

## MINUTES

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

Call to Order: By Chairman Gene Thayer, on January 31,  
1989, at 10:00 a.m.

#### ROLL CALL

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

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council;

Announcements/Discussion: None

#### HEARING ON SENATE BILL 245

Presentation and Opening Statement by Sponsor: Senator Keating, Senate District 44, said he served on the legislative audit committee. An audit report dealing with the Department of Administration's in-state bidder preference law, reflected that in-state bidder preference was very minimal in obtaining opportunities for in-state bidding success. He pointed out, the audit did not cover in-state printing, but it did cover a great deal of bids for state services. SB 245 repeals the 3% in-state bidder preference. Senator Keating distributed written material, and further explained the Bill. (See Exhibit #1). He said, as you can see by the handout, there were about \$16,000,000 in contracts let by the state's purchasing bureau in FYE 1986-87. Of the \$16,000,000, only \$284,000 was affected by the preference. Of the \$16,000,000, about \$9,000,000 was awarded to in-state contractors without utilizing the preference. Most of those contractors were companies with out-of-state headquarters, but in-state presence with building and employees, they are not eligible for the bidder preference. Thirty percent

went out-of-state even with the availability of the preference for in-state contractors, so with the total amount of bidding and the minor impact the in-state bidder preference had, they questioned the effectiveness of the program.

He said there were several reasons to repeal the laws. These arguments include:

1. "Preference laws prevent suppliers from bidding on an equal basis, thereby inhibiting competition and limiting the ability of the state and its taxpayers to procure the best possible goods and services for the lowest possible price."
2. "Preference laws, by themselves, do not have a measurable long-term impact on the state's economy; only a nationwide economic recovery can truly bolster the state's economy by helping to create jobs, increase tax revenues, and reduce unemployment and welfare costs."
3. "The enactment of a domestic preference law by one state causes other states to retaliate by passing their own protectionist legislation, resulting in the restriction of interstate trade, reduced markets for goods and services and, ultimately, lost profits for domestic businesses."

"Most purchases partially or completely funded by federal money are prohibited from having an in-state bidders preference applied. As stated in Chapter II, the Federal Office of Management and Budget is currently rewriting Circular A-102 to expressly prohibit the use of an in-state bidders preference for most grants to state and local governments."

"The preference only affected 43 of the 544 IFBs for items on the Requisition Time Schedule and individual requisition processed by the Purchasing Bureau in fiscal year 1986-87."

"Minutes from the 1961 Legislative Committee meetings indicated construction companies were in favor of the in-state bidders preference. Questionnaire results indicate most Montana contractors still favor the preference. Our questionnaire showed out-of-state contractors do not favor Montana's in-state bidder preference law. Sixty-five percent (20 of 31) of the respondents said it should be eliminated. Twenty

contractors said they do not think the preference helps Montana Economy."

"Information gathered at the Department of Highways and Architecture and Engineering Division indicate the preference has limited effects on construction projects. A review of a sample of projects let during fiscal year 1986-87 at both agencies indicated for 100% state funded projects, very few out-of-state contractors bid on projects. (If any federal funds are involved in a construction project, the in-state bidders preference cannot be applied.) The bids that were submitted by out-of-state contractors were all much higher than the bids by Montana contractors so the preference did not come into consideration. Only one of the 221 projects let the Department of Highways from January 1980 to May 1987 was awarded to a vendor as a result of the preference."

Senator Keating said the enactment of Montana's in-state preference laws established an adverse rule in the surrounding states. They pass protective legislation, making Montana contractors subject to their bidder preference laws. The laws affect intrastate and interstate trade, and created the loss of opportunity to compete in surrounding states. The surrounding states do not have bidder preference laws. However, they do have reciprocal preference laws that state, if contractors are from a state with preference laws, the laws of their state apply when they let bids in another state. By repealing our bidder preference laws, all the surrounding states with reciprocal laws would let Montana contractors bid on an equal basis within their state. He urged the passage of SB 245.

List of Testifying Proponents and What Group They Represent:

None

List of Testifying Opponents and What Group They Represent:

Ken Dunham - Associated Printers & Publishers  
Don Judge - Montana AFL-CIO

Testimony:

Ken Dunham stated there were not many printing jobs awarded to Montana printers on the basis of the in-state preference laws. He stated the importance of the award to a small in-state business, should not be

underestimated. Any contract was vital to their survival.

He said the printing industry was not addressed in the legislative audit study, but were included in the proposed law. Mr. Dunham suggested an amendment removing section seven of SB 245, which was the part referring to the printing business in Montana. He said he hoped the committee would amend the bill before passage. (See Exhibit #2).

Don Judge said the laws were passed before because they protected our state's economy. They kept tax dollars at home, and helped maintain the businesses of the state. (See Exhibit #3)

Questions From Committee Members: Senator Lynch asked if the Audit Committee had considered placing a cap on the preference laws so small businesses would still have some protection? Senator Keating replied, since the audit covered all sizes of contracts, the size of contracts didn't seem to affect the preference any place on the scale. He didn't think it would make any difference.

Senator Lynch said he didn't see any one from the contractors' association. He wondered if they were unconcerned with the bill? Senator Keating explained, most highway contracts were federally funded, the preference laws didn't apply, so they didn't care one way or the other. They did say, they felt the states property tax laws had a greater affect on in-state business than the bidder preference laws.

Senator Noble assured Mr. Dunham that all businesses were as competitive as the printing business, and they weren't singled out for any reason.

Senator Williams said he assumed the 3% preference covered suppliers as well as contractors, and Senator Keating confirmed his assumption. Senator Williams stated, probably 95% of in-state suppliers had out-of-state headquarters. They paid wages, taxes, and what not, but did not qualify for the in-state bidder preference. Senator Keating said there were several out-of-state businesses, with in-state presence, that compete well even with the preference laws. He said the bill could be amended to include those people, but it wouldn't make any difference. The law doesn't work. That is the reason for the bill, to repeal it.

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Senator Williams asked if SB 245 would effect cities and counties? Senator Keating said it would deal with all levels of government within the state.

Chairman Thayer asked for evidence that the repealing of Montana's law would lead to elimination of laws in the surrounding states?

Senator Keating replied, none of the surrounding states have preference laws, and the reciprocal laws don't affect states without them. Senator Thayer asked if the audit committee considered replacing Montana's law with a reciprocal law? Senator Keating said that was not considered.

Closing by Sponsor: Senator Keating explained he had support from a number of vendors, who operated in Montana and were in favor of SB 245. Some of them testified or wrote letters to the audit committee, that requested adjustments be made, and their preference was the repealer. The Department of Administration said SB 245 would ease their operational expenses because the training of personnel to make determinations of eligibility would not be necessary any longer. The data processing would be cut back, and less work would generally be required for the Department of Administration. He said the preference laws have not worked since 1967, and he urged passage of the repealing law, SB 245.

#### DISPOSITION OF SENATE BILL 245

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

#### HEARING ON SENATE BILL 277

Presentation and Opening Statement by Sponsor: Senator Boylan, Senate District 39, said from the previous cosmetology hearings, the committee was aware of the problems SB 277 would address. The electrologists were striving to be transferred from the jurisdiction of the Board of Cosmetologists to the Board of Medical Examiners.

List of Testifying Proponents and What Group They Represent:

Julie Begler - personal consumer  
Nancy Marshall - President Montana Electrologists  
Association  
Rick Tucker - State Board of Cosmetology

List of Testifying Opponents and What Group They Represent:

Jerry Loendorf - Montana Medical Association

Testimony: Julie Begler said she was a consumer who had been seeing an electrologist on a regular basis. She said it was a very painful procedure, taking a considerable amount of time. It was imperative the practitioner be well versed in sterilization, and the use of the instruments of the profession, so the transmitting of infections and diseases were controlled. She strongly recommended the electrologist be ruled under the Board of Medicine (See Exhibit #4).

Nancy Marshall read and provided written testimony to the committee. (See Exhibit #5). She also submitted to the committee, a copy of the revised subject draft for the hygienic and safety standards for the practice of electrology. (See Exhibit #6). She added, the rules were from the medical field, and were not governed by the Board of Cosmetology.

Rick Tucker said the field of electrology had become more sophisticated, and the Board of Cosmetology felt it was time to realize the field was more medical, and should be transferred from the Board of Cosmetology.

Jerry Loendorf, from the Montana Medical Association, opposed SB 277 and stated there were many things said that he was not familiar with, and could not respond to them. He said, in the statute, electrologists were defined as people who removed hair with an electric needle, and it's purpose was not for the treatment of disease.

He said there would be economic problems because of the fee paid by licensed electrologists, and the functions that were required by law. He pointed out that if transferred to the medical examiners, the board was very active in disciplinary activities. He suggested the fee be raised from \$25.00 to \$250.00 annually.

Questions From Committee Members: Senator Lynch inquired about licensing fees, and Ms. Marshall said the electrologists were aware of, and accepted the realignment of costs.

Senator Williams wondered what the period of training was, and Ms. Marshall said it was 600 hours in Montana now, but a two year curriculum had been discussed because of the depth of the field of electrology.

Senator Hager inquired about insurance coverage for an electrologist's patients. Ms. Marshall replied they weren't covered even upon referral by a medical doctor because electrologists were regulated with the cosmetologists.

Chairman Thayer asked Ms. Marshall to brief the committee on the electrologists' meeting with the Medical Board. She replied, they were sympathetic but not conclusive.

Senator Boylan clarified the status of HB 198. He said it had an adverse report, and probably wouldn't make it out of committee.

Closing by Sponsor: Senator Boylan said the proposed amendments seemingly cleaned up the bill. (See Exhibit #10) He thought the reason the Medical Board was not in favor of having authority over the electrologists was because they were already swamped with responsibilities. He thought the resistance was somewhat passive, and the Medical Board recognized the need for the change. He stated, from the testimony, it was a good move for the public's protection.

#### DISPOSITION OF SENATE BILL 277

Discussion: None

Amendments and Votes: Senator Noble MOVED the committee DO PASS SB 277. The committee decided some amendments were necessary, so Senator Noble withdrew his motion. Ms. Marshall explained the amendments and Mary McCue asked for time to prepare proper amendments. The committee approved this action.

Recommendation and Vote: None



HEARING ON SENATE BILL 280

Presentation and Opening Statement by Sponsor: Senator Boylan, Senate District 39, said SB 280 would allow loss of income insurance to be sold by consumer loan licensees. It was a simple bill, and Mr. Loendorf would explain it further.

List of Testifying Proponents and What Group They Represent:

Jerry Loendorf - Montana Consumer Finance Association  
Tanya Ask - State Auditor's Office

List of Testifying Opponents and What Group They Represent:

None

Testimony: Jerry Loendorf stated the group he represented was the consumer loan companies in the state of Montana. He said HB 280 was designed to enable licensees to sell loss of income insurance, adding to the types of credit insurance they presently sold. He stated, loss of income insurance was fairly new, and was being sold by banks, savings and loans and consumer loan companies. SB 280 simply allowed the licensee to sell the product. They still had to go through all the requirements of the insurance commissioner. He explained further, the difference of credit disability insurance, which provided payment of the insured debts upon injury or sickness, and loss of income insurance provided payment of income when there was a loss from layoff, employment termination, or whatever the reason. This insurance usually provided income loss coverage for a limited time, and only guaranteed payments for a specified time. He passed out written material to further explain. (See Exhibit #7). He said he had circulated SB 280 to all the insurance lobbyists, to the commissioners of insurance, and also discussed it with the commissioner of financial institutions.

Questions From Committee Members: Chairman Thayer inquired about the feedback from Mr. Loendorf's circulation of the bill, and was informed there were no objections to the bill.

Senator Hager questioned the cost of that type of insurance, and Mr. Loendorf said he assumed it would be comparable to credit disability.

Senator Noble clarified the insurance would be an option for the loan companies, not mandatory that it be sold with loans.

Senator Weeding inquired of Tanya Ask if the Auditor's Office had concerns about SB 280? She stated, although they hadn't discussed it, they were not overly concerned because the people selling loss of income insurance were regulated by their Department.

Closing by Sponsor: Senator Boylan said the bill was simple, and could be of value to employees of the state.

#### DISPOSITION OF SENATE BILL 280

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Meyer MOVED the committee DO PASS SB 280. Senator Noble Seconded the motion. The VOTE was UNANIMOUS in favor of PASSING SB 280.

#### HEARING ON SENATE BILL 248

Presentation and Opening Statement by Sponsor: Senator Thayer, Senate District 19, said SB 248 was a bill presenting an opportunity for attracting new industry to the state. It allowed the formation of captive insurance companies in the state of Montana. He said there were three types as follows: First, there was the "pure captive insurers", which covered only the risk of the parent or affiliate companies. The "association captive insurers" covered risk of members of the association that owns it and their affiliated companies. The third type was an "industrial captive insurer", which was an insurer owned by a group of industrial insurance or maintained control of an industrial captive established as a mutual insurer, or as a liability insurer as established under federal risk retention act of 1981 as amended. He stated, the captive insurer was limited to writing only commercial property casualty, liability marine and wet marine, assurity insurance, excluding workers compensation. That meant such an insurer would not be offered

personal line coverage such as personal automobile or home-owner policies. In the face of an industrial insured captive insurer, organized under risk intentions, only liability coverage for industrial insured could be written. The bill set reduced capitalization requirements for captive insurers, and reduced minimum surplus requirements easing that type of industry formation in Montana and allowed for the potential expansion of our domestic insurances.

Reduced capital and surplus were considered because a captive insurer can only write coverage for the risks that own or control it. The capital and surplus requirements could be met by an irrevocable letter of credit issued by a bank covered in Montana or a member of the Federal Reserve System approved by the commissioner. He said, at the present time, there are only two other states, Vermont and Colorado, that allowed formation of that type of insurance company. He said he felt Montana had an opportunity for growth with the passage of this legislation. He said Tanya Ask would explain the bill.

List of Testifying Proponents and What Group They Represent:

Tanya Ask - Montana Insurance Department, State Auditor's Office  
Mike Sherwood - Montana Insurance Lawyers

List of Testifying Opponents and What Group They Represent:

Jacqueline Terrell - American Insurance Association  
Bonnie Tippy - American Alliance of Insurers

Testimony:

Tanya Ask said she thought that, because the bill was quite lengthy, she would explain it section by section. (See Exhibit #8) She also had recommended amendments for SB 248. (See Exhibit #9)

Mike Sherwood stated they supported the legislation whole heartedly. For the past years the insurance industry had been coming before the legislature saying the rates were sky rocketing. The reason for rising rates was because people were getting huge breaks against them.

In 1987 alone, 25 bills were passed, limiting the ability of injured victims to recover, partly because premiums were sky rocketing. In a 1987 study by the Government Attorney's Office, when the property and casualty companies were having so much trouble, the study showed the industry with an 81 billion dollar profit. He said they felt encouragement of domestic insurers was the best answer to the rising premiums still being experienced. The lawyers have their own malpractice insurance company, the doctors have proposed some form, and they thought the legislation of SB 248 was good. He said he felt that over the next few years we would see a multitude of industries and organizations utilizing the idea proposed.

Jacqueline Terrell stated the primary basis for the American Insurance Association's opposition to SB 248 was the strip down on the needs for a captive insurer to come into Montana and do business. Under this bill, a captive insurer would be able to compete unfairly with regular insurers. She said it was an attractive idea, as it may bring business into Montana. However, they felt it an inappropriate method to foster the pro-business climate that Montanans were striving to create. She said she felt that when there were irregular regulations of different types of insurers, the purpose of our insurance commission would be altered. The Commission's purpose was to be certain insurers operate in a manner that will not adversely affect Montana citizens.

Solvency of an insurer was critical to the protection of Montana citizens. She said, from reading the bill, it was clear captive insurers would not have to comply with the same regulations as a regular insurer, and leaves the solvency out of the jurisdiction of the commissioner or some what in question. She said, because of Montana's geographically remote situation, she felt captive insurers would have to be enticed into doing business here. She felt those enticements may be in the form of minimum requirements or tax benefits. If those things were done, the consumers of Montana may not be fully protected.

The bill prohibited admission into or benefits from the guarantee fund. She stated there were no guarantees the section wouldn't be amended. Should a captive insurer be admitted under those provisions, then get into financial trouble, somebody would have to make some determination to cover the losses to the Montana consumer. For those reasons, the American Insurance

Association requested that the committee give SB 248 a Do Not Pass.

Bonnie Tippy said she didn't think allowing under capitalized, under experienced captive insurers to do business in Montana would, in any way, relieve the high cost of insurance. She thought the opposite would be the case. She said that when they became insolvent, someone would have to pay the claims. Probably the state of Montana. She said she felt the same problems affecting in-state companies would effect out-of-state companies. If malpractice rates, and the incidence of law suits were high for in-state companies, they would be the same for out-of-state companies. Those were the reasons for high rates in the beginning. She stated, \$100,000 or even \$400,000 was not much capital when starting an insurance company, and the amount of knowledge, experience, and ability required to manage these captive insurers may be lacking. Even though they would be under the jurisdiction of the Insurance Commissioner, they felt SB 248 would create a situation that may be very unattractive to the state of Montana's efforts to reduce insurance premiums.

Questions From Committee Members: Senator Noble asked Tanya Ask to explain section 7 of SB 248. She said it allowed the formation of captive insurance companies and pointed out where regulations of the insurance code applied. She cited section 33-3-102 as containing the definition of "domestic".

Senator Williams asked if the commissioner's office could regulate the added responsibility with no additional help? Tanya Ask said they didn't anticipate a large influx of new insurers coming into the state, and thought they could deal with it as they were presently staffed.

Senator Noble asked for clarification of Section 12. Tanya Ask said section 12 was the reinsurance section of SB 248. Basically it said a captive insurance company formed in Montana may reinsure with other insurers for whatever reasons it may have. It also described how a Montana captive insurer could designate capital credits on their annual statement for their own risk they were reinsuring. There were limits to the amount of risk an insurance company could take. She said that section allowed them to reinsure a portion of risk, thereby receiving credit on their annual statement.

Senator Williams asked for an explanation of section 10. Tanya Ask told him section 10 laid out the grounds for

which they could go after the company's license. It included such things as; insolvency, impairment of capital surplus, failure of requirements to meet the act, refusal or failure to submit an annual report, failure to submit to an examination by the insurance department, or any other related legal obligation.

Senator McLane asked if they thought captive insurers would be under capitalized, and risk insolvency? Tanya Ask said they hoped that wouldn't be the case. The reason the capital requirements were so low was because the people who were owning and managing the company were also the insured.

Senator Williams asked what had prompted SB 248. Senator Thayer said that when he was approached to sponsor the bill, he saw it as an opportunity to expand business in Montana. Tanya Ask said she agreed, it was a business fitting our geographic requirements. Distance and transportation would be no problem because it could be handled by telephone and other electronic media.

Senator Williams asked Mike Sherwood what the attorneys' viewpoint was? Mr. Sherwood said the concept was the solution to insurance costs and coverage problems in the future. It was working well for the attorneys now, and could work for other businesses. He said the injured victim was not the reason for rising insurance costs. He said he felt the insurance companies were making an awful lot of money. Most programs designed to keep premium dollars in this state would help the state.

Closing by Sponsor: Senator Thayer said he wasn't surprised that there was opposition to SB 248, but the fact that capitalization requirements were lower, was for a good reason. He said captive insurers were only insuring themselves. Senator Thayer asked, who would be in a better position to know the strength of the organization than the people managing it? He said he thought SB 248 was a good bill. He said he didn't anticipate a great influx of new companies, but the opportunity should be available.

He though it was a tool for marketing Montana. Hopefully attracting some industry, and creating more employment. He hoped the committee would act favorably on SB 248.

DISPOSITION OF SENATE BILL 248

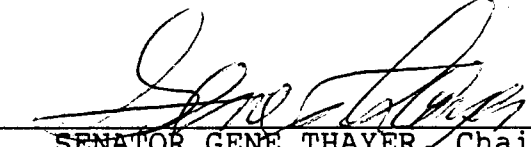
Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

ADJOURNMENT

Adjournment At: 12:00 noon

  
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SENATOR GENE THAYER, Chairman

GT/ct

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 1/3/89

51st LEGISLATIVE SESSION 1989

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

Each day attach to minutes.




SENATE STANDING COMMITTEE REPORT

January 31, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 280 (first reading copy -- white), respectfully report that SB 280 do pass.

DO PASS

Signed: 

Gene Thayer, Chairman

*H.C. 189  
1/31/89  
5:13 p.m.*

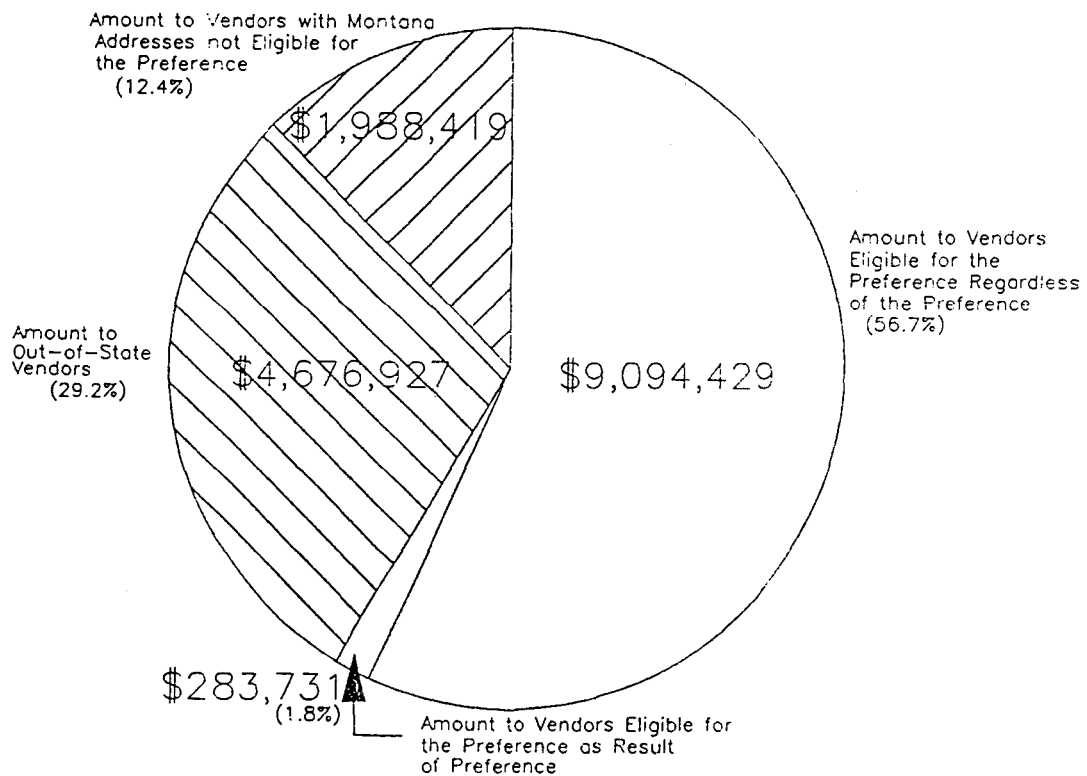
## SENATOR KEATING'S SUPPORT FOR SB 245

## INFORMATION CONCERNING ELIMINATING THE IN-STATE BIDDERS PREFERENCE

During fiscal year 1986-87 state agencies spent approximately \$16 million purchasing Requisition Time Schedule and individual requisition goods and services bid through the Purchasing Bureau. Vendors eligible for the preference received a total of \$9,378,160.

About \$284,000 of the \$9,400,000 paid to vendors eligible for the preference was a direct result of the preference law. If not for the preference, the \$280,000 would have been awarded to other vendors. Four thousand dollars (\$4,000) of the \$284,000 was extra cost to the state because the low bid could not be accepted. The following chart details the dollar amount paid to each type of vendor for fiscal year 1986-87.

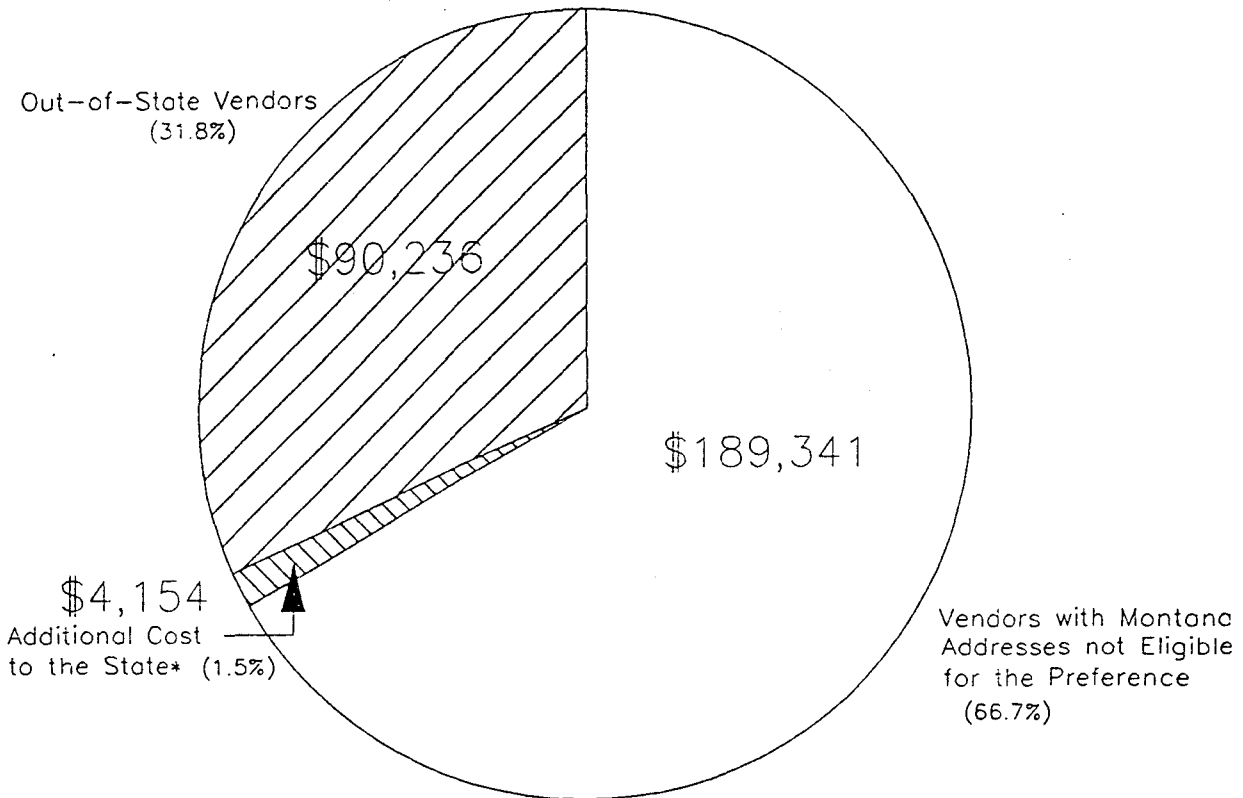
## DOLLAR AMOUNT TO EACH TYPE OF VENDOR IN FY 1986--87



Source: Compiled by the Office of the Legislative Auditor from Purchasing Bureau records

Approximately \$190,000 of the \$284,000 awarded to vendors as a result of the preference would have been awarded to vendors with Montana addresses not eligible for the preference. Because the low bid could not be accepted due to the application of the preference, there was some additional cost (approximately \$4,000) to state government for those contracts. The following illustration shows the distribution of dollar sales affected by the preference if the preference law had not been in place in fiscal year 1986-87.

### SALES DISTRIBUTION IF NOT FOR THE PREFERENCE IN FY 1986-87



\*This amount would not have been awarded to vendors eligible for the preference if there had been no preference.

Source: Compiled by the Office of the Legislative Auditor from Purchasing Bureau records

Ex. #1  
1/31/87

Information from purchasing organizations give some arguments against preference laws. These arguments include:

1. Preference laws prevent suppliers from bidding on an equal basis, thereby inhibiting competition and limiting the ability of the state and its taxpayers to procure the best possible goods and services for the lowest possible price.
2. Preference laws, by themselves, do not have a measurable long-term impact on the state's economy; only a nationwide economic recovery can truly bolster the state's economy by helping to create jobs, increase tax revenues, and reduce unemployment and welfare costs.
3. The enactment of a domestic preference law by one state causes other states to retaliate by passing their own protectionist legislation, resulting in the restriction of interstate trade, reduced markets for goods and services and, ultimately, lost profits for domestic businesses.

Most purchases partially or completely funded with Federal money are prohibited from having an in-state bidders preference applied. As stated in Chapter II, the Federal Office of Management and Budget is currently rewriting Circular A-102 to expressly prohibit the use of an in-state bidders preference for most grants to state and local governments.

The preference only affected 43 of the 544 IFBs for items on the Requisition Time Schedule and individual requisitions processed by the Purchasing Bureau in fiscal year 1986-87. The following chart summarizes the effect of the preference on the IFBs issued in fiscal year 1986-87.

SUMMARY OF EFFECT OF REQUESTS FOR BIDS PROCESSED IN FY 1986-87

	<u>Number of requests for bids</u>
No vendor eligible for the preference bid	178
Only vendors eligible for the preference bid	90
Vendor eligible for the preference high or low on items so the preference was not considered	96
Vendors eligible for the preference were low for entire bid so the preference was not considered	83
Vendor eligible for the preference high for entire bid so the preference was not considered	45
VENDOR ELIGIBLE FOR THE PREFERENCE AWARDED CONTRACT AS RESULT OF PREFERENCE	43
Vendor eligible for the preference did not meet specifications, or requirements of the bid	8
Items bid on by vendor eligible for the preference were cancelled	<u>1</u>
Total	544

Source: Compiled by Office of the Legislative Auditor from Purchasing Bureau records

Minutes from the 1961 Legislative Committee meetings indicated construction companies were in favor of the in-state bidders preference. Questionnaire results indicate most Montana contractors still favor the preference. Our questionnaire showed out-of-state contractors do not favor Montana's in-state bidder preference law. Sixty-five percent (20 of 31) of the respondents said it should be eliminated. Twenty contractors said they do not think the preference helps Montana economy.

Information gathered at the Department of Highways and Architecture and Engineering Division indicate the preference has limited effects on construction projects. A review of a sample of projects let during fiscal year 1986-87 at both agencies indicated,

EX. #1  
1/31/89

for 100% state funded projects, very few out-of-state contractors bid on projects. (If any federal funds are involved in a construction project, the in-state bidders preference cannot be applied.) The bids that were submitted by out-of-state contractors were all much higher than the bids by Montana contractors so the preference did not come into consideration. Only one of the 221 projects let by the Department of Highways from January 1980 to May 1987 was awarded to a vendor as a result of the preference.

(This sheet to be used by those testifying on a Bill.)

EXHIBIT NO. 2  
DATE 1/31/89  
BILL NO. SB245  
DATE: 1/31/89

NAME: KEN DUNHAM

ADDRESS: Helena

PHONE: 443/0640

REPRESENTING WHOM? Associated Printers & Publishers of MT

APPEARING ON WHICH PROPOSAL: SB245

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? X OPPOSE? X

COMMENT:

SUGGEST THAT PRINTING BE AMENDED OUT OF  
BILL BECAUSE AUDIT DID NOT STUDY PRINTING.  
see Exhibit 2

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Testimony of  
Ken Dunham  
Executive Director  
Associated Printers & Publishers of Montana  
January 31, 1989

SENATE BILL 245

The Associated Printers & Publishers of Montana, which represents the commercial printing industry in Montana, opposes the removal of the resident bidder preference.

While we are aware that not too <sup>many</sup> bids in the printing industry in Montana get awarded to a Montana printer on the basis of that in-state preference, the importance of the award, when it is made, cannot be underestimated.

To that printer, usually a small businessperson in this state, that contract received is important to their business survival.

We would hope that this bill would be set aside <sup>or amended</sup> and some other means found to satisfy the concerns of the legislative study on this subject.

But removing the resident preference at this time is not the answer for the Montana printing industry and sends a negative message to a Montana industry that could have the potential for expansion in this state.

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The audit did not address the printing industry, yet printing is included in the proposed law. We will request that the printing section, section 7, be amended out of the bill.





JAMES W. MURRY  
EXECUTIVE SECRETARY

110 WEST 13TH STREET  
P.O. BOX 1176  
HELENA, MONTANA 59624

(406) 442-1708

Testimony of Don Judge on Senate Bill 245 before the Senate Business and Industry Committee, January 31, 1989

Mr. Chairman, members of the committee, for the record my name is Don Judge and I represent the Montana State AFL-CIO in opposition to Senate Bill 245.

The Montana bidder preference law that would be repealed by this bill exists for good reason: to ensure that Montana workers and Montana businesses have the best shot at working on public projects funded by Montana tax dollars. The concept behind this is simple: Generating jobs for Montana's economy and keeping our tax dollars flowing throughout our communities.

Too often, investing Montana dollars in out-of-state interests provides little in return for our state. Often, out-of-state contractors working on Montana jobs bring in their entire workforce, leaving Montanans with few residual benefits from the public dollars that are invested. Montanans provide the public funds used for these projects and have a right to expect that the purchasing and payroll budgets are spent in Montana. We believe that the rollover effects of these construction dollars should multiply on Main Street Montana, not in some out-of-state corporate headquarters.

Additionally, out-of-state contractors may get an unfair bidding advantage over Montana contractors if the resident bidder preference law is repealed. Because of Montana's reciprocal agreements with other states, contractors that bring a workforce in from out of state for six months or less are exempt from Montanan's workers' compensation and unemployment insurance laws. Such contractors are required to pay into their home-state benefits plans. However, if the home state's workers' compensation and unemployment compensation laws are less protective and cheaper than those in Montana, it can leave the out-of-state contractor percentage points ahead in the bidding game.

Obviously, we should not lock into law such an advantage for out-of-state contractors. If we do, we'll have moved essentially from a resident bidder preference to a non-resident bidder preference.

It's ironic that a bill encouraging out-of-state purchasing comes before the Legislature in Montana's centennial year, when the focus across our state is on Montana's past and present contribution to the history of our nation and on promoting Montana-made products.

We believe it's wise to invest in Montana not only during our centennial, but at all times. And we think the best investment of the public's funds is in Montana business doing work on Montana projects with Montana workers. We encourage you to give Senate Bill 245 a "do not pass" recommendation.

(This sheet to be used by those testifying on a bill)

NO. 4  
DATE 1/31/89  
BILL NO. SB 277  
DATE: 1-31-89

NAME: Julie Begler

ADDRESS: 1029 Monroe

PHONE: 442-5573

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: <sup>SB</sup> 277

DO YOU: SUPPORT?  AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT:  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

EXHIBIT NO. 5

DATE 1/31/89

BILL NO. SB277

NAME: Nancy Marshall DATE: 1/31/89

ADDRESS: 2033 11<sup>th</sup> Ave Helena 59601

PHONE: 442-2882

REPRESENTING WHOM? Montana Electrologists Assn.

APPEARING ON WHICH PROPOSAL: SB 277

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENT: Typed testimony provided

Multiple horizontal lines for additional comments or notes.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



## MONTANA ELECTROLOGISTS ASSOCIATION

"Affiliate of the American Electrology Association"

AS PRESIDENT OF THE MONTANA ELECTROLOGISTS ASSOCIATION, I WOULD ASK YOU TO SERIOUSLY CONSIDER PASSING OF SB277, THUS TRANSFERRING THE LICENSING AUTHORITY OF ELECTROLOGISTS FROM THE BOARD OF COSMETOLOGY TO THE BOARD OF MEDICAL EXAMINERS. MEMBERS OF THE MONTANA ELECTROLOGISTS ASSOCIATION AS WELL AS NON-MEMBER ELECTROLOGISTS FEEL THIS MOVE WILL SAFEGUARD THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE PEOPLE OF MONTANA.

ELECTROLYSIS IS CONSIDERED TO BE AN ALLIED HEALTH PROFESSION. THE EQUIPMENT USED IS CLASSIFIED AS A "MEDICAL DEVICE" BY THE DEPT. OF HEALTH AND HUMAN SERVICES - FDA 6/24/88. THE IRS HAS GRANTED ELECTROLYSIS A "MEDICAL DEDUCTION" BECAUSE ELECTROLYSIS PERMANENTLY ALTERS THE SKIN TISSUE, (RULING 82-111) ELECTROLYSIS IS A VERY DELICATE PROCEDURE INVOLVING DERMAL PAPILLA ROOT DESTRUCTION AND ALTERATION OF TISSUE BENEATH THE SKIN. THERE ARE CONCERNS OF POSSIBLE TRANSMISSION OF BLOODBORNE INFECTIONS, HEPATITIS B, AIDS, CERTAIN TYPES OF DERMATITIS, AND OTHER DISEASES. WITH THIS IN MIND I FEEL IT IS NECESSARY FOR YOU TO KNOW THAT STERILIZATION EQUIPMENT AND PROCEDURE ARE THE SAME AS FOR HOSPITALS AND DOCTORS OFFICES. ON A NATIONAL LEVEL, THE AMERICAN ELECTROLOGY ASSOCIATION, WITH WHOM THE MONTANA ELECTROLOGISTS ASSOCIATION IS AFFILIATED, HAS RECOGNIZED THE NEED FOR STANDARDIZATION FOR THE PROFESSION, AND HAS BEEN A SPEARHEAD TO MOVE REGULATION OF ELECTROLYSIS TO MORE HEALTH RELATED AGENCIES. WE FEEL THAT BEING GOVERNED BY AN AGENCY THAT IS MORE KNOWLEDGEABLE IN HEALTH RELATED ISSUES AND SIMILAR CONCERNS, WOULD BETTER PROTECT THE PUBLIC FROM UNQUALIFIED OR UNAUTHORIZED PERSONS AND SAFEGUARD THE HEALTH, SAFETY AND WELFARE OF THE GENERAL PUBLIC. IT IS OUR FEELING, THAT WITH THE STATE BOARD OF MEDICAL EXAMINERS AS OUR GOVERNING AGENCY, A HIGHER DEGREE OF PROFESSIONAL COMPETENCE AND STANDARDS WILL BE ENSURED.

ALLOW ME TO QUOTE STATEMENTS FROM A FEW DOCTORS OF MEDICINE. DR. BRIAN ROGERS, "MY FINAL CONCERN IS THE APPROPRIATENESS OF THE BOARD OF COSMETOLOGY DETERMINING RULES AND REGULATIONS FOR ELECTROLOGISTS.....I THINK IT IS IMPORTANT THAT ELECTROLOGISTS, LIKE ALL PEOPLE IN THE HEALTH-CARE FIELD, MAINTAIN THE HIGHEST POSSIBLE PROFESSIONAL STANDARDS AND THAT THE PUBLIC SAFETY BE KEPT FOREMOST IN ALL OUR MINDS."

EX. #5

1/31/89

DR. DENNIS WEIGAND, "...ELECTROLOGISTS.....SEE CLIENTS WHO ARE PHYSICIAN REFERRED.....I WOULD BE RELUCTANT TO RECOMMEND ELECTROLOGY TO MY PATIENTS IF THE STANDARDS FOR ITS PRACTICE WERE REDUCED TO SOMETHING AKIN TO THAT OF A HAIRDRESSER."

DR. JACK YOUNG, "I HAVE ALWAYS DEPENDED ON WELL TRAINED AND RELIABLE ELECTROLOGISTS TO CARE FOR MY PATIENTS. THIS CANNOT BE ACCOMPLISHED ON AN UNTRAINED, UNSKILLED, UNPROFESSIONAL "BEAUTY SHOP" LEVEL."

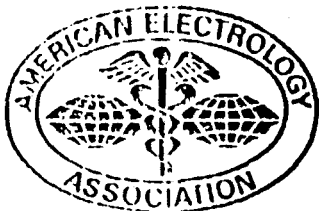
A POINT OF INTEREST, CHAPTER 32, ELECTROLOGY, PART 1, 37-32-103. EXEMPTIONS - NOTHING IN THIS CHAPTER PREVENTS A LICENSED MEDICAL DOCTOR FROM PERFORMING THE WORK OF AN ELECTROLOGIST.

IT IS DIFFICULT FOR ELECTROLOGY CLIENTS/PATIENTS TO OBTAIN MEDICAL INSURANCE PAYMENTS, EVEN WHEN REFERRED BY A MEDICAL DOCTOR FOR A MEDICALLY INDUCED AND/OR RELATED ILLNESS, CONDITION OR DISEASE, AS LONG AS ELECTROLOGY LICENSING ORIGINATES UNDER THE BOARD OF COSMETOLOGY. THIS IS TRULY UNFORTUNATE AS WELL AS UNFAIR FOR MEN AND WOMEN WHO SEEK CLINICAL ELECTROLOGY FOR A MEDICAL CONDITION.

IN A FORMAL WRITTEN SURVEY CONDUCTED BY THE MONTANA ELECTROLOGISTS ASSOCIATION, ADDRESSING THIS SPECIFIC ISSUE, THE MAJORITY OF RESPONDENTS FELT THAT TRANSFERENCE OF AUTHORITY TO THE MEDICAL EXAMINERS WILL BE IN THE BEST INTEREST OF THE GENERAL PUBLIC AS WELL AS THE ELECTROLOGY PROFESSION. ADDITIONALLY, IN A SURVEY OF CLIENTS/PATIENTS REGARDING THEIR OPINION OF THE AUTHORITY TO LICENSE ELECTROLOGISTS, AN OVERWHELMING MAJORITY INDICATED THAT THEY FELT THAT ELECTROLOGY SHOULD, IN FACT, BE LICENSED BY A HEALTH RELATED BODY.

RESPECTFULLY,

*Nancy*  
NANCY MARSHALL, L.E., M.A.  
PRESIDENT  
MONTANA ELECTROLOGISTS ASSN.  
2033 11TH AVENUE  
HELENA, MONTANA 59601



**AMERICAN ELECTROLOGY ASSOCIATION**

An International Organization Incorporated 1958

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710 TENNENT ROAD, ENGLISHTOWN, NJ 07726 • TELEPHONE: (201) 536-6477  
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EXHIBIT NO. 6  
DATE 1/31/89  
BILL NO. SB 217

To: Walter W. Bond, M.S., Centers for Disease Control  
Cathy L. Backinger, M.P.H., Food and Drug Administration  
Patricia J. Powers, R.N., M.S.N., Maryland Dept. of Health & Mental Hygiene  
Sandra B. Longley, R.N., C.I.C., St. Joseph Hospital and Medical Center,  
Paterson, NJ

From: Joan L. Mahan, L.E., Directive Chairman  
Hygienic and Safety Standards for the Practice of Electrology

Date: March 22, 1988

Enclosed you will find a revised subject draft for your review. The original draft was sent only to Mr. Bond for his review and suggestive input.

Please take note of Section 2, page 10 regarding the recommended placement of pick-up forceps/tweezers. Through discussions with Pat Powers, Walter Bond and myself, in trying to come up with an acceptable procedure for removing sterilized instruments from the covered tray/container, Pat suggested (and Walter agreed) that the pick-up could be placed in a holding-container in a solution of fresh alcohol, changed daily with the cleaning and drying of the container and cleaning and sterilizing of pick-up. (Of course, we were trying to get away from recommending wrapping of instruments.) Mary Ellen Ebersol, R.N., C.N.O.R., a licensed electrologist and Co-chairman of the committee formulating these standards, feels that although pick-ups are no longer an acceptable practice in nursing, that we would have less contamination by keeping the pick-up in a dry holding-container than alcohol. She fears the wetness of alcohol would cause a problem if not wiped from the pick-up with sterile (?) gauze. So, I will value your opinions on this important subject. Pat, if you care to discuss this with Walter, his telephone number is 404-639-2316 (which you probably already have).

Of course, AEA wanted this work completed yesterday, but it has been a very tedious task to complete what with working full-time. State licensing boards and their respective departments are also avidly awaiting the receipt of the standards, therefore time restraints are crucial. I am optimistically hopeful that you will have an opportunity to review the material by Friday, giving me the weekend to revise and retype after receiving your input/recommendations. I had hoped to get this material mailed yesterday, but it was not possible, so I apologize for the tight timeframe.

You may reach me on Friday at 301-252-3644, as I will be working at home or 301-252-1320 if you would like to call me before Friday. Walter, Jerry Enls, AEA Executive Director, would like to have a conference call with the three of us Friday, so I will call you Friday to arrange, if convenient with you.

I have been frequently told by the "experts" that every profession has its growing pains and certainly we are no exception! I would like to thank all of you for contributing your expertise, interest and patience in assisting me on this very important project for our profession.

Copies to: Mary Ellen Ebersol, R.N., L.E., co-Chairman, Kay Lasker, Co-chairman, Teresa E. Petricca, CPE, AEA President and Jerome H. Enls, AEA Executive Director



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EX #6

1/31/87

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H Y G E N I C     A N D     S A F E T Y     S T A N D A R D S

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E L E C T R O L O G Y

SECTION 1: HANDWASHING, GLOVES AND OTHER PROTECTIVE BARRIERS

SECTION 2: CLEANING AND STERILIZING OF CONTAMINATED INSTRUMENTS/  
OBJECTS AND OTHER SAFETY PRECAUTIONS

SECTION 3: ENVIRONMENT AND HOUSEKEEPING

SECTION 4: PATIENT CONSIDERATIONS



PREFACE

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The recommendations presented in this document by the American Electrology Association contain optimum hygienic and safety standards for the field of electrology. Voluntary practice of these recommendations should assist electrologists and electrology instructors to develop a practical aseptic conscience and an awareness for sanitary precautions, thereby promoting the highest achievable current practice of electrology. Because new studies and theoretical rationale are constantly revealing pertinent information relevant to these recommendations, revisions and/or additions will be made as necessary.

The recommendations were chosen primarily for their acknowledged importance to infection-control. Some of the recommendations are based on well-documented epidemiologic studies; others are based on a reasonable theoretical rationale, since for many of these practices little or no scientifically valid evidence is available to permit evaluation of their effect on the incidence of infection.

The recommendations have been developed for use by electrologists and electrology instructors and emphasize the need to consider all patients as potentially infected with blood-borne and/or body fluid pathogens and to adhere rigorously to infection-control precautions for minimizing the risk of exposure to blood and body fluids of all patients and reduce the risk of transmission of infection and disease from patient to patient, practitioner to patient, and patient to practitioner.

The recommendations have no force of law or regulation, however state boards' regulating the practice of electrology are encouraged to consider adoption of the recommendations for regulation; and professional associations are encouraged to promote members' voluntary practice of the recommendations. Both state boards and professional associations are encouraged to present continuing education seminars and lectures to assist practitioners and instructors to develop a knowledge base on infection-control and patient safety, thereby protecting the public and the practitioner.

Ex. # 2  
1/31/89

SECTION 1: HANDWASHING, GLOVES AND OTHER PROTECTIVE BARRIERS

Introduction

Handwashing is the single most important procedure for preventing nosocomial infections. Handwashing is defined as a vigorous, brief rubbing together of all surfaces of lathered hands, followed by rinsing under a stream of water. Although various products are available, handwashing can be classified simply by whether plain soap or detergents or antimicrobial-containing products are used. Handwashing with plain soaps or detergents (in bar, granule, leaflet, or liquid form) suspends microorganisms and allows them to be rinsed off; this process is often referred to as mechanical removal of microorganism. In addition, handwashing with antimicrobial-containing products kills or inhibits the growth of microorganisms; this process is often referred to as chemical removal of microorganisms.

Because of the potential for the electrologist's hands to come in contact with the patient's/client's blood, a fresh pair of nonsterile disposable gloves should be worn by the electrologist during the treatment of each patient/client. The consistent wearing of gloves will also protect the patient/client from potential exposure to the microbial flora of the electrologist (including bloodborne organisms should there be cuts, scrapes or microlesions on the electrologist's hands).

Handwashing is recommended before using gloves and immediately after glove removal.

Epidemiology

The microbial flora of the skin consists of resident and transient microorganisms; the resident microorganisms survive and multiply on the skin and can be repeatedly cultured, while the transient microbial flora represent recent contaminants that can survive only a limited period of time. Most resident microorganisms are found in superficial skin layers, but about 10%-20% can inhabit deep epidermal layers. Handwashing with plain soaps and detergents is effective in removing many transient microbial flora. Resident microorganisms in the deep layers may not be removed by handwashing with plain soaps and detergents, but usually can be killed or inhibited by handwashing with products that contain antimicrobial ingredients. Many resident skin microorganisms are not highly virulent and are not usually not implicated in infections other than skin infections. Transient microorganisms often found on the hands can be pathogens and may cause nosocomial infections.

Control Measures

Handwashing is indicated before and after the treatment of each patient/client. Handwashing is indicated before the use of gloves and immediately after glove removal.

The ideal duration of handwashing is not known, but washing times of 15 seconds or less have been reported as effective in removing most transient contaminants from the skin. Therefore, for most activities, a vigorous, brief (at least 10 seconds) rubbing together of all surfaces of lathered hands followed by

Ex. 4  
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rinsing under a stream of water is recommended. If hands are visibly soiled, more time may be required for handwashing. Hands should be dried thoroughly with paper towel. Faucets should be turned off with a dry towel. Cleaning of fingernails should take place when hands are still moist, followed by the re-washing of hands.

The absolute indications for handwashing with plain soaps and detergents versus handwashing with antimicrobial-containing products are not known because of the lack of well-controlled studies comparing infection rates when such products are used. For most routine activities, handwashing with plain soap appears to be sufficient, since soap will allow most transient microorganisms to be washed off.

When plain soap is selected for handwashing, the bar, liquid, granule, or soap-impregnated tissue may be used. It is preferable that bar soaps be placed on racks that allow water to drain. Since liquid-soap containers can become contaminated and might serve as reservoirs of microorganism, reusable liquid containers need to be cleaned when empty and refilled with fresh soap. Completely disposable containers obviate the need to empty and clean dispensers but may be more expensive. Most antimicrobial containing handwashing products are available as liquids, however foams and rinses are also available when the use of a sink or water supply is temporarily interrupted.

The Food and Drug Administration FDA categorizes handwashing products according to their intended use. Information about categorization of products can be obtained from the Center for Drugs and Biologics, Division of OTC Drug Evaluation, FDA, 5600 Fishers Lane, Rockville, MD 20857.

Handwashing facilities with hot and cold running water should be located in or just outside each treatment room. Sinks with faucets that can be turned off by means other than hands (i.e., foot pedals) and sinks that minimize splash can help avoid immediate recontamination of washed hands.

When gloves are worn, handwashing is recommended because gloves may become perforated during use and because bacteria can multiply rapidly on gloved hands. Perforated gloves should be removed and replaced immediately. Nonsterile gloves are appropriate for electrodlogy procedures and are recommended when hands are likely to become contaminated with potentially infective material such as blood, body fluids or secretions. If treatment session is interrupted, gloves should be removed before handling the interruption. Hands should then be washed and a body fluids or secretions. If treatment session is interrupted, a clean disposable plastic overglove should be put on over the gloved hand/hands, or gloves should be removed to handle the interruption. If gloves are removed, hands should be washed and a fresh pair of gloves worn to resume treatment. Powdered gloves may be rinsed prior to treatment to remove excess exterior powder to prevent powder contacting skin surfaces during treatment or nonpowdered gloves may be worn. Washing gloves during treatment of same patient is discouraged due to the present controversy on the acceptability of glove washing. After treatment session is completed, gloves should not be removed until after needle/probe and forceps/tweezers are placed in a holding-container. A fresh pair of gloves should be worn when handling needles/probes and forceps/tweezers during cleaning procedures prior to sterilization.

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A lab coat or uniform acts as a protective barrier for the practitioner and a disposable face mask worn when indicated (i.e. cold symptoms) creates a protective barrier for the patient/client and the practitioner. Eyeshields used for the patient's/client's comfort and protection from treatment lights should be of washable materials and cleaned with detergent and water after each patient/client use.

A practitioner with open dermatitis should refrain from direct patient/client contact until resolution of the condition. Pregnant practitioners should maintain strict adherence to these recommendations to minimize the risk to the unborn.

### Recommendations

#### 1. Handwashing Indications

- a. Before and after treatment of each patient/client.
- b. Before the use of gloves and immediately after glove removal.

#### 2. Handwashing Technique

For routine handwashing, a vigorous rubbing together of all surfaces of lathered hands for at least 10 seconds followed by thorough rinsing under a stream of water. Hands should be dried thoroughly with paper towel and faucets turned off with a dry towel.

#### 3. Handwashing with Plain Soap

- a. Plain soap should be used for handwashing unless otherwise indicated.
- b. If bar soap is used, it should be kept on racks that allow drainage of water.
- c. If liquid soap is used, the dispenser should be replaced or cleaned and filled with fresh product when empty; liquids should not be added to a partially full dispenser.

#### 4. Handwashing with Antimicrobial-Containing Products

- a. Antimicrobial-containing products that do not require water for use, such as foams or rinses, can be used when the use of a sink or water supply is temporarily interrupted.

#### 5. Handwashing Facilities

- a. A sink with hot and cold running water should be located in or just outside each treatment room.

#### 6. Gloves

- a. A fresh pair of nonsterile gloves should be worn during the treatment of each patient/client.
- b. Handwashing is indicated before the use of gloves and immediately after glove removal.
- c. Perforated gloves should be removed and replaced immediately.

- d. If treatment session is interrupted, a clean disposable plastic overglove should be put on over the gloved hand/hands, or gloves should be removed to handle interruption. If gloves are removed, hands should be washed and a fresh pair of gloves worn to resume treatment.
- e. Powdered gloves may be rinsed prior to treatment to remove excess exterior powder to prevent powder contacting skin surfaces during treatment or nonpowdered gloves may be worn.
- f. After treatment session is completed, gloves should not be removed until after the needle/probe and forceps/tweezers are mechanically pre-cleaned and placed in a holding-container.
- g. A fresh pair of gloves should be worn when handling needles/probes and forceps/tweezers during cleaning procedures prior to sterilization.

7. Other Protective Barriers

- a. A lab coat or uniform should be worn during treatment sessions.
- b. A disposable face mask should be worn when indicated (i.e. cold symptoms).
- c. Eyeshields should be of washable materials and cleaned with detergent and water after each patient/client use.

Ex. # 6  
1/31/89

SECTION 2: CLEANING AND STERILIZING OF CONTAMINATED INSTRUMENTS/OBJECTS AND OTHER SAFETY PRECAUTIONS

Introduction

Many of the procedures in the practice of electrology frequently result in breaking the blood barrier and should generally be viewed as parenteral when developing strategies for patient/client safety.

Electroepilation procedures are invasive in that the epilation needle/probe is inserted into the hair follicle beneath the surface of the skin and comes in contact with normally sterile tissue. The needle/probe can pierce the follicle wall and become contaminated with blood, serum and other material on the skin or in the hair follicle. The procedure of removing ingrown hairs is overtly parenteral and will result in blood contamination of the instruments.

Electrologists should consider all patient's/client's as potentially infected with blood-borne and/or body fluid pathogens, therefore needles/probes, forceps/tweezers and other contaminated objects must be thoroughly cleaned and sterilized before reuse to reduce the risk of transmission of infection and disease.

Control Measures

Cleaning is the physical removal of organic material or soil from objects, and is usually done by using water with or without detergents. Generally, cleaning is designed to remove rather than kill microorganisms. Technology has provided cleaning products and devices that are especially appropriate for the cleaning of instruments used in electroepilation. The two recommended cleaning methods to be used after the initial mechanical pre-cleaning are a protein dissolving detergent-enzyme cleaner or an ultrasonic cleaning device. Sterilization is the destruction of all forms of microbial life. The recommended methods of sterilization of instruments/objects used in the practice of electrology are dry heat or moist heat (steam under pressure). These methods are standardized and can be routinely monitored for effectiveness.

Chemical germicides are not recommended as a safe method of sterilization of instruments/objects, based on their toxicity level, instability, unpracticability and the general lack of electrologists training for their proper use. The endodontic dry heat sterilizer (glass bead sterilizer) has been classified as a Class III (premarket approval) device because of an expert FDA advisory committee (Dental Device Classification Panel) opinion that these devices present "a potential unreasonable risk of illness or injury to the patient because the device may fail to sterilize dental instruments adequately". These devices have been used for a number of years in the field of dentistry to decontaminate endodontic files during procedures on the same patient, but no data has been submitted to the FDA for the necessary evaluation for use in the field of electrology or other health related fields. The glass bead unit would be appropriate to decontaminate the electrologist's instruments during a treatment on the same patient/client only.

The following procedures are recommended to render sterile instruments maintained in a high-level disinfected state to reduce the risk of transmission of infection and disease. Practitioners may implement other aseptic techniques to prepare, handle and store re-sterilizable instruments. Individual packaging of reusable instruments is also accepted practice.

After treatment is completed, and before glove removal, contaminated needles/probes and forceps/tweezers should be mechanically pre-cleaned to remove organic matter (blood and tissue) and other residue using a clean nonsterile cottonball or cotton tipped swab moistened with a solution of detergent and cool water, then placed in a holding-container/containers filled with a detergent and cool water. A liquid household detergent may be used for pre-cleaning and soaking solutions. Stainless steel or heat tempered glass trays are appropriate for forceps/tweezers and smaller stainless steel or heat tempered glass containers for needles/probes (which may be placed in a single container or separated according to size). Instruments should be submerged in the soaking solution to keep any remaining organic matter from hardening until instruments are accumulated for further cleaning at the end of the day. Trays and containers should have lids for covering of instruments after sterilization.

Gloves should be worn for further cleaning of instruments when accumulated and should be accomplished by using either a protein dissolving detergent-enzyme cleaner or an ultrasonic cleaning unit. A protein dissolving detergent-enzyme cleaner removes blood, protein and stain from microsurgical instruments and prevents corrosion on stainless steel instruments. Ultrasonic cleaning units utilize a high-frequency sound as a source of energy to remove organic matter and other residue from instruments. Only detergents compatible with ultrasonic cleaning units should be used.

To continue cleaning using the protein dissolving detergent-enzyme, the holding-container (hereto referred to as tray/container) should be held under cool running water to float off detergent and water solution. After instruments are thoroughly rinsed, the tray/container should be tilted to drain off rinse water and a fresh solution of enzyme cleaner added to the tray/container following manufacturers' instructions for dilution and soaking time. After proper soaking, the tray/container should be held under warm running water floating off the cleaning solution until instruments are thoroughly rinsed, then tray/container tilted to drain off water. An optional final rinse with distilled water may be used to remove hard water deposits from instruments. After final draining of water or distilled water, instruments are ready for next immediate procedure.

To continue cleaning using the ultrasonic cleaning unit, the holding-container (hereto referred to as tray/container) should be held under cool running water to float off detergent and water solution. After instruments are thoroughly rinsed, the tray/container should be tilted to drain off water and a fresh solution of detergent, diluted according to manufacturers' instructions, added to the tray/container or type of container suggested by the manufacturer. Units should be used according to manufacturers' instructions. Some units may have removable wells allowing the instruments to be placed directly into the well without using a container. Removable wells should be cleaned and sterilized after use. If the well is not removable, containers should be used to prevent contamination of well. After cleaning has been accomplished, the tray/container/well should be held under warm running water floating off cleaning solution until instruments are thoroughly rinsed, then tray/container/well tilted to drain water. An optional final rinse with distilled water may be used to remove hard water deposits from instruments. After final draining of water/distilled water, instruments are ready for next immediate procedure.

After using the protein dissolving detergent-enzyme cleaner or ultrasonic cleaning unit, a clean surface should be prepared by placing a layer of plastic wrap, followed by several layers of paper towels. Cleaned instruments should be transferred with gloved hands to paper towel and dried thoroughly with additional paper towels. Practitioner may choose to separate needles/probes from forceps/tweezers at this stage or during the mechanical pre-cleaning procedure. Needles/probes separated at this time should be placed in clean containers. When using a dry heat sterilizer, the tray/container used during the cleaning procedure should be dried and instruments placed back into the tray/container and placed in the sterilizer. When moist heat sterilization is used, instruments should be placed in a heat permeable tray, therefore the tray/container used during the cleaning procedure should be dried and placed in the sterilizer in a tilted position to prevent moisture accumulation and used to hold instruments after sterilization.

All trays/containers should have well fitting lids which should be cleaned, dried and sterilized and placed immediately on the tray/container when instruments are removed from the sterilizer. Do not overload the sterilizer, limit the size and density of each load. Several runs may be necessary to process all instruments, trays/containers/lids. Sterilized items that become contaminated before use (i.e. dropping or touching a soiled surface) should be reprocessed. All unused instruments in trays/containers that have been opened should be reprocessed after a 24-hour period.

Dry heat and moist heat (steam under pressure) sterilizers monitor physical parameters during the sterilization process when equipped with time and temperature recorders to generally ensure an adequate sterilization cycle. Sterilizers should be registered with the Food and Drug Administration (FDA), and should be cleaned, used and maintained according to the manufacturers' instructions. The below temperatures relate to the time the device has reached the required temperature and does not include a heat-up lag time.

Dry heat - 340°F (170°C) - 1 hour  
320°F (160°C) - 2 hours

Moist heat (steam under pressure) -  
250°F (121°C) 15 minutes; 15 psig (pounds per square inch under pressure)  
260°F (126°C) 10 minutes; 20 psig (pounds per square inch under pressure)

Any sterilized item should remain untouched until adequately cooled. This takes a minimum of 1 hour provided the load content is within acceptable range. Items removed from moist heat sterilizers should be visibly checked for dryness.

Chemical indicators should be used regularly according to manufacturers' instructions to verify load has reached the proper temperature. Microbiological monitoring of sterilizers with commercial preparations of spores (*Bacillus stearothermophilus* for steam sterilizers and *Bacillus subtilis* for dry heat sterilizers) should be used once a month according to manufacturers' instructions and sent to a lab for culturing. The commercial preparations contain a microorganism having spores that are particularly resistant to the individual method of sterilization, thus assuring a wide margin of safety.

If a sterilizer is working properly and used appropriately, the spores are usually killed. One positive spore test (spores not killed) does not necessarily indicate



that items processed in the sterilizer are not sterile, but it does suggest that the sterilizer should be rechecked for proper temperature, length of cycle, loading and use and that the test be repeated. If spore tests remain positive, use of the sterilizer should be discontinued until services.

Strict procedures should be followed when entering the covered trays/containers to remove instruments to keep contamination of instruments at a minimum. Lid should be lifted as little as possible with one gloved hand and held while the other gloved hand uses a pick-up forcep/tweezer to promptly remove desired needles/probes and forceps/tweezers for each treatment. The pick-up forcep/tweezer should be kept in a dry holding container (cylinder type) which is wide enough to allow the pick-up to be placed in the container without the tips of the instrument touching the sides of the container. The container should be cleaned and dried daily and the pick-up instrument cleaned and sterilized daily.

Minimal handling of sterilized instruments/objects is desirable after sterilization and before use. Coordinate necessary sterile and decontaminated instruments and supplies needed for each treatment in a manner whereby adherence to aseptic technique is maintained with minimal modes and sources of contamination (i.e. when needles/probes/forceps/tweezers are removed from the covered trays/containers, they are placed on a clean covered surface using a clean cottonball to rest instruments).

Disposable needles may be used for treatment, however all new instruments should be cleaned and sterilized before use following the procedures for contaminated instruments.

Individually packaged sterile single-use needles (26 to 27 gauge suggested) may be used to loosen/remove ingrown hairs. After use, the needle should be placed back into the original rigid plastic closure and securely closed for disposal.

Damaged needles/probes should be placed in puncture resistant containers for disposal to prevent accidental needle-stick injuries.

### Recommendations

#### 1. Cleaning

All objects to be sterilized must first be thoroughly cleaned to remove all organic matter (blood and tissue) and other residue. Cleaning should be accomplished by an initial mechanical pre-cleaning followed by the use of either a protein dissolving detergent-enzyme cleaner or an ultrasonic cleaning unit.

#### 2. Indications for Sterilization

All needles/probes, forceps/tweezers and other contaminated objects must be sterilized before reuse.

#### 3. Methods of Sterilization

Sterilization should be accomplished by dry heat or moist heat (steam under pressure. Temperatures relate to the time device has reached the required temperature and does not include a heat-up lag time.

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Dry heat - 340°F (170°C) - 1 hour  
320°F (160°C) - 2 hours

Moist heat (steam under pressure)  
250°F (121°C) - 15 minutes; 15 psig  
260°F (126°C) - 10 minutes; 20 psig

4. Chemical Indicators

Chemical indicators should be used regularly according to manufacturers' instructions to verify load has reached the required temperature.

5. Biological Monitoring of Sterilizers

- a. All sterilizers should be monitored at least once a month according to manufacturers' instructions with commercial preparations of spores intended specifically for that type of sterilizer (i.e. *Bacillus stearothermophilus* for steam sterilizers and *Bacillus subtilis* for dry heat sterilizers).
- b. If spores are not killed in routine spore tests, the sterilizer should immediately be checked for proper use and function and the spore test repeated.
- c. If spore tests remain positive, use of the sterilizer should be discontinued until serviced.

6. Use and Preventive Maintenance

Manufacturers' instructions should be followed for cleaning, use and maintenance of sterilizers.

7. Reprocessing

All unused instruments in trays/containers that have been opened should be reprocessed after 24-hour period.

8. Reprocessing Single-Use or Disposable Items

Items that cannot be cleaned and sterilized without altering their physical integrity should not be reprocessed.

9. Other Safety Precautions

- a. Nonsterile gloves should be worn to handle contaminated instruments during pre-cleaning and preparation of instruments for sterilization.
- b. Strict procedures should be followed when entering the covered tray/container to remove decontaminated instruments to keep contamination of instruments at a minimum. Lid should be lifted and held with one hand while other hand promptly removes desired instrument. Pick-up forcep should be kept in a dry holding-container, taking care not to contaminate tips of pick-up. Holding-container should be cleaned and dried daily and pick-up should be cleaned, dried and sterilized daily.
- c. Disposable needles and all new instruments should be cleaned and sterilized before use.
- d. All instruments in trays/containers that have been opened should be reprocessed after a 24-hour period.
- e. Sterile single-use needles used for loosening/removing ingrown hairs and damaged should be placed in puncture-resistant containers to prevent accidental needle-stick injuries.

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SECTION 3: ENVIRONMENT AND HOUSEKEEPING

Introduction

A proper environment should be the goal of all electrologists and electrology instructors. Microorganisms are normal contaminants of horizontal, vertical and other surfaces, therefore routine cleaning and removal of soil are recommended. Conscientious sanitation and disinfectant techniques control cross infection.

Control Measures

The environment should be well-lighted and have good ventilation. A sink with hot and cold running water should be located in or just outside each treatment room. Fresh disposable paper drapes should be used on the treatment table for each patient/client. Disposable items should be discarded in a lined container and removed daily. Toilet facilities should be available.

Cleaning schedules and methods vary according to the type of surface to be cleaned and the amount and type of soil present. Countertops should be of smooth, nonporous materials and cleaned daily, taking special care in areas where the procedures of cleaning and sterilization of instruments takes place. The exterior (and interior where indicated) of containers/items kept on the countertops should be maintained in a sanitary manner. Sinks should be cleaned daily as should equipment surfaces and doorknobs. Telephones, treatment tables, floors and carpets should be cleaned on a regular basis. Walls, blinds/curtains should be cleaned when visibly soiled. Sterilizers should be cleaned according to the manufacturers' instructions.

The screw-off tip of the needle/probe-holder should be removed after the treatment of each patient/client and soaked in 70% isopropyl alcohol for 10 minutes. Containers holding alcohol should be emptied daily, washed and refilled with fresh alcohol. The portion of the needle/probe-holder cord in direct contact with the patient/client and/or practitioner should be wiped with an appropriate disinfectant (i.e., 70% isopropyl alcohol) before each treatment session. Magnifying lamps/lamps used during treatment should be wiped with an appropriate disinfectant (i.e., 70% isopropyl alcohol) before each treatment session.

Disinfectant fogging is an unsatisfactory method of decontaminating air and surfaces and is not recommended.

Disinfectant-detergent formulations registered by the U.S. Environmental Protection Agency EPA, can be used for environmental surface cleaning, but the actual physical removal of microorganisms by scrubbing is probably as important, if not more so, than any antimicrobial effect of the cleaning agent used. Information on specific manufacturer label claims can be obtained by writing the Disinfectant Branch, Registration Division, Office of Pesticides, EPA, 401 M Street, SW, Washington, D.C. 20460. Information on classification of disinfectants can be obtained from the EPA. Alcohol is not registered with the EPA, however is considered an appropriate disinfectant.

Recommendations

1. Environment

- a. Should be well-lighted and have good ventilation.
- b. A sink with hot and cold running water should be located in or just outside each treatment room.
- c. Fresh disposable paper drapes should be used on treatment table for each patient/client.
- d. Disposable items should be discarded in a lined container and removed daily.
- e. Toilet facilities should be available.

2. Choice of Cleaning Agent for Environmental Surfaces in Treatment Areas

Any hospital-grade disinfectant-detergent registered by the EPA may be used for cleaning environmental surfaces. Product labels give the EPA registration number and should give adequate safety and precautionary information. Manufacturers' instructions for use of such products should be followed.

3. Cleaning of Surfaces in Treatment Areas

- a. Countertops should be cleaned daily taking special care in areas where procedures of cleaning and sterilization of instruments takes place.
- b. The exterior (and interior where indicated) of containers/items kept on countertops should be maintained in a sanitary manner.
- c. Sinks, equipment surfaces and door knobs should be cleaned daily.
- d. Telephones, treatment tables, floors and carpets should be cleaned on a regular basis.
- e. Walls, blinds/curtains should be cleaned when visibly soiled.
- f. Sterilizers should be cleaned according to manufacturers' instructions.

4. Surfaces Requiring Cleaning with Disinfectants

- a. Screw-off tip of needle/probe-holder should be removed after each treatment and soaked in 70% isopropyl alcohol for 10 minutes. Containers holding alcohol should be emptied daily, washed and refilled with fresh alcohol.
- b. The portion of the needle/probe-holder cord in direct contact with the patient/client and/or practitioner should be wiped with an appropriate disinfectant (i.e., 70% isopropyl alcohol) before each treatment session.
- c. Magnifying lamps/lamps used during treatment should be wiped with an appropriate disinfectant (i.e., 70% isopropyl alcohol) before each treatment session.

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## SECTION 4: PATIENT CONSIDERATIONS

### Introduction

The skin surface is the most common site of many organisms. Hair is a fertile source of bacteria. A current medical/health history should be maintained on each patient/client and an examination of skin surfaces is necessary prior to the initial, and each subsequent treatment. Skin surfaces require pre and post-treatment procedures.

### Control Measures

A complete medical/health history should be obtained from the patient/client on initial visit. The practitioner should evaluate the history prior to the initial request for treatment and maintain and evaluate the history on a current basis. An evaluation of skin surfaces and an examination for signs of infection or rashes should take place prior to each treatment. Treatment should be delayed if actual or potential signs or symptoms are present during initial or ongoing skin or history assessment. Practitioner should refer patient/client to appropriate physician when evaluation of skin surfaces and/or history assessment indicates.

Prior to each treatment, skin bacteria should be removed with an acceptable antiseptic (i.e. 70% isopropyl alcohol, povidone-iodine, alcohol foam). An antiseptic is a substance that is used on or in living tissue to inhibit or destroy microorganisms. An antiseptic should be chosen that does not cause irritation to the individual patient/client skin surfaces. The antiseptic should be applied with a fresh nonsterile cottonball, beginning at the center of the area and continuing in a widening circle. Area should be allowed to dry thoroughly before treatment.

Skin bacteria should be removed from treated skin surfaces with an acceptable antiseptic applied with a fresh nonsterile cottonball, beginning at the center of the area and continuing in a widening circle. Alcohol and antiseptics containing large amounts of alcohol may cause burning and redness when used as a post-treatment antiseptic. Antiseptics such as hydrogen peroxide and povidone-iodine may cause less irritation to treated skin surfaces. Iodine causes an allergic reaction in some individuals. Application of ice, healing cream/ointment/lotion may be applied to treated skin surfaces at the discretion of the practitioner.

Patient/client should be instructed on appropriate after-treatment care to promote healing of treated skin surfaces. The general health status of the patient/client may be a predisposing factor in susceptibility to infection and normal healing. Professional interpretations require careful observation and good judgement.

### Recommendations

#### 1 Evaluation of Patient/Client

- a. A complete medical/health history should be taken on initial visit and maintained and evaluated on a current basis.

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SECTION 4 - continued

- b. Skin surfaces should be examined and evaluated on initial visit and prior to each treatment.
- c. Patient/client should be referred to appropriate physician when evaluation of skin surfaces and/or history assessment indicates.

2. Pre and Post-treatment Procedures for Skin Surfaces

- a. Skin bacteria should be removed from skin surfaces before and after treatment with an acceptable antiseptic, applied with a clean nonsterile cottonball, beginning at the center of the area and continuing in a widening circle.
- b. Application of ice, healing cream/ointment/lotion may be applied to treated skin surfaces at the discretion of the practitioner.
- c. Patient/client should be instructed on appropriate after-treatment care to promote healing of treated skin surfaces.

Ex. # 6  
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DATE 1/31/83  
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# AMERICAN BANKER

The Only Daily Banking Newspaper

OL CXLVIII NO. 7

Tuesday, January 11, 1983

148th Year

## Random Thoughts

By SANFORD ROSE

Readers of this column have often commented that it is misnamed. The ideas contained herein (such as may indeed qualify as ideas) are not especially desultory or haphazard. They are, some say, highly thematic, reflecting the desire to advance perhaps a handful of specific campaigns.

One kindly disposed critic has rather facetiously suggested that, because of the nature of the comments and their somewhat sardonic style, the column should be renamed, "Pith and Vinegar." Others, perhaps less kindly disposed, have volunteered the following label, "Biased and Impenetrable."

Reviewing columns of yesteryear as well as longer commentaries, this writer confesses to having pursued certain recurring themes. The following is intended for those readers who may desire a recapitulation. 1. It is extremely unlikely that inflation is dead or that we are entering a period of secular disinflation. The country works on the pendulum principle. When the inflation rate gets too high, we

➔ Random Thoughts: Page 4

## Credit Protection for Job Loss Starting to Catch on at Banks

By RICHARD RYNGER

CHICAGO — Financial institutions in at least three states are offering installment credit borrowers an insurance plan that pays off a portion of a loan in the event the borrower becomes involuntarily unemployed.

The protection plan is underwritten and made available to banks and other financial institutions by Balboa Insurance Co. of Newport Beach, Calif., a subsidiary of Avco Financial Insurance Group. Balboa soon hopes to expand unemployment credit insurance to banks in 27 other states where insurance regulators have already approved the offering.

Balboa also recently started a similar protection plan covering mortgages is-

sued by savings and loan associations. Under this program, up to 12 mortgage payments during the first five years of a long-term mortgage will be paid if the borrower becomes unemployed due to reasons beyond his control.

Credit protection has obvious advantages for borrowers. If forced into unemployment, they do not have to fear that lenders will hound them for loan payments. The unemployed can instead concentrate on getting retrained or getting training for another job.

Financial institutions benefit because at least some regularly scheduled installment or mortgage payments are guaranteed even if the borrower is out

➔ Insurance: Page 16



## Citicorp 'Extendables' Draw Well

JOHN P. FORDE

NEW YORK — Brisk market demand for short-term maturities and a novel offering feature helped Goldman Sachs sell a total of \$950 million in

the 9 1/2% one-year extendable Citicorp notes priced at 100% on Friday.

The novel feature of the notes is a provision allowing investors to

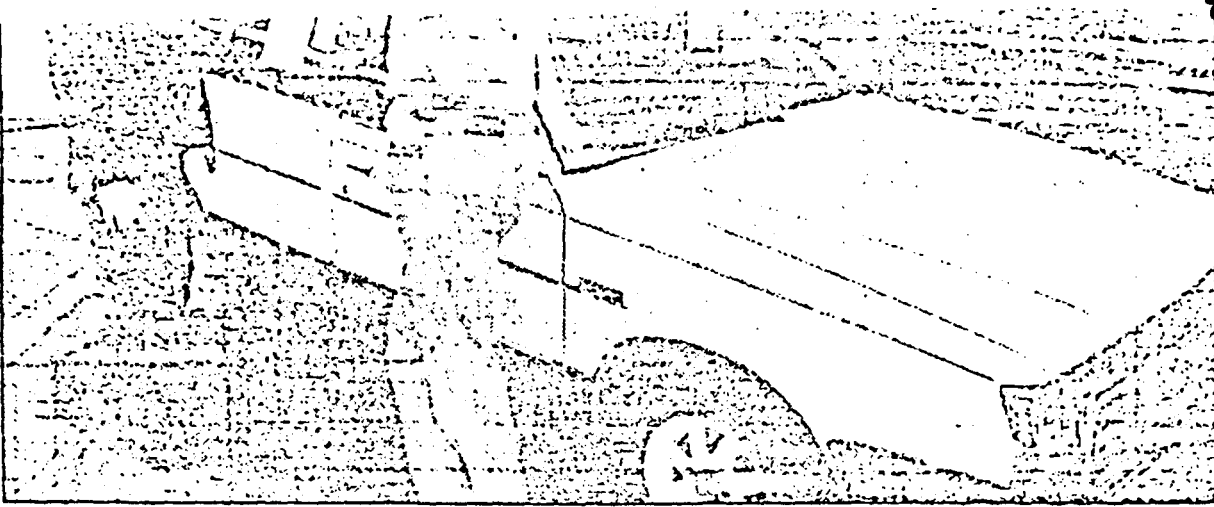
## Independents Get Insurance Plan

By JAY ROSENSTEIN

Financial institutions are offering independent contractors a new type of insurance plan that provides protection against job loss. The plan is designed to help independent contractors who are not covered by traditional unemployment insurance. It offers a similar level of protection to that provided by state unemployment insurance, but is tailored specifically for the needs of independent workers. The plan is being offered by several major financial institutions, including Citicorp and Balboa Insurance Co. The cost of the plan is typically a percentage of the contractor's annual income, and it provides a lump-sum payment in the event of job loss. This type of insurance is particularly valuable for independent contractors who do not have access to traditional unemployment benefits. It provides a safety net that can help them maintain their financial stability during periods of unemployment. The plan is being marketed as a new and innovative way to protect independent workers, and it is expected to gain popularity in the coming years.



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Stan Croff of William O. McKay Subaru explains to Peter Froehlich, left, the advantages of buying jobless insurance along with a new car. The new policies protect car buyers who suddenly find themselves with no paycheck. Froehlich bought the car, which he's barging to Juneau, Alaska; he passed up the insurance.

# There's a way to pay the bank when you're jobless

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Ans'd.....

By Scott Maier  
P-I Reporter

Calamity strikes twice. First you lose your job, then you lose your car.

The scenario is not uncommon in these days of high unemployment and rampant foreclosure. A new kind of insurance, however, may protect your possessions from creditors when unemployment suddenly saps your income.

Introduced this month to the Pacific Northwest, unemployment insurance covers monthly payments on a specific loan for up to a year of involuntary joblessness.

The policy, underwritten by the Balboa Insurance Company, pays when a borrower is laid off, fired, or on strike. It costs 35 percent of the total of your loan payments. The premium can be added to your loan.

Unemployment insurance will be a boon to retailers as well as consumers, says its promoter, Robert Jensen, a veteran insurance broker based in Bellevue.

Retailers earn a small commission on the insurance policy. More importantly, they get a sales tool and added protection against default.

"Like any other insurance, it's insurance against the unexpected," says Jensen, calling unemployment insurance a "logical third step" to disability and life insurance, which is already widely offered by lenders.

William O. McKay Subaru, the Westlake car dealership, is the first in the state to sign up for unemployment insurance. John Nerney, president, says he expects 10 to 15 percent of the dealership's customers will buy the insurance.

Nerney says every car salesman has had the frustrating experience of watching a potential customer back out of a purchase because of uncertain employment. Offering unemployment insurance, the salesman probably would be able to close the sale with the cautious buyer, Nerney said.

"It seems like it would be a marvelous thing for people, especially in these times," he said.

Jensen says it's a coincidence that unemployment insurance is being introduced when more people are out of work than any time since the Great Depression.

"This will sell just as well, if not better, in good times," he says.

Jensen is marketing the insurance to car dealers, banks, jewelers and other institutions that lend money on contract. Jensen says dozens of companies have agreed to try selling unemployment insurance to their customers.

Seattle-First National Bank expects to begin offering unemployment insurance on some loans early next year, says Larry Burlison, president of SeaFirst Insurance Services

Corporation. He said the insurance probably will be limited to car loans and other smaller, revolving types of credit.

The service should help unemployed borrowers protect their credit rating at a time when they probably most need the ability to borrow money, Burlison noted.

Unemployment insurance, however, does not offer complete protection from creditors. The plan offered by Jensen has a \$400 ceiling on monthly benefits and a 12-payment limit. That would cover only a portion of most car loans and other installment-paid purchases.

The plan also does not cover termination due to retirement, resignation, illness and disability, or loss of job as a result of criminal or willful misconduct.

To become eligible for insurance assistance, the policyholder must be out of work for at least 31 days, qualify for state unemployment insurance and register for work with an employment agency or state employment office.

Should the loss of employment occur during the first 45 days of the loan, only one payment benefit will be paid. Premium paid will be refunded, less the one payment benefit made.

The insurance is available only to borrowers employed at least 30 hours a week for a year or more. Self-employed and independent contractors are not eligible.

FF

(This sheet to be used by those testifying on a bill.)

EXHIBIT NO. 8  
DATE 1/31/89  
BILL NO. SB 248  
DATE: 1/31/89

NAME: Tampa Ask

ADDRESS: MT. Ins. Dept. PO Box 4009

PHONE: 444-2040

REPRESENTING WHOM? Montana Insurance Dept.

APPEARING ON WHICH PROPOSAL: SB 248

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENT: Am Comments & Amendments Attached

Exhibit 8

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Testimony  
Senate Bill 248  
Prepared by Tanya Ask  
Montana Insurance Department  
January 31, 1989

Senate Bill 248 allows the formation of a restricted type of commercial property/casualty/ surety insurance company in Montana. The laws applying to this type of company and the minimum financial requirements differ from standard commercial property/casualty insurers.

The reasons are:

- 1) Captive insurance companies come in three types--pure captives, industrial group captives and association captives. These companies are limited to writing only risks of their corporation or its affiliates if a pure captive, only members of the industrial group if an industrial captive\*, or only association members and their affiliates if an association captive. The company cannot write workers compensation except excess compensation insurance. The company cannot write any homeowners or private passenger auto.
- 2) Captive insurance companies are owned by their insureds. It would not be in the insured's best interest to allow its company to run into financial difficulties and lose its insurance coverage.

I will go through the bill section by section, and then will be available should there be any questions. I also have several amendments to present.

Section 2 provides definitions specific to the Captive Insurer Act, particularly definitions of the three captive insurer types: Pure captive, association captive and industrial insured captive.

Section 3 outlines the procedures for a company to register with the Montana Insurance Department as a captive insurance company. Writing of certain coverages, such as private passenger auto and homeowners, is specifically prohibited by this section. If all the requirements of the act are met, this section provides for the issuing of a certificate of authority, the license to transact business.

Section 4 merely prohibits the use of a deceptively similar name by a captive insurer, a requirement that is also imposed on all other insurance companies in Montana.

-----  
\*an industrial insured, if formed as a risk retention group chartered in this state would have to meet the risk retention group requirements, and would be limited to writing only casualty insurance.

Section 5 spells out the three different levels of minimum capitalization if the captive insurance company is going to form as a stock insurer. The levels vary from a low of \$100,000 for a pure captive to \$400,000 for an association captive. Subsection two allows this requirement to be met by cash or an irrevocable letter of credit.

Section 6 sets for the standards for minimum surplus, both for stock and mutual insurers. Note mutual insurers have a higher requirement surplus requirement since there is no capital to fall back on in the event of financial difficulty.

Section 7 addresses the formation of a captive insurer in Montana. Certain items must be reviewed by the commissioner, such as the character, reputation, financial standing, experience and so forth of the incorporators, officers and directors, and other criteria the commissioner thinks is valid.

Section 8 requires captive insurers formed under this law to file annual statements with the insurance department. The commissioner reviews these statements of financial condition each year.

Section 9 allows the commissioner to conduct an onsite examination of the books and records of the captive insurer, and requires that this be done no less often than once every three years. If a comprehensive annual audit is conducted by independent auditors and approved by the commissioner, the 3 year period may be increased to 5 years. The company shall bear the costs of any onsite exam by the commissioner.

Section 10 sets forth grounds for suspension or revocation of a captive's certificate of authority, license to do business. These include financial impairment or insolvency, failure to meet the minimum capital and/or surplus requirements and so forth.

Section 11 spells out what type of investments the captive insurer can make. These are the same limits that apply to all other insurers in the state, recognizing funds of an insurer are set aside to pay potential claims of the insureds, and, therefore, need to be invested in a prudent manner.

Section 12 is the reinsurance section outlining how a captive can reinsure, spread its risk further by insuring some of the risks it has accepted with other insurance companies.

Section 13 says that a captive insurer may not be required to join a rating bureau.

Section 14 says captive insurers will not be part of the guaranty funds, and that no benefits from the guaranty funds apply to captive insurers formed under this act.

Section 15 lays out the computation for taxing a captive insurer's business.

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Section 16 allows the commissioner to adopt rules necessary to effectuate this act.

Section 17 notes what sections of the insurance code apply to captive insurers. Those applicable are:

- Chapter 1, general definitions, forms filing requirements and hearing procedures
- Chapter 2 part 8, the investments section
- 33-2-701, the annual statement filing
- 33-2-708, fees section
- 33-2-1205, reinsurance provisions.

Nothing in this section addresses marketing or unfair trade practices, again, because the captive insurer is controlled by its insureds.

Section 18 establishes a statutory account for the regulation and supervision of captive insurers. A portion of the premium taxes collected is to be deposited in this special account for the enforcement of the Montana Captive Insurer Act.

Section 19 allows for the general insurance code penalty section to apply to violations of this act or rules adopted as a result of this act.

Section 20 amends the general fees section of the insurance code to allow for a licensing fee of \$300, the same as any other insurer.

Section 21 deals with the statutory appropriation.

Section 22 is an extension of rulemaking authority for those sections of the current code amended by this act.

Section 23 is the codification instruction.

Section 24 is a general saving clause.

Section 25 is the severability section.

Tanya M. Ask  
Deputy Insurance Commissioner  
State Auditor's Office  
444-5236

## AMENDMENT TO SENATE BILL 248

1. Title, lines 5 through 6.

Strike: "SECTIONS 17-7-502 AND"

Insert: "SECTION"

2. Page 16, line 15.

Strike: "(a) Except as provided in subsection (7)(b), the"

Insert: "The"

3. Page 16, lines 19 through 25.

Strike: subsection (7)(b) in its entirety

4. Page 17, line 11.

Following "33-2-1205:"

Insert: "chapter 11;"

5. Page 17, line 13 through line 10, page 18.

Strike: section 18 in its entirety

Renumber: subsequent sections

6. Page 22, line 18 through line 11, page 24.

Strike: section 21 in its entirety

Renumber: subsequent sections

7. Page 24, line 17.

Strike: "(1)"

8. Page 24, lines 20 through 23.

Strike: subsection (2) in its entirety

Amendments to Senate Bill No. 277  
Introduced Reading Copy

For the Committee on Senate Business & Industry

Prepared by Doug Sternberg, Council Staff  
January 30, 1989

1. Page 2, line 21.

Following: "shall"

Strike: "elect"

Insert: "recommend to the governor"

2. Page 2, line 23.

Following: "electrologists"

Insert: "and fulfill the purposes stated in Title 37, chapter 32"

DATE 1/31/89

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Ed Burghardt	Computer Paper Co	SB 241	<del>X</del>	
KEW DUWYANT	ASSOCIATED PRINTERS - POPULAR ARTS	SB 245		X
Nancy Marshall	MT Electrolgist Assn	SB 277	X	
Law T Zaeny	M. C. F. A.	SB 280	X	
Thomson Ask	MT IHS Dept	SB 274	X	
Mary Reynolds	OLA	SB 245		
Don Judge	MT STATE AFL-CIO / <sup>MT STATE</sup> Building Trades	SB 245		X
Mike Sherwood	MTLA	SB 248		
STEVE TURKIEVICZ	MT AUTO DEALERS Assn	SB 248		
Julie Segler	Helen	277	X	
Verona T Zaeny	Man. g.	277		X
Kathy Anderson	Ind Ins Agents Assoc	SB 248	X	
Mark Agathy	Ind Ins Agents	SB 248		
Trudy Ruchel	MT Electrolgist Assn	247	X	
Jacqueline Merrill	American Bus. Assoc.	248		X
Bonnie Lypsey	Alliance of Ins. Ins.	288		X

(Please leave prepared statement with Secretary)