

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

March 12, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on March 12, 1987 at 8:00 a.m. in Room 325 of the State Capitol.

ROLL CALL: All members were present, with the exception of Rep. Swysgood who was excused.

SENATE BILL 10 - No Standard Prevailing Wage on Locally Funded Local Government Projects, sponsored by Senator Gary Aklestad, Senate District No. 6, Galata. Senator Aklestad stated that this bill exempts local governments from the requirement of paying the standard prevailing rate of wages on local projects in which only local government funds are used. He stated the thrust of the legislation was to make more jobs and projects available in the local communities and will make the same amount of tax dollars in those communities go further. He commented that the problem they have in setting prevailing wage is when the Department conducts their surveys, most of the surveys are answered by union contractors, and this is not representative of what is really being paid in those local communities. He emphasized that this bill does not eliminate the Little Davis-Bacon Act, but was a compromise.

PROPOSERS

Stewart Doggett, Montana Chamber of Commerce. Mr. Doggett stated the current system gives preference to a select group of individuals at the expense of the public, and this bill addresses some serious problems. He said the Little Davis Bacon Act artificially establishes wage rates for all contracts let for public works, and wage rates should be established by the market place. He commented the Davis Bacon Act inflates the construction costs for any public works project, particularly for small county and municipal governments. He said that the current law benefits certain interest groups who use their political clout to set unreasonable and unnatural wage rates, and added that this is not a party issue, but one of economic necessity.

Jim Halverson, Roosevelt County Commissioner, submitted written testimony. Exhibit 1.

Mons Teigen, representing the Montana Stockgrowers and Cattlemen Associations. Mr. Teigen stated they were very concerned about holding down the cost of county government. He said this bill would do that, and they support it for the

same reasons that Mr. Doggett stated as he espoused their views exactly.

James McCauley, Jefferson County Commissioner. Mr. McCauley explained that the additional expenses because of prevailing wage on the building projects had a big impact on Jefferson County. He said there are two sets of standards, which is discriminatory for some people in the state. He said if the prevailing wage was repealed, the advantage would be that there would be less regulation, less government bureaucracy, and less cost on the state level.

Riley Johnson, representing Montana Home Builders and the National Federation of Independent Business. Mr. Johnson stated that he concurred with Mr. Doggett's statements, and the Montana Home Builders members have listed this bill as a number one priority on their list of legislation.

Bill Adamo, Business Manager of the Livingston Schools. Mr. Adamo stated that in rebuilding their middle school in Livingston they would save 16% of the building costs if they did not have to comply with the prevailing wage rules. He said that difference would determine if they have an adequately sized quality project or not. He commented that contrary to statements made, the quality in the project is not determined by arbitrarily set wage rates, but the thoroughness of plans and specifications and good field supervision will ensure a quality project. Exhibit No. 2.

Bob Anderson, representing the school districts in Montana. Mr. Anderson explained that there would be major retrofitting needed in the future because of some of the requirements for handicapped access, etc. He said it is difficult for local school boards to contract with someone and pay a much higher rate of pay sometimes than what is normally paid within that community.

Steve Koontz, Livingston. Mr. Koontz stated this legislation would result in the wise use of local tax dollars and relieve local projects of the bookkeeping required under the current prevailing wage rules. He said after the Davis Bacon Act was enacted, union wages were substituted for prevailing wages and that situation exists today. He commented that the Davis Bacon Act circumvents the free enterprise system. He added that this bill is a win situation, the taxpayers get more for their money, there is more work for the construction people in the area, which strengthens the economy, and enhances all participants. He submitted a witness statement. Exhibit No. 3.

Loren Frank, Montana Farm Bureau, expressed support for the legislation noting it would help local communities if they could pay a wage rate reflective of that area instead of rates established in a larger community.

Vernon Peterson, Fergus County Commissioner. Mr. Peterson stated that state government was outgrowing its ability to finance the obligations that it has undertaken, and also outgrown its ability to administer all the programs. It is time for cities and counties to take some of the responsibilities, and this bill is their chance, and he said, they are ready to take that responsibility. He commented that the federal prevailing wage act would still be intact, and that he sees no reason for the state to tell counties how to spend their money.

Bob Correa, Bozeman Chamber of Commerce, and the Agricultural Preservation Association of Gallatin County. Mr. Correa stated they support the bill.

George Allen, representing Montana Retail Association. Mr. Allen stated that their Association is concerned about the cost to the local governments of projects they may have in the future. He said they are concerned about the fairness issue and their ability to pay the costs to accomplish the projects.

John Radenberg, Wolf Point. Mr. Radenberg stated they wanted to go on record as supporting this legislation.

Jim Rector, representing himself, an attorney, Glasgow. Mr. Rector stated the Davis Bacon Act is unfair to local taxpayers throughout the state of Montana, primarily because there are people who are willing to do this work for a bid price, but there is an artificial floor for wages. The people end up not getting the project accomplished, and the workers end up not having the job at all.

Dean Swank, Swank Enterprises, Valier, submitted written testimony. Exhibit No. 4.

OPPONENTS

Jim Murry, Executive Director, Montana State AFL-CIO. Mr. Murry stated this legislation unfairly proposes to exempt local government from the Davis-Bacon Act, a move he said that would be harmful to workers and the general public. He presented a history of the legislation and stated the end result of this legislation would be cut-throat bidding, less quality in the projects completed, and in more maintenance and repair on those projects. Mr. Murry commented that Montana has one of the most productive workforces in the nation, but if this bill is adopted, it would force qualified workers and contractors out-of-state while bringing in lower paid and less qualified out-of-state workers.

Gene Huntington, Governor's Office. Mr. Huntington stated he was the Labor Commissioner at the time the area wage rates were set and was involved in setting them. He said he was available to answer questions regarding this.

Rep. Ted Schye, House District No. 18, Glasgow. Rep. Schye reiterated conversation he had with a retired contractor on the ramifications of this legislation. He commented that the contractor did not have many employees, but always paid a fair wage to those he had. Rep. Schye said that the contractor commented that there would be an influx of out of state workers to compete with Montanans for Montana jobs if this legislation passed.

Bob Kinghorn, representing the Teamsters and Operating Engineers Unions. Mr. Kinghorn stated that when dealing with a serious subject of the wages of construction workers, they should be in a position to back all the claims with factual information. He said the testimony from Mary Marzotto states the best and most informative factual information he has ever heard on the subject, and submitted the testimony. Exhibit No. 5.

John Forken, Montana State Association of Plumbers and Pipefitters. Mr. Forken stated that this bill would accomplish only one thing, that Montana workers would be paid lower wages, on projects that are funded by counties, municipalities, and school districts or other local government units, and in many cases, will receive no benefits. He said as workers receive less wages, more unskilled workers will be utilized in the work force, resulting in inferior craftsmanship, and more cost to the taxpayers as problems in construction surface after a few years.

Curt Wilson, representing Montana District Council of Laborers. Mr. Wilson stated the productivity in Montana is among the highest in the nation, and with these facts in consideration, he said he did not see how the law makers could consider reducing the wages. He added all they are asking is a fair day's wage for a fair day's work.

Gene Fenderson, representing Montana State Building Construction Trades Council. Mr. Fenderson stated this legislation has been debated thoroughly. He said organized labor does not necessarily object to House Bill 772, which is a compromise bill for both sides. He is asking that SB 10 does not pass.

QUESTIONS

Rep. Driscoll asked Mr. Huntington what percent of the surveys came back from Colstrip. Mr. Huntington responded that people have said that eastern Montana rates were influenced by a large return of the unionized area in Rosebud County. The largest contractor in eastern Montana was in Rosebud County with 40 employees, but none were from Colstrip.

Rep. Simon asked Mr. Murry regarding the concern of poor quality of work on federal projects, was there a difference between a federal project and a locally funded project in eastern Montana in some local community as far as the type of work performed. Mr. Murry responded that their argument is not that they are questioning the work of other workers, but that Montana is a highly unionized state and their people are productive and highly trained, and their work is of high quality.

Rep. Simon asked if Mr. Fenderson could provide any evidence, that in a small community where the prevailing wage is less than the state prevailing wage as established by the Department of Labor, that shows that private projects built in those communities are of a lesser quality than those of the public projects where they were required to pay the prevailing wage. Mr. Fenderson responded there is going to be poor construction in all segments of the industry, but there are studies that have been done by a number of organizations that prove union workers to be more productive and they have statistics to prove that. He said public work projects are larger in magnitude than private projects and entirely different. He does not have any specific evidence.

Rep. Simon asked if Mr. Fenderson has evidence that lower wages are automatically going to mean poor workmanship. Mr. Fenderson responded there were a number of things that are involved in a construction project; the skilled laborer, the products used, location of building, and other factors. He said they are an intricate part of that, and if workers are paid a lesser wage, poor quality work is going to start happening eventually, because those people are going to leave, and what results is that uneducated, unskilled people will enter that industry and eventually the workmanship, craftsmanship, and quality of that building project falls, and they can prove that with specific cases in Montana.

Rep. Wallin asked Senator Aklestad, in the testimony of several of the local school districts that have indicated they were not able to build what they wanted because of the Little Davis Bacon Act, was there anything in their bill that would preclude a local union from making an agreement with the contractor to work the prevailing wages. Senator Aklestad responded that anybody could bid on that project, union or nonunion. He said that the unions could not bid on it at a fictitious or predetermined wage that has been set now, but they can bid on the contract.

Rep. Driscoll asked Mr. Koontz on the jobs that he bid on, what percent of the total cost of the job were the wages of the onsite labor. Mr. Koontz responded that in some cases it was a labor only bid, which would be 100%, and the percentages would vary with each job.

Chairman Kitselman asked Mr. Kinghorn regarding the statistics of building costs in Vermont versus California versus Montana, was the temperature, climate and the additional construction for heat efficiency in Vermont, versus California, where temperature and climate varies, taken into account. He commented that this would reflect on the type of energy efficient building needed to serve the public. Mr. Kinghorn responded he believes that in the studies and surveys that was taken into consideration.

Rep. Simon asked Mr. Koontz if specifications were the same on two different jobs, one being public and one private, and using the same crews, but paid different rates based on the prevailing wages, is there any difference in the quality of the end result of the product of each project. Mr. Koontz responded when he had public work, he used the same technology, the same manpower, same equipment, and the quality was identical; the only difference was that they charged more for the public work.

CLOSING

Sen. Aklestad stated there are 16 states in the United States that have no prevailing wage law. He said there have been studies made attempting to get businesses started which would make more jobs available, and consequently the White House Conference on Small Business gave a recommendation that there should not be a Davis Bacon Act. He commented that with this bill they are not trying to eliminate the Davis Bacon Act, but trying to amend it to make it more palatable for local communities. He said it was not fair that a public project should have to pay more than a private project just because of preferential treatment in an ill-conceived law that exists. He said regarding the survey that the Department had and the end result of how inadequate it was, in the new map, in all five districts, the only difference in the salary of the carpenter's foreman was 40 cents an hour in Montana. He added this would be the result even if 20 districts had been used, because only the medium bid was used. He commented that the local communities should not be hampered by a predetermined wage and it is not a prevailing wage.

The Committee recessed at 9:30 a.m. and reconvened in Room 312-F at 9:40 a.m.

EXECUTIVE ACTION

ACTION ON SENATE BILL NO. 103

Rep. Jones moved that Senate Bill No. 103 BE CONCURRED IN.

Rep. McCormick moved the amendments to Senate Bill No. 103 as proposed by Bob Kinghorn. Exhibit No. 6. The motion failed 10 to 8.

Rep. Jones made a motion that Senate Bill No. 103 BE CON-
CURRED IN. The motion carried 10 to 8.

SENATE BILL NO. 263 - Remove Hearing Requirement for Project
Funded by Taxable Bonds, sponsored by Senator Bob Williams,
Senate District No. 15, Hobson. Rep. Williams stated this
bill was at the request of the Montana Economic Development
Board, and requested that a technical amendment be made to
the bill to insert in the phrase, "the interest of which is
subject to federal tax". He said this would correct that
"the bond" is not subject to federal tax. Exhibit No. 7.

Senator Williams stated that this bill would remove the
requirement for holding public hearings on projects financed
under the Montana Economic Development Bond Act of 1983 if
the bonds financing the project are subject to federal
income taxes.

PROPOSERS

None.

OPPOSERS

None.

QUESTIONS

Rep. Bachini asked Senator Williams that evidently there had
been some concern to hold the public hearings, and asked why
this requirement had been put into statute. Sen. Williams
responded that this was put into law in 1983 and the reason
for the public hearing was because the interest from the
bonds was tax free, and the lending institutions wanted to
know the reasons, so they would have to have the hearings.
He said that at the end of 1986 that interest on those bonds
are taxable and there is no need to have the hearing.

Rep. Cohen asked if it was correct that there was no need
for a public hearing because the information that would be
disclosed at a public hearing is published and available to
the public. Senator Williams responded that was correct,
the Economic Development Board must determine that the
project is in the best interest of the public and they must
publicly notice its meetings and agendas.

CLOSING

Senator Williams made no further comments.

SENATE BILL NO. 247 - Generally Revise Security laws,
sponsored by Senator Darryl Meyer, Senate District No. 17,
Great Falls. Senator Meyer stated this bill was requested
by the State Auditor which would generally revise the laws
relating to securities, and would modernize and keep

Montana's laws uniform with the securities laws of other states.

PROPONENTS

Kim Schulke, Deputy Securities Commissioner, presented written testimony which was a section by section review of the proposed legislation. She also stated she was available to answer questions. Exhibit No. 8.

Charles Gravely, representing IDS Financial Services. Mr. Gravely submitted their proposed amendments that had been discussed with the State Auditor's Office. He said with respect to the bill IDS believes that only those persons who are truly engaged in the business of rendering investment advise should be required to register as investment advisors. He said another concern was that the bill has an immediately effective date, and because the provision was already included continuing the authority of the Commissioner to make rules, and may be necessary to be propounded to implement all the provisions of the amendments in this act, it made more sense to postpone the effective date. Exhibit No. 9.

Rick Tucker, former Securities Officer. Mr. Tucker expressed his support of the legislation and the amendments.

OPPONENTS

None.

QUESTIONS

Rep. Brandewie asked Ms. Schulke to explain the amendments proposed by Mr. Gravely. Ms. Schulke responded that they would allow investment advisors who advise or attempt to advise 5 or fewer clients in Montana to not have to comply with the registration requirements of the act.

CLOSING

Sen. Meyer made no further comments.

SENATE BILL 294 - Increase Charges that Farm Mutual Insurer Must Pay for Examination of Books, sponsored by Senator Darryl Meyer. Senator Meyer stated this bill would increase the charges that a farm mutual insurer must pay for investigation and examination of his affairs by the Commissioner of Insurance.

PROPONENTS

Kathy Irigoin, State Auditor's Office. Ms. Irigoin stated that at present with regular insurance companies they can charge them whatever amount it takes to examine the company and the insurance company pays for it. She said with farm mutuals they are limited to charging only \$100, and an

examination of the company would take at the very minimum about four days, and they can't do this with the \$100.

OPPONENTS

None.

QUESTIONS

Rep. Simon asked if there was an annual registration required for the farm mutuals. Mr. Irigoin responded they have to send a renewal fee to the office.

Rep. Swysgood asked what was the cost of examining a farm mutual insurer. Ms. Irigoin responded that an average cost would be at a minimum of \$1,000 to \$2,000. She said this was a guess since they had not examined one since 1975.

Rep. Driscoll asked if these investigations were only done if there were complaints or if they had a reason to believe it was necessary, and not done annually. Ms. Irigoin responded that with regular insurance companies they are required to examine them once every three years, but with farm mutuals the law states that they may examine their finances if they consider it necessary.

CLOSING

Sen. Meyer stated that some farm mutuals are getting into the liability area, and this bill would give them the proper inspections.

SENATE BILL 295 - Exempt Federal Crop Insurance Agents From Examination Requirements, sponsored by Senator Meyer. Sen. Meyer stated this bill exempted from examination applicants for an agent's license to sell all-risk federal crop insurance and allowing issuance of a restricted license to an agent who sells only all-risk federal crop insurance.

PROPONENTS

Tanya Ask, State Auditor's Office, submitted a written explanation of the bill. Exhibit No. 10.

Roger McGlenn, representing Independent Insurance Agencies, was not at the hearing, but had told Senator Meyer that he was in favor of the bill.

Jim Durkin, representing Federal Crop Insurance. Mr. Durkin explained the training and tests required for the license, and showed an example of the test required. He submitted a certificate of completion. Exhibit No. 11.

OPPONENTS

None.

QUESTIONS

Rep. Thomas asked what was the cut off date for sales for the spring crops of federal crop insurance. Mr. Durkin responded that the program runs continually, and can handle their program from year to year dealing with the same farmer.

Rep. Thomas asked under current law if someone was selling federal crop insurance would a state insurance license be required. Mr. Durkin responded that there is no state law requiring that these people be licensed.

CLOSING

Sen. Meyer made no further comments.

SENATE BILL 250 - Voluntary Dissolution of Domestic Insurers, sponsored by Senator Harry McLane, Senate District No. 42, Laurel. Senator McLane stated this bill provides dissolution of domestic insurers.

PROPONENTS

None.

OPPONENTS

None.

QUESTIONS

Rep. Driscoll asked on page 3, section 5, when the mutual insurance companies disband, the bill states that the policy holders would get their premium payments plus interest, and the rest goes to the general fund; why don't the people that bought the insurance get the refund. Ms. Irigoin responded that mutual insurance companies don't have stock holders, so this section had to be included in the bill to address how to distribute assets from mutual insurance companies, because for any other insurance insurance companies that have stock holders, the laws state how it is to be distributed. X

Rep. Driscoll asked if there were excesses, could this be divided among those people that were eligible in some formula. Ms. Irigoin responded that the people would be getting back everything that they were entitled to under their policies plus the premiums they have paid.

Ms. Irigoin stated that if there were any specific questions that the Chief Examiner, Jim Borchardt, could explain in more detail, she suggested waiting until he was available.

Rep. Brandewie suggested holding action on this bill until Mr. Borchardt was available to answer questions.

CLOSING

Sen. Meyer made no further comments.

EXECUTIVE ACTION

ACTION ON SENATE BILL 294

Rep. Driscoll moved that Senate Bill No. 294 BE CONCURRED IN.

Rep. Simon moved the amendment to strike the effective date.

Paul Verdon, staff researcher, stated that if the effective date was deleted, the extension of authority wouldn't go into effect either until October 1. The motion failed.

Rep. Driscoll moved SB 294 BE CONCURRED IN. The motion carried unanimously.

Rep. Driscoll will carry the bill in the House.

ACTION ON SENATE BILL NO. 247

Rep. Brandewie moved that Senate Bill No. 247 BE CONCURRED IN.

Rep. Brandewie moved the amendments to SB 247. the motion carried unanimously.

Rep. Simon moved an amendment to strike the effective date in the legislation.

Mr. Verdon stated that if the effective date was deleted, the extension of authority wouldn't go into effect until October 1, the same as SB 294. The motion failed.

Rep. Thomas moved an amendment to make section 14 effective immediately to address the rule making authority, and strike the effective date. The motion failed.

Rep. Brandewie moved that Senate Bill No. 247 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

Rep. Brandewie will sponsor the bill in the House.

BUSINESS AND LABOR COMMITTEE
MARCH 12, 1987
PAGE 12

ACTION ON SENATE BILL NO. 263

Rep. Brandewie moved that Senate Bill No. 263 BE CONCURRED IN.

Rep. Brandewie moved the amendments. The motion carried unanimously. See Standing Committee Report.

Rep. Brandewie moved SB 263 BE CONCURRED IN AS AMENDED. The motion carried.

Rep. Brandewie will carry the bill in the House.

ADJOURNED

The meeting was adjourned at 10:50 a.m.



REP. LES KITSELMAN, Chairman

DAILY ROLL CALL

BUSINESS & LABOR

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date MARCH 12, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD			✓
REP. NORM WALLIN	✓		

STANDING COMMITTEE REPORT

MARCH 13

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 263

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1) Title, line 3
Following: first "THE"
Insert: "INTEREST ON"

2) Page 4, line 4
Strike: "that are"
Insert: "the interest on which is"

3) Page 6, line 21
Strike: "that are"
Insert: "the interest on which is"

Rep. Ray Brandewie will sponsor

THIRD

BLUE

reading copy ()
color

STANDING COMMITTEE REPORT

MARCH 10

19 57

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 294

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

Rep. Driscoll will sponsor

MS

THIRD

BLUE

reading copy ()
color

STANDING COMMITTEE REPORT

MARCH 12

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 247

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1/22 Page 20, line 15
Following: "commissionar"
Insert: "; or

(d) he has no place of business in this state and during any 12 consecutive months does not direct business communications in this state in any manner to more than five present or prospective clients, other than those specified in subsection (c), whether or not he or any of the persons to whom the communications are directed is then present in this state."

Rep. Ray Brandewie will sponsor

THIRD

BLUE

reading copy ()
color

STANDING COMMITTEE REPORT

MARCH 12, 1987

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 103

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

Rep. Jones will sponsor

[Signature]

THIRD

reading copy (WEEK)
color

SB10 - PREVAILING WAGE

EXHIBIT
DATE 3-12-87
SB10

Exempts local government from prevailing wage act (Little Davis Bacon). Will allow Local Governments to pay contract labor consistent with area, ~~Not~~ a salary rate set out of area such as rate set out of Great Falls for Wolf Point and other rural areas. Contractors pay salaries that are consistent with their own operating areas. When the contractors are forced to pay higher rates when doing work for local governments it causes conflicts within their operation. The conflicts are caused by having to pay higher salaries to those working on the government jobs than those working on the other jobs, plus added records and paperwork. This bill has nothing to do with unions, it only allows local government to pay according to rate consistent with their area.

All heard from 105 and I-27 - We are being told to cut back - spend wisely. This bill is one way that will allow us to do so.

Sec. 2 of 7-5-2302: Governing body shall let such contract to the lowest and best responsible bidder. We are still responsible for what this bidder or contractor does. Talk of cheaper labor not doing good work or not being the best employees is simply not true. Saving to local governments allow for more jobs and more opportunities. Not just a higher salary for a few. With economy as it is, people are glad to get a job at a fair rate, a rate consistent with the area they live in. We need to get the most for our money, not have to pay more for the same job. The taxpayers should not have to pay more than the private sector for the same service or job.

We urge your support of this bill

Jim Halverson, Roosevelt County Commissioner

WITNESS STATEMENT

EXHIBIT 2
DATE 3/12/87
HB SB 10

NAME BILL Adamo BILL NO. SB 10
ADDRESS 132 S. "B" Livingston, IL DATE 3/12/87
WHOM DO YOU REPRESENT? Livingston Schools
SUPPORT Strongly OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

3
3/12/87
3/10

NAME STEVE KOONTZ BILL NO. 10
ADDRESS RT 38, BOX 217A DATE 3/12/87
WHOM DO YOU REPRESENT? PARK CO.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- A) LONG OVER DUE
- B) A WIN-WIN PROPOSAL
 - 1. MORE WORK FOR ALL
 - 2. BETTER RETURN FOR THE TAX \$
- C.) A GOLDEN OPPORTUNITY FOR ALL.

THANK YOU

Steve Koontz

(over)

ANSWER TO OBJECTIONS

A) THERE IS NO PROOF THAT HIGH PAID WORKERS = HIGH QUALITY

- ~~1~~ 1. MOST ALL CABINET MAKERS ARE NON-UNION.
2. CUSTOM HOMES ARE BUILT BY MOSTLY NON-UNION

B) CONTRARY TO JIM MURRAY -
NOT ALL NON-UNION CONTRACTORS ARE "UNSCUPULOUS"

C) ~~ARE~~ CONTRARY TO THE COMMENTS OF THE OPERATING ENGINEER - THE COST OF A SCHOOL CLASSROOM IS DETERMINED PRIMARILY BY CODES, CLIMATE CONDITIONS, & WALLS.
- NOT WALLS ONLY.

D) THE COMPROMISE BILL IS NO COMPROMISE - BUT A NO CHANCE



SWANK ENTERPRISES/ GENERAL CONTRACTORS

4
31287
SB 10
P.O. BOX 368
PHONE: 406/279-3241
VALIER, MONTANA 59486

March 5, 1987

As a general contractor doing business primarily in the public sector, I urge you to support Senate Bill 10. This bill which exempts local governments from the "Little Davis Bacon Act" can save considerable money for local projects. This would result in tax savings and better projects.

The established wage rates do not in many cases honestly reflect the local wages, and result in an inflationary labor cost. We are presently building five schools in Kalispell, and the prevailing wage rate is approximately \$3.00 per hour higher than that paid by contractors building private work in the Flathead.

Thank you for your consideration.

Sincerely,

SWANK ENTERPRISES

Dean Swank

TESTIMONY OF MARY MARZOTTO
BEFORE THE SENATE LABOR AND EMPLOYMENT
RELATIONS COMMITTEE
IN OPPOSITION TO SENATE BILL 10
January 20, 1987

EXHIBIT 5
DATE 3-12-87
HB SB 10

My name is Mary Marzotto. I am a Supervisory Investigator for the Painting and Drywall Work Preservation Fund in California. I hold a Ph.D. from the University of California and have conducted labor market research for nearly 10 years. Prior to joining the WPF, I was a Research Director for a Labor Studies Institute in San Francisco, and a Professor of Sociology at Northeastern Illinois University.

The Painting and Drywall Work Preservation Fund is a labor-management cooperative venture. It was established in 1977 by representatives of the International Brotherhood of Painters and Allied Trades, the Painting and Decorating Contractors Associations and the Drywall Contractors' Associations. Its purpose is to preserve high standards of workmanship and fair competition, to solve problems of mutual concern not susceptible to resolution within the collective bargaining process and to explore new and innovative joint labor-management approaches to current or potential problems within the painting, decorating and drywall industries.

To accomplish these goals, the Work Preservation Fund carries out an active program to assure that laws governing public works construction are enforced by public agencies charged with their enforcement.

The services and expertise we provide includes researching

legal matters concerning prevailing wage laws, force account limitations, apprenticeship requirements and license laws.

Public works law is a heavily regulated area. Each year, new bills are proposed. Ongoing analysis and strategy development is vital to the protection of industry and worker rights. The WPF monitors and analyzes pending legislation affecting public works laws both statewide and nationally. We draft legislation and provide expert testimony for legislative committees.

The Work Preservation Fund also publishes and markets the Public Works Manual, a comprehensive reference book of statutes regulation, cases and strategies for public works law enforcement and a guide to investigating public works law violations.

The concern of State Legislators must go further than any one issue in evaluating changes in the prevailing wage law.

The Davis-Bacon Act was initially passed in 1930. This federal prevailing wage law served as a model to many states, including Montana, which passed prevailing wage legislation in 1931 ("Little Davis-Bacon Act"). The object of these laws were, and are, to prevent the Federal and State Governments from undercutting local area labor standards in the process of letting contracts for government construction work. The prevailing wage laws reflect the policy that it is an improper use of the government's buying power to exploit local labor to get a cheaper price on a construction job.

Without these laws, conditions in the construction industry would be even more volatile and fluctuating than they already are. This is because the structure of the industry and the nature of its business provide an ever present potential for cutthroat

competition based on wage cutting. The industry has many small employers, and competition is intense. The competition seldom rests on product design, since the structure to be built and the materials to be used are commonly specified in considerable detail by the buyer, whether government or private. When the opportunities to trim costs are limited, contractors are naturally inclined to seek to underbid their competitors and make a profit by cutting wages. The prevailing wage laws put a floor under which the contractors cannot sink.

If a contractor bases his bid on lower than prevailing wages, he is not going to get skilled employees to work the job. A skilled journeyman craftsman, having spent several years of specialized training in an approved apprenticeship training program, will not seek employment with a contractor paying less than prevailing wages. With unskilled personnel, perhaps working under the supervision of one or two skilled craftsmen, the result will be reduced job quality, lower productivity and a slowdown in construction. These all mean increased costs in the long run to the owner and the taxpayer, who do not get full value for their money.

One of the key issues in the controversy over state prevailing wage laws is whether or not this legislation tends to increase the cost of public construction. When analyzing the cost impact of prevailing wage laws, a first step should be to look at the total costs of projects built under these laws, rather than looking primarily at wage rates. There may be significant differences in the quality of construction which don't immediately show up in project costs.

Another important issue is the relative productivity of high wage vs. low wage workers. If one individual earns 20% more than another, but can complete 25% more work in the same amount of time, then employing the more highly paid person will actually save money.

There have been few studies which attempt to analyze the differences in construction costs from state to state. In reality there are a great many factors that account for these differences. None of these studies provide any evidence to support the claims that prevailing wage laws are inflationary.

Summary of Significant Studies

1. A 1965 study by Allan Mandelstamm, "The Effect of Unions on Efficiency in the Residential Construction Industry: A Case Study". Mandelstamm's study presents a detailed comparison of union and non-union home building in Michigan and concludes that greater productivity largely offsets the higher wages paid to union workers.
2. A 1979 study by Steven G. Allen, "Unionized Construction Workers Are More Efficient". Allen reports the results of a comprehensive econometric study indicating that unionized construction workers are between 29% and 51% more productive than their non-union counterparts.
3. U.S. Dept. of Housing and Urban Development, Office of Program Planning and Evaluation, "Evaluation of the High Cost of Indian Housing". This study involves the federal Davis-Bacon Act rather than a state prevailing wage law, but the principle remains the same. HUD undertook this study to identify factors contributing to high costs for HUD-financed housing built on Indian reservation. One possibility they considered was

that Davis-Bacon prevailing wage requirements might lead to excessive costs.

Their research found no correlation between high wages and high construction costs. Of five (5) Indian Housing Authorities with the highest average wage rates...only one had average dwelling construction costs which exceed the median.

4. Another significant source of information comes from data available from the 1971 suspension of the Davis-Bacon Act. The federal Davis-Bacon Act was suspended for a 35-day period by executive order of President Nixon.

If prevailing wages cause inflationary construction costs, the impact of this suspension should have been a sharp reduction in the cost of federal construction.

In reality, no such reduction occurred. Data are available for 1,263 projects which were bid under prevailing wage requirements and then re-bid during the suspension. On average, the second bid was lower than the first by only 6/10 of 1% (.06).

5. A 1980 Study of Public School Construction Costs by Steve Allen and David Reich. This study examined the costs of construction of new secondary schools. The study looked at data for 48 contiguous states (excluding Alaska and Hawaii), to ascertain the average cost of construction per classroom for the period 1968 through 1974. The figures were adjusted for general interstate price differences, geography and climate. The study also examined whether or not the states involved had prevailing wage laws.

If prevailing wage laws have a significant cost impact, then

states with these laws would be expected to be found clustered at the top of the list, and states without these laws would be found near the bottom. In fact, no such pattern was found. Among the states with the highest costs, 12 had no prevailing wage law. Of 20 states with the lowest cost, 10 had prevailing wage laws.

The highest per classroom cost was \$114,284 in Vermont, a non-prevailing wage state. Montana ranked 28th with a per classroom cost of \$71,959 and California ranked 32nd with a cost of \$70,264. ✓

All the available evidence indicates that prevailing wage protection does not lead to excess costs. Prevailing wage helps ensure that skilled and experienced construction workers will be hired. Prevailing wage promotes efficient, top quality work.

A final issue I would like to address is related to the cost of financing construction work. The construction industry pension funds have historically been construction-investment oriented. Their investments in direct construction financing and construction-related instruments, such as Government National Mortgage Association and Federal National Mortgage Association certificates may constitute up to 90% of the total assets of the pension funds. Traditionally, when interest rates soar and no long-range financing is available from conventional investment sources, Union pension funds supply large sums for financing construction projects in local communities. This is another reason why prevailing wage laws are a profitable community investment.

The prevailing wage laws provide enormous benefits to a number of different constituencies, including workers, contractors and

the taxpayers themselves. The financial benefit to the economy is multiplied many times over the naked increased labor price. Rather than being a short term response to an economic emergency in the 1930's, prevailing wage laws represent an integral part of our nation's system of labor legislation, and they should be preserved and strengthened rather than repealed.

Thank you.

SB 103 - Blue Copy

Amendments

1. Page 2, line 3
Strike: "or"
Insert: "and"
2. Page 2, line 19
Following: line 18
Insert: "NEW SECTION. Section 2. Annual option by employee. An employee who is entitled to wages and fringe benefits under [section 1] annually must choose between the fringe benefits options in subsections (1)(a) and (1)(b) of [section 1]. The choice must be made in writing on a form provided by the department on which both options are clearly defined. The employer shall retain the form completed by each employee for not less than 3 years."
3. Page 1, line 25
Strike: "Section 1 is"
Insert: "Sections 1 and 2 are"
4. Page 2, line 3.
Strike: "section 1"
Insert: "sections 1 and 2"

EXHIBIT 3-12-87
DATE 3B10
HB

Prevailing Wage Laws Are Not Inflationary

A Case Study of Public School Construction Costs

by
**Steven G. Allen
&
David Reich**

**Center to Protect Workers' Rights
815 - 16th Street, N.W.
Room 603
Washington, D.C. 20006
Robert A. Georgine, President**

TABLE A-2

REGRESSION RESULTS

SECONDARY SCHOOLS

Dependent Variable: Cost(Sec) (Average Cost Per Room - Secondary Schools)								
	1	2	3	4	5	6	7	8
Intercept	-93861** (35943)	-15941 (49067)	-13736 (17883)	83079** (28326)	-102976** (37014)	-13859 (18115)	-126577** (30596)	-131346** (33540)
Price (Dodge)	1582.52** (454.55)	1345.31** (451.19)			1683.52** (464.92)		2078.85** (347.73)	2180.65** (389.39)
Price (Fuchs)			603.54** (219.92)	435.89* (219.47)		607.74** (224.78)		
Urbanization	174.14* (105.59)	192.49* (98.75)	247.48** (91.93)	266.87** (86.63)	190.46* (106.73)	242.27** (101.12)		48.99 (94.63)
Climate (Cold)	99.39* (43.66)		154.57** (42.15)		103.72** (43.84)	152.78** (44.76)	61.90 (38.05)	
Climate (Temp)		-849.52** (282.01)		-1199.56** (266.95)				
PW Law	-6087.65 (4269.55)	-5591.38 (4087.60)	-717.06 (4119.78)	-1520.21 (3899.75)	-8450.02 (4852.82)	-464.72 (4591.39)	-6131.53 (4358.10)	-8372.22 (4356.48)
PW Law(Part)					-8308.32 (8128.02)	1167.84 (8915.70)		
R ²	.6065	.6377	.5229	.5738	.6167	.5231	.5797	.5555

Standard errors are shown in parentheses below coefficients

*/ Significant at the .05 level (one-tailed test, except for PWL variables)

**/ Significant at the .01 level (one-tailed test, except for PWL variables)

EXHIBIT 7
DATE 3 12 87
HB SB263

SB 263, Blue Copy

Amendments

1. Title, line 8
Following: first "THE"
Insert: "INTEREST ON"
2. Page 4, line 4
Strike: "that are"
Insert: "the interest on which is"
3. Page 6, line 21
Strike: "that are"
Insert: "the interest on which is"

\\helen\\SB263.txt

Kim Schulke
Deputy Securities Commissioner
444-5236

EXHIBIT 8
DATE 3.12.87
HB SB 247

SB 247
GENERAL REVISION OF SECURITIES LAWS

Requested by State Auditor and Commissioner of Securities,
Andrea "Andy" Bennett

SECTION BY SECTION REVIEW

Section 1. Amendment to 30-10-103.

In subsection (2)(a), some renumbering has been done to reflect amendments to 30-10-104, which are contained in Section 2 of this bill.

In subsection (6)(b), an addition has been made to the term "investment adviser," to include persons who provide investment advisory services as an integral part of other financially related services or persons who represent that they are providing investment advisory services for compensation.

Subsection (6)(c)(iv) has been amended to reflect the change in the law as set forth in the 1985 U.S. Supreme Court case of Lowe v. Securities and Exchange Commission. That case held that it was a violation of the first amendment right of free speech for the SEC to prohibit the publishing of nonpersonalized investment advice.

Subsection (6)(f) has been deleted. The substance of this section has been moved to Section 4 of this bill, on page 20. As the law currently exists, certain persons who have no place of business in this state, and whose clients are sophisticated investors, are excluded from the definition of investment adviser so that the Securities Act does not apply to them at all. By moving this exclusion from Section 1 to Section 4 of this bill, we are recognizing that these particular persons are in fact investment advisers and the Securities Act does apply to them, but they do not have to register in order to do business here. The anti-fraud provisions of the Securities Act will now apply to those particular investment advisers.

In subsection 11, the "Investment Advisors Act of 1940," has been added to the list of federal statutes to which the Securities Act of Montana refers. The Investment Advisors Act of 1940, is referred to in an amendment contained in Section 4 of this bill.

A new subsection 14 has been added to define the terms "transact", "transact business", and "transaction". These terms are used in the Securities Act, but have not been defined. The lack of a definition has been used against our Department in at least one case where a criminal defendant was charged under 30-10-201, which prohibits a person from transacting business in this state as a broker-dealer or salesman unless they are registered under the Securities Act. We overcame the problem in that case, by researching the history of the Uniform Securities Act. We were able to determine that the term "transact business" was meant to include both the offer and sale of securities. In order to clarify the Securities Act and provide notice to those subject to its provisions, we propose this definition.

Section 2. Amendment to 30-10-104.

Subsection 5 deletes the exemption from registration of any insurance or endowment policy or annuity contracts which is subject to the supervision of the insurance commissioner. The definition of "security" as set forth in 30-10-103(12) states that it does not include these products. Therefore, it is useless to provide an exemption from registration for them in the Securities Act since they aren't securities. When the Uniform Securities Act was adopted in Montana, either one or the other of these provisions should have been adopted, but not both. Taking this exemption out will make it clear that the Securities Act of Montana does not apply to these insurance products. Such products are already regulated by the insurance commissioner.

Section 3. Amendment to 30-10-105.

Subsection 1 provides an exemption from registration for transactions not for the benefit of the issuer of the securities, if that transaction is an "isolated" transaction. The suggested amendment here clarifies when a transaction is deemed to be "isolated." A transaction is presumed to be isolated if it is one of not more than 3 transactions during the prior 12-month period.

In reviewing similar exemptions in other states, the 3 transactions in a 12-month period appears to be standard.

This exemption allows you and I to sell the securities we hold, assuming we are not the issuer of those securities, without the requirement of registration.

Subsection (11) adds "denial suspension or revocation." This section provides an exemption from registration for an offer of a security for which registration statements have been filed under the Securities Act of Montana and the federal Securities Act of 1933, if none of these orders is in effect or pending. The Securities Act of Montana does not define or use "stop" or

"refusal" order; therefore, we have added the terms our act does use: "denial, suspension, or revocation" orders. The federal securities acts use the term "stop" order. This amendment clarifies that any of these orders will invalidate the exemption.

Subsection (15) provides that the commissioner may create additional exemptions by administrative rule. The amendment to this section provides that the commissioner may require registration of the broker-dealer, the salesman, or the securities in particular instances. This gives the commissioner flexibility in balancing the needs of investor protection and the facilitation of capital formation in Montana.

Subsection (16) provides an exemption from registration for transactions by a Montana capital company as defined in the Montana Capital Company Act. This amendment would require that the exemption apply only to those companies which are "certified" capital companies, and not just those that apply to become "certified" companies under the Capital Company Act. A company seeking to be certified as a Montana capital company must make an application to the Montana Economic Development Board. The application must show that the applicant's purpose is to encourage and assist in the creation, development, and expansion of Montana-based businesses and to provide maximum opportunities for the employment of Montanans by making venture capital available to sound small Montana firms.

The reason for this exemption is to encourage companies to form capital in Montana to start and expand businesses. In order to protect investors, however, the Commissioner believes that this exemption should only be available to those companies who have become certified.

I have discussed this amendment with Mr. Bob Pancich of the Montana Economic Development Board, and he approves the amendment.

Section 4. Amendment to 30-10-201.

Subsection (3)(c) provides that an investment adviser whose only clients in this state are certain sophisticated investors, need not register here. The amendment to this subsection adds several more types of sophisticated investors to this list. This amendment is made to modernize Montana's securities law to make them uniform with the laws of other states.

Subsection (4) currently provides that all securities salesmen must be legal residents of this state unless they work for brokerage firms governed by the SEC. There is no reason for this requirement, and it might be argued that this requirement results in the denial of equal protection for salesmen who do not work for those firms. A \$50 fee was required to waive the residency requirement. Deletion of the residency requirement will have a small fiscal impact on the revenues of the Securities Department, as noted in the fiscal note attached to the bill.

The amendments to subsections (5) and (6) provide that a registration application cannot be withdrawn from consideration without consent of the commissioner. This amendment is made to prevent a situation that arose a few years ago in our Department. An issuer filed a registration application which was incomplete. Included within the application were financial statements which the commissioner believed grossly overstated the net worth of the general partner of the venture. When the commissioner questioned the statements, the applicant withdrew the application. The commissioner then brought an action alleging the filing of false information. The applicant argued that he could withdraw his application at any time before it was complete, and thereby avoid liability for false information filed with the commissioner. If we hadn't caught the allegedly false information, it could have been used to sell securities in this state, and could have mislead investors. This amendment will require approval of the commissioner before an application is allowed to be withdrawn, thereby giving the commissioner an opportunity to take formal action against an incomplete, but possibly misleading application.

Subsection (10)(f) allows the commissioner to deny, suspend or revoke the registration of a broker-dealer, salesman or investment adviser if such person or firm is subject to an order of the securities commissioner of any other state or by the SEC. The amendment clarifies to which orders the persons or firms are subject, and adds orders based on violations of the Investment Advisors Act of 1940, the Investment Company Act of 1940, and the various commodities laws.

New subsection (10)(k) allows the commissioner to deny, suspend or revoke the registration of a broker-dealer or investment adviser for failure to supervise his salesman or investment adviser representatives. This provision appeared in the Uniform Securities Act, but was not adopted in Montana in 1961 when we adopted most of that uniform act. Most other states, and the SEC have similar provisions. It requires the broker-dealer and the investment adviser to closely monitor the activities of their employees in connection with the offer and sale of securities and the giving of investment advice in Montana.

New subsection (11) states that the commissioner may not bring a suspension or revocation action based on a fact known to the commissioner when the registration became effective unless the proceeding is begun within 30 days after the date on which the registration becomes effective. This provides an applicant with the assurance that, if no action is brought within 30 days after his registration is made effective, the application will not be revoked or suspended based on information known to the commissioner at the time of registration.

New subsection (12) gives the commissioner the authority to summarily postpone or suspend registration pending a final determination of any revocation, denial or suspension action. This summary procedure is allowed by the Montana Administrative Procedure Act, section 2-4-631(3), MCA.

The amendment to subsection (13) allows the commissioner to extend a summary denial, suspension or revocation order until a final order is issued by the hearing examiner, after the applicant has had an opportunity to contest such action.

Section 5. Amendment to 30-10-204.

Section 30-10-204 describes the procedure whereby securities can become registered in Montana by coordination with a federal securities registration. Such applicants, under current law, must submit 3 copies of the prospectus to our office. We routinely throw away 2 of those copies. Therefore, it is ridiculous for the department to ask for 3. The amendment to 30-10-204(1)(a) deletes this requirement.

In 30-10-204(4), "stop" order is replaced by "denial" order, as discussed earlier in this summary. The correct term under Montana law is a denial order; our statutes do not use the term "stop" order.

Section 6. Amendment to 30-10-206.

New subsection (5) requires written consent of the commissioner before a securities application can be withdrawn. This prevents an applicant from filing false information with the commissioner and then withdrawing his application before the commissioner can take action for the filing of such information.

Section 7. Amendment to 30-10-207.

In section 30-10-207(2) "stop" order is replaced by "suspension or revocation" order, again because the Securities Act of Montana does not use or define the term "stop" order.

Section 8. Amendment to 30-10-209.

Subsection (5) is deleted because the residency requirement has been excised from the Securities Act.

Section 9. Amendment to 30-10-301.

Subsection (2) describes fraudulent and other prohibited practices of investment advisers. Current law reads that a person who gets consideration from another primarily for advising the other as to the value of securities, cannot engage in certain practices. The amendment to this section provides that the consideration can be received directly or indirectly, and that the consideration need not be primarily in return for the investment advice.

The words "directly or indirectly" are added and the word "primarily" is deleted, to ensure that all persons, including officers, directors, and investment adviser representatives of an investment adviser, who receive compensation from an employer who renders investment advice rather than directly from a client, are subject to this section.

The addition of new subsection (2)(a)(iii) is the equivalent of section 206(3) of the federal Investment Advisers Act of 1940 which requires an adviser and persons associated with the adviser, who act as principal or effect transactions between clients, to disclose in writing the capacity in which the adviser or associated person is acting and obtain the consent of the client to the transactions prior to completion of the transaction. This allows for the disclosure of possible conflicts of interest in the giving of investment advice.

New subsection (2)(b) provides that the disclosures required by (2)(a)(iii) are not required of broker-dealers who are not being compensated for rendering investment advice.

The addition of new subsection (3) is intended to cover fraudulent practices committed in the solicitation of clients rather than in the rendition of advice, which is addressed in subsection (2)(a).

Under current law, 30-10-301(3) provided that it is unlawful for an investment adviser to enter into an investment advisory contract unless certain requirements were met. In order to make this requirement more flexible, the amendment to that subsection, which has become 30-10-301(4), provides that the commissioner may allow contracts without those requirements, by rule or order.

New subsection (6) requires investment advisers who have custody of client's securities or funds, to notify the commissioner. It also allows the commissioner to prohibit such custody by rule. This section is a part of the Uniform Securities Act. Montana did not adopt this part of the Act in 1961. In order to make our statute uniform with those of most other states, we are proposing this amendment.

Section 10. Amendment to 30-10-304.

Section (2)(b) is added to provide for the enforcement in Montana, of subpoenas issued by other state securities commissioners. In turn, in those states where similar provisions have been enacted, subpoenas issued by the Montana Securities Commissioner, can be enforced. This provision will expand the reach of the commissioner's subpoenas to out of state companies and persons. Since most of our enforcement actions are against out of state companies, this will facilitate the collection of information for our investigations.

Section 11. Amendment to 30-10-307.

Section 30-10-307 provides for private civil actions to be brought for violations of the Securities Act of Montana. This amendment proposes to delete "of any provisions" and "through 30-10-205" in the first sentence of 30-10-307. Section 30-10-202 is the section which defines the violation of the sale of unregistered securities. Sections 30-10-203, -204 and -205 describe the different ways in which securities may become registered in Montana. These sections do not define violations, and therefore it does not make sense to include them as a basis for a private civil action for securities law violations.

Section 12. Amendment to 90-8-304.

This section is amended to make the change described earlier in this summary regarding the Montana Capital Company Act. This amendment would require that the exemption apply only to those companies which are "certified" capital companies, and not just those that apply to become "certified" companies under the Capital Company Act. A company seeking to be certified as a Montana capital company must make an application to the Montana Economic Development Board. The application must show that the applicant's purpose is to encourage and assist in the creation, development, and expansion of Montana-based businesses and to provide maximum opportunities for the employment of Montanans by making venture capital available to sound small Montana firms.

The reason for this exemption is to encourage companies to form capital in Montana to start and expand businesses. In order to protect investors, however, the Commissioner believes that this exemption should only be available to those companies who have become certified.

I have discussed this amendment with Mr. Bob Pancich of the Montana Economic Development Board, and he approves the amendment.

Section 13. Coordination instruction.

The coordination instruction provides that if SB 186, authorizing the registration of investment adviser representatives, does not pass, references in this bill to "investment adviser representatives," should be deleted.

EXHIBIT 9
DATE 3.12.87
HB SB 247

Senate Bill #247
Amendments

Section 30-10-201 (3) --- on Page 20, Line 15, after
commissioner Strike "." insert ", or"

On Page 20, Line 16 insert ^(d) "he has no place of business
in this state and during any twelve consecutive months
does not direct business communications in this state in
any manner to more than five clients, other than those
specified in subparagraphs (c) (i)-(ix) above, whether
or not he or any of the persons to whom the
communications are directed is then present in this
state."

EXHIBIT 10
DATE 3-12-87
HB SB295

COMMENTS

Senate Bill 295
Submitted by Tanya Ask
Montana Insurance Department
March 12, 1987

The purpose of this bill is to partially return requirements for selling the federal all-risk crop insurance program to where they were prior to July 1, 1986. At that time anyone selling ONLY the federal program was not required to be licensed by the state in which they sold. If an individual also sold coverage for a commercial insurance company, they had to be tested and licensed by the state.

In 1986 the board of directors for the federal program decided their agents also needed to be licensed by the state, even though their program is NOT REGULATED BY ANY STATE.

To comply with the board of directors' requirement, this bill allows issuance of a restricted license to those persons selling only the federal program. Should they also sell coverage for a private insurance company, they would have to successfully complete the standard examination, and be issued a regular license as has always been the case.

EXHIBIT 11
DATE 3-12-87
HB 58295

United States Department of Agriculture

COPY

262-10
See file

FEDERAL CROP INSURANCE CORPORATION

CERTIFICATE OF COMPLETION

THIS IS TO CERTIFY THAT

~~REDACTED~~

AN AUTHORIZED REPRESENTATIVE

HAS SUCCESSFULLY COMPLETED A REQUIRED COURSE OF STUDY ON MARKETING AND SERVICE OF

FEDERAL CROP INSURANCE

WHEAT	BARLEY	OATS	CORN
BASIC INS PRIN	POTATOES		

CROPS CERTIFIED TO MARKET AND SERVICE

MAY 1, 1985
DATE

William C. Bodley
MARKETING DIRECTOR
FEDERAL CROP INSURANCE CORPORATION

WRITTEN TESTIMONY OF STATE AUDITOR'S OFFICE
SENATE BILL 250
March 12, 1987

I. Background

Early last year, the shareholder of Capri Insurance Company notified the Montana Insurance Department that it wanted to dissolve the company. Capri was a property/casualty insurer in Missoula that had been dormant for several years. It had no active policies nor any outstanding unpaid claims according to its latest financial statement.

II. Problem

The problem the Insurance Department faced was that there was nothing in law explaining how a voluntary dissolution should be done. Based on his experience with the Wisconsin Insurance Department, our Chief Examiner, Jim Borchardt, used Wisconsin insurance law to address the problem. He informally drew up procedures he hoped would effect the dissolution without problems. It became clear that laws spelling out the procedures to be followed in a voluntary dissolutions were necessary.

III. Solution

Senate Bill 250 solves the problem of how a voluntary dissolution of a domestic insurer should be handled. Section 1 provides that corporation laws relating to voluntary dissolution, which otherwise would not apply to an insurer, apply to the voluntary dissolution of a domestic insurer.

Section 2 sets forth the necessary steps and time frames for voluntary dissolution. It requires advance notice and approval by shareholders or policyholders of any plan to dissolve.

Sections 3 and 4 address scenarios in which the insurer either is found to be insolvent or wishes to rescind its dissolution request.

Section 5 spells out how the assets of a mutual insurer should be distributed under voluntary dissolution.

IV. Conclusion

Voluntary dissolutions occur very rarely, but when they do occur both the dissolving company and the Insurance Department need laws to guide how they should proceed. Senate Bill 250 provides procedures to follow in a voluntary dissolution. The procedures of Senate Bill 250 should eliminate uncertainty and potential errors in voluntary dissolutions.

M E M O R A N D U M

TO: Chairman Les Kitselman and Members,
House Business & Labor Committee

FROM: Jim Borchardt, Chief Examiner
State Auditor's Office

SUBJECT: Response to Committee's inquiry on SB 250

DATE: March 18, 1987

A question arose at the March 12th House Business & Labor Committee hearing on Senate Bill 250 regarding the circumstances under which any assets of a mutual insurer would revert to the General Fund if a mutual insurer wished to dissolve voluntarily. The possibility of such a reversion to the General Fund is referenced in Section 5 of Senate Bill 250 (page 3, lines 12 through 14).

Assets of a mutual insurer in voluntary dissolution would revert to the General Fund under the following scenario:

If, after the mutual insurer paid ALL outstanding claims and other benefits owed under its policies and paid back to ALL policyholders an amount equal to ALL premiums they had EVER paid to the mutual insurer plus interest accrued from the dates of those premium payments, the mutual insurer still had assets remaining, then those assets would revert to the General Fund.

Although Section 5 of Senate Bill 250 is detailed and lengthy, the probability of a MUTUAL INSURER (as opposed to a stock insurer) requesting voluntary dissolution is remote. The probability of any money reverting to the General Fund is even less likely. The procedures in Section 5 are set forth merely to cover any eventuality.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. SENATE BILL NO. 250DATE MARCH 12, 1987SPONSOR SENATOR HARRY MCLANE

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Kathy Triguin	State Auditor's Office	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. SENATE BILL NO. 10DATE MARCH 12, 1987SPONSOR SENATOR GARY AKLESTAD

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Gordon Munn	IMAC	✓	
Kempster	Fergus co.	✓	
Curt Wilson	Laborer's Dist. Council		✓
Gene Huntington	Louise's Office		✓
Len F. Blancher	Coop. Eng. # 400		✓
Stuart Duggell	Mt. Chamber of Commerce	✓	
Mons Teigen	Mt. Stockpiles & other women	✓	
Jim Halverson	Roseland Co. Comm	✓	
Larry Neutgens	Wolf Point Businessman	✓	
Lena Frank	Mt. Farm Bureau	✓	
Larry J. Sand	Wolf Point Business	✓	
James B. McCauley	Jefferson Co. Commissioner	✓	
Randy C. Grogan			✓
John Torkan			✓
STEVE ROANTZ	PARK Co. MT.	X	
BILL Adamo	Livingston Schools	X	
Billy Paulsen	Helena MTORW	✓	
Blige R. Schmidt Otter	Helena	✓	
John C. Huber	Wolf Point	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. SENATE BILL NO. 10

DATE MARCH 12, 1987

SPONSOR SENATOR GARY AKLESTAD

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
MUBLENE HIRT	MBWC	✓	
Jim Bolin	Laborers' Int. Union	✓	X
W. D. Bales	Mont Chamber	X	
Ruby Johnson	Mont. Home Builders Ass'n. National Fed. of Independent Business	X	
George Allen	MT. Retail Assoc	X	
Jim Roster		X	
Bob Correa	Boy. Chamber of Comm	X	
Jim Kneale	USWA Local 72		X
Bob Kneale	Self Mpl. Cop	X	
Vern Schmitz	Jefferson County	X	
Roger Young	Self - Great Falls	X	
Jim Murry	Mont. AFL-CIO		X
Gene Boudette	Self		X
W. Vosburg	Pacific Hider Fur	X	
Eric Fend	St Blg TRADE		X
Self Fletcher	Powder R County	X	
Don Schott	Brookline Rd	X	
Gerald Kimball	Powder River County	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABORCOMMITTEEBILL NO. SENATE BILL NO. 263DATE MARCH 12, 1987SPONSOR SENATOR BOB WILLIAMS

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Bob Fencich	MEDB	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. SENATE BILL NO. 247DATE MARCH 12, 1987SPONSOR SENATOR DARRYL MEYER

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
J. Kim Schulte	State Auditor's Office	X	
Charles G. Gravelley	IDS Financial Services	Amend	
PK "Rick" Tinkles	Self (S)	Demanded	
Bruce A. MacKenzie	D. H. Davidson & Co.	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. SENATE BILL NO. 294DATE MARCH 12, 1987SPONSOR SENATOR DARRYL MEYER

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Kathy Irigoin	State Auditor's Office	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.