

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, Chairman, on March 6, 1995, at 3:00 pm.

#### ROLL CALL

##### Members Present:

Rep. Dick Knox, Chairman (R)  
Rep. Bill Tash, Vice Chairman (Majority) (R)  
Rep. Bob Raney, Vice Chairman (Minority) (D)  
Rep. Aubyn A. Curtiss (R)  
Rep. Jon Ellingson (D)  
Rep. David Ewer (D)  
Rep. Daniel C. Fuchs (R)  
Rep. Hal Harper (D)  
Rep. Karl Ohs (R)  
Rep. Scott J. Orr (R)  
Rep. Paul Sliter (R)  
Rep. Robert R. Story, Jr. (R)  
Rep. Jay Stovall (R)  
Rep. Emily Swanson (D)  
Rep. Lila V. Taylor (R)  
Rep. Cliff Trexler (R)  
Rep. Carley Tuss (D)  
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council  
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### Committee Business Summary:

Hearing: SB 200, SB 122  
Executive Action: SB 78 Be Concurred In As Amended,  
SB 204 Be Concurred In As Amended,  
SB 122 Be Concurred In As Amended

Tape 1, Side A

950306NR.HM1

HEARING ON SB 200Opening Statement by Sponsor:

SEN. J. D. LYNCH, Senate District 19, Butte, said SB 200 is pro-consumer, pro-lender, pro-borrower and it's good for the people in Montana. Years ago there were gas stations on two corners out of four on any intersection. There aren't that many gas stations anymore because of competition, but the buildings are still there and could be used for other businesses. It is difficult for banks to loan money to convert those buildings to other businesses because the underground tanks are still there and the banks don't want to be held liable for clean up problems. In Butte there was a clean up of toxic material by a pole plant. The plant had borrowed money from a small independent bank. The bank was held responsible. The bank had to pay lawyers' fees and a settlement of over half of its bank assets. SB 200 is virtually the same as a federal law that is now being proposed in Washington D. C.

Proponents' Testimony:

Frank Crowley, Attorney, Montana Bankers Association, said SB 200 exempts lenders from the indicia of ownership of a facility if its primary function is to protect a security interest in the facility. The bill will protect lenders from the threat of liability. Mr. Crowley explained the amendments to SB 200.  
EXHIBIT 1

William Kirley, Legal Counsel, Department of Health and Environmental Sciences (DHES). Written testimony. EXHIBIT 2

Bruce Gerlach, President, Montana Independent Bankers Association, said independent bankers want to help small businesses. However, up to this point, business concerns that dealt with environmentally related products were often left out of the credit granting cycle because the lender was potentially liable for any clean up costs should the loan go into default and the lender took the property involved. Bankers became nervous over potential liability and avoided those types of business loans. That course of action is not good for the owners of small businesses who operate environmentally-related businesses. SB 200 offers the exemption from liability that lenders need, to help those affected small businesses.

Tom Hopgood, Montana Independent Bankers Association. Written testimony. EXHIBIT 3

Tape 1, Side B

Ward Shanahan, Montana League of Savings Institutions, supported SB 200, but opposed amendment 8.

Leo Berry, Attorney, Burlington Northern Railroad, supported SB 200.

Bob Pyfer, Montana Credit Unions League, supported SB 200.

Don Hutchinson, Department of Commerce, Banking and Financial Division, supported SB 200.

John Shontz, Montana Association of Realtors, said there are many orphan properties in Montana on which bad loans were made using those properties as collateral. Rather than taking those properties and attempting to do anything with them, including cleaning them up, lenders are walking away from the loans. Letters from county attorneys can be found in courthouses all over the state almost ordering the county treasurers not to take any of those properties through tax proceedings because the liability will transfer to whoever the current owner is. In many cases, those properties remain heavily polluted. They will continue to passively pollute until they can get back into the stream of property management. SB 200 will help that happen.

Rona Alexander, Montana Petroleum Marketers Association, supported SB 200.

Bob Robinson, Director, Department of Health and Environmental Sciences, supported SB 200.

Bob Stephens, Montana Grain Growers Association, Dutton State Bank, supported SB 200.

John Cadby, Montana Bankers Association, supported SB 200.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN KNOX said a borrower could possibly, at some point in time, say that a lender did try to influence management, therefore, the lender is responsible for the clean up and asked Mr. Crowley if there is enough case law that covers that problem. Mr. Crowley said there is case law at the federal level but it is ambiguous and sometimes conflicting. Some cases have determined that if a bank has the capacity to influence hazardous waste management of a site, it is an owner. Other cases have determined that a bank can go almost as far as foreclosing and could probably take the title to the property, but as long as the bank didn't get involved in day-to-day management of the property it wasn't an owner. The bill addresses those ambiguities by listing activities that are not classified as management participation.

Tape 2, Side A

REP. EMILY SWANSON asked Mr. Crowley to explain the difference between lender liability and fiduciary liability. Mr. Crowley said a lender means anyone who has secondary ownership in a property. Fiduciaries are a subset of secured creditors.

REP. DAVID EWER asked Mr. Crowley if there was any way that the proposed legislation could be used as a way of using fiduciaries to hold property in order to reduce liability. Mr. Crowley said that possibility has been eliminated in the bill.

REP. AUBYN CURTISS asked Mr. Crowley if a person would have to assume liability if he unwittingly bought a piece of property that had pollutants on it. Mr. Crowley said the word "unwittingly" would be the key. Both the federal and state superfunds have what is called "an innocent purchaser defense." If a person was unwittingly unaware that there was contamination on the property, that person would only be liable if he had failed to undertake a reasonable inquiry based upon facts available as to whether there was contamination.

Closing by Sponsor:

SEN. LYNCH said SB 200 is important to Montana for economic development and it will make it easier for bankers to justify a loan.

Tape 2, Side B

HEARING ON SB 122

Opening Statement by Sponsor:

SEN. DARYL TOEWS, Senate District 48, Lustre, said SB 122 addresses the relationship between the utility companies and the Department of State Lands (DSL). The bill revises the process of granting right-of-way easements on state lands and clears up a lot of red tape. There is an amendment that would give the bill an immediate effective date. EXHIBIT 4

Proponents' Testimony:

Gary Wiens, Montana Electric Cooperative Association, supported SB 122 because it eases the burden of government mandates without compromising the intent behind the permitting process. The existing process has caused needless delays and costs. Delays have resulted in missed construction seasons creating added frustration and costs for farmers, ranchers, homeowners and others in need of power and telephone service. Ranchers have also missed opportunities to pasture livestock on state lands due to the inability to bring power to watering troughs. Mr. Wiens urged the committee to support SB 122.

Guy Johnson, Staking Engineer, Fergus Electric Cooperative, Lewistown, said the easement process takes from 70 days to 12 months. The cooperative hasn't experienced any lengthy delays in its dealings with the Bureau of Land Management, Department of Natural Resources and Conservation, and Forest Service. The only delays have come from dealings with DSL. The changes in SB 122 are necessary and are important for the consumers.

Joan Mandeville, Montana Telephone Association, said telephone companies have also experienced unnecessary delays. SB 122 will help expedite the right-of-way processes and cut costs.

Mike Strand, Montana Independent Telecommunications Systems, supported SB 122.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. AUBYN CURTISS asked Mr. Johnson what his permits cost. Mr. Johnson said the cost of a permit is based on the evaluation of the land that is being crossed. Mr. Johnson said the majority of his permits were based on a \$500 per acre basis.

Tape 3, Side A

REP. CURTISS asked SEN. TOEWS if he would have any objection to adding language that would address environmental assessments. SEN. TOEWS said he had no objections.

Closing by Sponsor:

SEN. TOEWS closed.

EXECUTIVE ACTION ON SB 78

Motion: REP. HAL HARPER MOVED SB 78 BE CONCURRED IN.

Motion/Vote: REP. DAVID EWER MOVED AN AMENDMENT TO SB 78.  
EXHIBIT 5 Voice vote was taken. Motion carried unanimously.

Discussion:

REP. CLIFF TREXLER said page 10, line 2, states that "the department shall first issue a letter notifying the person," etc. "If the person fails to respond to the department's letter", etc. REP. TREXLER said he thought "describing a plan to comply to the department's letter" should be inserted at the end of the word "respond" and asked Steve Pilcher, Department of Health and Environmental Sciences to comment. Mr. Pilcher said the department has the responsibility to identify in the notification

letter what the individual has to do to get back into compliance. The notification letter would imply that the individual's response would have to address the issues of concern.

**Motion:** REP. TREXLER MOVED AN AMENDMENT TO SB 78 THAT WOULD ADD THE WORD "ADEQUATELY" BEFORE THE WORD "RESPOND."

**Discussion:**

REP. HAL HARPER said "in a timely manner" should also be added after the word "respond."

REP. ROBERT STORY said if the department notifies a person that it thinks he is in violation and he responds with a list of corrective actions he is going to take, he may be opening himself up to a process he doesn't want to get involved in, especially if he ends up in court. The less a person has on paper, the better off he is. The only response that is needed is that the notification was received. A certified letter would be enough to indicate the notification was received.

REP. AUBYN CURTISS asked Mr. Pilcher to comment on the proposed amendments. Mr. Pilcher said that a letter sent to the department saying only that the letter of notification had been received would not be adequate and the department would proceed with other enforcement options.

REP. EMILY SWANSON said she thought the intent of that sentence was if the person fails to correct the violation, the department would proceed with other enforcement options, not if the person fails to write the department a letter.

REP. TREXLER asked Mr. Kakuk for his input in amending the sentence. Mr. Kakuk suggested that on page 10, line 3, the word "respond" could be stricken and "comply with" could be inserted.

**Motion/Vote:** REP. TREXLER MOVED A SUBSTITUTE AMENDMENT TO INSERT "THE CONDITIONS OF" AFTER "RESPOND TO" ON PAGE 10, LINE 3, OF THE BILL. Voice vote taken. Motion carried unanimously.

**Motion/Vote:** REP. FUCHS MOVED SB 78 BE CONCURRED IN AS AMENDED. Voice vote was taken. Motion carried unanimously.

Tape 3, Side B

**Motion/Vote:** REP. HARPER MOVED RECONSIDERATION ON SB 78 DUE TO AN AMENDMENT THAT WAS OVERLOOKED. Voice vote was taken. Motion carried unanimously.

**Motion/Vote:** REP. FUCHS MOVED THE GROSFIELD AMENDMENT. EXHIBIT 6 Voice vote was taken. Motion carried unanimously.

**Motion/Vote:** REP. HARPER MOVED SB 78 BE CONCURRED IN AS FURTHER AMENDED. Voice vote was taken. Motion carried unanimously.

EXECUTIVE ACTION ON SB 204

Motion: REP. BILL TASH MOVED SB 204 BE CONCURRED IN.

Motion/Vote: REP. HAL HARPER MOVED THE EWER AMENDMENT. EXHIBITS 5 AND 6 Voice vote was taken. Motion carried unanimously.

Discussion:

REP. DAVID EWER offered and explained additional amendments. EXHIBIT 9 REP. EWER requested that the two amendments be voted on separately.

Motion: REP. EWER MOVED AMENDMENT NO. 1.

Discussion:

REP. AUBYN CURTISS said she was against both amendments. The \$10,000 penalty, with each day constituting a separate violation would be a hardship on some of the smaller entities and they wouldn't have the ability to pay.

Michael Kakuk said 75-5-631 MCA has language in it that says when seeking penalties under this section the department shall take into account the following factors, one of them being the violator's ability to pay. That is existing law. It doesn't have any language saying "the courts shall consider." Leaving that phrase in the bill would make the enforcement of the Public Water Supply Act and the Water Quality Act inconsistent. That doesn't mean it can't be done but it would be inconsistent. REP. EWER'S first amendment would be consistent with both acts, but the second amendment would be inconsistent.

REP. EWER said he wouldn't move the second amendment for the sake of consistency.

REP. BILL TASH said he was against amendment no. 1 because "the courts shall consider" was added by the Senate and he considered it a re-enforcement measure. The courts, through due process, have a better understanding of the municipalities and their ability to pay. The department's determination of that factor probably wouldn't take all the things into consideration that should be.

REP. EWER said he disagreed with REP. TASH.

REP. PAUL SLITER said the courts are going to consider what they want to anyway.

REP. HARPER agreed with REP. SLITER and said he would vote for the amendment.

CHAIRMAN KNOX said he sat in on the legislative audit and one of the problems the legislative auditor pointed out was the lack of

consistency between the agencies. It is important to stay consistent. Industry wants consistency.

Vote: Voice vote was taken. Motion on EWER amendment no. 1 carried unanimously.

Discussion:

REP. EWER said if the issue of consistency is important, Mr. Kakuk had alerted him that the capitalized language on page 3, lines 13, 14 and 15, is inconsistent. REP. EWER asked Mr. Kakuk to comment. Mr. Kakuk said that language was added in the Senate and is inconsistent.

Motion/Vote: REP. MOVED TO STRIKE THE CAPITALIZED LANGUAGE ON PAGE 3, LINES 13, 14 AND 15. Voice vote was taken. Motion failed 11 to 7.

Motion/Vote: REP. HARPER MOVED SB 204 BE CONCURRED IN AS AMENDED. Voice vote was taken. Motion carried 17 to 1. REP. DOUG WAGNER voted no.

EXECUTIVE ACTION ON SB 78

Motion/Vote: REP. ROBERT STORY MOVED SB 78 AS AMENDED BE RECONSIDERED. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. STORY MOVED TO AMEND PAGE 11, LINES 19 THROUGH 21. Voice vote was taken. Motion carried 15 to 3. REP. HARPER, REP. BOB RANEY and REP. EMILY SWANSON voted no.

Motion/Vote: REP. STORY MOVED SB 78 BE CONCURRED IN AS AMENDED. Voice vote was taken. Motion carried unanimously.

EXECUTIVE ACTION ON SB 122

Motion: REP. AUBYN CURTISS MOVED SB 122 BE CONCURRED IN.

Motion/Vote: REP. CURTISS MOVED AN AMENDMENT TO SB 122. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. PAUL SLITER MOVED SB 122 BE CONCURRED IN AS AMENDED. Voice vote was taken. Motion carried unanimously.



HOUSE NATURAL RESOURCES COMMITTEE

March 6, 1995

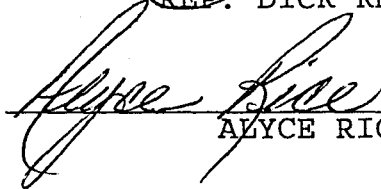
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ADJOURNMENT

Adjournment: 6:00 pm



REP. DICK KNOX, Chairman



ALYCE RICE, Secretary

DK/ar

# HOUSE OF REPRESENTATIVES

## Natural Resources

ROLL CALL

DATE 3-6-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson	✓		
Rep. David Ewer	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss	✓		
Rep. Doug Wagner	✓		

*W*



## HOUSE STANDING COMMITTEE REPORT

March 7, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 78 (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

*Dick Knox*

*Dick Knox, Chair*

And, that such amendments read:

Carried by: Rep. Knox

1. Page 5, line 10.

Following: "~~voluntarily~~"

Insert: "voluntarily"

2. Page 10, line 3.

Following: "THE"

Insert: "conditions in the"

3. Page 10, line 3.

Following: "DEPARTMENT"

Strike: "MAY"

Insert: "shall"

4. Page 11, line 20.

Following: "action,"

Insert: "the amounts voluntarily expended by the violator to address or mitigate the violation or impacts of the violation to waters of the state,"

-END-

Committee Vote:

Yes/7, No 0.

531128SC.Hdh



## HOUSE STANDING COMMITTEE REPORT

March 7, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 204 (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

*Dick Knox*

*Dick Knox, Chair*

And, that such amendments read:

Carried by: Rep. Knox

1. Page 1, line 25.

Following: "TO"

Insert: "the conditions in"

Strike: "MAY"

Insert: "shall"

2. Page 3, lines 8 and 9.

Following: "account" on line 8

Strike: "AND THE COURT SHALL CONSIDER"

-END- :

Committee Vote:

Yes 17, No 1.

531123SC.Hdh



## HOUSE STANDING COMMITTEE REPORT

March 7, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 122 (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

*Dick Knox*  
Dick Knox, Chair

And, that such amendments read:

Carried by: Rep. Kitzenberg

1. Title, line 8.

Strike: "AND"

2. Title, line 9.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 2.

Following: line 24

Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval."

-END-

Committee Vote:

Yes 17, No 0.

531126SC.Hdh

Amendments to Senate Bill No. 200  
Third Reading Copy

Requested by Senator Lynch  
For the Committee on Natural Resources

Prepared by Todd Everts  
March 6, 1995

1. Title, line 12.  
Following: "DATE"  
Insert: "AND AN APPLICABILITY DATE"
2. Page 3, line 24.  
Following: "PART."  
Insert: "For the purposes of 75-10-715(7), the term does not include the state, a state agency, or a political subdivision of the state acting as trustee of natural resources within the state of Montana."
3. Page 4, line 13.  
Following: "~~such~~"  
Insert: "such"
4. Page 7, line 3.  
Strike: "75-10-711(5)"  
Insert: "this part"
5. Page 14, line 21.  
Strike: "THAT"
6. Page 15, line 16.  
Following: "INTEREST."  
Insert: "actually"
7. Page 15, line 20.  
Strike: "BUT NOT"  
Insert: "as opposed to"
8. Page 17.  
Following: line 7  
Strike: "NEW SECTION. Section 6. Applicability. [This act] does not apply to civil actions commenced prior to the [effective date of this act] or to claims upon which such actions are based."  
Renummer: subsequent section

TESTIMONY IN SUPPORT OF SB 200 (WITH AMENDMENTS)  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

The issue of lender liability has been the topic of much debate at the national level for several years now. A fear of Superfund liability among lenders is perceived as having a "chilling effect" on the availability of credit for business development, particularly in certain industries. The Department supports SB 200's attempt to prevent any such effect of the environmental cleanup laws in Montana.

The Department has been substantially involved in lender liability issues in administering the environmental cleanup laws in Montana. In 1993, the Department entered into a settlement agreement with the former Miners Bank in Butte. In that case the settlement was necessary to prevent potential liability from threatening the financial stability of the bank. In connection with its own settlement, the department also mediated a settlement between the Bank and ARCO, resolving a third party contribution action against the bank and freeing the bank of all claims of liability for the site.

On reviewing SB 200, as introduced in the Senate, the Department was concerned that the bill would have certain consequences that were not intended and that the scope of the exemptions created would be broader than intended. The Department and representatives of the lending community worked out language that we believe will accomplish the intended goals of the lending community and still encourage responsible environmental management of contaminated sites. The consensus version of the bill was passed by the Senate, and the "consensus amendments" being proposed before the House Natural Resources Committee today are to correct some minor errors and clarify the intended scope of the bill.

SB 200 addresses three fairly distinct sets of issues in CECRA:

- (1) lender liability,
- (2) fiduciary liability, and
- (3) the statute of limitations.

Lender Liability

The proposed changes expanding the lender liability exemption under state law closely track the exemption set out in the EPA lender liability rule. See 40 CFR § 300.1100. Although this rule has been declared invalid by the federal courts, Kelley v. EPA, 15 F.3d 1100 (D.C. Cir. 1994), we believe it represents the clear direction of the federal law, since similar provisions were included in both the Senate and House versions of the Superfund Reauthorization Act which was proposed in the last Congress. Similar provisions on lender liability have already been introduced

in this Congress. Lender liability is one area where there has been some sense of national consensus on the appropriate scope, and that is what we are trying to embody in the lender liability provisions of SB 200.

### Fiduciary Liability

The bill's proposed exemption for fiduciaries is modelled on the proposed federal Superfund Reauthorization Act. (See amendment no. 10, new section (7)). This exemption would effectively limit the liability of a fiduciary to the assets of the trust, as long as the trustee does not affirmatively cause or contribute to the contamination. We believe that this would impose reasonable and appropriate standards for liability of fiduciaries.

### The Statute of Limitations

Currently under state law, § 75-10-722(5), MCA, cost recovery actions must be commenced by the Department "within 6 years after initiation of physical onsite construction of the remedial action." The original intent was to provide a statute of limitations for cost recovery actions that was similar to that in the federal law, and the current language is the same as the federal law.

The operative term in the current language is "remedial action". Because of the condensing of the federal law into a much more concise state statute, the state law contains a different definition of "remedial action" from that contained in the federal law. Under the state law the definition of "remedial action" includes virtually all activities conducted as part of a response, while under federal law the definition of "remedial action" is limited to the final permanent remedy.

Consequently, one could argue that under the current state law the statute of limitations would run, for example, six years from the initial placement of a monitoring well during the site investigation, a very early stage of the investigation. In comparison, and under the federal law, the statute would not begin to run until the onset of construction associated with the final permanent remedy selected at the site, typically much later in the cleanup process.

Under the earliest possible reading of the current state statute of limitations, our preliminary review has indicated that for approximately 30 sites the Department would need to file cost recovery lawsuits this spring to ensure its ability to recover its costs, as required by the statute. Over the next two years, lawsuits would be filed at an additional 15-20 sites. At most of these sites the responsible parties are already conducting cleanup actions and reimbursing department costs, so most of this litigation would be entirely unnecessary and would serve no constructive purpose other than to meet the current state statute



of limitations. This litigation would polarize cooperative relationships and would constitute a waste of resources for all parties involved. The resources consumed by this litigation would be drawn away from cleanup efforts and toward court costs and attorney fees, a losing situation for everyone.

When we initially proposed this change, we received comments from responsible parties and others indicating that the statute of limitations should be broadened to make it clear that contribution actions brought by the responsible parties conducting the cleanups against other liable parties are subject to the same statute of limitations. In addition, the Natural Resource Damage Litigation Program in the State Department of Justice asked that we make it clear that natural resource damage actions are subject to the same statute of limitations. Under federal law these other types of actions each have their own statutes of limitations. However, in response to these requests by these other parties, we believe that a single, uniform statute of limitations for all these actions is reasonable and appropriate. Accordingly, the bill would bring these other types of actions under the same statute of limitations.

Testimony presented by:  
William B. Kirley  
Legal Counsel  
Environmental Remediation  
Division  
Department of Health and  
Environmental Sciences  
Telephone: 444-1420

EXHIBIT 3  
DATE 3-6-95  
SB 200

HOUSE OF REPRESENTATIVES

Natural Resources COMMITTEE

WITNESS STATEMENT

PLEASE PRINT

NAME Tom Hopgood BILL NO. SB 200  
ADDRESS P.O. Box 1144 Helena MT 59624 DATE 3-6-95  
WHOM DO YOU REPRESENT? Mont. Independent Bankers Association  
SUPPORT ☒ OPPOSE ☐ AMEND ☐

COMMENTS: The Montana Independent Bankers Association vigorously supports this bill.

The amendments presented to the committee today, and in particular, the amendment which reads:

"Applicability. [This act] does not apply to civil actions commenced prior to the effective date of this act] or to the claims upon which such civil actions are based."

We have no objection to this amendment as long as it is perfectly clear that the action must be filed in court on the effective date of this act. If it is not filed on that date there is no action.

With the changes to the amendment, we believe that is perfectly clear.

Respectfully submitted

Tom K. Hopgood

54th Legislature

EXHIBIT 4  
DATE 3-6-95  
SB ~~120~~ 122

AMENDMENT TO  
SENATE BILL NO. 122  
INTRODUCED BY TOEWS, KITZENBERG

NEW SECTION. Section 2. **Effective Date.** [This act] is effective on passage and approval.

EXHIBIT 5  
DATE 3-6-95  
SB 204

Amendments to Senate Bill No. 204  
Third Reading Copy

Requested by Rep. Ewer  
For the Committee on Natural Resources

Prepared by Deborah B. Schmidt  
March 4, 1995

1. Page 1, line 25.  
Following: "DEPARTMENT"  
Strike: "MAY"  
Insert: "shall"

EXHIBIT

26

DATE

3-6-95

SB

204

Amendments to Senate Bill No. 204  
Third Reading Copy

Requested by Rep. Ewer  
For the Committee on Natural Resources

Prepared by Deborah B. Schmidt  
March 4, 1995

1. Page 3, lines 8 and 9.

Following: "account" on line 8

Strike: "AND THE COURT SHALL CONSIDER"

2. Page 3, line 12.

Following: "violator's"

Strike: "ability to pay."

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

House Natural Resources  
DATE 3-6-95

COMMITTEE

BILL NO. SB 200

SPONSOR(S) Senator Lynch

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<del>Roma</del> Alexander <sup>0-0 306</sup> Helena 59624	MT Petroleum Marketers	X	
Bruce Grotch mt. Independent Bankers Helena		X	
Ward Clavahan	MT. LEAGUE & SAVINGS INSTIT	X	
Bob Pyfer	MT Credit Unions League	X	
Don Hutchinson	BANKING & FINANCIAL DIV	X	
JOHN CADBY	MT BANKERS ASSN	X	
Tom Hopgood	MT Indep. Bankers ASSN.	✓	
Bob Robinson	MT Dep't of Health & Env. Sci.	X	
Bill Kirley	MT Dep't of Health & Env. Sci.	X	
SCOTT C. [unclear]	Doney Craig & Son	X	
Leo Brany	BNRR	X	W/ amendment
Bob Stephens	St. St. Bank MT. [unclear] [unclear]	X	
J. Shantz	MT Assoc. REALTORS	→	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

House Natural Resources

COMMITTEE

BILL NO. SB 122

DATE 5-6-95

SPONSOR(S) Senator Lucas

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dary Wiens	Montana Electric Cooperatives	X	
Ray Johnson	FERGUS ELECTRIC COOPERATIVE	X	
Joan MacGillivray	Montana Telephone Assoc.	X	
Margaret Cleary-Schwinden	WIFE-Women in Farm Economics	X	
Jay Dabien	MECA	X	
Mike Strand	MITS	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.