

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 17, 1987

The twenty-second meeting of the Business & Industry Committee was called to order by Chairman Allen C. Kolstad at 10 a.m. on Tuesday, February 17, 1987, in Room 410 of the Capitol.

ROLL CALL: All committee members were present.

CONSIDERATION OF SENATE BILL NO. 299: Sen. Darryl Meyer, Senate District 17, Great Falls, chief sponsor, said the bill would set the statute of limitations for civil and administrative actions brought under Montana's Securities Act. It sets a two year period of limitations. In a 1985 case the Montana Supreme Court ruled that an eight year statute of limitations applies to the civil liabilities section of the securities laws. This bill is a response to that ruling. The bill makes the two year period of limitations apply retroactively to claims that have arisen but that have not yet been filed as lawsuits before the effective date of the act. The bill also provides a "grace period" which preserves the validity of claims for a reasonable period after the enactment of the law (1 year).

PROPOSERS: Kim Schulke, Deputy Securities Commissioner, briefly went over the bill and explained that there are two types of people that can bring an action: (1) the private citizen for securities fraud and registration violations, and (2) the commissioner of securities for the enforcement of the act. She explained her written testimony to the committee members. (EXHIBIT 1) She also stated that there was an amendment that was required, because of a printing error, on page 7, line 12, "1" should be added to the bill.

Bruce McKenzie, General Counsel, D.A. Davidson, Great Falls, said they were most affected by the Supreme Court decision of 1985 and welcomed the bill. He said the Supreme Court in Montana is the only Court that has found that the Securities Act adopted under the Uniform Securities Acts for the states is based on contract. Nowhere in any of the writings is that found, he said. He said they think this would bring Montana back into the norm as far as securities regulation, they appreciate the commissioner's office being responsible to the industry and felt it was a good compromise.

OPPOSERS: There were none.

DISCUSSION OF SENATE BILL NO. 299: Chairman Kolstad called for questions from the committee.

Sen. Thayer asked about the statute of limitations in the bill. Ms. Schulke replied that it would be two years from the date of discovery of the fraud. So, if it isn't discovered within five years it is moot.

Chairman Kolstad asked if the bill sets a two year period of limitation which replaces what would normally be an eight year period at the present time. Ms. Schulke said that was correct for registration violations; that is a flat two years. She went on further to say that for fraud, two years from date of discovery there is a cut-off of five years.

There being no further questions from members of the committee, Sen. Meyer closed on SB 299.

CONSIDERATION OF HOUSE BILL NO. 332: Rep. Jan Brown, House District 46, Helena, said this authorizes the Public Service Commission to issue a protective order when it is necessary to preserve trade secrets that are required to carry out regulatory functions and the bill also clarifies the authority of the PSC to do this outside of rate cases.

PROPOSERS: Dennis Lopach, Mountain Bell Attorney, said they had requested the bill and felt it restates the law in the 1981 decision but would be useful to put it in the statutes. The 1981 decision said that the Commission was obligated to protect information with a property interest, or trade secret information, when it required the information in rate cases. Now, in some cases, trade secrets are required outside of rate cases, such as a customer list which would be of great interest to a competitor.

Gene Phillips, Pacific Power and Light Company and Northwestern Telephone Company, said this applies to them in their rate cases in respect to the cost of coal which is used in their generating facilities. The price of coal is a trade secret, should have some protection and for that reason they supported the bill.

Bob Quinn, Montana Power Company, said that for the reasons given previously and also because of a problem with Canadian gas, they urged support of the bill.

Gene Pigeon, Montana-Dakota Utilities Resources Group, also said for the reasons given by the previous proponents, they were in support of the bill.

Tim Baker, Staff Attorney with the Public Service Commission, said the Commission was in support of the bill and believed that the Commission has the power currently that the bill seeks to provide. However, they agreed with the various utilities present that codification of this power would prevent future discrepancies.

OPPOSERS: There were no opposers.

DISCUSSION OF HOUSE BILL NO. 332: Chairman Kolstad then called for questions from the committee.

Sen. Thayer asked Mr. Lopach who makes the determination of what should be protected under the privacy act. Mr. Lopach replied that the utility requests a protective order and in the terms of that order the utility retains the right to designate material as trade secrets. If the Commission, or one of the parties, disagrees and the Commission rules that it is truly a trade secret then the protective order applies and the material is protected and non-public until such time as the Court rules on the question. It is a very workable procedure.

Sen. Thayer asked if there would be any other procedure for people to go through other than what Mr. Lopach outlined. He asked, for instance, if there was a public hearing where the PSC was holding the hearing and the people at the hearing were being asked questions that entered into a sensitive area of trade secrets. Mr. Lopach said there were specific provisions in the protective order that deal with that, and if that should happen at a hearing, the PSC asks those people that have not agreed to be bound by the protective order to leave the hearing until that part of the discussion is terminated. Usually, the parties try to find ways to refer to the material without specifically disclosing it. He said there was a detailed procedure that takes care of this.

There being no further questions, Rep. Brown closed, saying that the bill passed the House unanimously.

DISPOSITION OF HOUSE BILL NO. 332: Sen. Weeding MOVED HB 332 BE CONCURRED IN, seconded by Sen. Thayer.

Sen. Walker felt it was a bad bill. Sen. Thayer disagreed with Sen. Walker and stated there could be situations where competitors could acquire a list of clientele if the information were made public. He felt the bill had a great deal of merit.

The question being called, the MOTION CARRIED UNANIMOUSLY.

CONSIDERATION OF SENATE BILL NO. 298: Sen. Ted Neuman, Senate District 21, Vaughn, sponsor, said the bill would combine the Board of Investments and the Montana Economic Development Board and transfers their functions to a newly created Board of Investments. The bill allocates the new board to the Department of Commerce. The two boards currently have 14 combined members and would combine them into one nine member board. Sen. Neuman said he had a few amendments and stated when the bill was introduced, at the top of page 2, it gave the authority to the new board to describe the salaries of their professional staff, however, that has to do with exempt positions. After discussing the bill with the two boards they felt they should insert some new language that would describe specific positions and number of exempt positions. (EXHIBIT 2)

PROPOSERS: Keith Colbo, Director of Department of Commerce,

addressed three aspects of SB 298. First, he gave some background of the bill and how it came about. Second, he explained the roll of the department of commerce in the merged boards, and third, he discussed the budget of the merged boards and how they would operate. He said he would let Mr. Dave Lewis, Director of SRS, discuss the objectives of the merged boards. He said the bill came about out of budgetary discussions and particularly, the need for increased staff for the board of investments. He felt if these two boards were merged it should be under the department of commerce. The emphasis on combining the two boards was on pulling the staffs together to get at a level of cooperation between the two functions to better utilize the resources and professionalism in both the boards. He emphasized there was never any dissatisfaction of the functions of either board. The role of the department of commerce would be administrative only. The new board would make the hiring decisions of the key staff positions as mentioned by Sen. Neuman, he said. He referred to the Fiscal Note (EXHIBIT 3) and some of the assumptions that were made. The combined budget and fiscal impact over the next biennium are shown on the Fiscal Note. The merger would be effective July 1st, the board members would be decreased from the current 14 members of the two boards to nine members on a new board. He said the FTE's would remain the same and the funding for the investment activity for MEDB would be provided by the Board of Investments proprietary account rather than from the general fund. The general fund savings, for the first year, would be about \$145,000 and \$143,000 in FY'89. The budget, he said, had been submitted to the subcommittee reviewing the department of commerce budget, but they had not acted on it pending the outcome of this bill. He said the bill would provide better coordination of its investments at a time when it is desperately needed.

Dave Lewis, Director of Social and Rehabilitation Services, said he wanted to point out to the committee he did have a conflict of interest concerning the bill as the Governor had asked him to accept the appointment as executive director of the board if the bill should pass. He said he was involved in drafting the legislation which set up the MEDB subsequent to the passage of I-95, which authorized the in-state investment program. The existing staffs of both boards would be utilized, the number of exempt positions would not be increased so the ability of the state would be expanded to manage the investment portfolio and, at the same time, save the general fund approximately \$150,000 a year. He said economic development is the number one priority. He said the administrative capacity of the board needs to be increased. He referred to Sen. Neuman's amendments (Exhibit 2) which would make it very clear that the number of exempt positions remains the same. He referred to section 7, page 4 and part of page 5 and said there was language there that concerned the objectives of this program. This language does not apply to the entire board of investments program and that has been a concern of some legislators. He urged the committee's support of the bill.

Fritz Tossberg, Board of Investments member, said he merely appeared to say that the board was in favor of the consolidation and said it would have a lot of beneficial effects and urged the support of the committee.

Pat McKelvey, member of the Board of Investments by being also a member of the Public Employees' Retirement Board, said he was a supporter of the bill but he did have one concern with the bill. He said, in saving the general fund money, the cost of the investments is passed on to those members who the board of investments do investing for. So, since PERS pays about 35% of the cost, even though they would be saving the general fund money, it would cost the retirement system more money. He suggested that maybe they should look at another possible way of funding, however, they did support the bill.

Robert M. Pancich, Administrator of the Montana Economic Development Board, said he supported the bill and appeared at the direction of the Board who could not be present because of the change in hearing date. The board did have some concerns, however, that they wanted the committee to be aware of. (1) integrity of the MEDB's mission and program should not be diminished or dwarfed by the investment board; (2) exempt positions currently in place, remain so and, (3) the bill leads to an over-all cost in the entire program, as the Fiscal Note points out, of \$109,713 in FY'88 and \$124,980 in FY'89.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 298: Chairman Kolstad asked for questions from the committee.

Sen. Weeding asked for an explanation of the Fiscal Note. Sen. Neuman replied that the new board would take its funding from the proprietary fund of the economic development board. The cost of the operation would come right off the top, off whatever they earn. The cost of operating the board would remain the same.

Chairman Kolstad asked if this was a cost-savings or were there additional costs. Mr. Lewis responded that there would be both - there would be an increase in total cost because they were taking the investment expertise from the economic development staff and use them in the total investment strategy but they would be able to charge them back to the administration of all of the funds. So, even though there is an increase in cost, the general fund would be reduced because now their costs are paid 100% from general fund. If they work on investment of retirement funds or coal trust funds, etc., that time and effort can be charged back to those funds rather than to the general fund.

Sen. Weeding asked if there would be an administrative savings by combining these two functions. Mr. Lewis said there was a bill that requested five additional positions for the board of

investments. This bill is being proposed by the administration as an alternative to adding new staff to the board of investments, and by combining the existing staff, they felt they could do more with that staff and not have to have an increase. He said there is a definite need for additional staff but this would make for better use of the combined staff. Sen. Weeding then asked about the \$40,000 net additional cost. Mr. Lewis said in the Governor's Budget there were two Grade 17's being added; however, this bill is taking two of the existing staff members in the board of economic development and putting them into classified positions, thus, freeing up those exempt positions which would allow them to add additional investment staff.

Sen. Williams said this bill would decrease the board from a total of 14 members to nine but yet, in State Administration, they have a bill asking for six more people. Mr. Lewis said this proposal before the committee is in lieu of adding additional staff and they feel by combining the staffs of the two boards, they wouldn't have to have additional staff such as SB 15. The board members are public members that meet once a month or when necessary.

Sen. Thayer pointed out that there wasn't any coordination language in the bill and asked what would happen if both bills were to pass. Sen. Neuman replied that he had requested State Administration to hold the other bill, hoping that this bill would pass. He said this was the bill he preferred. Sen. Thayer then asked if the bill would provide more flexibility in salaried positions, however, Sen. Neuman said it did not allow more flexibility but the board would have the ability to set the salary of the exempt positions but the two boards now have that authority.

Sen. Williams asked how many exempt positions there were and how many there would be under this bill. Sen. Neuman said there are six and there would continue to be six. Sen. Williams asked if there was any upper limitation and Sen. Neuman answered that is why they are called exempt, because they are determined by the board. The type of people they need to manage a \$2.2 billion portfolio must be well paid.

Mr. McKelvey said the retirement fund of PERS is about \$677 million and Sen. Williams asked how many millions were invested in this \$2.2 billion. Mr. McKelvey said they were about \$677 million and the teachers' retirement fund would be about \$450 million. He said they also had about seven other retirement funds. Sen. Williams asked what percent of the \$2.2 billion is made up of retirement funds and what is made up of state funds. Mr. McKelvey said it was about half. Sen. Neuman said he had the figures; PERS was 22.8 and teachers' retirement was

26.1 percent of the total - of the \$2.2 billion.

Because the committee had difficulty understanding the costs, Mr. Lewis went through the Fiscal Note with the committee. (Exhibit 3) He said the FTE's remain the same as in the Governor's Budget. It shows an increase of \$46,000 in salaries above the original Governor's Budget versus what this revised combination would be. So, Mr. Lewis stated, that was basically an increase in salaries above the Governor's Budget. The \$56,000 under "Operating" basically comes from the way the department of commerce is funded. He said the \$7,000 for "Equipment" involved some furniture. On the back side of the Fiscal Note, he said, it shows \$181,262 a year in the economic development board from the general fund. This is shifted back to the proprietary funds and it is spread over all the funds that they manage so there is a net general fund savings of \$144,000. That is how there is a total net increase and yet a general fund savings.

Mr. Tossberg said when he came on the board of investments 5 1/2 years ago they were managing approximately \$1 billion with an investment staff that contained one more person than today when they are managing about \$2.5 billion. He said they had gotten to the stage on the board of investments where they felt they were looking at a highly critical situation. The investment officer will be retiring in June of 1988, he said, and they don't see his replacement at the present time. The board does its own accounting and they manage their own personnel problems and it was the feeling of the board that it is a critical situation and this is why Sen. Neuman had the additional exempt positions. They need investment personnel right now, he said. He pointed out that the cost of the board of investments is prorated among the funds they manage in proportion to their share of the total. The profits belong to the fund that makes them.

Sen. Walker asked what the protectionism was for the retirement funds. Mr. Tossberg said it would be no more than 50% of the retirement funds could be placed in common stock and they are no where near that. Mr. Lewis said the "prudent expert rule" determines how the board operates, particularly with the retirement funds and many of the other funds. The in-state investment fund has specific legislative directions as to how it is handled.

Sen. Thayer said he assumed the board would be appointed by the governor. Sen. Neuman replied that was correct and they are also confirmed by the Senate. This would still apply even though it is not included in the bill. Chairman Kolstad said that no boards are excluded from that provision.

There being no further questions, Sen. Neuman closed his presentation, stating that this would be one of the most important bills, for the long run, for the state. State investments and economic development in Montana will be looked on more favorably, he said.

CONSIDERATION OF SENATE BILL NO. 294: Sen. Darryl Meyer, Senate District 17, Great Falls, sponsor, stated that the bill would increase the charges that a farm mutual insurer must pay to the commissioner of insurance for an investigation and examination to the amounts allowed in 33-1-413. Presently, the charges to the insurer may not exceed \$100 per year.

PROPOSERS: Jim Borchardt, from the Montana Insurance Department, said the present law basically handcuffs the department from doing any examinations, whether from a disaster scenario or for preventive maintenance, on farm mutuals. He said they didn't see any problems at the present time, however, should a problem occur, any examination is going to have a negative impact on the department's budget and for that reason he urged support of the bill removing the \$100 limit and provide additional flexibility.

OPPOSERS: There were no opposers.

DISCUSSION OF SENATE BILL NO. 294: Chairman Kolstad asked for questions from the committee.

Sen. Walker asked Mr. Borchardt if there was anything in statute that prevents them from examining these people. Mr. Borchardt replied that was correct and they were going on the basis that they can't do it for less than that \$100 they are allowed to charge. In answer to a question from Sen. Walker, he said they do not plan to do this on an annual basis.

Sen. Weeding asked the cost to do a domestic insurer. Mr. Borchardt replied there is a requirement in the statute for an examination every three years; there is not such a requirement for farm mutuals. The last examination of a farm mutual was in 1976. He said there are 12 farm mutuals in the state which range from \$100,000 in net worth to about \$1.2 million. He said, as to the cost to a domestic insurer, it would be about \$15,000. It would depend on the difficulty.

There being no further questions, the hearing was closed by Sen. Meyer.

CONSIDERATION OF SENATE BILL NO. 295: Sen. Darryl Meyer, Senate District 17, Great Falls, sponsor, said the bill provides that an applicant for a license to sell all-risk federal crop insurance would not have to take an examination to obtain a license to sell this kind of insurance. The exemption applies if the applicant provides certification from an appropriate governmental agency that he is qualified to sell such insurance. Sen. Meyer submitted proposed amendments to SB 295. (EXHIBIT 4)

PROPOSERS: Jim Durkin, lobbyist for Federal Crop Insurers, said this bill would allow the state insurance commissioner to issue a license to Montanans who have been selling all-risk crop insurance. They have all been through training programs by

the U.S. Department of Agriculture, have been tested, and are issued a certificate of completion before they can sell insurance in the state. He submitted EXHIBIT 5 which shows the certificate of the U.S. Department of Agriculture. He said the reason for this bill was in 1986 the federal government required anyone selling federal crop insurance to be licensed in the state in which they were operating.

Tanya Ask, Montana Insurance Department, referred to Exhibit 4, the amendments submitted by Sen. Meyer and proposed by the State Auditor, which would allow them to issue a restricted license. Ms. Ask also submitted her written testimony which is attached herewith. (EXHIBIT 6)

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 295: Chairman Kolstad called for questions from the members.

Sen. Walker asked if there was a fee. Mr. Durkin said there would be a fee of \$20.

Sen. Weeding asked who these people were; were they the directors of the ASCS offices. Mr. Durkin said, at one time, most of these people were, but now the federal government has gone to a different system and they only sell all-risk federal crop insurance. If the bill isn't passed these people would still continue to sell, however, if the bill would pass and there was a problem with any of the individuals, the insurance commissioner has the rules and regulations to deal with those problems. He also said, at the present time, these people can operate under somebody else's license.

Sen. Weeding asked Ms. Ask if the commissioner's office was satisfied with the certificate from the U.S. Department of Agriculture. She said they were satisfied as it was a federal program.

Sen. Williams asked Sen. Meyer if he was in agreement with the proposed amendments to which he answered "yes".

Sen. Walker asked Ms. Ask if there would be additional FTE's. Ms. Ask answered there would not as they anticipated there would be no more than 15 licenses.

These people, according to Sen. Williams, would not be able to sell hail insurance; it is specifically federal all-risk crop insurance only.

DISPOSITION OF SENATE BILL NO. 295: Sen. Meyer MOVED ADOPTION OF THE AMENDMENTS, seconded by Sen. Williams. Ms. McCue, staff researcher, pointed out that an immediate effective date

would also have to be amended into the title. The MOTION CARRIED UNANIMOUSLY.

Sen. Walker MOVED SB 295 DO PASS AS AMENDED, seconded by Sen. Hager. The MOTION CARRIED with Sens. Weeding and Neuman voting "no".

DISPOSITION OF SENATE BILL NO. 294: Chairman Kolstad stated that the bill had no proposed amendments. Sen. Williams MOVED SB 294 DO PASS, seconded by Sen. McLane.

Sen. Weeding asked what would trigger an investigation - why would they decide to do one. Ms. Ask said it would be if there should be a problem and they would like to do periodic examinations.

The question being called, the MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF SENATE BILL NO. 298: Sen. Neuman MOVED ADOPTION OF THE AMENDMENTS (Exhibit 2) which he had discussed earlier, designating the exempt staff, specifically. The motion was seconded by Sen. Williams.

Sen. Neuman pointed out that the bill does not cut out any positions; there was one position open in the department of commerce at the present time who is budgeted at \$30,000. If the current director of SRS is moved over they can't decrease his salary; that is the law so he would have to move up from that \$30,000 to his current salary. To keep the staff that they have, they have to allow them some pay increases. Chairman Kolstad asked how large a staff they were talking about in regard to the \$46,000 increase. Sen. Neuman said there would be a staff of 10, but actually \$20,000 would be taken up by the director so there would be about \$20,000 to be spread over nine employees.

Sen. Thayer asked why the operating expense goes up \$56,000 per year. Chairman Kolstad pointed out that it goes from \$449,000 to \$505,000. Sen. Neuman said it would be about \$20,000 for those salaries so they could compete with private business. That is why those people are exempt because they need to raise the salaries of those people each year to keep them from moving on to someplace else.

Sen. Boylan stated they had looked this over in the subcommittee on appropriations and there would be a lot of scrutiny, he felt, by that subcommittee.

The question was called on Motion to Adopt the Amendments; the MOTION PASSED UNANIMOUSLY.

Sen. Neuman MOVED SB 298 DO PASS AS AMENDED, seconded by Sen. Meyer. The MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF SENATE BILL NO. 299: Ms. McCue said there was a typographical amendment on page 7, line 12 - it should have "1" amended into the bill following "within". Sen. Meyer MOVED ADOPTION OF THE AMENDMENT, seconded by Sen. Thayer. The MOTION CARRIED UNANIMOUSLY.

Sen. Meyer then MOVED SB 299 DO PASS AS AMENDED, seconded by Sen. Hager. The MOTION CARRIED UNANIMOUSLY.

FURTHER DISCUSSION OF SENATE BILL NO. 205: Ms. McCue said there was a proposed amendment for the bill. She said the amendment was the suggestion of Sen. Halligan, that the pharmacist would have to hold onto the voucher for 30 days to give the department an opportunity to audit the voucher. If they didn't respond within that period the pharmacist could negotiate it at the bank.

Sen. Neuman questioned whether there was enough need for this to warrant considering the amendments. Chairman Kolstad suggested that they hold the bill for another meeting. Sen. Neuman asked for a "straw vote" on the concept of the bill. The show of hands indicated there was sentiment in favor of the bill, however, some of the members felt it was a bad bill. The bill will be considered further at a later time.

FURTHER DISCUSSION OF SENATE BILL NO. 222: Chairman Kolstad said they had not received the revised statement of intent for SB 222. Sen. Thayer felt this should be in the department of administration where it could be coordinated more easily and Sen. Farrell had suggested that earlier. It was pointed out it was a revised Fiscal Note rather than a statement of intent for which they were waiting. It was the decision of the committee to hold the bill for a future meeting.

DISPOSITION OF HOUSE BILL NO. 254: Chairman Kolstad said there were amendments proposed by Glen Drake. The amendments were added in the House committee, removed on the House floor, and now being proposed in this committee, however, Rep. Thomas, the sponsor did not want the amendments. Sen. Walker agreed with the feelings of Rep. Thomas, as did Sen. Weeding.

Sen. Thayer MOVED ADOPTION OF THE AMENDMENTS, seconded by Sen. Walker. The MOTION CARRIED UNANIMOUSLY. Chairman Kolstad said these were clarification amendments prepared by Ms. McCue.

Sen. Walker MOVED HB 254 BE CONCURRED IN AS AMENDED, seconded by Sen. Meyer. Sen. Walker stated that he would WITHDRAW HIS MOTION in order that they could go back and take care of the amendments proposed by Roger McGlenn. Sen. Thayer said that Rep. Thomas had objected to the amendments of both Mr. Drake and Mr. McGlenn and recommended they pass the bill without them. Following further discussion, it was the decision of the committee to disregard both those amendments, therefore, Sen. Walker MOVED HB 254 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

Business & Industry Committee
February 17, 1987
Page 12

Chairman Kolstad announced that there may be a room change for the following day to handle the hearings on the gambling bills. He also noted that Senate bills will be finished on February 19, 1987 with any executive action to be carried over to February 20th.

There being no further business, the meeting was adjourned at 12:03 p.m.



SEN. ALLEN C. KOLSTAD, CHAIRMAN

CL/LS

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/17/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

COMMITTEE ON

Business & Industry

DATE

2/17/87

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
J. Kim Schulke	State Auditor's Office	299	✓	
Keith L. Colbo	Commerce	298	✓	
Dave Lewis	Commerce	298	✓	
George Van	Cons. Dept	295	✓	
James W. Borchardt	State Auditor's Office	294	✓	
Bruce A. MacKenzie	D.A. Davidson & Co	299	✓	
Fred Johnson	BOARD of Investments	298	✓	
Robert M. Fancik	ME&B	298	✓	
Michael W. Tomberg	visitor			
TIM BAKER	PSC	332	✓	
John H. McEwen	Admin	298		
Dennis Logach	Mountain Bell	332	✓	
Jim Manning	Legislative Auditors Off			
GENE PHILLIPS	PP&L and NTS	332	✓	
BOB PHINN	MONT PWR Co.	332	✓	
GENE VIGOR	M.D.U. Resources Group	332	✓	
Jim Turkheim	Fed. Cup Insurers	295	✓	
Pat McElroy	Bd of Forestments	298	✓	

Kim Schulke
Deputy Securities Commissioner
444-5236

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 2-17-87

BILL NO. SB. 299

Securities Act - Statute of Limitations. SECTION BY SECTION
REVIEW.

Requested by State Auditor and Commissioner of Securities,
Andrea "Andy" Bennett

Section 1. Amendment to 30-10-305.

Section 30-10-305 sets forth the type of enforcement actions which the Commissioner can bring for violations of the Securities Act of Montana. These include cease and desist orders and injunctive actions.

New subsection (4) provides that no administrative or civil action shall be maintained by the Commissioner for violations of the registration provisions of the Securities Act, unless brought within 2 years after the violation occurs. Section 30-10-201 provides for the registration of securities salesmen, broker-dealers and investment advisers. Sections 30-10-202 through -205 provide for the registration of securities.

New subsection (5) provides a statute of limitations for actions based upon violations of the Securities Act other than registration violations. The period of limitation is 2 years after the discovery by the commissioner or his staff, of the facts constituting the violation. Additionally, a final cut-off of 5 years from the date of the transaction sued upon, is stated.

Section 2. Amendment to 30-10-307.

Section 30-10-307, provides for private civil actions based on violations of the registration sections of the securities act, or for the offer or sale of a security by means of fraud or misrepresentation.

New subsection (5) provides that all private civil actions founded upon violations of the registration provisions of the Securities Act, must be brought within 2 years after the violation occurs.

New subsection (6) provides that private civil actions founded upon fraud or misrepresentation must be brought within 2 years after discovery of the fraud or misrepresentation, or after such discovery should have been made by the exercise of reasonable diligence. A final cut-off of 5 years from the date of the transaction sued upon, is also stated.

Section 3. Retroactive application of statute of limitations. S.B. 219

This section states that the new statute of limitations shall apply retroactively to all securities actions which could have been filed before the effective date of this Act, but which have not been filed within one year after the effective date of this Act. For securities actions which could have been filed before the effective date of this Act, and which will be filed before one year after the effective date of this Act, the current 8-year statute of limitations applies.

Securities Act - Statute of Limitations. JUSTIFICATION.

On October 3, 1985, the Montana Supreme Court ruled that the statute of limitations which applies to civil actions brought pursuant to 30-10-307, MCA, of the Securities Act of Montana, is 8 years. This is the current statute limitations for all private civil actions brought under the Securities Act.

When the Securities Act of Montana was enacted by the legislature in 1961, the Act contained a 2-year limitation on private civil actions under 30-10-307. In 1967, the legislature eliminated the 2-year statute of limitation, and no limitation period was substituted. The issue as to the statute of limitations for securities act claims did not arise again until 1985 when the Supreme Court decided the limitations period would be 8 years. No statute of limitations has ever been provided for civil or administrative enforcement actions brought by the Commissioner for violations of the Securities Act.

The brokerage community in Montana was very unhappy with the decision of the Supreme Court. The 8 year statute of limitations is the one of the longest such statutes in the nation. On the other hand, from an investor protection standpoint, the 8 year statute of limitations is very favorable.

The Commissioner of Securities proposes this legislation to balance the needs of the brokerage community and the concerns of investor protection. Indeed, the Securities Act provides, in 30-10-102, that the Act shall be construed to:

- (1) protect the investor, persons engaged in securities transactions, and the public interest;
- (2) promote uniformity among the states; and
- (3) encourage, promote, and facilitate capital investment in Montana.

The proposal adequately protects the investor. While it provides a relatively short period in which registration claims must be brought, it provides an ultimate limitations period of 5 years for the more serious fraud violations.

The proposal also promotes uniformity among the states. Most states have a two-year statute of limitations for registration violations. The 5-year statute for fraud is about average,

with the shortest being 2 years from the date of contract, and the longest being two years from date of discovery of the violation, with no ultimate cut-off date.

The proposal encourages capital investment in Montana by providing reasonable limitations on civil and enforcement actions under the Securities Act.

SENATE Business & Industry

EXHIBIT NO. 1

DATE 2-17-87

BILL NO. S.B. 299

AMENDMENTS TO SB 298
(Introduced Bill)

1. Page 1, line 3.
Following: line 2
Insert: "BY REQUEST OF THE GOVERNOR"
2. Page 2, line 4
Following: "of"
Strike: "its"
Insert: "the investment officer, assistant investment officer,
executive director, and three"
3. Page 22, line 9.
Following: line 8
Insert: "Section 17. Section 2-18-103, MCA, is amended to read:

2-18-103. Officers and employees excepted. Parts 1 and 2
do not apply to the following positions in state government:
(1) elected officials;
(2) county assessors and their chief deputy;
(3) officers and employees of the legislative branch;
(4) judges and employees of the judicial branch;
(5) members of boards and commissions appointed by the
governor, appointed by the legislature, or appointed by
other elected state officials;
(6) officers or members of the militia;
(7) agency heads appointed by the governor;
(8) academic and professional administrative personnel with
individual contracts under the authority of the board of
regents of higher education;
(9) academic and professional administrative personnel and
live-in houseparents who have entered into individual
contracts with the state school for the deaf and blind
under the authority of the state board of public
education;
(10) teachers under the authority of the department of
institutions;
(11) investment officer ~~and~~, assistant investment officer,
executive director, and three professional staff po-
sitions of the board of investments; and
(12) four professional staff positions under the board of oil
and gas conservation."

Renumber: subsequent sections

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB298, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to eliminate the present Board of Investments and the Montana Economic Development Board and create a new consolidated Board of Investments.

ASSUMPTIONS:

1. Merger is effective July 1, 1987.
2. The number of Board members will decrease from 14 to 9.
3. FTE will remain the same as proposed in the Governor's Budget. The total number of exempt positions will also remain the same. Salary levels will be increased to allow the new Board of Investments increased flexibility in obtaining high level financial expertise.
4. The staff of the MEDB will move to the present Board of Investment's facility. Adequate space to accommodate the two staffs is available.
5. Funding for the investment activity of MEDB will be provided by the current Board of Investment's proprietary account rather than the general fund.
6. Proprietary funding for investment operations has an impact on the general fund. 12.5% of funds appropriated for investment operations are considered lost general fund earnings.
7. The current MEDB general fund loan for the 87 biennium will be extended through the 89 biennium.

FISCAL IMPACT:

FTE	FY88			FY89		
	Combined Original OBPP Requests	Proposed Combined Requests	Difference	Combined Original OBPP Requests	Proposed Combined Requests	Difference
Personal Services	\$ 850,030	\$ 896,310	\$ 46,280	\$ 849,721	\$ 918,401	\$ 68,680
Operating	449,139	505,572	56,433	372,379	428,679	56,300
Equipment	5,259	12,259	7,000	1,759	1,759	0
Local Assistance	250,000	250,000	0	250,000	250,000	0
Debt Service	9,190	9,190	0	3,924	3,924	0
TOTAL	\$1,563,618	\$1,673,331	\$ 109,713	\$1,477,783	\$1,602,763	\$ 124,980

Expenditures:

Personal Services	\$ 850,030	\$ 896,310	\$ 46,280
Operating	449,139	505,572	56,433
Equipment	5,259	12,259	7,000
Local Assistance	250,000	250,000	0
Debt Service	9,190	9,190	0
TOTAL	\$1,563,618	\$1,673,331	\$ 109,713

David L. Hunter DATE 2/9/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Ted Neuman

TED NEUMAN, PRIMARY SPONSOR
Feb 10, 1987

Fiscal Note for SB298, as introduced.
SB 298

<u>Funding:</u>					
General Fund	\$ 431,262	\$ 250,000	\$ (181,262)	\$ 431,262	\$ 250,000
Proprietary	<u>1,132,356</u>	<u>1,423,331</u>	<u>290,975</u>	<u>1,046,521</u>	<u>1,352,763</u>
TOTAL	\$1,563,618	\$1,673,331	\$ 109,713	\$1,477,783	\$1,602,763
					<u>\$ 124,980</u>

Lost General Fund Revenue	\$ 36,372	\$ 38,280
General Fund Expenditure Savings	<u>181,262</u>	<u>181,262</u>
NET GENERAL FUND SAVINGS	\$ 144,890	\$ 142,982

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

Section 1 (2) appears to exempt all professional staff from the classified pay system. To the extent that the number of exempt positions increase above the current number and the salaries are adjusted, fiscal impact will change.

Dwanda

SB 295

PROPOSED AMENDMENTS OF STATE AUDITOR

1. Title, line 7.

Following: "INSURANCE;"

Insert: "ALLOWING ISSUANCE OF A RESTRICTED AGENT'S LICENSE TO
SELL ONLY ALL-RISK FEDERAL CROP INSURANCE;"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 33-17-201 AND"

3. Page 1.

Following: Line 10

Insert: Section 1. Section 33-17-201, MCA, is amended to read:

"33-17-201. License required of agents, managing general agents, and solicitors - forms. (1) No person shall in this state act as or hold himself out to be an agent or solicitor as to subjects of insurance located, resident, or to be performed in this state unless then licensed as such agent or solicitor under this chapter.

(2) No person may act or hold himself out in this state to be a managing general agent unless licensed as an insurance agent under this chapter and appointed by the insurers represented.

(3) No agent or solicitor shall solicit or take application for, procure, or place for others any kind of insurance as to which he is not then licensed.

(4) No agent shall place any business, other than coverage of his own risks, with any insurer as to which he does not then hold an appointment or license as agent under this chapter, except as provided in 33-17-1104 as to life or disability insurance agents.

(5) The commissioner shall prescribe and furnish forms required in connection with application for, issuance, continuation, or termination of licenses and appointments.

(6) Unless licensed as a life insurance agent as required by this section, no person shall in this state solicit life insurance of annuities or procure applications therefor or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling or advising or giving opinions, other than as a licensed attorney at law, relative to such insurance or annuities for fee, commission, or other compensation, other than as a salaried bona fide full-time employee so counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of such employer,

subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of such employees.

(7) A person licensed to sell coverage only for the all-risk federal crop insurance program shall receive a license restricted to that program.

Renumber: subsequent sections

4. Page 4.

Following: Line 3

Insert: NEW SECTION. Section 4. Effective date. This act is effective on passage and approval.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 2-17-87

BILL NO. S.B. 295

UNITED STATES DEPARTMENT OF AGRICULTURE

CERTIFICATE OF TRAINING

COPY

THIS IS TO CERTIFY THAT

MABELLE AVILA

HAS SUCCESSFULLY COMPLETED A REQUIRED COURSE OF STUDY ON MARKETING AND SERVICING OF

FEDERAL CROP INSURANCE

WHEAT
BASIC INS PRIN

BARLEY

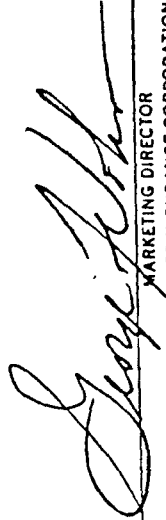
OATS

CORN

CROPS CERTIFIED TO MARKET AND SERVICE

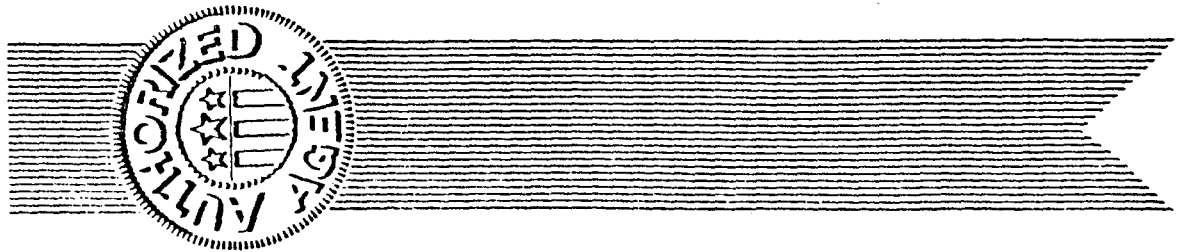
JANUARY 6, 1984

DATE



MARKETING DIRECTOR
FEDERAL CROP INSURANCE CORPORATION

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 2-17-87
BILL NO. SB 295



TESTIMONY

Senate Bill 295
Submitted by Tanya Ask
Montana Insurance Department
February 17, 1987

The purpose of this bill is to partially return requirements for selling the federal crop-hail program to where they were prior to July 1, 1986. At that time anyone selling ONLY the federal program was not required to be licensed by the state in which they sold. If an individual also sold coverage for a private insurance company, they had to be tested and licensed by the state.

In 1986 the board of governors for the federal program decided their agents also needed to be licensed by the state, even though their program is NOT regulated by the state. To be licensed currently, an individual would have to take the agent's licensing exam.

To comply with the intent of this bill, we propose an amendment allowing a restricted license to those persons selling only the federal program. Should they also sell coverage for a private insurance company, they would have to successfully complete the standard examination, and be issued a regular license as has always been the case.

STANDING COMMITTEE REPORT

February 17 19 37

MR. PRESIDENT

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

having had under consideration.....HOUSE BILL..... No. 254.....

Third reading copy (Blue)
color

REGULATE CANCELLATION OR NONRENEWAL OF PROPERTY AND CASUALTY INSURANCE

THOMAS (BROWN AND THAYER)

Respectfully report as follows: That.....HOUSE BILL..... No. 254.....

be amended as follows:

1. Page 2, lines 4 and 5.
Strike: "33-23-211 through 33-23-214, 33-23-301, 33-23-302,
and 33-23-401"
Insert: "chapter 23 of this title"
2. Page 5, lines 8 and 9.
Strike: "date of delivery or mailing"
St Insert: "notice is delivered or mailed to the insured"
3. Page 7, line 6.
Strike: "it"
Insert: "the notice"
4. Page 7, line 7.
Strike: "insured"
Insert: "insurer"
Strike: "or terminate"
Following: "coverage"
Insert: "for a period of"
5. Page 8, line 1.
Following: "information"
Insert: "to the insured"

AND AS AMENDED,
BE CONCURRED IN

~~DO PASS~~

DO NOT PASS

ALLEN C. ROLSTAD

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 17, 1967

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE BILL No. 294

FIRST reading copy (WHITE)
color

INCREASE CHARGES THAT FARM MUTUAL INSURER MUST PAY FOR EXAMINATION OF BOOKS

Respectfully report as follows: That SENATE BILL No. 294

DO PASS

~~DO NOT PASS~~

SENATOR KOLSTAD,

Chairman.

STANDING COMMITTEE REPORT

SB 295

February 17,

87

19.....

MR. PRESIDENT

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

having had under consideration **SENATE BILL** No. **295**

first reading copy (white)
color

EXEMPT FEDERAL CROP INSURANCE AGENTS FROM EXAMINATION REQUIREMENTS

Respectfully report as follows: That **Senate Bill** No. **295**

BE AMENDED AS FOLLOWS:

1. Title, line 7.

Following: "INSURANCE;"

Strike: "AND"

Insert: "ALLOWING ISSUANCE OF A RESTRICTED LICENSE TO AN AGENT WHO SELLS ONLY ALL-RISK FEDERAL CROP INSURANCE;"

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS 33-17-201 AND"

2. Title, line 8.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 3, following line 24.

Insert: "Section 2. Section 33-17-201, MCA, is amended to read:

"33-17-201. (Temporary) License required of agents, managing general agents, and solicitors -- forms. (1) No person shall in this state act as or hold himself out to be an agent or solicitor as to subjects of insurance located, resident, or to be performed in this state unless then licensed as such agent or solicitor under this chapter.

(2) No person may act or hold himself out in this state to be a managing general agent unless licensed as an insurance agent under this chapter and appointed by the insurers represented.

~~DO NOT PASS~~

~~DO NOT PASS~~

.....
Chairman.

CONTINUED

(3) No agent or solicitor shall solicit or take application for, procure, or place for others any kind of insurance as to which he is not then licensed.

(4) No agent shall place any business, other than coverage of his own risks, with any insurer as to which he does not then hold an appointment or license as agent under this chapter, except as provided in 33-17-1104 as to life or disability insurance agents and in 33-8-213.

(5) The commissioner shall prescribe and furnish forms required in connection with application for, issuance, continuation, or termination of licenses and appointments.

(6) Unless licensed as a life insurance agent as required by this section, no person shall in this state solicit life insurance or annuities or procure applications therefor or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling or advising or giving opinions, other than as a licensed attorney at law, relative to such insurance or annuities for fee, commission, or other compensation, other than as a salaried bona fide full-time employee so counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of such employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of such employees.

(7) A person licensed to sell coverage only for the all-risk federal crop insurance program shall receive a license restricted to that purpose.

(Terminates July 1, 1989--sec. 22, Ch. 11, Sp. L. March 1986.)"

33-17-201. (Effective July 1, 1989) License required of agents, managing general agents, and solicitors -- forms. (1) No person shall in this state act as or hold himself out to be an agent or solicitor as to subjects of insurance located, resident, or to be performed in this state unless then licensed as such agent or solicitor under this chapter.

(2) No person may act or hold himself out in this state to be a managing general agent unless licensed as an insurance agent under this chapter and appointed by the insurers represented.

(3) No agent or solicitor shall solicit or take application for, procure, or place for others any kind of insurance as to which he is not then licensed.

(4) No agent shall place any business, other than coverage of his own risks, with any insurer as to which he does not then hold an appointment or license as agent under this chapter, except as provided in 33-17-1104 as to life or disability insurance agents.

(5) The commissioner shall prescribe and furnish forms required in connection with application for, issuance, continuation, or termination of licenses and appointments.

(6) Unless licensed as a life insurance agent as required by this section, no person shall in this state solicit life insurance or annuities or procure applications therefor or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling or advising or giving opinions, other than as a licensed attorney at law, relative to such insurance or annuities for fee, commission, or other compensation, other than as a salaried bona fide full-time employee so counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of such employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of such employees.

(7) A person licensed to sell coverage only for the all-risk federal crop insurance program shall receive a license restricted to that purpose.**

Renumber: subsequent section

4. Page 4, following line 3.

Insert: "NEW SECTION. Section 4. Effective date. This act is effective on passage and approval."

AND AS AMENDED,
DO PASS

.....Senator Kolstad.....

STANDING COMMITTEE REPORT

February 17

19 37

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE BILL No. 298

First reading copy (White)
color

CREATE NEW BOARD OF INVESTMENTS: ALLOCATE TO DEPT. OF COMMERCE

Respectfully report as follows: That SENATE BILL No. 298

be amended as follows:

1. Page 1, following line 2.
Insert: "BY REQUEST OF THE GOVERNOR"
2. Title, line 9.
Following: "SECTIONS"
Insert: "2-18-103,"
3. Page 2, line 4.
Following: "of"
Strike: "its"
Insert: "the investment officer, assistant investment officer,
executive director, and three"
4. Page 22, following line 8.
Insert: "Section 17. Section 2-18-103, MCA, is amended to read:
"2-18-103. Officers and employees excepted. Parts 1 and 2
do not apply to the following positions in state government:
(1) elected officials;
(2) county assessors and their chief deputy;
(3) officers and employees of the legislative branch;
(4) judges and employees of the judicial branch;
(5) members of boards and commissions appointed by the
governor, appointed by the legislature, or appointed by
other elected state officials;
(6) officers or members of the militia;
(7) agency heads appointed by the governor;
(8) academic and professional administrative personnel with
individual contracts under the authority of the board of
regents of higher education;

XXXXXX
DO PASS

XXXXXXXX

CONTINUED

Chairman.

February 17 19 87

- (9) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;
- (10) teachers under the authority of the department of institutions;
- (11) investment officer and, assistant investment officer, executive director, and three professional staff positions of the board of investments; and
- (12) four professional staff positions under the board of oil and gas conservation." "

Renumber: subsequent sections

AND AS AMENDED
DO PASS

Allen C. Kolstad, Chairman

STANDING COMMITTEE REPORT

FEBRUARY 17, 1987

MR. PRESIDENT

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

having had under consideration **SENATE BILL** No. **299**

FIRST reading copy (WHITE)
color

PROVIDE STATUTES OF LIMITATIONS FOR SECURITIES ACTIONS

Respectfully report as follows: That **SENATE BILL** No. **299**

be amended as follows:

1. Page 7, line 12.
Following: "within"
Insert: "1"

AND AS AMENDED,

DO PASS

~~XXXXXXXXXX~~
~~XXXXXXXXXX~~

.....
SENATOR KOLSTAD,

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 17, 1937

MR. PRESIDENT

BUSINESS AND INDUSTRY

We, your committee on.....

HOUSE BILL

No. 332

having had under consideration.....

THIRD

reading copy (3^d BLUE)

J. BROWN (THAYER) color

ALLOW PSC TO ISSUE PROTECTIVE ORDERS FOR PROPRIETARY INFORMATION

Respectfully report as follows: That..... HOUSE BILL No. 332

BE CONCURRED IN

MISSOURI
LEGISLATURE

RECORDED

.....
SENATOR KOLSTAD,

Chairman.