

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on January 26,  
1989, at 10:00 a.m.

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer,  
Senator Boylan, Senator Noble, Senator Hager, Senator  
McLane, Senator Lynch.

Members Excused: Senator Williams, Senator Weeding

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 199

Presentation and Opening Statement by Sponsor: Senator  
Walker, Senate District 20, said SB 199 was intended to  
make the Office of Securities Commission a criminal  
justice agency. He stated, just as earlier bills  
brought before the legislature, the Securities  
Department needed designation enabling all agencies  
dissemination of criminal information.

List of Testifying Proponents and What Group They Represent:

Kathy Irigoin - State Auditors Office

List of Testifying Opponents and What Group They Represent:

None

Testimony: Kathy Irigoin said SB 199 was designed to  
designate the Montana Securities Department a criminal  
justice agency by statute. She said, "If Senate Bill  
199 passes, the Montana Securities Department will be a  
criminal justice agency by statute, it will no longer  
have to seek an executive order, and it will remain  
eligible to share confidential criminal justice  
information." She cited sharing of such information as  
critical in protecting Montanan investors. (See  
Exhibit #1)

Questions From Committee Members: Chairman Thayer said, "Previous bills, similar to this bill, were questioned by members of the Judiciary Committee; apparently granting of this authority has been a long time coming?" He asked Senator Walker if he knew the history concerning the designation question?

Senator Walker said the agencies were already criminal justice agents by order of the Governor since 1983. He cited the Criminal Justice Pact Information Act as setting certain parameters that sharply limited investigative powers. Senator Walker stated that basically the agencies all needed one like designation in order to share criminal information.

Kathy Irigoien replied to the same question by stating, the parts of the previous bills that had been questioned and removed, were removed from SB 199 already.

Senator Boylan asked if the designation by the Governor was on a case by case basis, or a blanket designation?

Kathy Irigoien said, the designation by executive order remained in place until the next gubernatorial term began, then the agencies had to seek redesignation. She cited statutory designation as providing continuity for their investigative powers.

Closing by Sponsor: Senator Walker, said he had several letters supporting SB 199, and had made copies available for the Committee. (See Exhibits 3, 4, 5, 6, 7, 8, and 9)

#### DISPOSITION OF SENATE BILL 199

Discussion: None

Amendments and Vote: None

Recommendation and Vote: Senator Lynch made a motion SB 199 DO PASS. The motion was seconded by Senator Meyer. The motion Carried Unanimously.

Announcement: Chairman Thayer asked Vice Chairman Meyer to chair the next hearing.

HEARING ON SENATE BILL 202

Presentation and Opening Statement by Sponsor: Senator Thayer, Senate District 19, said SB 202 was requested by the Montana Ski Areas Association, and proposed to allow seasonal employees to work 56 hours a week without overtime pay. He stated the bill basically provided the same exception to the state overtime provisions for seasonal business, as was provided by federal law.

Senator Thayer explained, SB 202 had a broader scope than just ski areas, as it applied to other seasonally operated enterprises. He said, those businesses qualified to utilize the legislation had to operate less than seven months of a calendar year, and during any six month period of the previous year, have earned only one third of what it earned during the other six months of that year. He also stated, any employee who worked more than 56 hours in a work week had to be paid overtime at one and one half times his hourly wage. (See Exhibit #11).

List of Testifying Proponents and What Group They Represent:

Pat Melby - Montana Ski Areas Association  
Tim Prather - Red Lodge Mountain  
Terry Abelin - Bridger Bowl Ski Area  
Gerry Solberg - Showdown Ski Area  
Todd Young - Showdown Ski Area, lift operator  
Norm Kurtz - Big Mountain  
Representative Ed Grady - House District 47

List of Testifying Opponents and What Group They Represent:

Don Judge - AFL-CIO

Testimony: Pat Melby said, they had requested the bill because two sections of federal law provided qualifications for ski area exemptions. He said, the exemptions were contained in twenty-nine United States codes, section 215. He cited subsection (a), 3, as well as subsection (b), 29 which was specific to ski areas located on federal land and having a contract with either the Secretary of Interior or the Secretary of Agriculture. He said most ski areas in Montana were on federal land, and qualified for the 56 hour week by federal law, but Montana Law did not provide the same exemption.

Mr. Melby cited both employers and employees as seasonal workers, which made the legislation beneficial to both parties. He reported the mutual benefit as reason for the request that Montana Law be made to comply with federal law.

Mr. Melby stressed the economic reasoning for SB 202, by stating that seasonal work required both employers and employees make a living during that specific season. He said that when considering the safety factor of 56 hours against 40 hours, it had to be kept in mind that most employees were already working more than 40 hours, because a second job was needed to make a living.

Tim Prather said Red Lodge Mountain operated three and one half to five months per year and found it difficult to obtain seasonal help. He stated that any improvement in the economy meant more people working full time, thus creating a shortage of help for seasonal operations. He said, because of the nature of their business, the hours started early and ran late, which created a work day which exceeded eight hours and resulted in a three and one half to four day work week. He said their employees were paid considerably above minimum wage, and often exceeded the break even point for their operation.

He said the training of employees was very important in forming a pool of employees who were trained in bearing the responsibilities involved in the ski industry liabilities. Once trained, the employees wanted to work more than 40 hours per week, but were unable to do so because the economic impact was too great within the industry. Therefore, employees often sought additional employment for additional income.

Terry Abelin said he wanted to reemphasize two points Mr. Prather had made. He said that if the bill passed it would be the choice of their employees, whether they worked a 40 hour week or chose to work the extended 56 hour week. He said many of the jobs entailed working eight and one half to nine hours a day, so management usually had them working a four day week, or about 36 hours. He agreed with Mr. Prather, that management could not afford to pay overtime, and their employees were finding another job in order to make a living. He said employers often hired more people to cover the jobs and avoided paying overtime. He felt safety probably was a greater risk now than if some of their employees worked longer hours.

Jerry Solberg said he worked as a lift operator supervisor at Showdown, and favored the bill. He felt employees could be scheduled better, and replacements for absent employees more easily obtained with the legislation in effect. He said all employees had to be trained whether they worked a few hours, or 40 hours per week. Therefore, he could not afford having a pool of employees available unless they worked more than a few hours a day.

Todd Young said, as a lift operator he favored SB 202, because he needed to work 50 to 56 hours per week to make a living. He said he already worked several jobs, both winter and summer, along with his seasonal work. He stated that if this bill passed, he would work more hours at one job and would not need so many different jobs.

Norm Kurtz said he was from Big Mountain at Whitefish, and urged support of SB 202. He said many winter employees at Big Mountain were employed during the summer by the Forest Service, Glacier National Park, or park businesses, and he felt the employees and employers were of great value to one another. He also stated, no one at Big Mountain worked for minimum wage, so overtime was economically prohibitive.

Representative Ed Grady, co-sponsor of SB 202, urged support, because he thought it promoted a good clean industry for Montana. He said there wasn't a lot of profit in the ski business, and he felt the bill's passage would be helpful to the industry.

He said ski lift operators had to be responsible, well-trained individuals, because it was a high risk industry. He noted that most seasonal employees wanted to work more than 40 hours per week. He said the few additional hours available did not merit extra trained personnel, who worked two or three hours per day. He cited earlier testimony as showing employees wanted to work longer hours. He said that as long as the employee had the choice, he could see nothing wrong with the ideas.

Opponents: Don Judge stated his organization was in opposition to Senate Bill 202. He said, SB 202 would force certain employees to work up to 16 more hours a week before they were eligible for overtime pay. He remarked that although the bill seemed limited to amusement and recreational establishments, an unclearly defined description of those businesses, potentially threatened earnings of thousands of Montana workers.

He said they believed provisions within SB 202 could be applied to employees of about any business engaged in tourism. He said he felt this could be guaranteeing concurrence from the employee, to work in excess of 40 hours per week. He said they were concerned that the bill might affect students, who already were allowed to work 48 hours per week, at amusement and recreational establishments which provided them with room and board.

He said it was a one-way bill that would not help the workers. He urged the Committee to vote against the bill. (See Exhibit #12)

Questions From Committee Members: Senator Lynch asked Senator Thayer to clarify what was meant by religious and non-profit educational conference centers, and why those entities were included?

Senator Thayer said they were included in the current laws, and hadn't been omitted in the bill.

Senator Lynch asked Mary McCue if nearly any public education system would be a non-profit group?

Mary McCue said she thought a conference center would be different than schools. She suggested the language was taken from federal legislation.

Mr. Melby said Mary McCue was correct. The language had been taken from federal law, and was included in an effort to consistently parallel existing federal law.

Senator Lynch stated, testimony indicated both employees and employers, in recreational businesses, favored SB 202. He asked if any people would be hurt by it? He asked if any of the people were working overtime, or were more people hired, and overtime eliminated?

Mr. Melby said there absolutely had to be occasional overtime when breakdowns required people to work all night. He felt management avoided overtime whenever possible.

Senator Lynch redirected the question to Mr. Prather. Mr. Prather stated the common policy was to not allow overtime. He said, "When an employee reaches overtime, they are taken off that time clock."

Senator McLane said SB 202 lacked a provision of concurrence, of hours worked, by employees and employers. Mr. Prather said he felt the committee could amend the bill to that effect.

Senator McLane asked if the legislation was so broad it was going to affect other industries, such as motels? Mr. Prather stated that there were no motel people at the hearing, however, he felt they also used more personnel, and avoided overtime.

Senator Boylan said that if the affected employees organized, under labor laws, the terms of SB 202 would no longer apply.

Closing by Sponsor: Senator Thayer said he had asked the same questions when he was asked to sponsor the bill. He said he had been informed of the safety and training programs used. He was also told of employees being given a variance in work, for additional safety. Senator Thayer said he felt the questions had been satisfactorily addressed. He said he did not feel employees would be adversely affected, but in fact be helped.

He said the ski industry attracted tourism to Montana, and should be helped whenever possible. He suggested the committee hold the bill, and revise the language if they wanted to. He urged concurrence.

#### DISPOSITION OF SENATE BILL 202

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

#### DISPOSITION OF SENATE BILL 115

Discussion: Chairman Thayer said the bill had been held so that a fiscal note could be attached, and amendments drafted.

Amendments and Votes: Senator Lynch moved the amendments requested by the American Association of Retired Persons. (See Exhibit #15) Senator Boylan seconded the motion.

Mary McCue said that at the hearing, AARP had presented three different amendments. She said, in a later discussion, she was asked not to include the language, in compliance with the medicaid regulation, regarding an individual's intent to return home. She stated the amendments in exhibit #15 included the language, in the

purpose section, that said the program would not jeopardize eligibility in medicaid and other programs. She said they also required there be a counseling program.

Chairman Thayer said the language, administering a program that did not jeopardize, was fairly broad. He asked what the rules were for medicaid, and if someone qualified to borrow from the proceeds of their house, was that treated as income? He asked how it worked currently, and what the amendment did? Mary McCue said the AARP had originally requested the language for compliance with medicaid, but it was not being requested now. Mary McCue said the language still existed, and she was not sure she understood the intent of that language.

Hank Hudson said, when reverse annuity mortgages in home equity conversion programs were beginning, the question arose, as to whether that income would remove recipients from medicaid, and other assistance? He said the department of Health and Human Services had said, in their opinion, the home equity payments were equivalent to a loan, and would not be income. However, they stated that if a person kept that money past the end of a calendar month, it then became a resource. He said the reason the amendment was important, was to make a statement that reverse annuity payments were meant as a loan, was not to be counted as income, and was considered in compliance with federal regulations set forth. He said it was also important the equity checks were received early in the month, so they had the opportunity to utilize the money before the end of a calendar month.

The Question was called for. The motion to Amend SB 115 Carried Unanimously.

Chairman Thayer asked if there were other amendments? He said the idea of the program was stated as keeping these people in their homes longer. He said people who were in the economic condition to use the program, would not have been able to afford maintaining their homes, but would have probably used the loan money to live. Therefore, after ten years, the house would probably be quite run down, and possibly not worth the loan value, or even saleable. He said the other concern was, even though the program said the people could stay in the home, once the equity was used up through the loan, the people were going to need to go back on assistance, and he couldn't see how they were going to be able to afford to live.



He asked the committee for their thoughts or concerns. He said that even though the program had the best intentions, he wanted to know if they thought the program was really accomplishing what should be done? He said he wanted to discuss a possible amendment for the purpose of maintenance and upkeep of the homes. He said he was concerned about the people being forced into losing the equity in their homes, if they needed the money just to live on. He said there should be a better program in the state, to take care of people in dire straights. He said that maybe the program should start off on a more limited basis, so that at the end of ten years, the home would have some resale value. He said the bonds being sold to fund the program, were an obligation of the taxpayer, and was an obligation which legislators must protect.

Senator Lynch said he appreciated the concern, but he was a little against tying strings to how the low income senior citizens used the money. He thought some of the could be addressed, by dropping the percentage of the loan below the proposed 80%, and see how that worked. He said there would be a greater cushion insured, provided the percentage was, maybe, 60%. He said he did not foresee the same problems, but rather than be so paternalistic, the different percentage may accomplish the same end.

Chairman Thayer stated, if, after their ten year participation in the program, 80% of the people were still in need of their residence, they would not have any equity left, and no way of supporting themselves. He said he wouldn't want to be the person in charge of moving the people out of their home, when the state had to collect on the loan.

LeDean Lewis said the program was just part of an overall retirement program, and was directed at the very low income people. She said she looked at the program as a way to raise the standard of living a little, by using that equity.

Chairman Thayer asked if Mrs. Lewis had thought about the things he was concerned with, and asked if she thought it made sense? Mrs Lewis said she thought it did make sense, and she had thought about it too, and thought one possibility may be to have insurance of some type, which provided for those problem areas. She stated she did not know how the details would have to be handled, but she had confidence in the Board of Housing, and felt something would be worked out. She said she felt the mandatory counseling could see that taxes, and

insurance would be kept up. She said she didn't see any serious problems, and thought it offered some peace of mind, to know there was a program like this to fall back on.

Chairman Thayer asked Mrs. Lewis, of the three different ideas proposed, which she felt AARP would be inclined to support? Mrs. Lewis said she would have to check with AARP's legislative committee. She said she felt the attachment Mr. Kain had, for showing the monthly advance, and the way the interest came out, was good.

Senator Meyer said there were no counseling details or requirements in the bill now, nor was there a provision as to the payment of taxes. Mr. Kain said they were going to lean heavily on seniors' groups, for help with the counseling. He said there was a lot of work needed to establish the criteria, in its relationship to medicaid, and a method to network the counseling. He said the mortgage agreement would require the borrower to pay taxes and insurance. He also stated the Board of Housing was trying to provide low income people with a loan, without depleting the equity to where the Board of Housing had no cushion left. He said the bonds sold by the Board of Housing were not going to be backed by the state, but if equity in the program became tied up for too long, he supposed there could be the possibility that the state may have to become involved.

Senator Lynch asked if the interest continued after the initial ten year program period? Mr. Kain said the interest would not continue on loans funded by seed money of the agency. He said that if they had outstanding indebtedness, the interest would continue.

Senator Lynch asked if the appraised value, used by the county appraiser's office, would be a safer figure to use than a certified appraisers figure? Mr. Kain said their intent was to use FHA qualified appraisers.

Senator Noble said SB 115 was adverse to his thinking, as it did not encourage saving money for your own retirement, rather than relying on the government to provide. He asked for clarification of the borrower's rights, to occupy their home after the ten year period? He said he could not understand how the borrower could use all of their equity, then become a responsibility of society for the duration of their life, with no cost to themselves.

Mary McCue asked where the language in the bill stated the borrower got to stay in the house, was the reference to

page 3, subsection 2 of section 5? Mr. Kain said yes, that was the intent of the attorneys who drafted this legislation.

Mary McCue asked whose repayment was being referred to?

Mrs. Lewis said she thought section 5 referred to the counseling portion, where, if a family member wanted to retain that home, they would have the opportunity to pay that loan off.

Mr. Kain said he had two handouts. He said the first expressed, with different loan amounts a 7% mortgage, what the monthly cash pay out would be over the ten years. (See Exhibit #13) The second was a more detailed schedule of monthly advances, interest accruing, and the total outstanding loan balance for a period of one hundred and twenty months. (See Exhibit #14)

Chairman Thayer reiterated, the question of where SB 115 stated the borrower could remain in the home, hadn't been answered? Mr. Kain said he understood section 5 intended the repayment of a loan to be whether it was prepaid, paid at maturity, or paid through eventual sale of the property. He said that if the language needed clarification, they had no objection.

Chairman Thayer asked if Senator Lynch would object to having the language more specific, to say that the people could stay in the home? Senator Lynch said he would appreciate any help that made the bill better.

Chairman Thayer suggested they defer action on the bill, with Senator Lynch's permission, to allow some work on the bill.

Senator Meyer stated he felt the language should be included, to allow retained occupancy of the home.

Chairman Thayer said he would like to see a combination of the suggestion Mrs. Lewis made, and the thought that it should be less than the 80%.

Senator Lynch said the 80% was not in the bill, it was left to the discretion of the department. We could include a reduced figure in the bill, if they wished.

Mary McCue said she wondered if they could insert "only" in subsection 3, to say "this loan becomes due and payable "only" upon the occurrence of one of those events? She asked if that was the intent? Mr. Kain said yes, that

was the intent.

Amendments and Votes: Senator Lynch moved to amend the language on page 3, line 16, after the word "payable", insert "only". Senator Boylan seconded the motion. The motion Carried Unanimously.

Recommendation and Vote: Senator Boylan made a motion SB 115 DO PASS AS AMENDED. Senator Meyer seconded the motion.

Chairman Thayer stated that did not allow time to draft language to incorporate Mrs. Lewis' suggestion.

Senator Lynch said he would ask the mover and the seconder to withdraw their actions.

Senator Boylan withdrew his motion, and Senator Meyer withdrew his second.

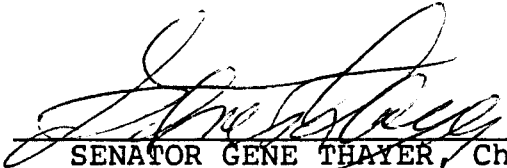
Mrs. Lewis said she, and the AARP, were comfortable with the bill as amended. She said she thought it answered all of their questions, as to their needs.

Chairman Thayer asked if he had misunderstood her, as to her concern for the lower income people who may be using the program? He said he thought she had suggested the program start out with a higher standard for using the retirement idea. Mrs. Lewis said the bill would help older people, but it would help younger people build equity in their home. She said her earlier testimony had actually been part of her House committee testimony.

Recommendation and Vote: Senator Boylan moved the letter of intent, and for SB 115 to DO PASS AS AMENDED. Senator Meyer seconded the motion. The motion Carried Unanimously.

ADJOURNMENT

Adjournment At: 11:33 a.m.

  
SENATOR GENE THAYER, Chairman

GT/ct

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 1/26/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DARRYL MEYER	✓		
SENATOR PAUL BOYLAN	✓		
SENATOR JERRY NOBLE	✓		
SENATOR BOB WILLIAMS			✓
SENATOR TOM HAGER	✓		
SENATOR HARRY MC LANE	✓		
SENATOR CECIL WEEDING			✓
SENATOR JOHN "J.D." LYNCH	✓		
SENATOR GENE THAYER	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

January 26, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 199 (first reading copy -- white), respectfully report that SB 199 do pass.

DO PASS

Signed:   
Gene Thayer, Chairman

SENATE STANDING COMMITTEE REPORT

January 26, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 115 (first reading copy -- white), respectfully report that SB 115 be amended and as so amended do pass:

1. Page 1, line 24.  
Strike: "and"

2. Page 2, line 1.  
Following: "loan"  
Insert: "; and"

(4) administer a reverse annuity mortgage loan program that does not jeopardize the mortgagor's eligibility for medicaid and other means-tested programs"

3. Page 2, line 13.  
Strike: "and"

4. Page 2, line 16.  
Following: "pledge"  
Insert: "; and"

(d) who has completed a reverse annuity mortgage counseling program approved by the Board"

5. Page 3, line 16  
Following: "payable"  
Insert: "only"

AND AS AMENDED DO PASS

Signed: Gene Thayer  
Gene Thayer, Chairman

1-26-89  
5:30  
24

(This sheet to be used by those testifying on EXHIBIT NO. 1.)

DATE 1/26

NAME: Kathy Irigoin

BILL NO. SB 199  
DATE: 1/26/89

ADDRESS: P.O. Box 4009 Helena 59604

PHONE: 444-2040

REPRESENTING WHOM? State Auditor's Office

APPEARING ON WHICH PROPOSAL: SB 199

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENT: Exhibit #1

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



EXHIBIT NO. 1DATE 1/26/89BILL NO. SB 199*J. J. Green*

TESTIMONY ON SENATE BILL 199  
STATE AUDITOR'S OFFICE  
January 26, 1989

A criminal justice agency is eligible to share confidential criminal justice information with other criminal justice agencies. A state agency may be designated a criminal justice agency by executive order of the Governor or by statute. The method through which an agency is designated a criminal justice agency has no effect on the agency's powers.

Since September 7, 1983, the Montana Securities Department has been a criminal justice agency by executive order. The Montana Securities Department does not wish to continue to seek an executive order at the beginning of each gubernatorial term. If Senate Bill 199 passes, the Montana Securities Department will be a criminal justice agency by statute, it will no longer have to seek an executive order, and it will remain eligible to share confidential criminal justice information.

The Montana Securities Department's continued ability to share confidential criminal justice information is critical to protecting Montana investors. The State Auditor consequently urges this committee to give Senate Bill 199 a "do pass" recommendation.

1/26/89

EXHIBITS WERE MISNUMBERED. THERE IS NO EXHIBIT NO. 2 FOR THIS DAY.



U.S. Department of Justice SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 1/26/89

United States Attorney  
District of Montana

BILL NO. SB199

*Micoin*

ADDRESS REPLY TO  
UNITED STATES ATTORNEY  
AND REFER TO  
INITIALS AND NUMBER

Post Office Box 1478  
Billings, Montana 59103

406/657-6101  
FTS/585-6101

January 17, 1989

Senator Mike Walker  
Room 138, State Capitol  
Helena, MT 59401

RE: Designation of the Montana Securities Department  
A Criminal Justice Agency

Dear Senator Walker:

This letter is to state that, as United States Attorney, I give my unqualified support to the legislation you have proposed designating the Montana Securities Department as a Criminal Justice Agency pursuant to MCA 44-5-103(7)(b) and as an amendment to 30-10-304.

White collar crime is the fastest growing criminal activity prosecuted by this office. We have had numerous occasions to work with the Montana Securities Department, and have pursued successful federal criminal prosecutions as a direct result of that department's outstanding investigative ability.


I totally concur that the Montana Securities Department should be statutorily designated a Criminal Justice Agency, rather than total reliance on executive order. Status as a Criminal Justice Agency, recognized statutorily, would logically resolve many potential problems and specifically the ability to gather information on investigative subjects from other law enforcement agencies, both state and federal. It will further enhance the Montana Securities Department with the ability to ensure the confidentiality of investigative files.

Ex. #3  
1/26/89  
SB177

The Montana Securities Department doing criminal investigation certainly should have the statutory designation of a Criminal Justice Agency.

If I can be of any further assistance in this legislation, please advise.

Sincerely,

  
PETE DUNBAR  
United States Attorney

PD:sh

cc: Montana Securities Department  
Room 270, Sam W. Mitchell Bldg.  
Helena, MT

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 1/26/89

SB/99

*Irigoin*



# Cascade County

*State of Montana*

TELEPHONE: (406) 761-6700

Courthouse  
Great Falls, Montana 59401

*Office of the County Attorney*

PATRICK L. PAUL

January 17, 1989

Senator Mike Walker  
c/o Kathy Irigoin  
Montana Securities Department  
P. O. Box 4009  
Helena, Montana 59604

Re: Bill designating Montana Securities Department  
as a Criminal Justice Agency

Dear Senator Walker:

This letter is provided to express my support for the legislation which would designate the Montana Securities Department as a criminal justice agency.

My office has worked with the Securities Department on criminal prosecutions of Securities Act violators. The fraudulent activities of those criminals caused thousands of dollars of loss to Cascade County taxpayers. The competent investigative staff of the Securities Department has been an invaluable tool in prosecuting those cases and recouping those losses. Securities fraud investigations require particularized knowledge of financial records and procedure associated with the securities industry. Local law enforcement training programs generally do not involve this type of training.

If the Securities Department was not a criminal justice agency, our office could not share confidential criminal justice information with it, and the prosecution of these cases would therefore be much more cumbersome. At the same time, the Securities Department would not be able to gather valuable criminal justice information and share it with prosecutors around the state in order to combat the fraud.



Ex. #4  
1/26/89  
JB195

Senator Mike Walker  
January 17, 1989  
Page 2

A statute designating the Securities Department as a criminal justice agency will provide continued confidence in the prosecution-investigation relationship described above. An executive order which must be reviewed with each new gubernatorial term does not instill that confidence. I urge you to vote in favor of this legislation.

Sincerely,



PATRICK L. PAUL  
CASCADE COUNTY ATTORNEY

PLP/mb

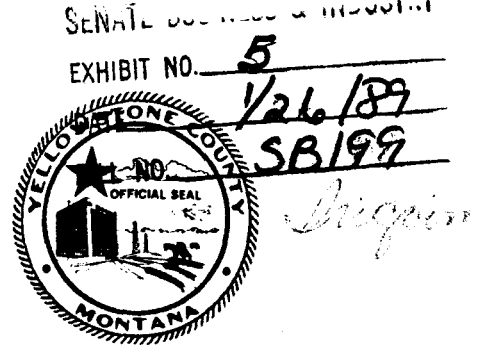
# County of Yellowstone

BILLINGS, MONTANA 59101

COUNTY ATTORNEY'S OFFICE, YELLOWSTONE COUNTY COURTHOUSE, ROOM 508  
(406) 256-2870

- Criminal Division
- Civil Division
- Deferred Prosecution

- Victim/Witness Assistance
- Child Support Enforcement



January 16, 1989

Senator Mike Walker  
Montana Senate  
Helena, MT 59620

Re: Securities Department/Criminal Justice Agency

Dear Senator:

I want you to know that I fully support the proposed legislation designating the securities department of the state auditor's office as a criminal justice agency.

The investigation and prosecution of securities violations requires sharing criminal justice information between the securities department and the prosecutors.

We have had the opportunity with the department on previous cases and are impressed with their professional conduct. They should be statutorily designated as a criminal justice agency rather than by an executive order.

Very truly yours,

*Harold F. Hanser*  
Harold F. Hanser,  
County Attorney

HFH/cr

GALLATIN COUNTY

OFFICE OF THE ATTORNEY

615 SOUTH 16th AVENUE  
LAW AND JUSTICE CENTER  
BOZEMAN, MONTANA 59715  
TELEPHONE: (406) 585-1410

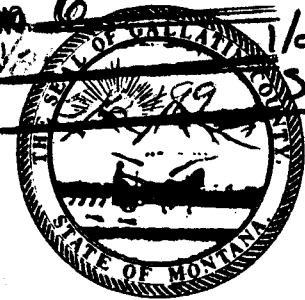
MIKE SALVAGNI  
COUNTY ATTORNEY

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 6

DATE 1/26/89

BILL NO. SB 199



January 11, 1989

Senator Mike Walker  
Montana State Senate  
Capitol Station  
Helena, MT 59620

Dear Senator Walker:

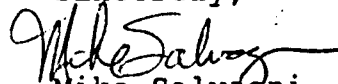
I am writing this letter to express my support for legislation to designate the Montana Securities Department a criminal justice agency. As the county attorney of Gallatin County I have had the opportunity to work closely with the staff of the Securities Department in the investigation and prosecution of two major cases in Gallatin County involving violations of the Montana Securities Act. After the Department's thorough investigations and total cooperation with my office, both defendants were convicted of the violations. One was placed on probation for six years and ordered to reimburse the Department \$29,540 for the costs of the investigation. The other defendant was sentenced to the Montana State Prison for 15 years with 10 years suspended and ordered to pay restitution to his victims in the amount of \$317,783.

While the Montana Securities Department is designated a criminal justice agency pursuant to an executive order, I think that it would be appropriate for the Department to be designated a criminal justice agency by the Legislature. Designation of the Montana Securities Department as a criminal justice agency enables the agency to gather information on subjects from other law enforcement agencies and provides the Department with the means of insuring confidentiality of its investigation files.

While the Department may operate as a criminal justice agency by executive order, it is my belief that statutory designation would be a recognition by the Legislature of the significance of the criminal investigative function of the Montana Securities Department.

Your consideration of my support of this legislation is appreciated. If you need any information from me, please do not hesitate to contact me. Thank you.

Sincerely,

  
Mike Salvagni  
County Attorney

bkl

cc: Andrea "Andy" Bennett, Montana State Auditor, P. O. Box 4009,  
Helena, MT 59604



## MISSOULA COUNTY

OFFICE OF THE ATTORNEY  
MISSOULA COUNTY COURTHOUSE  
MISSOULA, MONTANA 59802  
TELEPHONE (406) 721-5700

EXHIBIT NO. 1DATE 1/26/89BILL NO. SB/99

**ROBERT L. DESCHAMPS III**  
COUNTY ATTORNEY

*Jiggins*

January 11, 1988

Honorable Mike Walker  
State Senator  
c/o Commissioner of Securities  
State Auditor's Office  
P. O. Box 4009  
Helena, MT 59604

Re: Criminal Justice Agency Status for  
Montana Securities Department

Dear Senator Walker:

I strongly support legislation to statutorily establish the Securities Department of the State Auditor's Office as a criminal justice agency.

My office and other county and other county attorneys work with Securities Department personnel on a regular basis in dealing with very serious securities fraud cases that involve many thousands of dollars literally stolen from scores of victims across the State of Montana. These cases frequently result in successful felony prosecutions and significant prison sentences for convicted defendants. Under these circumstances it is obvious that the Securities Department has functioned as a de facto criminal justice agency for years. Frankly I am surprised that the Securities Department has not always been statutorily recognized as such since criminal investigations are a major part of that Department's responsibilities.

Because of recent federal and state laws severely restricting access to criminal history and criminal investigative information by entities that are not specifically designated to be criminal justice agencies the Securities Department's effectiveness is in serious danger of being compromised. Accordingly, I not only support the proposed legislation, but also believe it is a matter of significant public safety and welfare that it be enacted into law.

Sincerely,

*Robert L. Deschamps III*  
ROBERT L. DESCHAMPS, III  
Missoula County Attorney

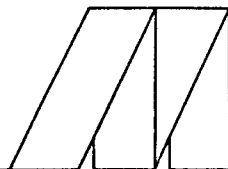
RLD/jln

EXHIBIT NO. 8

DATE 1/26/89

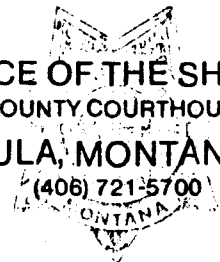
BILL NO. SB 199

# MISSOULA COUNTY



DANIEL L. MAGONE  
SHERIFF

OFFICE OF THE SHERIFF  
COUNTY COURTHOUSE  
MISSOULA, MONTANA 59802



*Doug Chase*  
DOUG CHASE  
UNDERSHERIFF

January 16, 1989

Andrea "Andy" Bennett  
Commissioner of Securities  
Sam W. Mitchell Building  
P.O. Box 4009  
Helena, Montana 59604

Dear Andrea:

I have consulted with my staff and we wish to go on record in support of designating the Montana Securities Department a criminal justice agency pursuant to 44-5-103(7)(b), M.C.A.

We have worked in conjunction with your office in several investigations, and feel that it would be beneficial to both of our departments if you are so designated.

Please feel free to call upon us for assistance in matters of mutual interest.

Sincerely,

*Daniel L. Magone*

DANIEL L. MAGONE  
SHERIFF

DLM/ms

RECEIVED  
STATE AUDITORS  
OFFICE  
JAN 17 9 48 AM '89  
HELENA, MONT.



OFFICE OF THE COUNTY ATTORNEY  
BEAVERHEAD COUNTY, MONTANA

2 SOUTH PACIFIC, CL #2  
DILLON, MONTANA 59725  
(406) 683-4308

January 4, 1989

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 9

DATE 1/26/89

BILL NO. SB199

*Signature*

THOMAS R. SCOTT  
COUNTY ATTORNEY  
W. CECIL JONES  
DEPUTY  
CALVIN ERB  
DEPUTY

Senator Mike Walker  
Montana Securities Department  
Sam W. Mitchell Building  
P.O. Box 409  
Helena, Montana 59604

RE: DESIGNATION OF MONTANA SECURITIES DEPARTMENT  
AS A CRIMINAL JUSTICE AGENCY

Dear Senator Walker:

I have been contacted by the State Auditor's Office to respond to perspective legislation to amend Section 30-10-304, M.C.A., to provide that the Montana Securities Department be designated a Criminal Justice Agency pursuant to Section 44-5-103(7)(b), M.C.A.

As County Attorney for Beaverhead County, I have had specific contact with the Montana Securities Department and the administration and enforcement of the Securities Act of Montana under Title 30, Chapter 10, Part 1. From my contact with the Montana Securities Department it is readily apparent that criminal violation of the Montana Securities Act must be investigated and enforced by a specific agency with specific expertise in securities laws. One may not expect to find such specific expertise in the rural sheriff's offices or police departments of Montana.

As the County Attorney for Beaverhead County, I wholly support any legislation which would designate the Montana Securities Department a Criminal Justice Agency for the purpose of enforcing the Securities Act of Montana. If you have any questions, please feel free to contact me.

Sincerely yours,

*Thomas R. Scott*  
Thomas R. Scott  
Beaverhead County Attorney

TRS/clgh

1/26/89

EXHIBITS WERE MISNUMBERED. THERE IS NO EXHIBIT NO. 10 FOR THIS DAY.

JANUARY 25 EXHIBIT NO. 11

DATE 1/26/89

BILL NO. SB202

SENATOR GENE THAYER

BRIEF ON SENATE BILL 202

SB 202 WAS REQUESTED BY THE MONTANA SKI AREAS ASSOCIATION FOR THE PURPOSE OF ALLOWING SEASONAL EMPLOYERS TO WORK 56 HOURS A WEEK WITHOUT OVERTIME PAY AT 1 1/2 TIMES THE HOURLY WAGE.

IT BASICALLY PROVIDES THE SAME EXCEPTION TO THE STATE OVERTIME PROVISIONS FOR SEASONAL BUSINESS THAT FEDERAL LAW PROVIDES TO THE FEDERAL OVERTIME LAW.

IT IS BROADER THAN JUST SKI AREAS AS IT APPLIES TO OTHER AMUSEMENT, RECREATIONAL, EDUCATIONAL OR RELIGIOUS ENTERPRISES THAT OPERATE ON A SEASONAL BASIS.

TO QUALIFY A BUSINESS EITHER;

- 1) MUST OPERATE LESS THAN 7 MONTHS DURING A CALENDAR YEAR, OR
- 2) DURING ANY 6 MONTH PERIOD OF THE PREVIOUS YEAR EARNED ONLY 1/3 OF WHAT IT EARNED IN THE OTHER 6 MONTHS OF THAT YEAR.

ANY EMPLOYEE WHO WORKS MORE THAN 56 HOURS IN A WORKWEEK MUST BE PAID OVERTIME AT 1 1/2 TIMES HIS HOURLY WAGE.

THERE ARE SEVERAL REPRESENTATIVES OF SKI AREAS HERE TO FURTHER EXPLAIN THE NEED FOR THE BILL.



*Don Judge*

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 12

DATE 1/26/89

BILL NO. SB202

JAMES W. MURRY  
EXECUTIVE SECRETARY

110 WEST 13TH STREET  
P.O. BOX 1176  
HELENA, MONTANA 59624

(406) 442-1708

STATEMENT OF DON JUDGE ON SENATE BILL 202 BEFORE THE SENATE BUSINESS AND INDUSTRY COMMITTEE, JANUARY 26, 1989

Mr. Chairman, Members of the Committee, for the record, my name is Don Judge and I'm here today to represent the Montana State AFL-CIO in opposition to Senate Bill 202.

Senate Bill 202 would force certain employees to work up to 16 more hours a week before they're eligible for overtime pay. Although this bill would seem to limit its application to amusement and recreational establishments, an unclearly defined and potentially broad description of those businesses could threaten the potential earnings of literally thousands of Montana workers.

As we read this bill, we believe that its provisions could apply to employees of just about any businesses engaged in tourism, which could be deemed recreational. Such a broad application would establish an enormous overtime exemption for one of the state's biggest industries -- an industry to which the state has made a strong financial commitment via promotional expenses.

We're also concerned that the bill might affect students who already are allowed to work up to 48 hours a week at amusement and recreational establishments which provide them with room and board. If Senate Bill 202 becomes law, those students could be required to work up to eight more hours per week, and they could face the loss of their room and board.

Mr. Chairman, the greatest effect of this bill likely will be on workers in the service and trade sectors of our economy. Those workers already are the lowest paid in our economy and the most likely to receive no health insurance or other benefits. Those are also the sectors in which two-thirds of the job growth is anticipated by 1995.

Statistics already show that personal income in Montana is far below the national average, that hourly wages and weekly paychecks are going down in some sectors, and that Montana workers in almost all sectors are losing ground to inflation. Making them work longer and harder with no change in wages is not going to improve that gloomy picture. In fact, this legislative session is addressing several welfare reform bills intended to reduce the tax burden on Montanans. Simply adding more individuals to the class of the working poor is a step in the opposite direction.

Real economic growth that will benefit workers is not going to occur if we continue to make more and more people work for low wages that aren't keeping pace with inflation. Simply extending the time we make them work in that situation each week is not going to benefit workers or stimulate the economy.

When workers are asked to give even more of themselves and their time, they have a right to expect that sacrifice to be recognized in their paycheck. This is a one-way bill that will not help workers, and we urge you to vote against it.

EXHIBIT NO. 12 BDATE 1/26/89BILL NO. SB115

REVERSE ANNUITY MORTGAGE  
MONTHLY CASH FLOW AND INTEREST ACCRUAL  
(ASSUMING 7% MORTGAGE RATE)

<u>ORIGINAL LOAN AMOUNT</u>	<u>PAID TO MORTGAGOR MONTHLY</u>	<u>TOTAL PAID MORTGAGOR OVER 10 YEARS</u>	<u>INTEREST ACCRUAL OVER 10 YEARS</u>
\$40,000	\$231	\$27,732	\$12,267
35,000	201	24,120	10,880
30,000	172	20,640	9,360
25,000	143	17,160	7,840
20,000	115	13,800	6,200
15,000	86	10,320	4,680
10,000	57	6,840	3,160

C:\SYMDATA\RAM.WR1

39,999.90 = BOH REVERSE ANNUITY MORTGAGE LOAN AMOUNT  
 7.00% = ANNUAL INTEREST RATE  
 10 = TERM IN YEARS  
 231.10 = FIXED MONTHLY PRINCIPAL INSTALLMENT  
 12,267.90 = TOTAL INTEREST  
 27,732.00 = TOTAL PRINCIPAL

PAYMENT NUMBER	MONTHLY ADVANCE (PRINCIPAL)	MONTHLY INTEREST	MONTHLY PRINCIPAL & INTEREST	LOAN BALANCE (PRINCIPAL & INTEREST)
1	231.1		231.10	231.10
2	231.1	1.55	232.45	463.55
3	231.1	2.70	233.80	697.35
4	231.1	4.07	235.17	932.52
5	231.1	5.44	236.54	1,169.06
6	231.1	6.82	237.92	1,406.98
7	231.1	8.21	239.31	1,646.29
8	231.1	9.60	240.70	1,886.99
9	231.1	11.01	242.11	2,129.10
10	231.1	12.42	243.52	2,372.62
11	231.1	13.84	244.94	2,617.56
12	231.1	15.27	246.37	2,863.93
13	231.1	16.71	247.81	3,111.73
14	231.1	18.15	249.25	3,360.98
15	231.1	19.61	250.71	3,611.69
16	231.1	21.07	252.17	3,863.86
17	231.1	22.54	253.64	4,117.50
18	231.1	24.02	255.12	4,372.62
19	231.1	25.51	256.61	4,629.22
20	231.1	27.00	258.10	4,887.33
21	231.1	28.51	259.61	5,146.94
22	231.1	30.02	261.12	5,408.06
23	231.1	31.55	262.65	5,670.71
24	231.1	33.08	264.18	5,934.89
25	231.1	34.62	265.72	6,200.61
26	231.1	36.17	267.27	6,467.88
27	231.1	37.73	268.83	6,736.71
28	231.1	39.30	270.40	7,007.10
29	231.1	40.87	271.97	7,279.08
30	231.1	42.46	273.56	7,552.64
31	231.1	44.06	275.16	7,827.80
32	231.1	45.66	276.76	8,104.56
33	231.1	47.28	278.38	8,382.94
34	231.1	48.90	280.00	8,662.94
35	231.1	50.53	281.63	8,944.57
36	231.1	52.18	283.28	9,227.85
37	231.1	53.83	284.93	9,512.78
38	231.1	55.49	286.59	9,799.37
39	231.1	57.16	288.26	10,087.63
40	231.1	58.84	289.94	10,377.57
41	231.1	60.54	291.64	10,669.21
42	231.1	62.24	293.34	10,962.55
43	231.1	63.95	295.05	11,257.60



Ex. #14  
11/26/81  
SB115

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PAYMENT NUMBER	MONTHLY ADVANCE (PRINCIPAL)	MONTHLY INTEREST	MONTHLY PRINCIPAL & INTEREST	LOAN BALANCE (PRINCIPAL & INTEREST)
44	231.1	65.67	296.77	11,554.36
45	231.1	67.40	298.50	11,852.86
46	231.1	69.14	300.24	12,153.11
47	231.1	70.89	301.99	12,455.10
48	231.1	72.65	302.75	12,758.85
49	231.1	74.43	305.53	13,064.38
50	231.1	76.21	307.31	13,371.69
51	231.1	78.00	309.10	13,680.79
52	231.1	79.80	310.90	13,991.70
53	231.1	81.62	312.72	14,304.41
54	231.1	83.44	314.54	14,618.96
55	231.1	85.28	316.38	14,935.33
56	231.1	87.12	318.22	15,253.56
57	231.1	88.98	320.08	15,573.64
58	231.1	90.85	321.95	15,895.58
59	231.1	92.72	323.82	16,219.41
60	231.1	94.61	325.71	16,545.12
61	231.1	96.51	327.61	16,872.73
62	231.1	98.42	329.52	17,202.26
63	231.1	100.35	331.45	17,533.70
64	231.1	102.28	333.38	17,867.08
65	231.1	104.22	335.32	18,202.41
66	231.1	106.18	337.28	18,539.69
67	231.1	108.15	339.25	18,878.94
68	231.1	110.13	341.23	19,220.16
69	231.1	112.12	343.22	19,563.38
70	231.1	114.12	345.22	19,908.60
71	231.1	116.13	347.23	20,255.84
72	231.1	118.16	349.26	20,605.09
73	231.1	120.20	351.30	20,956.39
74	231.1	122.25	353.35	21,309.74
75	231.1	124.31	355.41	21,665.14
76	231.1	126.38	357.48	22,022.62
77	231.1	128.47	359.57	22,382.19
78	231.1	130.56	361.66	22,743.85
79	231.1	132.67	363.77	23,107.62
80	231.1	134.79	365.89	23,473.52
81	231.1	136.93	368.03	23,841.55
82	231.1	139.08	370.18	24,211.72
83	231.1	141.24	372.34	24,584.06
84	231.1	143.41	374.51	24,958.56
85	231.1	145.59	376.69	25,335.26
86	231.1	147.79	378.89	25,714.15

Ex # 14  
 1/26/89  
 SB 115

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PAYMENT NUMBER	MONTHLY ADVANCE (PRINCIPAL)	MONTHLY INTEREST	MONTHLY PRINCIPAL & INTEREST	LOAN BALANCE (PRINCIPAL & INTEREST)
87	231.1	150.00	381.10	26,095.24
88	231.1	152.22	383.32	26,478.57
89	231.1	154.46	385.56	26,864.12
90	231.1	156.71	387.81	27,251.93
91	231.1	158.97	390.07	27,642.00
92	231.1	161.25	392.35	28,034.35
93	231.1	163.53	394.63	28,428.98
94	231.1	165.84	396.94	28,825.92
95	231.1	168.15	399.25	29,225.17
96	231.1	170.48	401.58	29,626.75
97	231.1	172.82	403.92	30,030.67
98	231.1	175.18	406.28	30,436.95
99	231.1	177.55	408.65	30,845.60
100	231.1	179.93	411.03	31,256.63
101	231.1	182.33	413.43	31,670.06
102	231.1	184.74	415.84	32,085.90
103	231.1	187.17	418.27	32,504.17
104	231.1	189.61	420.71	32,924.88
105	231.1	192.06	423.16	33,348.04
106	231.1	194.53	425.63	33,773.67
107	231.1	197.01	428.11	34,201.78
108	231.1	199.51	430.61	34,632.39
109	231.1	202.02	433.12	35,065.52
110	231.1	204.55	435.65	35,501.17
111	231.1	207.09	438.19	35,939.36
112	231.1	209.65	440.75	36,380.10
113	231.1	212.22	443.32	36,823.42
114	231.1	214.80	445.90	37,269.32
115	231.1	217.40	448.50	37,717.83
116	231.1	220.02	451.12	38,168.95
117	231.1	222.65	453.75	38,622.70
118	231.1	225.30	456.40	39,079.10
119	231.1	227.96	459.06	39,538.16
120	231.1	230.64	461.74	39,999.90
	27,732.00	12,267.90		

Amendments to Senate Bill No. 115  
First Reading Copy  
For the Committee on Business and Industry

Prepared by Mary McCue  
January 26, 1989

1. Page 1, line 24.

Strike: "and"

2. Page 2, line 1.

Following: "loan"

Insert: "; and"

(4) administer a reverse annuity mortgage loan program that does not jeopardize the mortgagor's eligibility for medicaid and other means-tested programs"

3. Page 2, line 13.

Strike: "and"

4. Page 2, line 16.

Following: "pledge"

Insert: "; and"

(d) who has completed a reverse annuity mortgage counseling program approved by the board"

5. Page 3, line 16.

Following: "payable"

Insert: "only"

DATE 1-26-89

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Pat Melby	Mont Ski Areas Ass'n	202	✓	
Yung Melby	Bridge Paul Ski Area	202	✓	
Gerald M. Melby	Showdown Ski Area	202	✓	
James T. Young	Showdown Ski Area	202	✓	
Timothy M. Prather	Red Lodge Mtn	202	✓	
Charles Brooks	Mont. Rpt. Assn.			
Kathy Irigoien	State Auditor's Office	199	✓	
Don Judge	MT STATE AFL-CIO			✓
Hank Hudson	Seniors Office DES.	74 <sup>15</sup>	✓	
Fred Patten	AARP	74 <sup>15</sup>	✓	
Jefferson Lewis	"	74 <sup>15</sup>	✓	
Dick Laird	MBOH	115		
Owen Wannan	AARP.	115	✓	
Reg Ed Grubbs	Self	202		
Kevin Taylor	Great Divide Skiing Co	202	✓	