

MINUTES

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

Call to Order; By Chairman Gene Thayer, on February 10,
1989, at 10:00 a.m., Room 410

ROLL CALL

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

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: Chairman Thayer said the hearings
on SB 365 and SB 366 would be held in tandem, because
they were exactly the same, except one was for boats
and the other one was for snowmobiles.

HEARING ON SENATE BILL 365 AND SENATE BILL 366

Presentation and Opening Statement by Sponsor: Senator
Beck, Senate District 24, said SB 365 and SB 366 dealt
with the liens on snowmobiles and boats. He said the
two bills were companion measures that provided a
mechanism for liens to be filed on boats and
snowmobiles, as a security to a debt. He said the
statutes currently provided a method for lien filings
for other title vehicles, the perfection of liens
against motor vehicles, and for the release of liens
when the debt has been satisfied. He said title
twenty-three provided for the notation of the security
interest on titles and boats and snowmobiles, it did
not provide for the perfection of liens or the filing
of lien releases. He said that even though boats and
snowmobiles were often represented a substantial
investment in borrowing, there was no way for a lender
to establish a lien on a boat or snowmobile. He said
the result was that lenders often filed liens on other
property or title vehicles that had lien provisions.

He said these bills would provide the needed perfection or release of security interest on notification to lienholders, that the lien has been filed for a lien filing fee.

List of Testifying Proponents and What Group They Represent:

Bob Robinson - Administrator, Motor Vehicle Division

List of Testifying Opponents and What Group They Represent:

None

Testimony: Bob Robinson said the pair of bills was just as Senator Beck had indicated. He said they provided a method to file a lien for snowmobiles and boats. He said the currently those vehicles were titled, but there was no method for a lender to secure against that piece of property. He said they often found the registrar's office calling to say they had a boat owner they wished to file a lien against. He said there was no legal provision for such a lien, so many times the lien was being placed against another title vehicle for security. He said the only other method, was a UCC filing which was cumbersome process compared to the usual method of handling motor vehicles. He said they thought these bill would provide a service to the borrower, as well as to the seller.

Questions From Committee Members: Senator Hager asked if it was cheaper to use this method than the UCC filing? Mr. Robinson said he had stated more efficient. He said he did not know what the UCC filing charge was, but the lien filing charge was four or five dollars.

Closing by Sponsor: Senator Beck said he was sure the registrar of motor vehicles would appreciate this authority also. He said he closed.

DISPOSITION OF SENATE BILL 365

Discussion: Mary McCue said there were some amendments needed for SB 365. She said the amendments were only technical, and did not change anything within the bill. (See Exhibit #1)

Amendments and Votes: Senator Hager moved the amendments in Exhibit #1. Senator Lynch seconded the motion. The motion Carried Unanimously.

Recommendation and Vote: Senator Hager made a motion SB 365
DO PASS AS AMENDED. Senator McLane seconded the
motion. The motion Carried Unanimously.

DISPOSITION OF SENATE BILL 366

Discussion: Chairman Thayer reminded them that a similar
amendment was needed on SB 366.

Amendments and Votes: Senator Noble moved to amend SB 366
as stated in Exhibit #2. Senator Hager seconded the
motion. The motion Carried Unanimously.

Recommendation and Vote: Senator Noble made a motion SB 366
DO PASS AS AMENDED. Senator Hager seconded the motion.
The motion Carried Unanimously.

Announcement: Chairman Thayer asked Vice Chairman Meyer to
chair the meeting, while he presented the next bill.

HEARING ON SENATE BILL 364

Presentation and Opening Statement by Sponsor: Senator
Thayer, Senate District 19, said SB 364 dealt with
authority concerning an insurance companies ability to
cancel a client's disability insurance for reasons
other than nonpayment of premium. He said current law
only required thirty days notice of cancellation, and
in reality that did not allow sufficient time for the
client to reinsure. He said Page 1, line 15 of the
bill also required notification of the policyholders
themselves. He said the reason for the language was,
because there had been situations where there had been
third party administrators who hadn't upheld their
commitments for payment and paperwork, and the client
had unknowingly been cancelled. He said this language
would allow a client the security of knowing he would
be notified before he was cancelled for any reason. He
said the bill extended the cancellation period from
thirty days to ninety days.

Senator Thayer cited an occurrence which happened
to him, as the main reason for introducing the bill.
He said that within his own company, his wife was ill
with cancer, two other policyholders had heart attacks,
and another person was receiving cancer treatment, and
one morning they found out they had been cancelled. He

said they had just barely been able to acquire insure within the thirty day time frame required. He said he was sure the financial size and security of the company was the primary reason they were able to secure coverage in the allotted time. Senator Thayer said the bill was to prevent companies from deciding there had been too many claims, and just deciding to cancel the insurance. He stated the third party situation had been brought to his attention by someone else.

List of Testifying Proponents and What Group They Represent:

Senator Jerry Noble - Senate District 19
Chuck Butler - Blue Cross & Blue Shield of Montana
Kathy Irigoin - State Auditor's Office

List of Testifying Opponents and What Group They Represent:

None

Testimony: Senator Jerry Noble said his company had an unfortunate experience with a third party administrator, and they had their health insurance with an out-of-state company. He said one of his employee's wife had called to notify that the employee was going to have open heart surgery. Senator Noble had reminded her to call the eight hundred number for notification of the company. He said that when notice was given, she was told the insurance had been cancelled.

Senator Noble said he called to check, and found out the third party administrator had neglected to apply the payments he had been sent. Senator Noble said he had not been notified, because the company does business with the administrator, and have no ties with the client. He said he was told he would have to reinstate the policy by making the delinquent payments the administrator had failed to pay. He said he was out the original payments to the administrator, and had forty eight hours left to come up with a considerable amount of money for missed payments. He said SB 364 would prevent such misfortunes from happening, because it would require notification of the insurer.

Chuck Butler said they supported SB 364, with one very minor amendment. (See Exhibit #3) He said he had discussed the amendment with Senator Thayer, and thought he agreed to the change. He said the suggested amendment would allow cancellation of a policy if the applicant had misrepresented information on their application. He said they strongly supported the legislation, and understood the need for adequate notice.

Kathy Irigoien said that in 1985 legislature enacted a Montana Comprehensive Health Association for people who can't get health insurance. She said that before you were eligible for insurance through this association, you had to be rejected by two different insurers. She said it usually took longer than thirty days to be rejected by two different insurers, and if you didn't receive rejection within those thirty days, you could end up with lack of coverage before the association picked up your coverage.

Questions From Committee Members: None

Closing by Sponsor: Senator Thayer said he agreed with Mr. Butler's amendment. He said he thought ninety days would allow most people to find new coverage without going through the association Kathy Irigoien had mentioned, but that would also be available. He said he hoped the committee would act favorably on SB 364.

DISPOSITION OF SENATE BILL 364

Discussion: Chairman Thayer asked Mary McCue to read and explain the amendment.

Amendments and Votes: Senator Noble moved to amend SB 364 with the Butler amendment presented in Exhibit #3. Senator McLane seconded the motion. The motion Carried Unanimously.

Recommendation and Vote: Senator McLane made a motion SB 364 DO PASS AS AMENDED. Senator Noble seconded the motion. The motion Carried Unanimously.

DISPOSITION OF SENATE BILL 284

Discussion: Mary McCue said there were two separate sets of amendments. She said page one was the sponsors amendments, (See Exhibit #4) and page two had the amendments requested by the financial institutions (See Exhibit #5). She said amendment one on page 1 changed the language in line 13 from 'consigning' to 'taking for consignment'. She said amendments two and three were to address the concern that an auctioneer would be required to get a dealers license if there wasn't an exclusionary provision. She said this amendment quite narrow, and referred only to people making a sale by

auction, pursuant to their regulatory statutes within title thirty. She said number four was just amending out a sentence on page 5, which was unnecessary.

Amendments and Votes: Senator Meyer moved the amendments on page one, Exhibit #4. Senator Noble seconded the motion. The motion Carried Unanimously.

Discussion: Mary McCue reminded the committee that the credit unions had expressed the desire to have it made clear that financial institutions could continue these practices without being licensed.

Senator Lynch said he did not see a compelling reason to have the language 'as long as a sale is not conducted on the property of a financial institution'. He said there may be a bank which repossessed a car, parked it next to the bank, and he couldn't see any reason to move it across the street to sell it.

Amendments and Votes: Senator Lynch moved to amend the amendment in exhibit #5, by placing a period after business, and strike 'as long as a sale is not conducted on the property of a financial institution'. Senator Hager seconded the motion. The motion Carried.

Discussion: Bob Pyfer said he thought the intent was only to have a prohibition against conducting a sale on the property, in the case of rental car sales, not in the case of repossession. He said it would also cover sales in conjunction with licensed dealers, and that was why it was in subsection 3. He said he supposed that was something that could be misinterpreted.

Chairman Thayer said that as sponsor of the bill, he didn't have any problem with taking that out.

Amendments and Votes: Senator Lynch moved the amended version of the amendments in exhibit #5. Senator Meyer seconded the motion. The motion Carried.

Recommendation and Vote: Senator Lynch made a motion SB 284 DO PASS AS AMENDED. Senator Noble seconded the motion. The motion Carried Unanimously.

HEARING ON SENATE BILL 310

Presentation and Opening Statement by Sponsor: Senator McLane, Senate District 42, said SB 310 was an act to revise the electronic fund transfer act. He said the electronic funds transfer act was enacted in 1977 and

was designed relative "to the present state of electronic funds technology". He said there was a vast difference in that field of technology since that enactment, and the legislation needed to be updated. He said electronic funds transfer was used for bank card transfers at remote terminals. He said the 1977 act primarily authorized financial institutions to utilize the system. He said the original cost of the satellites had limited their use primarily to financial institutions, but now retailers and merchants could set the satellites up for a fraction of the original cost. He said the retailers, merchants and customers wanted the use of these systems for buying goods and services. He said the electronic funds transfer act needed to be amended to include merchant and other persons, if this new facet was to be offered. He said the purpose of SB 310 was to make the necessary changes in the act, to enable a growth of this type of business transaction.

List of Testifying Proponents and What Group They Represent:

Mark Staples - Exxon Company, U.S.A.
David Creps - Exxon Company, U.S.A.
Bob Enke - Exxon Company, U.S.A.
Jim Manion - Executive Vice President, Automobile
Association of America in Montana

List of Testifying Opponents and What Group They Represent:

None

Testimony: Mark Staples presented his written testimony. (see Exhibit #7) He followed the written form in his presentation, by describing the language used within the bill. He said customers were becoming more aware of the speed and benefits of using the electronic transfer system. He said the system provided convenience for consumers, as well as strenuous protection. He said disclosures were required, receipts were given, and the financial division of the Department of Commerce had regulatory authority over the satellite terminals.

He said they had tried to speak to everyone they thought would be an interested party to the bill, and he said a number of those people were present. He said Fred Flanders, commissioner of financial institutions, was also present to answer any questions. A fact sheet on the technical amendments made by SB 310 was distributed to the committee. (See Exhibit #6)

David Creps read his testimony from Exhibit #8. He said the

bill was designed to make technical correction changes to the Montana electronic funds transfer act, as well as to provide some additional consumer protections. He said they supported the bill because it modified the current law, and recognized the changes that had taken place in technology.

He said electronic funds transfers made by consumers were currently governed by federal law and regulations, as well as Montana law. He said both laws were designed to provide consumer protection. He said SB 310 was intended to deal with the changes in technology which had occurred, and specifically allowed that businesses other than financial institutions could choose to issue electronic fund transfer transactions. He said they believed these changes were warranted, and asked the committee to support SC 310.

Bob Enke said he was the area representative for ten Town Pump outlets. He said their customers had asked for the debit feature purchase option. He said the option would serve the consumer and the retailer well, by simplifying processes. He said their stores were designed for convenience, and they hoped to be allowed to offer their customers the debit transaction feature. (See Exhibit #9)

Jim Manion said the wholeheartedly supported SB 310, because it would facilitate a debit feature purchase. He said it would provide a great convenience for motorists. (See Exhibit #10)

Questions From Committee Members: David Creps told Senator Noble the bill was needed to provide an explanation for some of the technical issues surrounding the description of financial institutions and nonfinancial institutions. He said that currently the act addressed financial institutions, and required them to provide certain services, and presently does not address nonfinancial institutions. He stated that current law required them to use a written signature, and they felt that was confusing because most other institutes used a personal identification or secret code for debit transactions.

Chairman Thayer asked if they had experienced problems with code breaking? Mr. Creps said that to date, Exxon had not experienced any problems, but there was always the potential of fraud. He said that again, was one of the purposes of the act. He said it limited the liability of an individual consumer in such instances.

Chairman Thayer asked if computer viruses presented a problem for the retail industry such as this? Mr. Creps said he was not aware of any which had occurred. He said that generally the computer systems used, were a closed system and did not offer outside access.

Senator Williams asked if SB 310, as written, would remove all restrictions, so that anyone could utilize an electronic funds transfer? Mr. Creps said it did not remove all restricts, as there were still certain regulatory requirements which must be met. He said it required filing with the commissioners office, and there were certain operational requirements, but it would generally allow merchants and financial institutions to utilize the system.

Senator Noble asked if the company felt they could eventually change business, and replace the credit card? Mr. Creps said no, they did not see it to be a replacement to the credit card, but as an alternative. He said they had a vested interest in retaining credit, particularly for large purchases. He said most people could not afford large purchase from their checking account, and they wanted to be able to have credit available, and the merchant wanted to provide that credit. He said this system would provide an alternative method for debit purchase, which was quicker and more convenient.

Senator Noble asked if it was their intent to have wholesalers use this system to pay their bills to the company, or how did their wholesalers currently pay? Mr. Creps said they currently used two systems of wholesaler payment. He said the base system was the issuance of an invoice at the time of delivery, and the writing of a check. He said they were also currently using an option choice for wholesalers to have electronic funds transfers for making payment. He said that payment system used the same network SB 310 would allow for, but this practice was unrelated to the point of sale terminal, and was addressed to other chapters of the act.

Chairman Thayer asked Mr. Flanders how widespread he felt this would be, by groups other than those represented here today? Mr. Flanders said they hadn't had any inquiries from other groups at this time. He said they had tried to design something that would work for other groups who may wish to follow suit. He said he fully expected an increase in usage of the system and this bill would facilitate that change. He said he would

expect grocery chains to become involved.

Closing by Sponsor: Senator McLane said he saw SB 310 as good for business, providing a convenience, and as providing a new option with consumer protection. He said he recommended a do pass.

DISPOSITION OF SENATE BILL 310

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch made a motion SB 310 DO PASS. Senator Noble seconded the motion. The motion Carried Unanimously.

DISPOSITION OF SENATE BILL 330

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Weeding made a motion SB 330 DO PASS. Senator Lynch seconded the motion. The motion Carried Unanimously.

DISPOSITION OF SENATE BILL 354

Discussion: Senator Lynch said he thought the state had probably gone too far with their printing procedure in the last ten years, and they should be leery of the public taking over private business. He stated that Governor Stephens has indicated privatization as one of his interests. Senator Lynch said his amendment applied to the Montana Codes. (See Exhibit #11) He said SB 354 would virtually put the Legislative Council out of business if the bidding process was required for them.

Mary McCue stated they had a vested interest, but one of the problems was with the code having to deal with an outside typesetter. She said they had projected that it would be January or February before the code was available, and that wasn't feasible. She said the code had been finished by Labor Day last session, and they would like to keep up that pace.

Senator Lynch said that one of the proponents, Mr. Crommly, said they didn't have a problem with the amendments because they realized there was a legitimate problem concerning the codes.

Amendments and Votes: Senator Lynch moved the amendment in Exhibit #11. Senator Meyer seconded the motion. The motion Carried Unanimously.

Recommendation and Vote: Senator Hager made a motion SB 354 DO NOT PASS.

Recommendation and Vote: Senator McLane made a substitute motion to TABLE SB 354. Senator Meyer seconded the motion. The motion Carried, with Senator Hager and Senator Lynch opposing the motion.

Discussion: Senator Noble said he had a question about the length of time the private sector had testified it took them to bill and deliver a printing job. He said he could see that it would put the government incredibly behind. He said he had mixed emotion about the bill, because a number of factors seemed to enter into the picture. He said there were a number of jobs the private printing sector in Montana did not have equipment available for some of the necessary printing needs of the state. He said he also had a concern that the state government was including wording in their printing requests which drove the work out of state. He said he had heard testimony that an eye to in-state printing abilities could provide more printing jobs for our private sector.

Senator Hager said he agreed with Senator Noble. He said the intent of the bill was to try and get private business a larger share of the printing, but he too wasn't sure that the service was going to be able to produce the needed results. He said he wondered if the committee shouldn't present a resolution to direct state government publications be printed in state.

Senator Weeding said he was concerned with the revelation of the added period of time it took to get a printing job done with the private sector.

Chairman Thayer asked if others felt there could be some administrative changes made, which would redirect the course of the printing. He said he had heard complaints that there were projects being printed out-of-state, when we had the ability to print the item in-

state. He said he felt there were some printing jobs that could be redirected in-state, through administration directives, as easily as with a bill.

Senator Lynch said this bill was going to have trouble on the Senate floor, because of the university concerns, and others.

Senator Noble reminded them that testimony had stated there could be a redirection of much of the printing, if the agencies would reword some of their specifications, and keep the available in-state printing abilities in mind. He said he would like to see the committee do something to help the private sector get a larger share of the printing they were capable of handling. He said he thought it should be conveyed to the state agencies, that they needed to do whatever was necessary to accommodate in-state printers whenever possible.

Recommendation and Vote: Senator Lynch made a motion Mary McCue draft a letter to the Governor, asking him to pursue Senator Noble's suggestion. Senator Meyer seconded the motion. The motion Carried Unanimously.

PROPOSAL FOR A COMMITTEE RESOLUTION

Discussion: The proposed material for a committee resolution in support of the keep Montana clean and beautiful project was discussed. (See Exhibit #12) the material was approved, and presented to Mary McCue to draft. The committee Unanimously agreed to proceed with the committee resolution.

ADJOURNMENT

Adjournment At: 11:33 a.m.


SENATOR GENE THAYER, Chairman

GT/ct

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 2/10/89

51st LEGISLATIVE SESSION 1989

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

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 11, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 365 (first reading copy -- white), respectfully report that SB 365 be amended and as so amended do pass:

1. Page 4, lines 17 and 18.

Following: "notice," on line 17

Strike: remainder of line 17 through "justice," on line 18

2. Page 4, line 19.

Following: "created"

Insert: ", "

Strike: "and"

3. Page 4, line 20.

Following: "section."

Insert: "The lien notice must be filed on a form approved by the department."

AND AS AMENDED DO PASS

Signed: 

Gene Thayer, Chairman

W.C.
2/13/89
11:45
a.m.

SENATE STANDING COMMITTEE REPORT

February 11, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 366 (first reading copy -- white), respectfully report that SB 366 be amended and as so amended do pass:

1. Page 3, lines 17 and 18.

Following: "notice," on line 17

Strike: remainder of line 17 through "justice," on line 18

2. Page 3, line 19.

Following: "created"

Insert: ", "

Strike: "and"

3. Page 3, line 20.

Following: "section."

Insert: "The lien notice must be filed on a form approved by the department."

AND AS AMENDED DO PASS

Signed:


Gene Thayer, Chairman

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 364 (first reading copy -- white), respectfully report that SB 364 be amended and as so amended do pass:

1. Page 1, line 22.

Following: "premiums"

Insert: "or a material misrepresentation contained in the application"

2. Page 1, line 25.

Following: "premiums"

Insert: "or a material misrepresentation contained in the application"

AND AS AMENDED DO PASS

Signed: 
Gene Thayer, Chairman

41.0.
2/13/89
11:45 a.m.
scrsb364.210

SENATE STANDING COMMITTEE REPORT

page 1 of 2
February 11, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 284 (first reading copy -- white), respectfully report that SB 284 be amended and as so amended do pass:

1. Page 1, line 13.

Strike: "consigning"

Insert: "taking for consignment"

2. Page 5, line 4.

Following: "vehicle"

Insert: "or the person is conducting a sale by auction pursuant to Title 30, chapter 11, part 5"

3. Page 5, line 10.

Following: "sale"

Insert: "or the person is conducting a sale by auction pursuant to Title 30, chapter 11, part 5"

4. Page 5, lines 10 through 12.

Following: "the sale." on line 10

Strike: remainder of lines 10 through 12 in their entirety

5. Page 5, following line 12.

Insert: "NEW SECTION. Section 4. Exemption for financial institutions. This part does not require licensure of, or restrict or prohibit a financial institution, as defined in 32-6-103:

(1) in the selling of collateral repossessed on default of a loan made by the financial institution;

(2) in the conduct of a motor vehicle sales promotion in affiliation with one or more licensed dealers; or

(3) in the conduct of a motor vehicle sales promotion in affiliation with a person regularly engaged in a bona fide vehicle rental business if the purpose of the sale is to dispose of used motor vehicles used in the rental business."

Renumber: subsequent sections

6. Page 6, line 12.

Following: "2"

Strike: "and 3"

Insert: "through 4"

7. Page 6, line 15.
Following: "2"
Strike: "and 3"
Insert: "through 4"

AND AS AMENDED DO PASS

Signed: 

Gene Thayer, Chairman

4/11/89
2:13 PM
11:45 AM

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 310 (first reading copy -- white), respectfully report that SB 310 do pass.

DO PASS

Signed: 

Gene Thayer, Chairman

410
2/13/89
11:45
H.G.M.

SCRSB310.210

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 330 (first reading copy -- white), respectfully report that SB 330 do pass.

DO PASS

Signed: 

Gene Thayer, Chairman

*N.C. 159
2/10/89
5:46 P.M.*

Amendments to Senate Bill No. 365
First Reading Copy

For the Committee on Business and Industry

Prepared by Mary McCue
February 10, 1989

1. Page 4, lines 17 and 18.

Following: "notice," on line 17Strike: remainder of line 17 through "justice," on line 18

2. Page 4, line 19.

Following: "created"

Insert: ", "

Strike: "and"

3. Page 4, line 20.

Following: "section."

Insert: "The lien notice must be filed on a form approved by the department."

Amendments to Senate Bill No. 366
First Reading Copy

For the Committee on Business and Industry

Prepared by Mary McCue
February 10, 1989

1. Page 3, lines 17 and 18.

Following: "notice," on line 17Strike: remainder of line 17 through "justice," on line 18

2. Page 3, line 19.

Following: "created"

Insert: ", "

Strike: "and"

3. Page 3, line 20.

Following: "section."

Insert: "The lien notice must be filed on a form approved by the department."

Amendments to Senate Bill No. 364
First Reading Copy

For the Committee on Business and Industry

Prepared by Mary McCue
February 10, 1989

1. Page 1, line 22.

Following: "premiums"

Insert: "or a material misrepresentation contained in the application"

2. Page 1, line 25.

Following: "premiums"

Insert: "or a material misrepresentation contained in the application"

Amendments to Senate Bill No. 284
First Reading Copy

Requested by Sen. Gene Thayer
For the Committee on Business and Industry

Prepared by Mary McCue
February 8, 1989

1. Page 1, line 13.

Strike: "consigning,"

Insert: "taking for consignment"

2. Page 5, line 4.

Following: "vehicle"

Insert: "or the person is conducting a sale by auction pursuant to Title 30, chapter 11, part 5"

3. Page 5, line 10.

Following: "sale"

Insert: "or the person is conducting a sale by auction pursuant to Title 30, chapter 11, part 5"

4. Page 5, lines 10 through 12.

Following: "the sale." on line 10

Strike: remainder of line 10 through end of line 12

1. Page 5, following line 12.

Insert: "NEW SECTION. Section 4. Exemption for financial institutions. This part does not require licensure of, or restrict or prohibit a financial institution, as defined in 32-6-103:

(1) in the selling of collateral repossessed on default of a loan made by the financial institution;

(2) in the conduct of a motor vehicle sales promotion in affiliation with one or more licensed dealers; or

(3) in the conduct of a motor vehicle sales promotion in affiliation with a person regularly engaged in a bona fide vehicle rental business if the purpose of the sale is to dispose of used motor vehicles used in the rental business, as long as the sale is not conducted on the property of the financial institution."

Renumber: subsequent sections

2. Page 6, line 12.

Following: "2"

Strike: "and 3"

Insert: "3, and 4"

3. Page 6, line 15.

Following: "2"

Strike: "and 3"

Insert: "3, and 4"

FACT SHEET ON SB 310

What does the bill do?

SB 310 makes technical amendments to the existing Montana Electronic Funds Transfer Act, which place obligations on merchants and other nonfinancial institutions who issue and accept debit credit cards, as a consumer payment option for retail sales.

What is a debit card?

In many areas across the United States, retailers such as grocery stores and petroleum companies are issuing their own debit cards. These cards allow customers to pay by electronically transferring funds from their bank accounts to the retailer for goods purchased. This is called a debit transaction.

In the case of some gasoline retailers, for example, a customer may use the debit feature to obtain the cash discount price at participating retailers. In addition, the customer will receive a receipt which can be useful for business or income tax purposes. The debit feature can be added to some petroleum credit cards and the customer can then choose either the convenience of cash or credit.

Why are changes in the act necessary?

When the original law was enacted in the mid-1970s, the electronic transfer of funds was limited primarily to banks and other financial institutions. Since that time, the development and increasing use of point of sale terminals has permitted businesses to offer debit transactions for goods purchased. These amendments bring businesses and merchants under the requirements of the Montana Act in the following ways:

- 1) By requiring businesses to provide cardholders with disclosures which correspond to those required by the Federal government;
- 2) By requiring businesses to certify to the Montana Department of Commerce that a debit transaction is for the purchase of goods and services of commensurate value; and
- 3) By allowing the use of a personal identification number (PIN) in lieu of a signature, similar to the system in place for bank cards.

TESTIMONY OF MR. MARK STAPLES
ATTORNEY REPRESENTING EXXON COMPANY, U.S.A.
ON SB-310
BEFORE THE SENATE BUSINESS AND INDUSTRY COMMITTEE
OF MONTANA'S 51st LEGISLATIVE ASSEMBLY
FEBRUARY 10, 1989

GOOD MORNING, MY NAME IS MARK STAPLES AND I REPRESENT EXXON COMPANY, U.S.A., WHO HAS TAKEN UPON THEMSELVES TO INITIATE THE AMENDING OF THE ELECTRONIC FUNDS TRANSFER ACT IN MONTANA SO AS TO BENEFIT NOT ONLY THEIR CUSTOMERS BUT ALSO CONSUMERS AND OTHER MERCHANTS AS WELL.

FIRST, I'D LIKE TO GIVE A FEW DEFINITIONS AND EXAMPLES SO THAT WE KNOW WHAT IT IS WE'RE DISCUSSING. THE TERM "DEBIT" AS USED TODAY SIMPLY DESCRIBES A TRANSACTION IN WHICH A CARD IS UTILIZED TO PAY FOR GOODS OR SERVICES OR TO WITHDRAW CASH BY ELECTRONICALLY TRANSFERRING FUNDS FROM YOUR BANK ACCOUNT TO THE PURVEYOR OF THOSE GOODS OR SERVICES. A VERY PREVALENT EXAMPLE OF THIS IS A BANK CASH CARD. IT'S IMPORTANT TO NOTE AND EMPHASIZE THAT IN NO WAY DOES OR WILL THIS DEBIT OPTION HAVE AN EFFECT ON CREDIT TRANSACTIONS AS WE NOW KNOW THEM AND UTILIZE THEM. IT SIMPLY ADDS ANOTHER OPTION OTHER THAN CREDIT AND CASH WHICH WILL BE EXPLAINED FURTHER.

ANOTHER TERM YOU'LL HEAR IS THE TERM "PIN". THIS STANDS FOR "PERSONAL IDENTIFICATION NUMBER" AND AN EXAMPLE OF IT IS THE NUMBER THAT YOU PUNCH IN AT THE END OF A TELEPHONE CREDIT CARD CHARGE.

AS SENATOR McLANE HAS STATED, THE COST OF THESE SYSTEMS AND PARTICULARLY THE SATELLITE TERMINALS THAT THE SYSTEMS UTILIZE

Ex. #7
2/10/89

HAVE FALLEN DRAMATICALLY, THUS ENCOURAGING THE RETAILER TO CONSIDER THEIR USE. ALREADY MANY RETAILERS ARE BEGINNING TO USE THESE TERMINALS FOR CREDIT AUTHORIZATIONS OR TO CHECK FOR LOST OR STOLEN CARDS.

CUSTOMERS ARE BECOMING MORE AWARE OF THE SPEED AND BENEFITS OF ELECTRONIC FUNDS TRANSFER THROUGH EXPOSURE TO PROGRAMS SUCH AS THE U.S. TREASURY'S USE OF ELECTRONIC FUNDS TRANSFER FOR SOCIAL SECURITY PAYMENTS, BY USING ATM'S TO MAKE CASH WITHDRAWALS, OR BY AUTOMATIC DRAFTING OF BANK ACCOUNTS FOR REGULAR PAYMENTS SUCH AS INSURANCE PREMIUMS OR HEALTH CLUB DUES.

REGIONAL AND NATIONWIDE SYSTEMS CALLED AUTOMATED CLEARING HOUSE (ACH) HAVE COME INTO EXISTENCE TO FACILITATE THE TRANSFER OF FUNDS BETWEEN BANKS FOR CONSUMER TRANSACTIONS.

NOT ONLY DOES THIS SYSTEM PROVIDE CONVENIENCE FOR CONSUMERS BUT ALSO STRENUOUS PROTECTIONS. DISCLOSURES ARE REQUIRED EXPLAINING THE SYSTEM BEFORE ONE IS ALLOWED TO UTILIZE IT; STANDARDS ARE SET FOR PROCEDURES AND THE HANDLING OF RECEIPTS, AND THE FINANCIAL DIVISION OF THE DEPARTMENT OF COMMERCE HAS REGULATORY AUTHORITY OVER THE SATELLITE TERMINALS.

THE CONVENIENCE FOR THE RETAILER IS ALSO A CONSIDERATION. THE USE OF THE DEBIT FEATURE OPTION AT A POINT OF SALE TERMINAL IS BASICALLY AN ELECTRONIC CHECK. THOSE OF YOU WHO HAVE STOOD BEHIND A PERSON WRITING A CHECK FOR \$5.00 WORTH OF GROCERIES WHILE YOU AND TWENTY OTHER PEOPLE ARE WAITING IN THE LINE BEHIND CAN SEE THE ADVANTAGE OF AN AUTOMATIC SYSTEM. YOUR HOPE WILL BE THAT THEY CHOOSE TO USE THIS OPTION.

A SYSTEM THAT TECHNOLOGY HAS PROVIDED US OBVIOUSLY HAS

Ex. #72/10/89

TECHNICAL FEATURES. TO INTRODUCE AND ELABORATE UPON THEM I DEFER
TO A REPRESENTATIVE FROM EXXON, WHO IS WITH US TODAY. FOR MY
PART, I URGE YOU TO GIVE A "DO PASS" RECOMMENDATION TO SENATE
BILL 310 AND I THANK YOU FOR YOUR ATTENTION.

STATEMENT OF EXXON COMPANY U.S.A.
PRESENTED TO THE
BUSINESS AND INDUSTRY COMMITTEE
OF THE
MONTANA SENATE
ON SENATE BILL 310
FEBRUARY 10, 1989

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8
DATE 2/16/89
BILL NO. SB 310

Mr. Chairman, members of the committee, I'm David Creps and I am responsible for Exxon Company, U.S.A.'s debit card programs. Exxon appreciates the opportunity to present its views on Senate Bill 310, which is designed to make technical changes to the Montana Electronic Funds Transfer Act (EFTA) as well as provide additional consumer protections. We support the bill as it modifies current law to recognize advancements in electronic fund transfer (EFT) technology since the EFTA was originally enacted in 1977.

Electronic funds transfers by consumers are currently governed by a Federal statute and regulation as well as the Montana EFTA. Both the Federal and state rules are designed to provide protection for consumers as well as provide for an orderly implementation and use of the debit technology. The Montana EFTA preceded the Federal law and regulations.

Since the enactment of the Montana EFTA however, this technology as well as resulting consumer expectations have rapidly changed. SB 310 recognizes these changes and modifies the existing law to incorporate new technology under the act. Specifically it:

- requires businesses other than financial institutions which issue debit cards to provide cardholders with disclosures which correspond to those required by the federal government;
- requires merchants to certify to the Montana Department of Commerce that a debit transaction is for the purchase of goods and services;

Ex. #8

2/10/89

- allows the use of a personal identification number (PIN) at a point of sale terminal in lieu of a signature to identify the purchaser.

In many areas across the United States, retailers such as grocery stores and petroleum companies are accepting debit cards. These cards allow customers to electronically transfer funds from their bank accounts to the retailer for goods and services they purchase. Cards may be issued by financial institutions or by individual retailers. Exxon is interested in debit transactions to provide consumers with an additional payment alternative. Today, in most retail transactions, consumers are generally limited to paying with cash, check, or credit card. The introduction of debit cards provides the consumer essentially an electronic alternative to a check. In many parts of the country consumers are finding this a more and more attractive and convenient alternative to cash and paper checks.

Such an electronic alternative can be attractive to all parties. For example, at Exxon service stations, consumers benefit from debit transactions because they can receive the cash discount price at participating stations, yet still have the convenience of paying by "plastic". Thus consumers can normally benefit with a lower discount for cash price for their purchase and do not have to carry cash and risk it being lost or stolen. The retailer can accept the debit payment with less risk than a check, (which many service stations do not accept).

In conclusion Exxon believes that these changes are warranted by the changing technology of debit and EFT, and are in the best interest of Montana consumers. Accordingly, we ask you to support SB 310.

TESTIMONY OF MR. BOB ENKE
ON SB-310
BEFORE THE SENATE BUSINESS AND INDUSTRY COMMITTEE
OF MONTANA'S 51st LEGISLATIVE ASSEMBLY
FEBRUARY 10, 1989

GOOD MORNING, LADIES AND GENTLEMEN. MY NAME IS BOB ENKE. I AM THE AREA REPRESENTATIVE FOR 10 STORES AND RETAIL GASOLINE OUTLETS OF TOWN PUMPS, INC. OF MONTANA. WE ARE THE LARGEST EXXON DISTRIBUTOR IN THE WESTERN UNITED STATES. MY STORES INCLUDE 3 STATIONS IN GREAT FALLS, 4 IN HELENA, 1 IN BOULDER, 1 IN TOWNSEND, 1 IN WHITE SULPHUR SPRINGS, AND 2 IN LIVINGSTON.

THE DEBIT FEATURE PURCHASE OPTION IS SOMETHING THAT OUR CUSTOMERS HAVE ASKED FOR AND WILL SERVE THEM WELL. IT WILL ALSO SERVE US, THE RETAILERS, WELL, BY SIMPLIFYING PROCESSES AND EXPEDITING TRANSACTIONS OTHER THAN CASH. OUR ENTHUSIASM AND DEMAND FOR THIS FEATURE IS SUCH THAT WE ARE IN THE PROCESS OF INSTALLING THE POINT OF SALE TERMINALS AT MANY OF OUR OUTLETS IN THE STATE AND WILL INITIALLY UTILIZE THEM FOR OUR CREDIT TRANSACTIONS UNTIL WE ARE HOPEFULLY AUTHORIZED BY LAW TO ALSO ADD THE DEBIT FEATURE.

WE EXIST FOR THE CONVENIENCE OF OUR CUSTOMERS. WE SPECIALIZE IN IT. IN FACT, MOST PEOPLE USE THE TERM "CONVENIENCE STORE" TO DESCRIBE OUR PLACES OF BUSINESS.

IT IS OUR SINCERE HOPE THAT WE WILL SOON BE ALLOWED TO OFFER TO OUR CUSTOMERS THE DEBIT TRANSACTION FEATURE. I URGE YOU TODAY TO RECOMMEND PASSAGE OF SENATE BILL 310 SO THAT WE MAY DO SO FOR THE CONVENIENCE OF OUR CUSTOMERS.

THANK YOU.

TESTIMONY OF MR. JIM MANION
ON SB-310
BEFORE THE SENATE BUSINESS AND INDUSTRY COMMITTEE
OF MONTANA'S 51st LEGISLATIVE ASSEMBLY
FEBRUARY 10, 1989

MY NAME IS JIM MANION. THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE. I AM THE EXECUTIVE VICE PRESIDENT OF THE AUTOMOBILE ASSOCIATION OF AMERICA IN MONTANA, KNOWN TO YOU AS AAA. WE WHOLEHEARTEDLY SUPPORT SENATE BILL 310 BECAUSE THE FACILITATION OF A "DEBIT FEATURE" PURCHASE OPTION FOR THE MOTORISTS OF MONTANA WILL NOT ONLY PROVIDE A GREAT CONVENIENCE FOR THEM IN THIS STATE, BUT IN THE NUMEROUS OTHER STATES IN THIS COUNTRY THAT ALREADY OFFER THEIR MOTORISTS THIS CONVENIENCE. IT WILL ALSO PROVIDE OUR OUT-OF-STATE CLIENTS THE SAME PRIVILEGE IN MONTANA THAT THEY ENJOY ELSEWHERE.

WE CAN SEE NO NEGATIVES CONNECTED WITH THIS BILL AND ONLY POSITIVE EFFECTS FOR OUR CONSTITUENTS, THE AUTOMOBILE DRIVERS AND GASOLINE BUYERS OF THE STATE OF MONTANA AND THOSE WHO VISIT US.

WE THEREFORE STRONGLY URGE THAT THIS COMMITTEE VOTE "DO PASS" ON SENATE BILL 310.

THANK YOU.

Amendments to Senate Bill No. 354
First Reading Copy

Requested by Sen. J.D. Lynch
For the Committee on Business and Industry

Prepared by Robert Person
February 9, 1989

1. Page 1, line 20.

Insert: " It is further the intent of the Legislature that in exercising its authority to adopt rules and otherwise administer the provisions of this act, that sufficient production be maintained on equipment used to support the production of legislative bills and publications to support the efficient use of such equipment during legislative sessions and interims between sessions."

2. Page 2, line 19.

Strike: "paper"

3. Pages 2 and 3, line 25 on page 2 through line 2 on page 3.

Following: "process" on line 25

Strike: the remainder of line 25 through "product" on line 2

4. Page 3, line 4.

Strike: "personal"

5. Page 3, line 14.

Following: "(3)(b)"

Insert: "and 1-11-301"

6. Page 5, line 5.

Following: "employees"

Insert: "; the Montana code annotated and ancillary publications; bills and other documents necessary to the operation of the legislature; laws and proceedings of the legislature;"

BUSINESS & INDUSTRY
EXHIBIT NO. 12
DATE 2/10/89
To Proposed

A COMMITTEE
Senate RESOLUTION IN SUPPORT OF THE
KEEP MONTANA CLEAN & BEAUTIFUL PROJECT
(*Senate B&I*)

Yes
Thurmer
Noble
Williams
Mc Lane
Meyer

A RESOLUTION supporting and commending groups and projects to promote recycling and litter abatement, such as the Boy Scouts' Project Good Turn, Billings/Yellowstone County Bright n' Beautiful, the Chamber of Commerce, Hometown Helena Pride, the National Guard, and many other involved organizations around the state. This resolution further supports and commends Keep Montana Clean & Beautiful, a newly formed state-wide, non-profit, participatory Montana organization, that encourages all citizens and businesses to increase voluntary recycling and to reduce litter through education and community involvement:

Senate B&I
Committee Resolution

Agreed to
2/10/89

WHEREAS, the state of Montana is gifted with unparalleled natural beauty and bountiful natural resources; and

WHEREAS, the citizens of Montana justifiably take pride in the beauty and clean environment of their state; and

WHEREAS, the continued attractiveness of Montana appeals to visitors from other states and countries around the world; and

WHEREAS, the citizens and businesses of Montana have a joint interest in increasing the natural beauty and appeal of their state; and

WHEREAS, litter on our beautiful states' highways, streets, streams and public lands is unsightly and unwanted; and

WHEREAS, the citizens of Montana have a long heritage from the early settlers of the state that stressed the importance of using and reusing every item to its fullest degree; and

WHEREAS, the recycling and reuse of materials benefits citizens now and in the future; and

WHEREAS, many of the state's citizens voluntarily recycle many materials and earn money and alleviate pressure on our state's landfills thereby; and

WHEREAS, Keep Montana Clean & Beautiful and other organizations desire to work with every citizen, club, sporting group and business to fulfill our citizenry's wish for beautiful roadways and streams; and

WHEREAS, Keep Montana Clean & Beautiful and other citizens groups are organizing spring roadway and streamside clean-up programs; and

WHEREAS, these spring clean-ups are a significant tribute to our state in its centennial year; and

WHEREAS, the community-spirited citizens of Montana can multiply their efforts to improve our states' roadways and streams in a cooperative program;

BE IT THEREFORE RESOLVED, that during this year of celebration of Montana's first century of statehood that we commend all Montanans who volunteer their time and efforts to programs which will keep Montana clean and beautiful; and

BE IT FURTHER RESOLVED, that we support the Keep Montana Clean & Beautiful program and the many other citizens groups whose goals are recycling and litter abatement; and

BE IT FINALLY RESOLVED, that we urge all Montana citizens and

DATE

2/10/89

COMMITTEE ON

Business & Industries

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Kathy Irigoien	State Auditor's Office	SB364	X	
Bob Peterson	Motor Wheel Javers	SB365	X	
Tom ...	AAA ...	SB 310	X	
Walter ...	Exxon	"	X	
Bob ...	Exxon	"	X	
Daniel ...	"	"	X	
Jan ...	"	"	X	

(Please insert name and statement with Secretary)