

Exhibit No. 10
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Bill No. HB 474

HOUSE BILL 474
Senate Judiciary Committee March 8, 2005

**Delivered Testimony of
Jim Fall, Executive Director
Montana Newspapers Association**

Good afternoon, Chairman Wheat and members of the committee, it is with deep regret that I cannot be with you today to voice my opposition to House Bill 474. I have asked Mr. Colin Stephens to deliver these comments to you on my behalf. I have also asked Mr. Stephens to ask that this hearing be continued to Friday since most of our members would simply be unable to attend today; many are putting out their newspapers today and tomorrow; they would simply be unable to come to Helena on a Tuesday or Wednesday. The members of the Montana Newspaper Association have great concerns about what this bill does to weaken the public's right to be informed about meetings and the action taken at such meetings. In many instances, the notice to the public about county government actions (we note that cities are not included in this bill) may not be seen or available to most members of the general public under this bill.

We stand firmly behind the public's right to know and our obligation to ensure that that right is clearly met by all local governments in Montana including County governments.

We also wonder why the bill separates county notice requirements from those of municipalities. Some of you may remember the 2001 legislation. In the 2001 Session, much work was done to standardize public notices; this bill reopens the old confusing divisions what which law applies to which government in which situation in our public notice law.

The draft of this bill was available to our board of directors at its meeting on Jan. 28 and after extensive discussion, the board voted unanimously to oppose the bill because it will undo much of the good legislative work done in 2001 to clarify requirements for public notice.

I want to clarify a couple of potential misconceptions about this bill. First, it should not be considered from an economic standpoint. The rate for publishing public notices is established by the State Board of Printing at \$9 per folio (approximately 100 words in the same size type as the body copy in the stories you read in newspapers — that's 2 1/4 inches of single column type for the required insertion, \$7 for subsequent insertions. Those rates have been in effect since July 1, 2000, and before that a rate of \$8 and \$6 per folio was in effect for eight years. So the cost of public notice advertising has increased \$1 per folio since 1992 — actually only \$3 since 1984 — 21 years.

The State Board of Printing is made up of five people; two county commissioners, two newspaper publishers and one member of the public at large. The current members are from smaller counties and weekly newspapers across Montana. The current public member is Nancy Clark, the current Sargent at Arms of the House of Representatives. These rates are generally much lower than the rates for general newspaper advertising across the state.

Why are public notices important?

An important premise upon which the principle of democracy is based is that **information about government activities must be accessible in order for the electorate to make well-informed decisions.** Public notices provide this sort of accessibility to citizens who want to know more about government activities.

Public notices serve as a conduit of information from the government to the public. They enable citizens to monitor the actions of their local governments, as well as to keep track of events occurring in the local court system. Furthermore, through public notices, citizens are given the opportunity to make their voices heard in public hearings and meetings. Allowing the public to influence the governing bodies of their local communities is crucial to the functioning of democratic society.

Where are Public Notices published?

Almost every state in our nation has laws that regulate the manner in which public notices are published.

These laws are designed to ensure that the greatest amount of people receive important information about the actions of their government. Currently, local newspapers are the preferred medium of the vast majority of state laws regulating the process of notifying the public.

However, to successfully fulfill the purposes of the laws, numerous requirements are imposed upon newspapers wishing to carry public notices. For example, many states require a newspaper to have been published continuously for a certain period of time prior to carrying notices. In addition, many states require that a newspaper contain a certain percentage of news.

Below is an example of a typical eligibility public notice law:

**691.1051 Newspaper; definition; publication of notices.
Sec. 1.**

The term "newspaper" as used in any statute of this state, except the revised judicature act of 1961 relative to the publication of a notice of any kind, shall be construed to refer only to a newspaper

published in the English language for the dissemination of local or transmitted news and intelligence of a general character or for the dissemination of legal news, which

(a) has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least 2 years, and

(b) has been published and of general circulation at not less than weekly intervals without interruption for at least 1 year in the county, township, city, village or district where the notice is required to be published. A newspaper shall not lose eligibility for interruption of continuous publication because of acts of God, labor disputes or because of military service of the publisher for a period of not to exceed 2 years and provided publication is resumed within 6 months following the termination of such military service,

(c) annually averages at least 25% news and editorial content per issue. The term "news and editorial content" for the purpose of this section means any printed matter other than advertising.

If no newspaper so qualifies in the county where the court is situated, the term "newspaper" shall include any newspaper in an adjoining county which by this act is qualified to publish notice of actions commenced therein.