

MINUTES

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

COMMITTEE ON BUSINESS & LABOR

Call to Order: By CHAIRMAN BRUCE T. SIMON, on January 20, 1995,
at 8:00 AM.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

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

Committee Business Summary:

Hearing: HB 203, HB 223, HB 207,
Executive Action: *None*

HEARING ON HB 203

Opening Statement by Sponsor:

REP. JEANETTE MCKEE, HD 60, Ravalli County said this bill deals
with limousine services in Montana. The Public Service
Commission regulates those services. For a limousine service

which is used for weddings, proms, parties, tourists, hunting and fishing outfitters, they cannot get a certificate of need. They must show a certificate of public convenience and necessity to get a license to operate. They are dealing with a particular incident here. However, the law seems to be antiquated having been established in 1931 when it was put into place. It destroys the element of free enterprise. These limousine services must, under the regulations the legislature enacted in 1931, show there is a need. Can the existing service fill this need and will the existing carrier service be financially harmed. The reality of the situation is that the commission must enforce the legislature's law. Granting of certification would have been unfair to the existing service and would have been challenged in court. The Public Service Commission's hands are tied.

Proponents' Testimony:

SEN. STEVE BENEDICT, HD 30, Ravalli County said one of the proponents believes in following the rules. She believes in the system. She just wants a chance to make her small business work. The system the state has in regulating limousines is ridiculous. It does not work. Many of the members of this committee know the system does not work because the legislature had this same bill in the last session. It was passed out of committee very favorably. It was passed on the floor. This bill died on the Senate floor.

Debbie Bartlett, Camelot Limousine Service said three years ago they opened their business. They applied for licensure and were challenged by two limousine companies. She distributed copies of a Public Service Commission complaint issued to Billy Dean Holmes and a Ravalli County Complaint issued to William P. Jones.

EXHIBIT 1 When a license is applied for from the Public Service Commission there are three issues.

Jerry Kelly, B & J Taxi said he was not aware of the rules and regulations required. As the law is now, only one person is going to get the choice.

Nancy McCaffree, Chairman, Public Service Commission said they support this bill with the following changes. Section 6 is the change specified.

Bob Rowe, Public Service Commissioner submitted **EXHIBIT 2** which stated several changes anticipated for the bill.

Opponents' Testimony:

Jacque Christofferson, Valet Limousine distributed copies of \$1000 bills **EXHIBIT 3** and a copy of a letter addressed to the Public Service Commission from Debbie J. Bartlett which was a protest to the Commission for the application by Valet Limousine, Inc. **EXHIBIT 4**. She also said the Public Service Commission grants authority if the need is shown that the public is not

getting service. She then explained her dilemma in regard to acquiring her application for service. There are only so many people that own a business and so many people to service that business.

Larry Wright said the people who have limo authority in Montana paid the price and they are doing a good job under the present system.

John Garrett, "A" Limo said this is a private agenda and to not pass this bill. **EXHIBIT 5**

Dean Holmes, Limousines of Montana, said he opposes this bill.

Mark Futis, City Cab said this is a de-regulatory bill which has a public mandate. This bill will, at the state level, pass down to the cities and counties.

Questions From Committee Members and Responses:

REP. ELLIS questioned the licensure, and number of flower shops in Livingston. **Mr. Holmes** said he was unable to answer. **REP. ELLIS** then asked if the public has more need for limousine service than flower shops. **Mr. Holmes** said there was a greater need for limousine service.

REP. PAVLOVICH asked if there was a special criteria for having a limousine license. **Mr. Rowe** said the four elements of the public convenience and necessity test is what is considered. There must be a public need.

REP. LARSON questioned the amount of time he had his limousine service. **Mr. McCaffree** said he's had his limousines since 1989. **REP. LARSON** asked if he had authority for the limousines. **Mr. McCaffree** said he did not. He said he was not aware that a state license was required.

REP. DEVANEY questioned the commission's overview of deregulation regarding authority. **Mr. Wright** said they were concerned to continue with the remaining areas of deregulation and do that as effectively as possible.

REP. SLITER stated in the testimony of the opponents the proof of need for an addition for a limousine business. **Ms. Bartlett** said there were several witnesses at the hearing. The need was there.

REP. EWER asked if the Commissioner believed if the public safety would be jeopardized if the business would be opened as this bill desires to do. **Mr. Rowe** said no. **Ms. McCaffree** said no to the same question.

REP. LARSON said the federal government had deregulated all passenger services. **Ms. McCaffree** said the government chose to

deregulate these services because they are a very necessary service.

REP. FORBES asked of the value of the license which is currently being held and how would that be affected if this legislation would pass. **Mr. Wright** said the value would go to 0. The value of the vehicles would decline. The situations are not statistically sound.

REP. ELLIS asked if an attorney specializing in public service matters had been hired. **Ms. Bartlett** said the attorney was Dave Bradley. She did not know if his specialty was public service commission law.

REP. PAVLOVICH stated the testimony indicated there would be a flood on the market. **Mr. Rowe** said this would be a deviation from what the courts have said.

REP. ELLINGSON asked if there were any concern if this were a price of playing the game. The regulations could change and someone could lose their entire investment in the value of the authority. **Ms. McCaffree** said yes. There is a monetary value on the authorities. **REP. ELLINGSON** asked if there was any negative impact on the current holders if the authority should be mitigated in some fashion or is it simply a cost they must bear because they are in a regulated industry which might become deregulated. **Ms/ McCaffree** said yes there was. **REP. ELLINGSON** then asked if the PFC, in the event of deregulation and in the event there would be substantially more limousine operators in the state, have adequate supervisory ability for a number of different limousine carriers. **Ms. McCaffree** said they did. In the budget hearing they took six people off of the transportation division.

REP. ELLINGSON asked what kind of current supervisory powers does the commission have over these operators and what kinds of penalties can be imposed upon them if they deviate from the standards. **Dave Burchett, Transportation Division, Public Service Commission** said the PSC does not have safety requirements over the transportation industry. It is handled through the Highway Patrol. The PSC lost that ability in 1985. The PSC does have a fitness requirement that a carrier must meet and safety can be reviewed at that time. The safety ability is limited. The PSC performs audits on regulated carriers in which they will look at the rates charged, go through records, review visually if there seems to be problems with equipment. If there is a safety problem with the equipment another agency would then be contacted.

CHAIRMAN SIMON asked how the PSC goes about the process of determining a need for a service for a luxury service. **Ms. McCaffree** said this was done in public hearings and each side will present their case. The decision is made on that. **CHAIRMAN SIMON** said is it a need that he can't take my date to the prom

and so he must take his Dad's '62 Nova. **Ms. McCaffree** said it is set out in the Montana statutes that this is going to be a regulating business.

Closing by Sponsor:

Sponsor closes.

HEARING ON HB 223

Opening Statement by Sponsor:

REP. DIANA WYATT, HD 43, Cascade County said this bill was an act authorizing the issuance of child health and protection license plates; authorizing the collection of donations for child health and protection in addition to regular license plate fees and the distribution of donations to the Miami Project; providing an appropriation. **EXHIBIT 6**

TAPE 1, SIDE B

Proponents' Testimony:

Michael Donahue, Financial Affiliation of Montana stated his support of this bill.

Opponents' Testimony:

Martin Mangen, Montana Private Investigators Association supplied a copy of a certificate of incorporation and articles of incorporation for the Montana Federal Defender Project, Inc. and a copy of the declaratory ruling of the Federal Defenders of Montana, Inc. **EXHIBIT 7 and 8**

Jeff Patterson, Board of Private Security Petrol Officers and Investigators said this bill would allow attorneys appointed by the federal district court to hire any person as an investigator, regardless of experience, qualifications, or criminal history. It would also encourage unqualified people to seek employment on behalf of federal criminal defendants and to hold themselves out to the public as federal defense investigators. The use of such titles causes members of the public to confuse these persons with federal law enforcement agents. This bill would also allow unlicensed investigators to have no mandatory insurance requirements to provide compensation to citizens harmed by negligent or intentional actions. As criminal defendants are entitled to competent and effective legal counsel, they should also be entitled to competent and effective investigators. He also proposed some amendments. **EXHIBIT 9 and 10**

Greg Stovall, Investigation Security Bureau also opposes this bill.

Questions From Committee Members and Responses:

REP. COCCHIARELLA questioned the acquisition of licensing. Mr. Stovall said this was done by the state.

Closing by Sponsor:

Sponsor closes.

HEARING ON HB 207**Opening Statement by Sponsor:**

REP. JOE BARNETT, HD 32, Gallatin County said this bill was an act prohibiting the merger of a state chartered bank or national bank with its main office in this state and an out-of-state bank and defining "out-of-state bank."

Proponents' Testimony:

Bruce Gerlock, Montana Independent Bankers/1st Security Bank of Bozeman supports this bill.

Kent Brubaker, Montana Institute of Banking/State Bank of Terry said his organization supports this bill.

Tom Hopgood, Montana Independent Bankers Association said interstate branching is not in the best interests of Montana. The legislature has previously announced the well-founded policy that Montana should not allow interstate branching. To maintain that well-founded policy, Montana must opt out of interstate branching under the Riegle-Neal bill. **EXHIBIT 11**

Opponents' Testimony:

John Cadby, Montana Bankers Association said the banks do not want to opt in or opt out this session. Bank branching has always been a very difficult and sensitive issue due to the division among bankers. The new federal law, however, is so complex and has so many ramifications, not only to banks but to the entire society. He also supplied a list of the independent bankers in Montana. **EXHIBIT 12 and 13**

Fred Flanders, Montana Bankers Association stated his support for this legislation.

Jim Bennett, First Citizens Bank, Billings supports this legislation.

George Bennett, Montana Bankers Association, favors this bill.

Dean Nelson, Montana Bankers Association, supports this bill.

Questions From Committee Members and Responses:

REP. FORBES questioned the demand for loans. **Mr. Nelson** said their loan-to-deposit ratio is 126%. There are more loans invested in Montana businesses and companies and Montana consumers than there are deposits to fund those loans. His bank is being benefited by depositors in Seattle and Portland where the loan demand is not as strong as it is here. Their deposits are being used to help fund loans for the companies in Montana.

REP. MILLS asked if the same volume of funds rather than acquiring funds from a bank in Los Angeles, could be put on a secondary market. **Mr. Nelson** said within the area of mortgages, all banks do that. Most home loans conform to these standards to be able to sell these mortgages. He said his company in 13 states is committed to the communities in those states where they do business. Where there are excess deposits, funding can be made into Montana. **REP. MILLS** then said there was a strong plea to postpone action on this bill. If the banks opted out now they could opt in at any time in the future. **Mr. Cadby** said yes.

REP. ELLINGSON said, as he understood, the only distinction between interstate banking and interstate branching is the local Montana bank retains its identity in interstate banking and retains its board of directors. **Mr. Hopgood** said that was correct and so far as it is the fundamental difference. **REP. ELLINGSON** then asked why that fundamental difference would have the desired impact that the banks want to have more control and more responsiveness to the Montana market and economy. **Mr. Hopgood** said if there was less it would be a mistake. The Montana Independent Bankers Association is not a proponent even of interstate banking. Interstate banking is over. There are certain things that are bad about interstate banking and those things as they pertain to or as they are accomplished by interstate branching, are more serious. The local control over banking institutions is very significant. When there is a bank, not a branch, owned by a holding company and that bank is located in a community it is still required to have a board of directors and statute requires that 2/3 of the board of directors be Montana residents. There is a local element that knows the community, knows the people, and when there is a local branch there is a significant likelihood that the corporate policy is going to be set at a corporate headquarters which may not be in the state. It is better for Montanans to have the object of being able to go to a locally-owned bank.

REP. MARSHALL said in the branch banking situation, predominantly the larger loans are passed on to the other holding companies in other states. Banks are really not qualifying for loan approval at a local level. **Mr. Hopgood** said yes. In a branch bank there is a certain amount of automatic authority but the larger the loan the more likely this loan is passed up the corporate ladder and the decision will be made someplace else. **REP. MARSHALL** asked if that were not some of the difficulties for the people in

smaller towns to get an overline or a loan approved somewhere else. **Mr. Hopgood** said this was exactly correct and that is one of the problems. Interstate banking and interstate branching isn't in the best interest of Montana communities.

REP. MILLS said the federal law allows banks to opt in any time. The federal law does not allow a bank to opt out once it has opted in. **Mr. Hopgood** said this was correct. Once a bank opts out at any time, you are able to opt in.

REP. SLITER asked if the opportunity to opt in is available until 1997. **Mr. Hopgood** yes.

Closing by Sponsor:

Sponsor closes.

ADJOURNMENT

Adjournment: 11:25 AM.



BRUCE T. SIMON, Chairman



ALBERTA STRACHAN, Secretary

BTS/ajs

HOUSE OF REPRESENTATIVES
BUSINESS AND LABOR COMMITTEE

ROLL CALL

DATE 1-20-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chair, Maj.	X		
Rep. Bob Pavlovich, Vice Chair, Min.	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		

EXHIBIT 1
 DATE 1-20-95
 HB 203

NOTICE TO APPEAR AND COMPLAINT

ISSUED BY MONTANA FIRE SERVICE COMMISSION

5301B

STATE OF MONTANA
 CITY OF _____
 THE DEFENDANT IS HEREBY GIVEN NOTICE TO APPEAR IN

JUSTICE CITY YOUTH
 COURT OF Nancy L. Sado DEPT # 1301

COUNTY OF Ravalli;
 LOCATED AT Courthouse, Hamilton

MT 59840 MONTANA ON OR BEFORE
 THE 26 DAY OF July 19 94

ON THIS DAY OF July 19 94
 THIS COMPLAINT WAS PRESENTED TO ME AND THE OFFICER
 UNDER OATH SWORE THAT THE CHARGES ARE TRUE

Rubal Foster
 SIGNATURE OF JUDGE OR CLERK

dp
 Bond \$150.00
 Surety \$15.00

DEEDANT NAME FIRST WILLIAM STREET 105 Connell Ave CITY MSla STATE MT	MIDDLE PAUL LAST Jones JR	DATE OF BIRTH 6-1-1960 DAY 6 MONTH 6 YEAR 1960			
HOME PHONE 196369883 FMR/OWNER SELF	BUSINESS PHONE 781-4679	VEHICLE MAKE Olds	VEHICLE YEAR 1989	VEHICLE TYPE CAR	VEHICLE COLOR grey
THE ABOVE NAMED DEFENDANT IS CHARGED WITH VIOLATING MONTANA CODE _____ CITY CODE _____ COUNTY ORDINANCE _____		SECTION # 68-12-401	AT 1990	DATE OF BIRTH 6-1-1960	DATE OF BIRTH 6-1-1960
IN THAT SAID DEFENDANT DID KNOWINGLY OR PURPOSIVELY OR NEGLIGENTLY		operate outside			
LOADING AND UNLOADING PASSENGERS IN Ravalli, Co.		the scope of Public Conveyance and Necessity by			
NAME Y AT (LOCATION) Durbx Mt		LOCATION CODE RAVALLI, MONTANA			
SIGNATURE OF JUDGE OR CLERK <i>Rubal Foster</i>		SIGNATURE OF OFFICER <i>Paul Jones</i>			
RECEIVED		AS APPEARANCE BOND \$150.00			
DOCKET NUMBER 1504-8		DOCKET NUMBER 4202			

COURT COPY

NOTICE TO APPEAR AND COMPLAINT

ISSUED BY

MONTANA PUBLIC SERVICE COMMISSION

580B 05387

STATE OF MONTANA
 CITY OF Butte

DEFENDANT NAME
FIRST Billy MIDDLE Dean LAST Holmes
STREET 420 W. MONTANA APT #2
CITY LIVINGSTON STATE MT. ZIP 59701

VEHICLE LICENSE NO.
LIC. STATE EXPIRED
YES NO
VEHICLE YEAR VEHICLE COLOR

THE DEFENDANT IS HEREBY GIVEN NOTICE TO APPEAR IN

JUSTICE CITY YOUTH

SEX M. WT 210 HT 5'10" DATE OF BIRTH MO. 11 DAY 21 YEAR 45
D/L NO 514562967 D/L STATE MT D/L EXP. YEAR

VEHICLE MAKE
VEHICLE TYPE
 CAR TRUCK
 PICKUP TRK/TRLR
 MOTORCYCLE

COURT OF Bartholomew DEPT. # 0105

COUNTY OF Silver Bow

LOCATED AT County Court House

Butte MONTANA ON OR BEFORE

THE 19 DAY OF December 1994
TO ANSWER THIS CHARGE

HOME PHONE 682-4876 EMPLOYER BUSINESS PHONE 1-800-252-7788

THE ABOVE NAMED DEFENDANT IS CHARGED WITH VIOLATING
 MONTANA CODE CITY CODE COUNTY ORDINANCE

SECTION MCAL 9-12-401

ON THE 9 DAY OF December 1994 AT 1130 MILITARY TIME

UNIFORM VIOLATION CODE
4202

IN THAT SAID DEFENDANT DID KNOWINGLY OR PURPOSELY OR NEGLIGENTLY operate outside
the scope of their Authority

IN THIS 9 DAY OF December 1994
THIS COMPLAINT WAS PRESENTED TO ME AND THE OFFICER
UNDER OATH SWORE THAT THE CHARGES ARE TRUE.

T. S. ...
SIGNATURE OF JUDGE OR NOTARY

NAMED AT (LOCATION) 115 W. MAIN LIVINGSTON MT

LOCATION CODE

IF CHECKED PERSONAL APPEARANCE IN COURT REQUIRED.

B A TEST GIVEN
 ACCIDENT
RADAR
UNIT NO.

BADGE NO. PSC-2
DIST NO. 2

Gregg Fortune
SIGNATURE OF OFFICER

RECEIVED
\$ 115.00
AS APPEARANCE BOND

Bond was posted and as you can see appearance date was Dec 19, 1994. No appearance by defendant bond was forfeited.

EXHIBIT 2
DATE 1-20-95
HB 203

TESTIMONY OF BOB ROWE IN
SUPPORT OF HOUSE BILL 203
January 20, 1995

Mr Chairman and Members of the Committee:

My name is Bob Rowe. I am the Public Service Commissioner for Northwestern Montana. Two years ago I testified in support of a bill to reduce regulation of limousines. This year, thanks to some improvements in the bill, the entire Public Service Commission supports the bill, with the modifications I will describe. When I asked the Commission to support the bill, I suggested the two following minor changes be made to ensure reduced regulation of limousines does not weaken essential taxicab service in our communities.

First, I suggest new section 69-12-101(6) be amended to read:

(6) "Limousine" means any luxury motor carrier, ~~including sedans of either standard or extended length, with a seating capacity of not more than nine passengers, including the driver,~~ used in the transportation of passengers for hire on a prearranged basis.

Second, I suggest new section 69-12-101(7) remain the same as in the initial draft (document HB0203.01). Specifically, I suggest the requirement that limousine service be arranged at least two hours in advance be retained.

Under the bill, limousines would still be subject to "fitness" regulation. However, other motor carriers would not be able to contest the issuance of limousine authority based on a showing that those other carriers are able to provide the service. Because limousines are a luxury, not a necessity, it makes sense to focus on the operator's fitness to serve the public.

Other passenger carriers which do provide essential service will be concerned that limousines not be able to compete with them in the many small Montana markets which have difficulty sustaining even one taxicab operator, for example. Specifying in Section (6) that a limousine is a stretched sedan provides a good equipment definition. Specifying in Section (7) both that service must be arranged 2 hours in advance and that it must be for the hourly and exclusive use of the vehicle provides a good service definition.

The following change was not discussed with the rest of the Commission, but may be appropriate to comply with what I understand to be the sponsor's intent, which is to leave limousines subject only to fitness review as a condition of obtaining a certificate.¹ If this is the case the amendatory language to Section 69-12-323(2) should be modified to state either:

(c) For purposes of issuing operating licenses for limousine service, a determination of public convenience does not include consideration either of public need or the effect of the proposed service on the other essential transportation services.

Or:

(c) For purposes of issuing operating licenses for limousine service, a determination of public convenience ~~does not include~~ only consideration of the applicant's fitness ~~public need.~~

Thank you for your attention to this matter.

¹The Montana statute and its interpretation track federal law, including Interstate Commerce Commission and federal court decisions. These have been adopted by Montana courts over the years. Under these decisions, a determination of public convenience and necessity includes four elements: 1. Is the applicant fit and able to perform the proposed service? 2. Does the public convenience and necessity require the authorization of the proposed service? 3. Can and will existing carriers meet the public need for the proposed service? 4. Would the proposed service have an adverse impact on existing transportation service? As drafted, proposed section 69-12-323(2)(c) would affect the second and third elements, but not the fourth element.

3

EXHIBIT 3
DATE 1/20/95
HB 203



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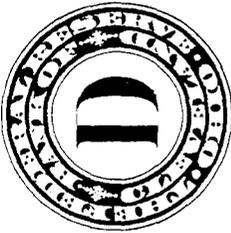
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WASHINGTON, D.C.
Henry Morganthau
Treasurer of the United States



THIS NOTE IS LEGAL TENDER FOR ALL DEBTS,
PUBLIC AND PRIVATE, AND IS REDEEMABLE IN
LAWFUL MONEY AT THE UNITED STATES TREASURY,
OR AT ANY FEDERAL RESERVE BANK.



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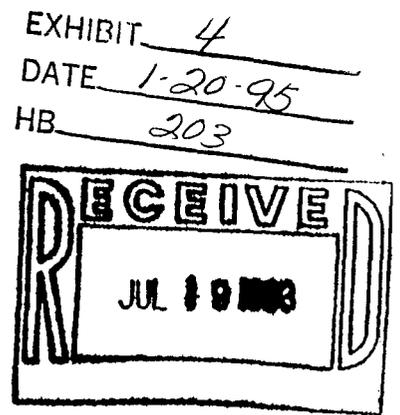
Henry Morganthau
Treasurer of the United States

FEDERAL RESERVE NOTE

ONE DOLLAR

CAMELOT

LIMOUSINE SERVICE



July 17, 1993

Public Service Commission
Transportation Division
1701 Prospect Avenue
Helena, MT 59620-2601

RE: DOCKET T-93.85. PCN

Dear Public Service Commission,

We protest the application for Montana Certificate of Public Convenience and Necessity for Ravalli County, by Valet Limousine INC.

Thank You
Sincerely,

Debbie J. Bartlett
Debbie J. Bartlett

EXHIBIT 5

DATE 1-20-95

HB 203

"A" Limo



252-2536

DATE 1-20-95HB 223

1 a. Petitioner exists as a direct result of federal
 2 congressional enactment, known as the Criminal Justice Act, United
 3 States Code, Title 18, Section 3006A and the Criminal Justice Act
 4 Plan of the United States District Court for the District of
 5 Montana. Petitioner's investigative services are exclusively on
 6 behalf of, as agents for, and under the direction of, the Chief
 7 Federal Defender and Assistant Federal Defenders. As stated above,
 8 the Petitioner is not an "Armed carrier service," defined in 37-
 9 60-101(2)), "Armored car service (37-60-101(5)), "Contract security
 10 company" (37-60-101(8)), nor "Private investigator" (37-60-
 11 101(14)). No license is required for Petitioner.

12 Investigators of the Federal Defenders of Montana, Inc., are
 13 not engaged in many of the functions sought to be regulated by the
 14 present rules embodied in or promulgated as a result of Title 37,
 15 Chapter 60, Montana Code Annotated. None of Petitioner's
 16 investigators is armed, nor do they perform security or guard
 17 duties. Petitioner itself is not engaged in the contract security
 18 industry. Investigators only perform tasks at the direction and
 19 under the supervision of attorneys employed by the Federal
 20 Defenders of Montana, Inc. Assignments are restricted by
 21 Petitioner's mandate as the Community Defender Organization
 22 designated by the Criminal Justice Act Plan of the United States
 23 District Court for the District of Montana.

24 Since the Petitioner is a legal services corporation providing
 25 "public defender" type services, licensing is not required for
 26 Petitioner's investigators. The investigators, who are not acting
 27 as individuals, are employees of Petitioner performing criminal
 28 defense functions. Exemption is appropriate under 37-60-105(4);

1 b. Funding for the corporation derives solely from an annual
2 monetary grant from the United States government to provide public
3 defender assistance. As a community defender organization,
4 Petitioner is mandated to perform in the same manner as Federal
5 Public Defender offices constituted under the Criminal Justice Act
6 in approximately 50 other federal districts. The primary
7 distinction between the Community Defender and Federal Public
8 Defender offices is that in the case of community defenders, the
9 employees are not agents of the federal government. Nevertheless,
10 Petitioner's investigators share all of the official duties and
11 responsibilities of investigators employed by federal defender
12 offices in other federal judicial districts. Notably, no other
13 Federal Defender organization in the United States is subject to
14 state or local regulation of investigators.

15 The Administrative Office of the United States Courts is the
16 United States Government agency through which all of the funding
17 for this organization (i.e., Petitioner) is allocated. The fact
18 that the Federal Defenders of Montana, Inc. is a non-profit
19 corporation, chartered in the State of Montana, does not change the
20 underlying purpose of the office nor federal supervision.¹
21 Exemption is appropriate by analogy to 37-60-105(2);

22
23 ¹ Because of the formal oversight exercised by the
24 Administrative Office, the Executive Director of the Federal
25 Defenders of Montana, Inc. formally communicated with the
26 Administrative Office of the United States Courts, Defender
27 Services Division, with respect to the licensing requirement - the
28 subject of this declaratory ruling. Ms. Meryl Silverman, then
Chief, Legal Branch, Defender Services Division, Administrative
Office of the United States Courts, agreed that the Federal
Defenders of Montana is and should be excused from the provisions
of Title 37, Chapter 60, Montana Code. (Mr. Richard A. Wolf,
Esquire, is now Acting Chief of the Legal Branch).

DATE 1-20-95

HB 223

1 c. The law enforcement agencies and bureaus of the United
2 States Government opposing counsel employed by and clients of
3 Petitioner in federal criminal cases are not subject to the
4 requirements and restrictions of Montana's investigator statute.
5 See 37-60-105(2). There is no legitimate reason to handle defense
6 investigators employed by the Federal Defenders of Montana, Inc.,
7 any differently than the investigators hired by the Departments of
8 Justice, Treasury or Interior, or probation agent/investigators
9 employed by the United States Courts. Exemption is appropriate by
10 analogy under 37-60-105(2);

11 d. Subjecting Petitioner's investigators to licensure and
12 governmental control (with the requirements of training, approval
13 and supervision by the Board of Private Security Patrolmen and
14 Investigators) may create a conflict of interest. The rules
15 declared by the Board, although certainly not in conflict with the
16 limitations placed on the practices of Petitioner's investigator-
17 employees by the Administrative Office of the United States Courts
18 or internal policies of the Federal Defenders of Montana, Inc.,
19 will place additional burdens on the legitimate functions of the
20 investigators. Thus, licensure is in conflict with the avowed
21 purpose of the statute (chapter). See; 37-60-103. Petitioner's
22 investigators do not fall within licensure under the statute.

23 e. Although not a reason for exemption in and of itself,
24 because of unique personal skills and the manner in which
25 Petitioner utilizes investigators, each investigator also performs,
26 to a varying degree, certain paralegal functions. Exemption is
27 appropriate under 37-60-105(4) (b);
28

1 f. The statute currently excuses a number of non-federal
2 investigative agents from its restrictions, namely, insurance
3 adjusters, internal investigators, railroad special investigators,
4 collection agents, financial auditors, and retail private security
5 officers. The investigative staff of the Federal Defenders of
6 Montana are akin to many of these in that they are "engaged
7 exclusively in the business" of this organization, performing
8 functions "incidental to the business" of federal criminal defense,
9 and are "singularly and regularly employed" by the Federal
10 Defenders of Montana, Inc.

11 It is patently unfair to allow private enterprise examiners
12 and investigators, quasi-prosecutive agents and federal law
13 enforcement officers express exemption, while obliging compliance
14 with the provisions of Title 37, Chapter 60, Montana Code, by
15 investigators solely employed by a non-profit corporation designed
16 to provide indigent federal criminal defense. Certainly the
17 statute was not designed to be so unevenly applied.

18 . Exemption is appropriate by analogy to numerous provisions
19 within 37-60-105(1), et seq.;

20 g. The application process itself provides further basis for
21 non-application of the licensing requirement. As composed, the
22 applications are, in pertinent part, directed to corporate and
23 individual employee applicants. Petitioner's investigators, as
24 employees solely performing investigative functions for Petitioner,
25 will not be permitted by federal and internal policies from
26 operating outside the organization's direction, therefore it would
27 seem that corporate application is proper. But the corporation
28 (i.e Petitioner) is not engaged in contract security or private

DATE 1-20-95HB 223

1 | investigative business, rather is only authorized (by federal
2 | regulation and corporate by-laws) to furnish legal representation
3 | to financially qualified individuals involved in federal criminal
4 | or related litigation.

5 | At the least, this conundrum seems to bolster the suitability
6 | of an exemption from the statute for Petitioner's investigators.
7 | The Federal Defenders of Montana, Inc. should simply not be subject
8 | to the reach of the statute, regulations and rules of the Board
9 | because of its unique "public defender" mission.

10 | 6. Petitioner requests a declaratory rule by the Board that
11 | the investigators employed by the Federal Defenders of Montana,
12 | Inc., while engaged in their official duties for and on behalf of
13 | that organization, are by definition not subject to the licensing
14 | requirements of Title 37, Chapter 60 (Private Investigators and
15 | Patrol Officers) and the regulations of the Board of Private
16 | Security Patrol Officers and Investigators. In the alternative,
17 | Petitioner requests a declaratory rule by the Board that
18 | Petitioner's investigators are exempt, pursuant to the provisions
19 | of 37-60-105(1) (a); (1) (b) (iii); (4) (b); and/or (9).

20 | 7. Petitioner knows of no other party similarly affected.

21 | Respectfully submitted this 27th day of February, 1994.

22 | Federal Defenders of Montana, Inc.,
23 | Petitioner

24 |
25 | BY: 

26 | ANTHONY R. GALLAGHER
27 | Executive Director
28 | Federal Defenders of Montana
 9 Third Street North, #302
 Great Falls, Montana 59401
 (406) 727-5328

the details of the services rendered.

(9) "Department" means the department of commerce provided for in 2-15-1801.

(10) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration whatsoever conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes or wrongs committed or threatened against the United States or any state or territory thereof.

(11) "Licensee" means a person licensed under this chapter.

(12) "Paralegal" or "legal assistant" means a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts substantive and procedural law and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by one or more lawyers, law offices, governmental agencies, or other entities ~~or who may be authorized by administrative, statutory, or court authority to perform this work.~~ This term does not include persons who perform surveillance or other covert activities.

(13) "Person" includes any individual, firm, company, association, organization, partnership, and corporation.

(14) "Private investigator" means a person other than an insurance adjuster who for any consideration whatsoever makes or agrees to make any investigation with reference to:

(a) crimes or wrongs done or threatened against the United States or any state or territory thereof;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or

(e) securing evidence to be used before any court, board, officer, or investigating committee.

(15) "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property, or the direction of the movements of the public in public areas.

(16) "Proprietary security organization" means any person who employs a private security guard, an alarm response runner, armored car service, street patrol service, or armed carrier service on a routine basis solely for the purposes of that person and exerts direction and control over the performance of the details of the service rendered.

(17) "Qualifying agent" means, in the case of a

corporation, a corporate employee employed in a management capacity or, in the case of a partnership, a general or unlimited partner meeting the qualifications set forth in this chapter for the operation of a contract security company, proprietary security organization, or private investigator, whichever is applicable.

(18) "Resident manager" means the person appointed to exercise direct supervision, control, charge, management, or operation of each branch office located in this state where the business of the licensee is conducted.

(19) "Security alarm system" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110-volt AC line, designed to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a protected premises, to which signals police, private security guards, or alarm response runners are expected to respond. Fire alarm systems and alarm systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a premises are not included within the meaning of this definition.

(20) "Street patrol service" means any contract security company or proprietary security organization that uses foot patrols, motor vehicles, or any other means of transportation to maintain public order or detect criminal activities in public areas or thoroughfares.

(21) "Unarmed private investigator" means a private investigator who does not wear, carry, possess, or have access to a firearm in the performance of his duties.

(22) "Unarmed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a private security guard, armored car service guard, or alarm response runner, who does not wear or carry a firearm in the performance of those duties."

SECRETARY OF STATE
STATE OF MONTANA

CERTIFICATE OF INCORPORATION

I, MIKE COONEY, Secretary of State of the State of Montana, do hereby certify that the Articles of Incorporation for the incorporation of MONTANA FEDERAL DEFENDER PROJECT, INC., a Montana nonprofit corporation, duly executed pursuant to the provisions of Section 35-2-203, Montana Code Annotated, have been received in my office and conform to law.

NOW, THEREFORE, I, MIKE COONEY, as such Secretary of State, by virtue of the authority vested in me by law, hereby issue this Certificate of Incorporation to MONTANA FEDERAL DEFENDER PROJECT, INC., a Montana nonprofit corporation, and attach hereto a copy of the Articles of Incorporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Capital, this September 5, A.D. 1991.



MIKE COONEY
Secretary of State

(GREAT SEAL)

SEP 05 1991

SECRETARY OF STATE

ARTICLES OF INCORPORATION

1. The name of the corporation is: MONTANA FEDERAL DEFENDER PROJECT, INC.
2. The period of duration is perpetual.
3. (a) The primary and specific purpose for which this corporation is formed is to implement the aims and purposes of the Criminal Justice Act of 1964, 18 U.S.C. §3006A, as amended, and, pursuant thereto, to operate and administer one or more defender assistance offices to provide assistance to the indigent accused in federal trial courts and courts of appeal; to provide assistance, as assigned by a district court judge or magistrate judge of the United States District Court for the District of Montana, to the indigent in death penalty *habeas corpus* proceedings filed pursuant to 28 U.S.C. §2254; and to provide educational programs for law students and qualified attorneys in order to advance the administration of criminal justice.

(b) The general purposes for which this corporation is formed are to operate exclusively for charitable and educational purposes, in accordance with tax-exempt organizations as set forth under the Internal Revenue Code, 26 U.S.C. §501.

(c) This corporation is organized pursuant to the Montana Non-Profit Corporation Act, §§35-2-101, *et seq.*, MCA, and shall have and exercise all rights and powers conferred on corporations organized thereunder, provided, however, that this corporation is not empowered to engage in any activity which in itself is not in furtherance of the purposes as set forth in subparagraphs (a) and (b) of this paragraph.

(d) This corporation shall not, as a substantial part of its activities, carry on propaganda, or otherwise attempt, to influence legislation. This corporation shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.
4. No part of the income, properties, or assets of this corporation, on dissolution or otherwise, shall inure to the benefit of any member, officer or director of this corporation, and upon liquidation or dissolution all funds, properties and/or assets of this corporation, remaining after paying or providing for all debts and obligations, derived from sources from, within or under the auspices of the United States shall be distributed and paid over to the Administrative Office of the United States Courts for the benefit and use of the United States of America; and all funds, properties and assets of this corporation, remaining after paying or providing for all debts and obligations, derived from gifts, bequests, endowments, or the like, shall be distributed and paid over to the State Bar of Montana for the benefit and use of the State Bar of Montana.
5. The initial registered office of this corporation shall be at 46 North Last Chance Gulch, P.O. Box 577, Helena, Montana 59624, and its initial registered agent at such address shall be George L. Bousliman.
6. There are seven directors constituting the initial Board of Directors, as set forth below:

EXHIBIT 7
DATE 1-20-95
HB 223

Helena Maclay
Attorney at Law
P.O. Box 8957
Missoula, MT 59807-8957

James D. Walen
Attorney at Law
P.O. Box 7157
Billings, MT 59103-7157

Donald E. White
Attorney at Law
1800 West Koch, #9
Bozeman, MT 59715

Leonard J. Haxby
Attorney at Law
P.O. Box 3008
Butte, MT 59702-3008

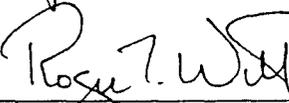
Judith Bartram
Attorney at Law
P.O. Box 2269
Great Falls, MT 59403-2269

James T. Harrison, Jr.
Attorney at Law
2225 Eleventh Avenue, #21
Helena, MT 59601

James W. Johnson
Attorney at Law
P.O. Box 3038
Kalispell, MT 59903

7. The incorporator of this corporation is Roger T. Witt, Ugrin, Alexander, Zadick & Slovak, P.C., #2 Railroad Square, P.O. Box 1746, Great Falls, Montana 59403.

IN WITNESS WHEREOF, for the purposes of forming this non-profit corporation under the laws of the State of Montana, and in accordance with the provisions of the Internal Revenue Code, I, the undersigned, constituting the incorporator of this corporation, have executed these Articles of Incorporation this 4th day of September, 1991.



ROGER T. WITT

BEFORE THE BOARD OF PRIVATE SECURITY PATROL OFFICERS
AND INVESTIGATORS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

EXHIBIT 8
DATE 1-20-95
HB 223

In the matter of the petition) DECLARATORY RULING
for declaratory ruling on the)
licensure exemption of Federal)
Defenders of Montana, Inc.)
investigators)

Introduction

1. On May 26, 1994, the Board of Private Security Patrol Officers and Investigators published a Notice of Petition for Declaratory Ruling in the above-entitled matter at page 1462, 1994 Montana Administrative Register, issue number 10.
2. On July 14, 1994, the Board presided over a hearing in this matter to consider written and oral testimony from interested individuals.
3. On October 18, 1994, the Board made a motion to deny the petition for declaratory ruling.

The Question Presented

4. Petitioner requests a ruling on whether investigators employed by Federal Defenders of Montana, Inc. qualify for an exemption under the licensure requirement for private investigators under section 37-60-105, MCA.

Applicable Law

5. Petitioner seeks a ruling that FDM investigators qualify for one or more of the following exemptions:
 - a. Section 37-60-105(1)(a), MCA. [This chapter does not apply to:] any one person employed singly and exclusively by any one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship and the employee is unarmed, does not wear a uniform, and is guarding inside a structure which at the time is not open to the public;
 - b. Section 37-60-105(1)(b)(iii), MCA. [This chapter does not apply to:] a person . . . who has received training as a private security guard from the employer or at the employer's direction;
 - c. Section 37-60-105(2), MCA. [This chapter does not apply to:] an officer or employee of the United States of America or of this state or a political subdivision thereof while such officer or employee is engaged in the performance of his official duties;
 - d. Section 37-60-105(4)(b), MCA. [This chapter does not apply to:] a legal intern, paralegal, or legal assistant employed by one or more lawyers, law offices, governmental agencies, or other entities;

e. Section 37-60-105(9), MCA. [This chapter does not apply to:] an internal investigator or auditor, while making an investigation incidental to the business of the agency or company by which he is singularly and regularly employed.

Facts Presented

6. At the hearing, Mr. Gallagher testified as follows: The FDM is a nonprofit corporation established under the Criminal Justice Act, 18 U.S.C. Section 3006A(a), Community Defender Organization Model. The Criminal Justice Act provides for three models of indigent defense plans. In Montana, a panel of Federal District Court judges adopted the Community Defender Organization Model. The Community Defender Organization Model follows guidelines established by the Administrative Office of the United States Courts. Pursuant to those guidelines, the FDM incorporated under the laws of Montana. The organization is funded by the federal government.

7. Mr. Gallagher further testified that FDM investigators are full-time salaried employees of the FDM who work under the supervision of the Chief Federal Defender. They receive training from the Administrative Office of the United States Courts. FDM investigators gather evidence and assist attorneys in the defense of indigent criminal clients and federal habeas corpus litigants.

Legal Analysis

8. FDM investigators do not qualify under any exemption listed in section 37-60-105, MCA. Subsection (1)(a) is inapplicable because FDM investigators are not "guarding inside a structure." Subsection (1)(b)(iii) is inapplicable because FDM investigators do not meet the definition of "private security guard" found at section 37-60-101(15), MCA. Subsection (9) is inapplicable because FDM investigators are not "internal investigators or auditors" as defined at ARM 8.50.423(5) as a person who "investigates incidents occurring within the internal affairs of an agency or company . . . and only investigates acts committed by persons who are employed by that company or agency."

9. FDM investigators do not meet the requirements for exemption as a paralegal or legal assistant under subsection (4)(b). Section 37-60-101(12), MCA defines "paralegal" or "legal assistant" as

a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by one or more lawyers, law offices, governmental agencies, or other entities or may be authorized by administrative, statutory, or court authority to perform this work.

The definition of private investigator appears at section 37-60-101(14), MCA:

a person other than an insurance adjuster who for any consideration whatsoever makes or agrees to make any investigation with reference to:

- (a) crimes or wrongs done or threatened against the United States or any state or territory thereof;
- (b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, reputation, or character of any person;
- (c) the location, disposition, or recovery of lost or stolen property;
- (d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or
- (e) securing evidence to be used before any court, board, officer, or investigating committee.

The Board notes that the FDM employees in question are referred to as "investigators," and not as "legal assistants" or "paralegals." Under the facts presented, FDM investigators are not performing "substantive legal work." The substance of FDM investigators' work is to investigate crimes alleged against FDM clients and to secure evidence to be used in court to assist in their legal defense.

10. Finally, FDM investigators do not qualify for exemption under section 37-60-105(2), MCA because they are employees of the corporation and not employees of the "United States of America or of this state or a political subdivision thereof"

Conclusion

11. The Petition for Declaratory Ruling and Petitioner's request for exemption from licensing requirements is DENIED.

DONE this 17th day of January, 1995.

BOARD OF PRIVATE SECURITY PATROL
OFFICERS AND INVESTIGATORS

BY: Gary Gray
GARY GRAY, CHAIRMAN

PROPOSED AMENDMENTS TO HOUSE BILL 223

1. Page 2, line 10.
Following: "~~or~~"
Insert: "or"
2. Page 2, line 12.
Following: "regularly employed"
Strike: "; or"
Insert: "."
3. Page 2, lines 13 and 14.
Strike: section 10 in its entirety
4. Page 2, line 15.
Insert: Section 2. Section 37-60-101, MCA, is amended to read:
"37-60-101. Definitions. As used in this chapter, the following definitions apply:
(1) "Alarm response runner" means any individual employed by a contract security company or a proprietary security organization to respond to security alarm system signals.
(2) "Armed carrier service" means any person who transports or offers to transport under armed private security guard from one place to another any currency, documents, papers, maps, stocks, bonds, checks, or other items of value that require expeditious delivery.
(3) "Armed private investigator" means a private investigator who at any time wears, carries, possesses, or has access to a firearm in the performance of his duties.
(4) "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a security guard, armored car service guard, carrier service guard, or alarm response runner and who at any time wears or carries a firearm in the performance of his duties.
(5) "Armored car service" means any person who transports or offers to transport under armed private security guard from one place to another any currency, jewels, stocks, bonds, paintings, or other valuables of any kind in a specially equipped motor vehicle that offers a high degree of security.
(6) "Board" means the board of private security patrol officers and investigators provided for in 2-15-1891.
(7) "Branch office" means any office of a licensee within the state, other than its principal place of business within the state.
(8) "Contract security company" means any person who installs or maintains a security alarm system, undertakes to provide a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a contractual basis to another person who exercises no direction and control over the performance of

the details of the services rendered.

(9) "Department" means the department of commerce provided for in 2-15-1801.

(10) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration whatsoever conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes or wrongs committed or threatened against the United States or any state or territory thereof.

(11) "Licensee" means a person licensed under this chapter.

(12) "Paralegal" or "legal assistant" means a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts substantive and procedural law and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by one or more lawyers, law offices, governmental agencies, or other entities ~~or who may be authorized by administrative, statutory, or court authority to perform this work.~~ This term does not include persons who perform surveillance or other covert activities.

(13) "Person" includes any individual, firm, company, association, organization, partnership, and corporation.

(14) "Private investigator" means a person other than an insurance adjuster who for any consideration whatsoever makes or agrees to make any investigation with reference to:

(a) crimes or wrongs done or threatened against the United States or any state or territory thereof;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or

(e) securing evidence to be used before any court, board, officer, or investigating committee.

(15) "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property, or the direction of the movements of the public in public areas.

(16) "Proprietary security organization" means any person who employs a private security guard, an alarm response runner, armored car service, street patrol service, or armed carrier service on a routine basis solely for the purposes of that person and exerts direction and control over the performance of the details of the service rendered.

(17) "Qualifying agent" means, in the case of a

corporation, a corporate employee employed in a management capacity or, in the case of a partnership, a general or unlimited partner meeting the qualifications set forth in this chapter for the operation of a contract security company, proprietary security organization, or private investigator, whichever is applicable.

(18) "Resident manager" means the person appointed to exercise direct supervision, control, charge, management, or operation of each branch office located in this state where the business of the licensee is conducted.

(19) "Security alarm system" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110-volt AC line, designed to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a protected premises, to which signals police, private security guards, or alarm response runners are expected to respond. Fire alarm systems and alarm systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a premises are not included within the meaning of this definition.

(20) "Street patrol service" means any contract security company or proprietary security organization that uses foot patrols, motor vehicles, or any other means of transportation to maintain public order or detect criminal activities in public areas or thoroughfares.

(21) "Unarmed private investigator" means a private investigator who does not wear, carry, possess, or have access to a firearm in the performance of his duties.

(22) "Unarmed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a private security guard, armored car service guard, or alarm response runner, who does not wear or carry a firearm in the performance of those duties."



MONTANA DEPARTMENT OF COMMERCE

Professional and Occupational Licensing Bureau
111 North Jackson PO Box 200513
Helena, MT 59620-0513

EXHIBIT 10
DATE 1-20-95
HB 223

Phone: (406) 444-3737
FAX: (406) 444-1667
TDD: (406) 444-2978

TO: Members of the House Business & Labor Committee

From: Jeff Patterson; Private Investigator and Member of the Board of Private Security Patrol Officers and Investigators

RE: Proposed Amendment to House Bill 223

The Board of Private Security Patrol Officers and Investigators serves to protect the public and therefore opposes HB 223 as proposed for the following reasons:

- 1) The proposed bill would allow attorneys appointed by the federal district court to hire any person, as an investigator, regardless of experience, qualifications, or criminal history.
- 2) The proposed bill would encourage unqualified people to seek employment on behalf of federal criminal defendants and to hold themselves out to the public as "federal defense investigators." The use of such titles causes members of the public to confuse these persons with federal law enforcement agents.
- 3) Under the proposed bill, unlicensed investigators would have no mandatory insurance requirements to provide compensation to citizens harmed by negligent or intentional actions. In the licensed investigator's practice, the Board provides the necessary supervision and control, such as insurance requirements and ability to take disciplinary action against licenses.
- 4) As criminal defendants are entitled to competent and effective legal counsel, they should also be entitled to competent and effective investigators. See 18 U.S.C. Sec. 3006A. The proposed bill allowing investigative services by unlicensed persons fails to provide a method for determining the competency of investigators.

EXHIBIT 11
DATE 1-20-95
HB 207

HOUSE BILL 207
STATEMENT IN SUPPORT

The Montana Independent Bankers Association is 100% Montana banks. We are owned by Montanans. We are run by Montanans. Our customers are Montanans.

We believe that Montanans are, by their nature, an independent lot and that we, as Montana Independent Bankers, can best respond to the financial needs and desires of Montana citizens.

We believe that for the sake of our state's continued financial viability and strength, we need to retain and maintain Montana owned and operated banks. You are all from Montana communities and you know that in many cases, the locally owned independent bank is the financial backbone of your community. For these communities to continue, that financial backbone must remain strong and intact.

That, is the fundamental reason why we support HB 207, the bill to prohibit interstate bank mergers.

I will not repeat the history of how we got here. I think I can answer any questions you might have later. Suffice it to state at this point, the Legislature must reaffirm its decision to "opt out" of interstate branching. The reason it must do so is the passage of the Riegle-Neal Banking and Branching Efficiency Act of 1994.

It is a long and complicated bill. I have copies of it along with numerous technical summaries and interpretations which I can make available to you.

If you read this bill and all the interpretations, here is what you will get out of it:

1. Interstate banking is allowed as of September 29, 1995.
2. Interstate branching is allowed as of June 1, 1997, unless a state "opts out." If a state opts out, interstate branching is not allowed in that state.

There is a fundamental difference between interstate banking and interstate branching.

Interstate banking is the acquisition of a Montana bank by an out-of-state bank holding company. There are three key points to remember.

1. The Montana bank which is acquired becomes a wholly-owned subsidiary of the holding company.
2. The wholly-owned subsidiary retains its Montana connection. It must still have a board of directors, two-thirds of whom must be Montana residents.
3. Unrestricted interstate banking will exist as of September 29, 1995, regardless of whether the Montana Legislature opts in or opts out.

The same three points as they apply to interstate branching are:

1. The Montana bank is merged with an out-of-state bank. It becomes a branch of the out-of-state bank.
2. The branch does not retain its Montana connection. Its board of directors is in another state. It may not even have senior officers on site.

3. Interstate branching will be a reality if the legislature does not "opt out."

Lest there be any misunderstanding, the Montana Independent Bankers Association does not support or favor any type of interstate banking activity which is disadvantageous to the economy of Montana or the welfare of its citizens.

Prior to the 1993 legislative session, we in Montana compromised on the interstate banking bill to allow restricted interstate banking in a manner which we felt offered as much protection to this state, its communities and people as was possible under the circumstances.

I want you to know that our federal counterpart, the Independent Bankers Association of America fought to keep the interstate banking restrictions in place. Despite that fight, the Riegle-Neal bill passed and the restrictions were lifted. We feel that lifting those restrictions is a mistake.

However big that mistake is, we submit that allowing unrestricted interstate branching would be an even bigger mistake.

The problems we see with interstate banking are exacerbated in interstate branching.

We have already touched on control. Interstate branching will eliminate local officers and boards. They will be replaced by branch managers who have no input into bank policy which is set at corporate headquarters. When you or your neighbors go to the bank for a loan, you probably will not talk to a banker with whom you have worked for many years. The decision on your loan

will not be made by the local loan committee. Instead, it will be made at corporate headquarters.

With the upsizing we will see as a result of interstate branching, we will certainly see a standardization of products. Your bank simply will not have time to work with you to determine your specific needs and to create unique solutions to your problems.

We believe that Montana capital should be used to build Montana and that it should not be diverted out of state. We believe that interstate branching would make this problem worse. Instead of a loan for your neighbor's farm or ranch or business, your interstate branch's bank in California might decide to invest that money in a California real estate development. We think that opting out will assure the availability of capital in Montana.

We believe that local control of at least part of our banking industry will assure that small business lending continues to be a part of the state's economy. We believe that small business lending is a people-intense undertaking. It should not be reduced to a formula with strict credit and collateral requirements.

We believe it is true that in many situations your local independent bank is the backbone of your community. It is oftentimes a major employer in a small town and supplies a volunteer base which is ready to help with funds and deeds. As institutions become more and more remote, as they certainly would

under interstate branching, that relationship would evaporate. Along the same line, past experience teaches us that one of the major ways that large entities save money is to centralize activities and cut jobs. In Montana we have seen out-of-state institutions consistently ax faithful employees as soon as they take over local banks. We do not believe this is in the best interest of the Montana consumer and in fact results in the delivery of substandard service.

I want to talk a little bit about the compromise which preceded the 1993 session and which resulted in restricted interstate banking. That compromise contained the following language:

If federal law authorizes unrestricted interstate banking unless state law affirmatively provides otherwise, it is the purpose [of this bill] to affirmatively provide that unrestricted interstate banking does not apply in Montana.

It is correct that we are here asking you to reaffirm that course set in 1993 by again opting out. I would go even a step further. I would submit to you that the legislature expressly rejected interstate branching in 1993 when it stated:

Sections 32-1-381 through 32-1-384 (the interstate banking statutes) do not authorize the establishment of a branch bank in Montana by a bank not located in Montana.

Nothing authorizes interstate branching in Montana.

In closing, I leave you with three points:

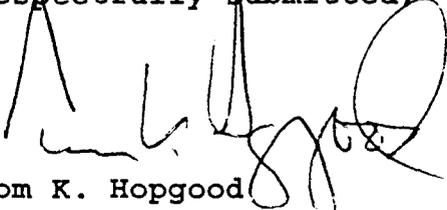
1. Interstate branching is not in the best interests of Montana.

2. The Montana Legislature has previously announced the well-founded policy that Montana should not allow interstate branching.

3. To maintain that well-founded policy, Montana must opt out of interstate branching under the Riegle-Neal bill.

To accomplish that, we urge your favorable endorsement of HB 207.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tom K. Hopgood', written over the typed name below.

Tom K. Hopgood

MONTANA INDEPENDENT BANKERS
MEMBER BANKS

<i>BankWest, N.A., Kalispell</i>	<i>Geraldine State Bank</i>
<i>Belt Valley Bank</i>	<i>Lake County Bank, St. Ignatius</i>
<i>Cheyenne Western Bank of Ashland</i>	<i>Mountain Bank of Whitefish</i>
<i>Continental National Bank, Harlowton</i>	<i>Mountain West Bank, Helena</i>
<i>Culbertson State Bank</i>	<i>Powder River Bank, Broadus</i>
<i>Farmers State Bank, Victor</i>	<i>Ruby Valley National Bank, Twin Bridges</i>
<i>Flathead Bank of Bigfork</i>	<i>Security Bank, FSB, Billings</i>
<i>First Bank of Lincoln</i>	<i>Security Bank of Three Forks</i>
<i>First Boulder Valley Bank, Boulder</i>	<i>Security State Bank & Trust, Polson</i>
<i>First Citizens Bank of Bozeman</i>	<i>State Bank & Trust, Dillon</i>
<i>First Interstate Bank of Commerce, Billings</i>	<i>State Bank of Terry</i>
<i>First Madison Valley Bank, Ennis</i>	<i>Stockmens Bank, Cascade</i>
<i>First National Bank of Fairfield</i>	<i>The First State Bank of Shelby</i>
<i>First National Bank in Libby</i>	<i>The Richland Bank & Trust, Sidney</i>
<i>First Security Bank & Trust, Miles City</i>	<i>United Bank of Absarokee</i>
<i>First Security Bank of Bozeman</i>	<i>Valley Bank of Belgrade</i>
<i>First Security Bank of Helena</i>	<i>Valley Bank of Kalispell</i>
<i>First Security Bank of Kalispell</i>	<i>Valley Bank of Ronan</i>
<i>First Security Bank of Malta</i>	<i>Western Bank of Wolf Point</i>
<i>First Security Bank of Roundup</i>	<i>Yellowstone Bank of Absarokee</i>
<i>First Security Bank of West Yellowstone</i>	<i>Yellowstone Bank of Billings</i>
<i>FirstWest Bank, Glendive</i>	<i>Yellowstone Bank of Columbus</i>
<i>Flint Creek Valley Bank, Philipsburg</i>	<i>Yellowstone Bank of Laurel</i>
<i>Garfield County Bank, Jordan</i>	

Montana May Join 48 Others with Interstate Banking Laws

By ROBERT B. COX

The Montana Legislature last month passed a bill allowing banks in seven other states to buy Montana-based banks. If the legislation is signed by Gov. Marc Racicot, Hawaii will be the sole remaining state without an interstate banking law.

The bill would give banks based in Idaho, Wyoming, North Dakota, South Dakota, Minnesota, Wisconsin, and Colorado the right to acquire Montana banks, and vice versa.

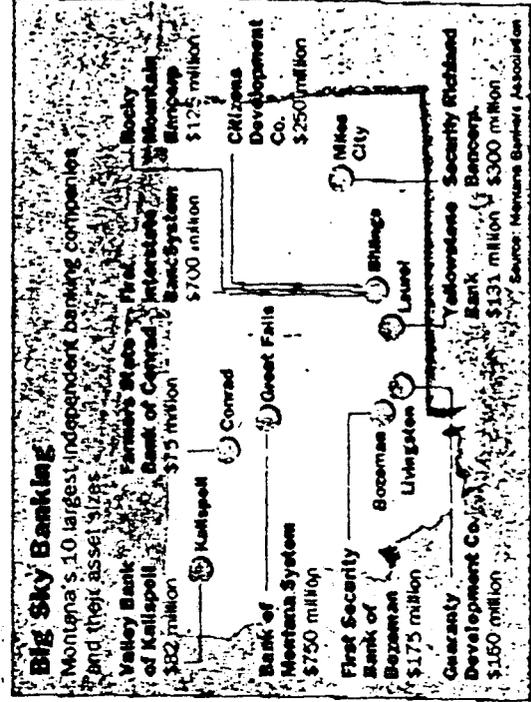
The bill is a compromise between the state's small banks and its increasingly acquisitive bank holding companies.

Montana's largest out-of-state

banking companies are Minneapolis-based Norwest Corp. and First Bank System Inc., which were allowed to own Montana banks under grandfather provisions but prohibited from making further acquisitions.

Montana's two banking trade groups, consulting with out-of-state companies, hammered out the bill last fall, giving numerous concessions to the state's many independent banks.

"For them to come together on an agreement before going to the Legislature was a real triumph," said Dean Nelson, area president of First Interstate Bank of Montana, Kalispell. First Interstate Bancorp, Los Angeles, is the only other out-of-



state bank grandfathered into the system.

Concerned over Outflow

The bill was opposed by legislators worried that out-of-state banks would send profits and deposits out of Montana, leaving farmers and other borrowers without ample access to credit.

"I am not one bit enamored of the notion of out-of-state banks owning the Montana financial industry," Sen. Bill Yellowtail, D-Wyoda, told the *Great Falls Tribune* in March.

Nevertheless, lawmakers decided to adopt the bill as a compromise between big and small banks, making Montana the 49th state to pass an interstate banking statute in 15 years. Maine passed the first in 1978.

Acquisitions Restricted

And if an out-of-state company holding Montana banks were bought by a larger company, the acquiring company would have to divest itself of any Montana banks bought by either party within the previous three years.

Montana's two largest bank holding companies, First Interstate BancSystem of Montana, Billings, and Bank of Montana System, Great Falls, each controlling 8% of the state's deposits, are the bill's most likely in-state beneficiaries. First Interstate is a franchisee of the Los Angeles-based company.

Still, "there are a few independent bankers opposed to the bill," said John Cadby, executive vice president of the Montana Bankers Association.

A.J. "Jack" King, chairman of Valley Bank of Kalispell, accused the large companies of making credit decisions outside the community, failing to put locals in management positions, and eroding the state tax base.

Gov. Raciocot is likely to make a decision on the bill this month. If he signs, the law would take effect in October. □

Cap on Deposit Shares

Currently, 35 states have opened their borders to nationwide banking, while 13 others have adopted interstate banking on a regionally reciprocal basis, according to the Conference of State Bank Supervisors.

The Montana bill includes many provisions limiting the deposit shares of out-of-state bank holding companies.

Under it, no out-of-state bank could control more than 18% of Montana's deposits. The cap would be gradually scaled up to 22% of deposits by 1997.

Aggregate Limit of 49%

First Bank, the state's largest bank, with 17% of the state's bank deposits, comes closest to the proposed cap. Norwest, the state's second largest bank, controls 12% of deposits.

Out-of-state banks would also be limited to an aggregate 49% share of the state's banking deposits. Currently, out-of-state banks represent a total market share of about 30% of Montana bank deposits.

Another provision would prohibit bank holding companies from buying banks in existence fewer than six years.

WHY COMMUNITY BANKERS SHOULD BE INTERESTED IN OPT-OUT LEGISLATION

Introduction: The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 will make interstate banking a reality in all 50 states in one year. It also will make interstate branching a reality by June 1, 1997, unless individual states take specific action to "opt-out." In addition, the law allows states to "opt-in" to branching earlier.

There are serious and complex implications of opting-in early and opting-out. The purpose of this paper is to discuss some of those implications to show why it is in your best interests, and the best interests of your state and community, to oppose opt-in legislation and support opt-out legislation. Unfortunately the legislation doesn't permit states to opt-out of nationwide acquisition, which becomes effective in late September, 1995.

Why community bankers should support opt-out legislation

- **Opting-out will buy time.** This is critical for two reasons. First, it gives community bankers more time to develop and implement strategic plans to compete with branches of interstate banks, should branching eventually become a reality in your state. Second, it gives states more time to consider the types of tax and other states' rights legislation that will be necessary to insure competitive equity in an interstate branching environment. The legislative issues are extremely complex, and allowing branching before state legislatures have had adequate time to consider the implications could lead to fiscal disaster as interstate banks exploit loopholes to evade taxes in your state, and economic disaster as interstate banks export deposits in greater amounts than they could with interstate banking, leaving your state capital deficient. **You can stop these fiscal and economic calamities from happening by opting-out.**

- **Opting-out will preserve the long-term stability of the Bank Insurance Fund.** Community banks will face a serious disadvantage in competing for deposit funds because of the "too big to fail" factor.

Community banks competing in an interstate banking environment already have experienced an outflow of uninsured deposits to large banks that are deemed "too big to fail" and the trend is likely to intensify in a highly concentrated banking system. Nationwide consolidation could expose the BIF and ultimately your premium dollars to greater losses. **You can protect the stability of the Bank Insurance Fund by opting-out.**

- **Opting-out will save local jobs.** NationsBank proclaimed that it will save \$50 million annually under interstate by converting their banks to a nationwide network of branches. But what NationsBank doesn't say is that much of that savings will be achieved by closing offices and eliminating jobs. Local boards of directors will be eliminated. Loan offices will be centralized. Staffs will be trimmed. **You can help save jobs in your community by opting-out.**

- **Opting-out will help maintain local control.** Interstate banks will eliminate local officers and boards and replace them with branch managers who will have no input into the bank's policies, which will be set at corporate headquarters. Under current law, even banks owned by an out-of-state institution must have a board of directors with a majority of in-state residents. **You can insure continued local control by opting-out.**

- **Opting-out will help local banks maintain business and personal accounts.** A Treasury Management Association survey shows that corporate America plans to use interstate banking to consolidate their companies' banking business. In an interstate branching

(Over Please)

environment, consumers and companies will no longer have to make a choice in establishing a banking relationship as they relocate from one area of the country to another. Community banks will be shut out from competing for new account relationships. You can help protect your business and personal accounts by opting-out.

• **Opting-out will slow capital flight and protect local investments.** Branching would make it easier to drain funds from deposit-rich states to lend elsewhere, creating a serious credit imbalance in your state. Also, interstate branching would allow banks to move assets from one area of the country to another without restriction (under interstate banking, restrictions are imposed on the ability to transfer assets to affiliated banks). You can prevent your state from becoming a "colony" state and assure the availability of capital for local investment by opting-out.

• **Opting-out will maintain parity in funding.** Interstate banks that draw deposits from across the nation and have access to other funding sources enjoy advantages over community banks, which have just one funding source, their local deposits. You can help assure equal competition in funding sources by opting-out.

• **Opting-out will promote equitable CRA treatment between community banks and interstate banks.** Under current law, banks owned by out-of-state bank holding companies are subject to a full CRA review. If the bank is converted to a branch under interstate branching laws, it would only be subject to statewide and MSA review. You can promote fairness in CRA examinations by opting-out.

Why community bankers should oppose opt-in legislation

• **Opting-in early will not give community bankers enough time to develop strategic**

plans and marketing strategies to compete with interstate branches.

• **Opting-in early may not give states sufficient time to pass conforming legislation,** particularly in the area of taxation. Most states tax banks based on their domicile. If tax laws are not revised, states could lose out on substantial tax revenue.

• **Opting-in early could mean lost jobs and a lower tax base sooner.** Under interstate consolidation, offices will be merged or closed, local boards of directors will be eliminated, staffs will be trimmed. This will be a drain on the local economy and local tax base.

• **Opting-in early will mean loss of local control.** Presidents and local boards of directors will be replaced by branch managers with no input into policy decisions.

Conclusion: It should be noted that interstate branching will be neither benign to community bankers, as some interstate advocates have suggested; nor will it be a boon for community bankers, as some banking analysts have predicted. **Indeed, interstate branching is bad public policy; it provides no benefits for community bankers; and it is little more than special interest legislation to allow our nation's biggest banks to consolidate their empires.**

America's banking system is the envy of the world. Let's not dismantle our powerful economic engine that has fostered entrepreneurship and opportunity for all citizens. Interstate branching, if allowed by the states, will exact a devastating price on local communities. Farmers, ranchers, small businesses and consumers all will suffer if interstate is allowed to take effect. Act now to protect the financial integrity of your state.

Act now to opt-out of interstate branching!

TESTIMONY FOR HOUSE BILL 207
BY JOHN CADBY
MONTANA BANKERS ASSOCIATION

House Business and Labor Committee

January 20, 1995

Mr. Chairman and Members of the Committee:

I am John Cadby, representing the Montana Bankers Association. Our Association is composed of all types and sizes of banks, from the smallest to the largest. Today there are about 100 banks in Montana of which 85 are dues paying members of MBA. Most of the banks who belong to the Montana Independent Bankers Association also belong to MBA.

Our survey of our membership revealed a desire to defer action on this issue until the 1997 Legislature. The MBA Board of Directors composed of 14 bankers, of whom 10 are independent bankers, voted at their last meeting to defer action until the 1997 Legislature. In other words, we don't want to opt-in or opt-out this Session.

I have served as the Montana Bankers Association manager and lobbyist for the past 22 years. Branching has always been a very difficult and sensitive issue due to the division among bankers. The new federal law, however, is so complex and has so many ramifications, not only to banks but to our entire society, I don't think anyone really knows what is best at this time. Hopefully over the next two years we can gather a much better understanding of the economic effects of this new federal law before we, as a state, have to decide which way to jump.

There is absolutely no need to opt-out today. Nothing can happen before June 1, 1997. No out-of-state banks can branch into Montana. Any banks that are purchased by an out-of-state bank or person have to be capitalized and operated as Montana banks with local boards. They could not be converted to branches until June 1, 1997.

Disregarding the feelings and attitudes of all bankers and the perceived effects on their stockholders, you as policy makers for the State of Montana have a responsibility to look at the big picture and determine what is best for the Montana consumer and economy. After studying this issue for the past six months in a number of meetings and debating it for hour after hour, we frankly are not prepared to make any recommendation as to what is best for

Montana. Therefore, we sincerely urge you to adopt Representative Devaney's Resolution that asks for a legislative interim study if possible, but in any event, this resolution provides a two year delay to work on this issue and the effects in other states.

Idaho and Utah will probably opt-in as they believe it will enhance their economy. Wyoming is waiting until next year, but are adopting county-wide branching this year. The Governor of South Dakota has already pledged to veto any opt-out bill should it pass their Legislature. North Dakota is shaping up to be a battle between banks. We will monitor all 49 states and work to reconcile the differences among bankers so as to reach a consensus for the 1997 Legislature.

Mr. Chairman and members of the Committee, please do not pass HB 207. Retain the status quo and give us some time to work this out.

Additional spokesmen for the Montana Bankers Association here today are:

Jim Bennett	Chairman, First Citizens Bank, Billings Past President of MBA
Fred Flanders	President, Valley Bank, Helena Chairman, MBA Government Relations Committee Former Montana Commissioner of Banking

INTERSTATE MERGING/BRANCHING
QUESTION & ANSWERS
BY MONTANA BANKERS ASSOCIATION

Q. What is interstate merging?

A. A new federal law allows banks to merge across state lines effective June 1, 1997 (e.g. If a bank in Bridger buys a bank in Powell, WY they could merge it into a branch. First Bank could merge their bank in Billings and make it a branch of Minneapolis, etc.)

Q. Should Montana opt-in or opt-out of this new law?

A. Neither, Montana should wait until the 1997 Legislature, since nothing can happen for the next two years (unless we opt-in).

Q. Why do some banks want to opt-in?

A. 1. Some independent banks would like to purchase banks in North Dakota, Wyoming and Idaho and run them as branches rather than chartering a new bank in that state.
2. Some independent banks believe they are more marketable and can receive a higher value for their stockholders if they are allowed to be sold and run as branches by an out-of-state bank.

Q. Why not opt-out in 1995 and consider opting-in in 1997?

A. 1. Doesn't accomplish anything because banks can't do anything until June 1, 1997.
2. Creates a conflict between banks this Session and possibly again in 1997.
3. Doesn't give bankers and legislators time to study and understand all ramifications of this new and complex federal law.
4. Doesn't give bankers time to develop a consensus on this issue.
5. Banking is changing so fast that in two years there could be different views.
6. Opt-out could harm the marketability and value of a community bank by reducing the number of potential buyers.

Q. Why delay to 1997 and possibly do an interim study?

A. 1. Legislators need time to talk with their local bankers and understand the total impact of interstate banking on Montana's economy.
2. Legislators need time to study the new Multi-State Tax Commission's proposal to apportion income of interstate banks which could possibly result in more or less tax revenue for Montana.
3. Legislators need time to see what the other 49 states are going to do and evaluate the effects of interstate branching on interstate commerce.
4. There are no statistics today to support opt-out or opt-in and its affect on Montana's economy.
5. Saving and loans, credit unions and other financial services providers, such as AT&T Capital Corp, are subject to different rules. The two year delay gives legislators time to study the competitive level of financial services providers for businesses and consumers in Montana.
6. The new federal law allows "affiliate" banking which may make opting-out an exercise in futility since it allows branch-like functions across state borders. Some lawyers believe independent banks can contract to perform financial services for an out-of-state bank. The law is not clear and a two year delay will give us all time to understand what can and cannot be done.

(B) Interstate Branching

(1) Branching Through Bank Mergers

After June 1, 1997, the appropriate Federal regulator may approve the merger of adequately capitalized banks across state lines, so long as the resulting institution is adequately capitalized and adequately managed. Specific conditions are set forth below. This will allow BHCs, after that date, to convert their subsidiary banks in different states into branches of the same bank; banks, whether within holding companies or independent, will likewise be permitted to directly merge.

State Entry Laws: bank mergers would have to conform with state laws which impose age restrictions on acquisitions. For example, where a state has a law requiring an out-of-state BHC to purchase a 5-year old bank as a condition to entry, such a law would preclude the merger of an out-of-state bank with a bank in that state which is less than 5 years old. (State laws requiring the purchase of a bank over 5 years old will effectively be changed by Federal law to require the purchase/merger of a 5-year old institution.)

State Opt-Out Authority: states may opt-out of interstate branching from date of enactment until June 1, 1997. Doing so will preclude the merger of banks in that state with banks located in other states.

Sanction for Opt-Out: banks located in states which opt-out would not be permitted to have interstate branches.

Early Opt-In to Branching: states may permit interstate branching earlier than June 1, 1997, where both states involved with the bank merger expressly permit it by statute.

Intrastate Branching: state "intrastate" branching laws would continue to apply, except that merged banks may continue to retain and operate any main office or other branches that (a) they were operating prior to the merger, and (b) they could have operated individually if they had not been part of a bank merger. (See also "Bank/Thrift Affiliate Agency Authority," above.)

CRA Compliance: where the bank/BHC would be effectively moving into a new state as a result of the merger, regulators must consider CRA compliance of all bank affiliates before approving the merger application; Federal regulators would not have to consider CRA compliance in simple BHC consolidation situations.

Concentration Limits: the 10% nationwide/30% concentration limits discussed above also apply to bank mergers; states retain current authority to impose deposit caps. Host state banks with over 30% of statewide deposits may be merged with out-of-state banks without being subject to the 30% rule where the out-of-state bank has no presence in the host state (some limited exceptions may apply).

(2) Direct Branching by Banks

National and state banks are prohibited from directly acquiring an existing branch (separate from the acquisition of a charter), or establishing a de novo branch, in a host state unless the law of the host state permits it.

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House JOINT RESOLUTION NO. 12
INTRODUCED BY Charles R. Stangor

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE LEGISLATIVE COUNCIL TO STUDY THE EFFECTS OF INTERSTATE BRANCHING OF BANKS AND BANK HOLDING COMPANIES ON MONTANA'S ECONOMIC, SOCIAL, AND COMMUNITY INTERESTS; REQUIRING THE LEGISLATIVE COUNCIL TO REPORT THE FINDINGS AND CONCLUSIONS OF THE STUDY AND OPTIONS FOR FURTHER CONSIDERATION TO THE 55TH LEGISLATURE.

WHEREAS, the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Act) will permit full, nationwide banking on September 29, 1995, and interstate branch banking after June 1, 1997; and

WHEREAS, on June 1, 1997, the Act will allow a bank holding company to merge its banks into one headquarters bank and operate all offices in other states as branches; and

WHEREAS, with respect to intrastate mergers, the Act will allow states to "opt in" or "opt out" prior to June 1, 1997, or, if a state takes no action with respect to intrastate mergers, certain provisions of the Act automatically take effect on June 1, 1997; and

WHEREAS, the Act also will allow multistate bank holding companies to affiliate, regardless of action taken or not taken by a state, and function the same as a headquarters bank with branches; and

WHEREAS, banks that wish to opt in are interested in purchasing branches in other states and in increasing the marketability and value of their respective banks for the banks' stockholders; and

WHEREAS, it may be premature for the Montana Legislature to act on the matter of opting in or opting out at this time because the full impact of interstate bank branching on Montana's economy is still unknown; and

WHEREAS, it is vital to the economic, social, and community interests of the citizens of Montana that the 55th Legislature be knowledgeable and fully apprised of the implications of the Act before the members of the 55th Legislature take action to opt in or opt out under the provisions of the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:



HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

SUB-COMMITTEE

DATE 1/20/95

BILL NO. HB 207 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
JOHN CADDY	MT BANKERS ASSN		✓
Jim Bennett	1st Citizens Bank ^{Billings}		✓
Jan Marston	First Bank		✓
Dean Nelson	1 st INTERSTATE BANK		✓
Tom Howard	MT Bankers Assn	✓	
GEORGE BENNETT	MONT. BANKERS ASSN		✓
Bozeman ^{PO Box 910}	mont. independent Bankers		
Brunswick Bozeman MT.	1st Security Bank Bozeman	X	
Kent Brubaker ^{Box 6} Terry MT	MIB 3 rd State Bank of Terry	X	
FRED FLANDERS	Mt Bankers Assn Valley Bank of Helena		✓
Keith L. Collier	MIB	X	

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

HR:1993

wp:visbcom.man

CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

SUB-COMMITTEE

DATE 1/20/95

BILL NO. HB 223 SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
COLLEEN GRAHAM	DEPT OF COMM ^(Info Only)		
Jeff Patterson	Dept of Comm		X
Aleg Stovakh	Investigation Sec Bureau		X
Martin Monahan	MADRID		X

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

SUB-COMMITTEE

DATE 1/20/95

BILL NO. HB 202 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Cameot Limousine Service P.O. Box 4795 Duane & Depue Rortlett Missoula MT		✓	
B&J's Taxi Box 575 Serry Helena		✓	
	PSC		
Dale A Duff	Rocky Mtn Trump		✓
TBs Rowe	PSC	✓	
Steve Benedict	State Senate	✓	
John Carveth	A-Limo Limousine	✓	
Mike Foss 1444 1/2 Billings	City Cab		
Dean Holmes			✓
Valet Limousine	PSC		✓
46 W. Main. St. Helena. MICHAEL SWATHE	MT FEDERAL DEFENSE OF	✓	
Bozeman Bozeman	Bozeman Bozeman		

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