

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 16, 1987

The thirty-fifth meeting of the Business and Industry Committee was called to order by Chairman Allen C. Kolstad at 10:00 a.m. on Monday, March 16, 1987 in Room 410 of the State Capitol.

ROLL CALL: All committee members were present with the exception of Senators Williams and Weeding.

CONSIDERATION OF HOUSE BILL NO. 179: Representatives Tom L. Jones of House District No. 4, Kalispell, is the chief sponsor of this bill. House Bill No. 179 is an act prohibiting acquisition of insured banks that do not accept demand deposits and make commercial loans by holding companies of other companies. Representative Jones stated that HB 179 provides that a bank holding company or any other company may not acquire or control a bank insured under the FDIC if the insured bank does not accept both demand deposits and make commercial loans.

PROPONENTS:

Mr. Bob McNellis, vice president of the Federal Reserve Bank of Minneapolis and also Manager of the Helena Branch, testified in support of HB 179. (EXHIBIT 1)

Chairman Kolstad allowed questions of Mr. McNellis at this time because of a previous commitment of Mr. McNeillis at 10:30.

DISCUSSION OF HOUSE BILL NO. 179: Senator Thayer stated that the legislature has already had some testimony that K-Mart Stores in some areas are doing some banking functions. Would passage of this bill prevent that sort of thing from happening then, or will they still be able to do those functions? Mr. McNellis answered that it is his understanding that this bill would prevent that sort of thing from happening.

Senator Boylan asked if somebody could come into the state and buy up a charter and then do this same thing. Mr. McNellis stated that as he understands the bill it would prevent non-bank organizations from acquiring a financial institution.

FURTHER PROPONENTS:

Roger Tippy, representing the Montana Independent Bankers Association, stood in support of the bill. He stated that independent bankers are not in an adversary position with the other members of the financial community in the state of Montana. This bill came about because of a problem that the Valley Bank in Kalispell knew needed to be addressed, they in turn talked with Representative Jones to introduce the present bill. A commercial corporation under this bill may enter a line of business that accepts deposits as long as they are not FDIC insured deposits. It is no different than lending someone money in the private context. There is a loop hole in the federal law that needs to be closed. Many states have closed the loop hole. Mr. Tippy handed out some sheets telling of many states and their nonbank bank statues. (EXHIBIT 2) Our statues are close to the Colorado statues.

Dick Maurer, senior vice president of the Valley Bank of Kalispell, and a director of the Montana Independent Bankers' Association, stood in support of the bill.
(EXHIBIT 3)

OPPONENTS:

Bruce MacKenzie, general counsel for D. A. Davidson Company, stood in opposition to the bill. (EXHIBIT 4)

With no further proponents or opponents, the chairman opened the meeting to a question and answer period from the committee.

ADDITIONAL DISCUSSION ON HOUSE BILL 179: Senator McLane asked Mr. Maurer for examples of separation of banking and commerce and how they could be abused. Mr. Maurer replied that there is an article in the New York Times dated May 26, 1986 telling of a lawsuit of one hundred million dollars filed against Sears Roebuck and Company Savings Bank. The man's charge was that Sears Savings Bank required him to install Sears/Kenmore appliances and to use other Sears services in his 161 unit condominium project financed by the bank even though cheaper and better appliances and services were available from other sources. He was forced by the bank to use Sears appliances and services anyway. This is what can happen if you have a nonbank bank which is owned by a retail store.

Senator Kolstad asked Mr. Maurer if this would have any affect on DAD Company's present ownership of the trust company. He could not answer the question and deferred to Mr. Tippy. Mr. Tippy stated that he would rely on the general rule that legislation is not retroactive unless it

is expressly intended so by the legislature. Frequently, transactions which take place prior to passage of a bill are not affected without a grandfather clause specifically included. If not, a constitutional issue might arise over that acquisition and a specific grandfather clause would be appropriate.

Senator Kolstad asked Mr. MacKenzie to address the same question. Mr. MacKenzie stated that he believed that Mr. Tippy is correct that there is a constitutional issue here. The way the bill is drafted, line 13 says "may not acquire or control" which could be viewed as potentially perspective application of the law.

Senator Kolstad suggested that perhaps a Statement of Intent should be requested for this bill.

Senator Thayer asked Bruce MacKenzie if his opposition to the bill is primarily because it also includes trust companies or is it broader than that. Mr. MacKenzie stated that he is opposed on the trust company basis, but also it ends competition period. There are opportunities available here to expand their financial services and they should not be prohibited from doing so. DAD is an investment banker and they provide a very important means of raising financings for companies in the state of Montana.

Senator McLane asked Mr. Maurer to expand on the Glass/Seagull Act. The Glass/Seagull Act was put in place in 1930's to separate banking from securities houses.

Representative Jones closed by saying that the purpose of this bill is to close the loop holes in the federal law from Bank Holding Companies Act which is currently being used by limited service banks. Congress has been working to close the loop holes but legislation is still pending. Twenty-four other states have passed legislation to close the loop holes, and numerous other states are considering such legislation.

Vice Chairman Ted Neuman took the chair at the request of the Chairman Senator Kolstad.

CONSIDERATION OF HOUSE BILL NO. 66: Representative Bob Pavlovich, House District No. 70, Butte/Silver Bow, is the chief sponsor of HB 66. This bill is an act requiring licenses for manufacturers-distributors of video draw poker machines and associated equipment; imposing annual license fees; establishing qualifications for licensure; providing for investigation, right to hearing, penalties, inspections, and judicial review, and providing an effective date.

Representative Pavlovich stated that this bill amends the video draw poker machine control law to require licensing of

manufacturing-distributors which are companies that both assemble or make and supply poker machines for sale, use or distribution. The annual license fee is \$1,000. The Department of Revenue may also charge a fee for processing the license that may not be more than the cost of processing the application. The department retains the license and processing fee to administer the poker machine law.

The bill also sets out the qualifications for licensure and provides for a hearing under MAPA if an applicant is denied a license. If the department determines an applicant is not suitable for licensure, the department may not approve the machines produced by the applicant. Any contract between a manufacturer-distributor is considered to include a provision for its termination without liability for the licensee if the department determines the manufacturer-distributor is not suitable for licensure. The bill also requires the department to inspect new poker machines.

PROPOSERS:

Gary Bennett representing the Montana Coin Machine Operators Association, stood in support of the bill. He stated that there is no question that licensure is a good idea. He questioned whether or not the \$1,000 license fee should be borne by the industry. That cost should be equal to the service rendered.

OPPOSERS:

There were no opposers appearing on House Bill No. 66.

DISCUSSION ON HOUSE BILL NO. 66: Senator Thayer asked Representative Pavlovich if there were any opposers at the hearing in the House, to which the representative replied that there were "none".

Senator Meyer asked Representative Pavlovich if the license fee would be just for each one that is manufacturing machines in the state. Representative Pavlovich stated that it also applies to distributors. If the person is a manufacturer and also a distributor he would only pay the \$1,000 once.

Senator Boylan asked if this fee means you pay on each machine or is it a one time only. Representative Pavlovich stated that you only pay it one time only to be licensed in the state of Montana.

Senator Boylan asked Mr. John Willems from the Department of Revenue about the \$1,000. Mr. Willems stated that this was dropped from \$1,500 as it was originally in the bill. It is not inconsistent with other states that regulate gaming

manufactures and distributors, in fact, the state of Nevada charges \$3,000 per year for the fee.

Senator Walker asked how many manufacturers we have in Montana. Mr. Willems replied that there is currently have 2 manufacturers and 136 distributors which are licensed.

Senator McLane asked what sort of fee the distributors and manufacturers are paying at this time. He was told by Mr. Willems that at this time they are paying nothing.

Senator Meyer asked if this money is earmarked or does it just sit there and build up. Mr. Willems stated that the fiscal note does not accurately depict what is really happening. Virtually all of the enforcement funds are expended in activities involved in inspecting machines and that type of thing. The department has never been able to acquire the necessary equipment for the testing of the machines and this money will help to handle that problem. All the machines in the state are conditionally approved because the department does not have the necessary equipment to test the machines properly.

Senator Walker asked Representative Pavlovich what he is charged for the machines in his establishment. Representative Pavlovich stated that he pays \$1,500 to the state.

Senator McLane asked of Representative Pavlovich if you own your own machine and the distributor has nothing to do with it, then he would not be involved in this unless he had other machines which he shared with the owner of the establishment. Representative Pavlovich stated that what this bill does is protect the owner of the establishment. If the distributor sells a machine and the state approves it, and something goes wrong with the machine after some time, then the owner of the establishment will call the distributor and he would come and look at the machine and fix it. However, if he did not come to take care of the machine the owner of the establishment could call the department who in turn would contact the distributor to fix the machine.

Senator McLane then asked if each distributor would come under this law. Representative Pavlovich stated "yes" that is the case.

Senator Neuman asked if there has been a problem up to this point. John Willems stated that in the last six weeks there has been approximately five instances. There is no accountability for that part of the industry.

Representative Pavlovich closed by saying that in Silver Bow County their distributors pay a license fee of \$2,500 and

they are willing to pay another \$1,000 to the state. They protected themselves in Silver Bow County.

CONSIDERATION OF HOUSE BILL NO. 586: Representative Bud Gould of House District 61 in Missoula, is the chief sponsor of House Bill No. 586. This bill is an act to modify the State Liquor Division's marketing arrangements for table wine; and providing an effective date.

Representative Gould stated that this bill changes the state liquor division's method of marketing table wine. The price of table wine is computed by different methods depending on whether it is sold at a state operated liquor store or an agency store. The bill also provides that a table wine distributor may sell to a commission agent. The bill will become effective May 1, 1987, if passed.

Representative Gould stated that he personally did not feel that the state should be in the table wine business. There was approximately \$48,000,000 worth of the product were sold in Montana stores in 1986 of that figure \$3,000,000 was in table wines. Twenty-five percent of the shelf space is being taken up with table wines. Distilled spirits, because of the tax on them, generate more money for the state than the table wines. HB 586 is a step in the right direction towards better profits in the liquor industry.

PROPOSERS:

Roger Tippy representing the Beer and Wine Wholesalers of Montana stood in support of HB 586. Eight years ago this committee heard and developed the legislation that put the state back in the wine business after Initiative 80 turned it over to private enterprise. For 8 years, the department has competed with grocery stores and wine distributors for wine sales. The 1979 legislation was enacted with strong support from organized labor. Today after declining sales, stores closing and store conversions, the state system consists of about 40 stores operating with state employees. Mr. Tippy handed out a monthly statistical statement from the Montana Beer and Wine Wholesalers. (EXHIBIT 5) The state only sells about 5% of what the private sector sells.

Mona Jamison, representing the Wine Institute which is an association of wineries on the west coast, stood in support in support of the bill. She urged the committees support in passing this bill.

Gary Blewett, Administrator of the Liquor Division for the State of Montana, rose in support of the bill. He stated that when this bill was in the House he rose in opposition, however, it since has been amended and is more acceptable.

He has talked with Representative Gould about working out some more amendments.

OPPONENTS: There were no opponents to House Bill No. 586.

DISCUSSION ON HOUSE BILL NO. 586: There were no questions from the committee.

Representative Gould closed by saying that HB 586 is a good bill and Mr. Blewett, Mr. Tippy and himself will work on the amendments. He asked the committee to please wait to take action on the bill until some action has been taken on Representative Harrington's Bill. Representative Harrington's bill would take the state out of the liquor business.

HOUSE JOINT RESOLUTION NO. 32: Representative John Vincent, the chief sponsor of HJR 32, is out of town and this bill will have to be rescheduled at a later date.

EXECUTIVE ACTION ON HOUSE BILL NO. 626: This bill would limit causes for landlord's recovery of treble damages. Representative Fritz of Missoula is the chief sponsor of HB 626.

A motion was made by Senator Walker and seconded by Senator McLane that HB 626 Be Concurred In.

Senator Meyer stated that he has a number of rentals in Great Falls and he has never charged anybody treble damages. Perhaps this is done some places.

Senator Kolstad stated that he does not think that this is used very often.

MOTION: A substitute motion was made by Senator Boylan that HB 626 BE TABLED. Seconded by Senator Neuman. Motion carried with Senators Thayer, Kolstad, Neuman, Boylan, Williams, and Meyer voting "yes", and Senators Walker, McLane, Hager, and Weeding voting "no".

EXECUTIVE ACTION ON HOUSE BILL NO. 823: This bill sponsored by Representative Squires would revise laws relating to disability insurance.

Mr. Hopgood offered amendments which would insure that these mandatory provisions in policies apply only to Montana residents. He offered further that he had shown the amendments to someone from the commissioner's office and he discussed the same with Representative Squires. These amendments are acceptable to the commissioner's office and he thought also with Representative Squires. (EXHIBIT 6)

He offered further amendments which would leave the law the way it is.

Senator Walker stated that he had talked with Representative Squires this morning and the first amendment offered by Mr. Hopgood is acceptable to her.

Senator Boylan asked Mr. Hopgood if he would be a proponent of the bill if the committee decided to only accept the first amendments which he offered. Mr. Hopgood stated that he would not be a proponent, if this is the only group of amendments which are accepted.

MOTION: A motion was made by Senator Thayer to accept the first group of amendments submitted by Mr. Hopgood, seconded by Senator Walker. Motion carried.

Senator Kolstad asked the committee to look at the second set of amendments presented by Mr. Hopgood.

Senator Boylan asked Mr. Hopgood if there is any reason for printing the bill if these amendments are accepted. Mr. Hopgood replied that are some other provisions in the bill which deal with maternity benefits and some other minor provisions as well.

Senator Boylan asked if this bill will increase the cost of doing business in the state of Montana. Tanya Ask from the Auditor's Office replied that she did not think the cost of doing insurance business in the state would be increased by this bill.

MOTION: A motion was made by Senator Meyer that the committee give HB 823 as BE CONCURRED IN, AS AMENDED recommendation. Seconded by Senator McLane. All senators present voted "yes" with the exceptions of Senators Boylan and Neuman. Motion carried.

Senator Gage will carry this bill on the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL NO. 66: House Bill No. 66 by Representative Bob Pavlovich is an act to license manufacturers and distributors of video poker machines.

MOTION: A motion was made by Senator Thayer and seconded by Senator Meyer that House Bill No. 66, BE CONCURRED IN. Motion carried with all the senators present voting "yes" with the exception of Senator Boylan who voted "no".

Senator Lynch will be contacted to carry this bill on the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL NO. 417: This bill sponsored by Representative Jan Brown would provide preference to bidders with Montana-made goods in awarding contracts.

MOTION: A motion was made by Senator Thayer and seconded by Senator Walker that HB 417 be amended. The amendment is just some technical changes. Motion carried.

Further amendments offered could be found on page 5, line 24. A person would be considered a resident if the person had been in business in the state for one year; and maintains a place of business within the state which pays property taxes; and employs on an annual basis the equivalent of 10 residents. This would take care of places like Northern School Supply in Great Falls.

Senator Thayer suggested that the one year be changed to five years.

Senator Hager stated that he is in favor of the bill. There are a number of egg producers that ship eggs into Montana.

MOTION: A motion was made by Senator Thayer to change the one year to five years. Motion carried.

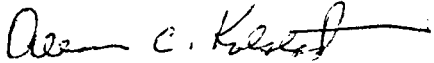
MOTION: A motion was made by Senator Walker to further amend House Bill No. 417 beginning on page 5, following line 24.

MOTION: A motion was made by Senator Walker and seconded by Senator Hager that House Bill No. 417 BE CONCURRED IN AS AMENDED. Motion carried.

Senator Walker will carry this bill on the floor of the Senate.

The next meeting will be held on Tuesday, March 17, 1987 at 10:00 a.m.

ADJOURN: With no further business the meeting was adjourned at 12:00 noon.


SENATOR ALLEN C. KOLSTAD
Chairman

ROLL CALL

Business & Industry

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/16/87

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.

3/16/87

Business & Industry

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

March 16, 1987

Mr. Chairman, my name is Bob McNellis. I am a Vice President of the Federal Reserve Bank of Minneapolis and Manager of the Helena Branch. Although I am speaking in support of H.B. 179, my views are my own and should not necessarily be construed as those of the Federal Reserve Bank of Minneapolis or the Federal Reserve System.

I suspect that the central issue before this committee on this legislation is the difference between banks and other commercial organizations. Banks are not like other businesses - nor can they ever be. They are a key part of our nation's payments mechanism, which in turn has been instrumental to the phenomenal economic growth this nation has experienced this century; also to the stable financial system which is superior to that of any country in the world.

Banks and other depository institutions are the critical link between monetary policy and the economy. Consequently,

depository institutions are carefully regulated while other types of business or commerce are not. The deposits in banks and financial institutions are insured against loss, for the protection of the depositor to be sure, but more basically to insure confidence in our entire banking system. Public policy for the most part has accepted the wisdom of not insuring the assets of private business, nor to subject them to the stiff regulatory supervision common to the banking industry. It has clearly been recognized in most of the banking legislation of this century that banking must be separated from commerce.

The ability of nonbank organizations to acquire financial institutions or for bank holding companies to achieve defacto branching, seems to run contrary to the intent of the Bank Holding Company Act, the McFaden Act, and the Douglas Amendment.

As you know, Chairman Volker has testified before the U.S. Congress in favor of legislation to plug the loop hole in the Bank Holding Company Act. His testimony on House Resolution H.R. 20 on April 17, 1985, included his statement..."do we want

to bless interstate consumer banking simply because there is a nonbank owner". He also said that the question of interstate banking should be judged on its own merits before the Congress rather than by permitting it through an unintended "back door" device with the inefficiencies and inequities it involves.

I believe that eventually national legislation will be enacted plugging the loop holes in the Bank Holding Company Act. In the meantime, the financial system in our state is vulnerable to several negative possibilities.

First, nonbank acquisition of insured financial institutions exposes Montana to external control of deposits by such organizations and little responsibility for serving the community from which they are drawn.

Second, there is the potential excessive concentration of deposits. I testified before this committee last month that regulatory powers and current anti-trust legislation were sufficient to prevent excessive concentration among financial institutions intending to merge or consolidate. I do not believe

the same is true in regards to acquisition of insured institutions by nonbank organizations. Indeed, regulatory authority has little power over some forms of nonbank banks to prevent conflict of interest, unfair competition, or excess concentration.

Third, the loop hole in the Bank Holding Company Act is simply unfair. Over time the competitive position of those banks and holding companies subject to the Bank Holding Company Act will certainly be damaged relative to nonbanking companies acquiring a bank who do not have to meet the same requirements of the legislation.

Finally, as I mentioned above, the loop hole has some potential for allowing defacto branching. This committee, and the Montana State Legislature, has spent much time in the past and is currently engaged in trying to determine the best banking structure for this state. This is as it should be. I doubt that any conscientious individual would prefer branching resulting from backdoor efforts, to the deliberations of Representatives

elected by the people.

In closing, I believe the best interests of our state are served by passing House Bill 179. Until national legislation is passed, closing the loop holes in the Bank Holding Company Act, I believe our only protection is this bill. Without it all sorts of incredible consequences are possible. For example, a retail business acquiring a bank could have the same protection as a bank afforded by Federal Insurance, but could use the deposits gathered to fund their own credit cards more cheaply. Such would not be equitable nor good public policy.

STATE NONBANK BANK STATUTES
October 1986States Prohibiting Nonbank Banks

Arkansas	67 (2117-2120)
Colorado	T 11 Art 6.3-101
Connecticut	36-563 Banking Law of Connecticut
Georgia	7-1-608
Florida	658.296
Hawaii	Ch. 403
Kansas	CH 84 (Substitute for SB No. 42)
Kentucky	287.14
Lousiana	Act 108 LRS 6:521
Mississippi	81-5-28
New Jersey	Ch. 39
New Mexico	(extended to 1/87) NMSA 58-1-2.(1)(2)(3)
North Carolina	53-229, 53-210
North Dakota	6-01-02
Oklahoma	OS 6 Sec.1416
Oregon	Senate Bill 357 Sec. 10
Pennsylvania	Sec. 115
Tennessee	Ch 262 Title 45 (45-2-107)
Texas	.Art 13 (342-913)
Utah	7-3-3(2)
Vermont	8 VSA Ch 55-6 Sec. 1021-1022
Virginia	Secs. 6.1-381, 6.1-383.1, 6.1-398
West Virginia	31A-8A.4(d)
Wisconsin	224.04

Colorado

11-6.3-101. Prohibition on acquisition or control - limited service banking institutions. (1) As used in this section:

(a) "Bank holding company" means any company which has control over any banking institution.

(b) "Banking institution" means any institution organized or chartered under this code or under chapter 2 of title 12 of the United States Code.

(c) "Company" means any corporation, partnership, business trust, association, or similar organization.

(d) "Control" means that:

(I) Any company directly or indirectly or acting through one or more persons owns, controls, or has power to vote twenty-five percent or more of the voting securities of the banking institution; or

(II) The company controls in any manner the election of a majority of the directors, managers, or trustees of the banking institution.

(2) Notwithstanding any other provision of law, no bank holding company or any other company may acquire or control any banking institution located in this state that does not both accept deposits that the depositor has a legal right to withdraw on demand and engage in the business of making commercial loans.

Connecticut

Sec. 36-563. Acquisition of certain financial institutions by bank holding companies prohibited. Enforcement. (a) No bank holding company, as defined in 12 U.S.C. Section 1841(a), as in effect on June 8, 1983, shall (1) directly or indirectly own, control or hold with the power to vote, five per cent or more of the voting shares of, or (2) control in any manner, directly or indirectly, the selection of a majority of the directors of any bank or association, as defined in section 36-419, that is not also a bank as defined in 12 U.S.C. Section 1841(c), as in effect on June 8, 1983. The provisions of this section shall not apply to the ownership of any such bank or association by any bank holding company if such ownership or the ownership of any predecessor of such bank or association by said bank holding company was approved by the commissioner under section 36-420 or 36-425 on or before May 8, 1984.

(b) The commissioner may issue such orders as are necessary to enforce the provisions of this section, including an order to any bank holding company to cease and desist from engaging in any activity that is in violation of this section.

(c) The commissioner shall enforce the provisions of this section and any order made hereunder and may make application for injunction or other appropriate relief to the superior court for the judicial district of Hartford-New Britain, which court shall be vested with exclusive jurisdiction over such proceedings.

(P.A. 86-100)

Wisconsin

224.04. Control of limited service banking institutions

(1) Definitions. In this section:

(a) "Bank" means any company that accepts deposits in this state that are insured under the provisions of the federal deposit insurance act, 12 USC 1811 to 1832.

(b) "Bank holding company" has the meaning given under 12 USC 1841(a).

(c) "Company" has the meaning given under 12 USC 1841(b).

(d) "Control" has the meaning given under 12 USC 1841(a)(2) and (3).

(2) Prohibited acts. (a) A bank holding company may not control a bank unless the bank both accepts deposits that the depositor has a legal right to withdraw on demand and engages in the business of making commercial loans.

(b) A company that is not a bank holding company may not control a bank.

Source:

1985 Act 325, § 24, eff. May 9, 1986.

TESTIMONY
OF
RICHARD F. (DICK) MAURER
SENIOR VICE PRESIDENT
VALLEY BANK OF KALISPELL
AND
DIRECTOR
MONTANA INDEPENDENT BANKERS ASSOCIATION

BEFORE
SENATE BUSINESS AND INDUSTRY COMMITTEE

Concerning
House Bill 179

March 16, 1987

Mr. Chairman and Members of the Committee, my name is Dick Maurer and I am a Director of the Montana Independent Bankers Association. I am also a Senior Vice President of Valley Bank of Kalispell.

Mr. Chairman and Members of the Committee, our trade association and I strongly support passage of House Bill 179.

The first obvious question to be addressed is; what is this whimsically-named legal device called a "nonbank bank"? The easiest way to answer this question is to define what a "bank" is. Under the Bank Holding Company Act, as amended in 1970, a bank is an institution that accepts demand deposits and makes commercial loans. Eliminate one the the components. For example, an institution that accepts demand deposits, but doesn't make commercial loans. Presto! You've got a "nonbank bank". It must restrict only commercial loans. It is free to continue to make consumer loans.

The second obvious question is; what are the inherent risks when using this loophole? First, when using this loophole, it breaches the separation between banking and commerce set forth in the Glass Steagall Act and the Bank Holding Company Act. Anyone, from securities firms, to fast-food outlets could go into the banking business. It has been a long standing principle of this country that credit-granting decisions should be made at arm's length by banks that have no direct ownership interest in the borrower.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 3-16-87

2.

In Federal Reserve Chairman Volker's testimony before the Senate Banking Committee on January 21, 1987, he said:

"Now finally, the question of nonbank banks. I know of no better statement, frankly, in summarizing this issue in just a few sentences than a statement made by President Nixon, who wasn't exactly a wild-eyed radical or a populist. He simply said, 'Left unchecked, the trend towards combining banking and business could lead to the formation of a relatively small number of power centers dominating the American economy. This must not be permitted to happen. It would be bad for banking, bad for business, and bad for borrowers and consumers. The strength of our economic system is rooted in diversity and free competition. The strength of our banking system depends largely on its independence. Banking must not dominate commerce nor be dominated by it.'"

Secondly, the loophole destroys the limitation on interstate deposit-taking and bank ownership embodied in the Bank Holding Company Act and the Douglas Amendment to the McFadden Act. These limitations were not put in place to protect small banks, but to insure a diverse and competitive financial market place. This protects against an undue concentration of financial and political power that would result if banking becomes dominated, as it is in other countries, by just a few major institutions.

Again in Federal Reserve Chairman Volker's testimony before the Senate Banking Committee on January 21, 1987:

"We are asked to look to foreign experience with universal banking systems as justifying greater integration of banking and commerce. But frankly, I don't find much comfort there. We have never been admirers of the old Zaibatsu system in Japan, which led to enormous concentration of finance and commerce. German banks have long had a sizable ownership stake in some industrial companies. Even now, that arrangement is under strong attack within Germany itself, as anti-competitive and stifling to

SENATE DOCUMENTS

EXHIBIT NO. 3

DATE 3-16-

FILE NO. 118

EXHIBIT NO. 3DATE 3-16-81BILL NO. H.B. 119

the development of equity and capital markets."

Third, the loophole takes credit away from small business. Our current system helps ensure that local money is deposited in local banks for use by, among others, local business. The key to most of the nonbank banks is that they do not make commercial loans. Think about that. The nonbank bank takes deposits of all kinds, but cannot make loans to business. Do we really need another kind of federally insured, specialized financial institution with these limitations?

Fourth, it is an abuse of and a treat to the federal deposit insurance system. Commercial corporations, such as Sears or Ford Motor Co., through the use of a nonbank, gain access to the FDIC insured deposit-taking. The federal deposit insurance safety net was never intended to support ordinary commercial enterprises. Do you think that federal government should, through the FDIC, guarantee the solvency of every commercial enterprise that decides to buy a bank?

In summary, the nonbank was created to establish a loophole around existing bank laws. These laws were put into place largely as the result of the abuses of the early 1900's, which ultimately resulted in the bank failures of the 1930's. Do we really want to :

- (1) Impose a huge additional risk to the FDIC?
- (2) Create a maverick financial system that diverts credit from small business?
- (3) Circumvent the Bank Holding Company Act against

EXHIBIT NO. 3DATE 3-16-81BILL NO. H.B. 179

interstate banking?

- (4) Breach the country's longstanding policy of separation of banking and commerce?

The proper response to the nonbank loophole is to close it. This is a position supported by:

Federal Reserve Chairman Paul Volker

Senate Banking Chairman William Proxmire

National Federation of Independent Businesses

Small Business Legislative Council

U.S. League of Savings Institutions

Conference of State Bank Supervisors

National Governors Association

National Association of Home Builders

Close the nonbank loophole by giving a Do Pass recommendation to House Bill 179.

EXHIBIT NO. 4DATE 3/16/87BILL NO. HB 179

An investment firm you like
to tell your friends about.

March 16, 1987

Senator Allen Kolstad
Chairman
Senate Business and Industry Committee
Montana Legislature
Helena, Montana 59604

Re: House Bill 179

Dear Chairman Kolstad and Members of Committee:

DADCO, Inc., a Montana holding company opposes House Bill 179. During the year 1986 DADCO acquired Trust Corporation of Montana. Through this acquisition DADCO retained jobs for sixteen Montana employees and continued provided personalized service to customers residing within the state of Montana.

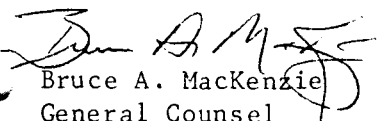
House Bill 179 would prohibit such an acquisition in the future and possibly by its terms could be interpreted to prohibit DADCO's continued ownership of Trust Corporation. It is our belief, however, that such an interpretation would be held constitutionally invalid. Trust companies constitute a bank under Montana law. Sec. 32-1-102 M.C.A. Montana allows trust companies to accept demand deposits but does not give them powers to make commercial loans. Sec. 32-1-107(7) and (9) M.C.A. A trust company is within the definition of a bank pursuant to 12 USC Sec. 1813 and is eligible to become an insured bank pursuant to 12 USC Sec. 1815.

House Bill 179 would prohibit DADCO, Inc. from acquiring and controlling a trust company under Montana law. We fail to see any public policy that is favorably served by this legislation. We see only that private interests are served by severely restricting competition for financial services.

Therefore, we urge that this committee give a "do not pass" recommendation to House Bill 179.

With best regards.

Sincerely,


Bruce A. MacKenzie
General Counsel

Incorporated

Davidson Building
P.O. Box 5015
Great Falls, Montana
59403

(406) 727-4200

Offices: Billings,
Bozeman, Butte,
Havre, Helena, Kalispell,
Missoula, Montana;
Coeur d'Alene, Lewiston,
Moscow, Idaho

Corporate Office:
Davidson Building
Great Falls,
Montana 59401

Members:
Midwest Stock
Exchange Inc.
Pacific Stock
Exchange Inc.
Securities Investor
Protection Corp.

HB586



**Montana
Beer & Wine
Wholesalers
Association**

Post Office Box 124 • Helena, Montana 59624 • Telephone (406) 442-4451

**WINE SHIPMENTS
TOTAL LITERS
DECEMBER 1986**

WINERY

STATE OF MONTANA

WHOLESALERS

SENATE BUSINESS & INDUSTRY

Barcardi	135	
Banfi Products	765	
Barton Brands	128	
Jack Daniels	423	
Christian Brothers	1,458	
E & J Gallo	7,845	
Jos. Garneau	2,339	
Italian Swiss Colony	342	
Munson Shaw	252	
Parrott & Co.	1,026	765
Schenley	132	
Seagram	2,475	
Sebastiani	2,133	5,634
Heublein	1,188	2,867
Wine Spectrum	369	
Almaden		26,537
Anheuser-Busch		1,903
Joey August		1,125
B & B Dist.		72
Beaulieu		711
Bedford-Westco		13,698
Brand Promotions		6,480
Brown Forman		2,454
California Coolers		2,454
Canadaigua		5,636
Charles Mondavi		608
Chateau Montelena		45
Chateau Ste. Michelle		1,791
Columbia Winery		225
Elk Cove		144
Elliot Bay		126
Fetzer		4,896
Franzia		5,242
Geyser Peak		252
Glen Ellen		990
Glenmore		762
Guild		6,252
Gundlach-Bundschu		126
Heitz Wine Cellars		36
Henny Hinsdale		1,149
Hogue Cellars		378
Int'l. Vintage Wines		126
Bill James Dist.		45
Juillard Alpha		297
K & L Dist.		2,331
K & M Imports		990
Karly		252
Kotschear		541

EXHIBIT NO. 5

DATE 3/16/87

BILL NO. HB 586

WINERY

STATE OF MONTANA

WHOLESALERS

Latah Creek	252
Mosswood	1,098
Odom	45
Parducci	720
Quail Run	252
G. Raden & Sons	1,665
Renfield	252
Robert Mondavi	252
San Francisco Wine Exchange	90
Schieffelin	144
Seagram	49,099
Spice Wine Co.	432
Sutter Home	5,325
Paul Thomas	225
Vehrs (Spokane)	2,567
Vineyard Brands	342
Vintage Wine	36
Weibel	1,008
Western Washington Bev.	1,449
Wine Group	20,102
Wine World	2,866
TOTAL LITERS	<u>21,010</u> 386,995

LEADING BRANDS TRACK

Year-to-Date 1986

Winery	State	Wholesalers	December 1985
Almaden	15,120	334,068	19,097
Banfi	13,500	158,056	1,755
California Coolers	-	533,122	2,863
Christian Bros.	10,731	33,114	567
E & J Gallo	108,589	2,135,890	224,540
Jos. Garneau	13,189	278,092	3,690
Heublein (U.V.)	5,049	141,060	10,332
Italian Swiss Col.	3,519	51,441	13,502
Seagram Wine	38,652	525,032	21,190
Sebastiani	15,444	162,098	9,231
Wine Spectrum	7,488	-	1,980
Others	60,717	1,626,794	94,265
Total	291,998	5,978,767	
Total Combined	6,270,765		403,012

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 6

DATE 3-16-87

BILL NO. HB 823

AMENDMENTS
HB 823

1. Page 4, line 2.
Following: "offered"
Insert: "in"
Strike: "to"
2. Page 4, line 2.
Following: "Montana"
Strike: "residents"
3. Page 4, line 19.
Following: "contracts"
Strike: ", "
Insert: "offered in this state,"

STANDING COMMITTEE REPORT

MARCH 16, 19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 66

THIRD reading copy (BLUE color)

PAVLOVICH (LYNCH)

LICENSING MANUFACTURERS AND DISTRIBUTORS OF VIDEO POKER MACHINES

Respectfully report as follows: That HOUSE BILL No. 66

BE CONCURRED IN

DO PASS

DO NOT PASS

SENATOR ALLEN C. KOLSTAD, Chairman.

STANDING COMMITTEE REPORT

March 16

1987

MR. PRESIDENT

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE BILL No. 417

Third reading copy (blue)
color

PROVIDE PREFERENCE TO BIDDERS WITH MONTANA MADE GOODS IN
AWARDING CONTRACTS

BROWN (WALKER)

Respectfully report as follows: That HOUSE BILL No. 417

be amended as follows:

1. Page 2, line 21.

Following: " (1) "

Insert: " (a) "

2. Page 3, line 6.

Strike: " (a) "

Insert: " (1) "

3. Page 3, line 14.

Strike: " (1) "

Insert: " (A) "

4. Page 3, line 15.

Strike: " (ii) "

Insert: " (B) "

5. Page 3, line 19.

Strike: " (b) "

Insert: " (ii) "

6. Page 4, line 2.

Strike: " (1) "

Insert: " (A) "

7. Page 4, line 7.

Strike: " (ii) "

Insert: " (B) "

~~XXXXXX~~

~~XXXXXXXXXX~~

CONTINUED

Chairman.

.....March 16..... 1987.....

8. Page 4, line 10.

Strike: "(iii)"

Insert: "(C)"

9. Page 4, line 12.

Strike: ";

Insert: ".

10. Page 4, lines 13 and 14.

Strike: "HOWEVER, (IV)"

Insert: "(B)(i) If both subsections (1)(a)(ii)(B) and (1)(a)(ii)(C) are applicable to bids for a contract, the contract must be awarded to the resident bidder whose offered goods are Montana-made if the bid is:

(A) not more than 3% higher than that of a resident bidder whose offered goods are not Montana-made; and

(B) not more than 5% higher than that of the nonresident bidder.

(ii) However,"

11. Page 5, following line 24.

Insert: "(4) For the purposes of 18-1-102(1)(a)(ii) and under rules adopted by the department, a foreign corporation or a subsidiary, affiliate, or operating branch of a corporation may be considered a resident by a public agency if it:

(a) has conducted a bona fide business within the state for not less than 5 years;

(b) maintains a place of business within the state by which it directly or indirectly pays property taxes in the state; and

(c) employs on an annual basis the equivalent of 10 residents as defined in 18-2-401."

Renumber: subsequent subsection

AND AS AMENDED,
BE CONCURRED IN

.....ALLEN C. KOLSTAD, Chairman.....

STANDING COMMITTEE REPORT

MARCH 16, 19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 823

THIRD reading copy (BLUE)
color

SQUIRES (GAGE)

REVISE LAWS RELATING TO DISABILITY INSURANCE

Respectfully report as follows: That HOUSE BILL No. 823

be amended as follows:

1. Page 4, line 16.
Following: "provide,"
Insert: "for Montana residents covered"

AND AS AMENDED,

BE CONCURRED IN

~~XXXXXX~~

~~DO PASS~~

~~XXXXXXXXXX~~

~~DO NOT PASS~~

SENATOR ALLEN C. ROLSTAD, Chairman.