CONTRIBUTED SIGNIFICANTLY TO THE STRENGTH, VITALITY, AND DIVERSITY OF THE EDUCATIONAL RESOURCES WITHIN OUR STATE.

THEY ALSO REPRESENT A NOTABLE "PRESENCE" IN MONTANA'S ECONOMY. TO BEGIN WITH -- A SAVINGS TO THE GENERAL FUND SINCE STUDENTS ATTENDING PRIVATE COLLEGES DO NOT REQUIRE TAX SUPPORT TO UNDERWRITE THEIR EDUCATION. BASED ON THE \$3650 PER CAPITA GENERAL FUND EXPENDITURE FOR STUDENTS WHO ARE ATTENDING A UNIT OF OUR STATE UNIVERSITY SYSTEM THE TAX SAVINGS IN THIS YEAR ALONE REPRESENTS SOME \$10 MILLION DOLLARS.

FINALLY - THEY ARE A DRIVING FORCE IN MONTANA'S ECONOMY. BASED ON COMBINED OPERATING BUDGETS AND OTHER FACTORS WHICH REFLECT ECONOMIC ACTIVITY, MONTANA'S PRIVATE COLLEGES REPRESENT A \$50 MILLION DOLLAR IMPACT ON OUR STATE.

AS A RESULT, THE FINANCIAL PLANNING STRATEGIES MADE POSSIBLE BY THIS LEGISLATION WILL PROMOTE AN OUTCOME WHICH IS CONSISTENT WITH THE INTENT OF OUR "BUILD MONTANA" PROGRAM - TO STRENGTHEN THE PRIVATE SECTOR OF THE STATE AT NO COST TO THE TAXPAYER.

THIRD - THIS AMENDMENT PROVIDES PRIVATE HIGHER EDUCATION WITH AN IMPORTANT TOOL IN DEVELOPING ALTERNATIVE METHODS OF FINANCING AT A TIME WHEN ECONOMIC FACTORS IN MONTANA ARE IMPACTING TRADITIONAL SOURCES OF TUITION AND GIFT REVENUES.

THESE ARE DIFFICULT ECONOMIC TIMES FOR MONTANA. ALL OF US-- BUSINESS, INDUSTRY, AGRICULTURE, STATE AND LOCAL GOVERNMENT -- ARE IMPACTED. IT IS A TIME WHEN ALL OF US MUST WORK TOGETHER IN DEVELOPING STRATEGIES TO MAXIMIZE OUR FINANCIAL RESOURCES.

THE AUTHORIZATION TO ISSUE INDUSTRIAL DEVELOPMENT REVENUE BONDS FOR OUR PRIVATE INSTITUTIONS OF HIGHER EDUCATION WILL PROVIDE ANOTHER STRATEGY TO MOVE THROUGH THESE CHALLENGING TIMES IN A POSITIVE AND CONSTRUCTIVE WAY. THIS STRATEGY REPRESENTS A CREATIVE STEP WITH WHICH TO SOLIDIFY OUR FINANCIAL BASE.

THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOUR COMMITTEE. I APPRECIATE YOUR CONSIDERATION OF THIS AMENDMENT ON BEHALF OF MONTANA'S PRIVATE COLLEGES.

STANDING COMMITTEE REPORT

March 25, 1986

MR. PRESIDENT

BUSINESS AND INDUSTRY

We, your committee on.....

having had under consideration..... **Senate Bill** No. **6**

first reading copy (white)
color

Respectfully report as follows: That..... **Senate Bill** No. **6**

DO PASS

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.....
Senator Mike Halligan,

Chairman.