

MINUTES

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

Call to Order: By Chairman Gene Thayer, on February 9,
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 354

Presentation and Opening Statement by Sponsor: Senator
Beck, Senate District 24, stated that SB 354 was the
result of a concern of the printing industry in
Montana, that government was in unfair competition with
them. He said the private printers felt they could
produce much of the printed material state government
needed, at a lower price, as fast or faster, and of the
same quality or better, than what was being produced on
state owned equipment at this time.

Senator Beck said the Montana printing industry
was an integral part of the states economy. Department
of Labor figures showed that 2,500 people in Montana
were employed by the printing industry, and taxes were
being paid on printing equipment. The industry felt
they should have a fair share of the states' printing
market.

List of Testifying Proponents and What Group They Represent:

Ken Dunham - Associated Printers and Publishers
Emmett Cronnelly - Art Craft Printers, Butte, Montana
Charles Walk - Montana Newspaper Association
John Barnhart - Associated Printers, Bozeman, Montana

List of Testifying Opponents and What Group They Represent:

Marvin Eicholtz - Department of Administration
Ken Stolz - University of Montana Campus Printing
Al Maddison - Director of University Printing
Marilyn Wessel - Montana State University
Tom Schneider - Montana Public Employees Association
Stacy Farmer - Associated Students of Montana State
University
Mike Craig - Associated Students from the University of
Montana

Written testimony

Robert R. Kuenzel from Missoula, Montana (see exhibit
#1)

Tim Lindeborg from Bonner, Montana (see exhibit #2)

Testimony:

Ken Dunham read his testimony into the record. (See exhibit
#3 and #4) He stated this was a critical bill for the
Montana printing industry.

Emmett Cronnelly stated there had been some concern
regarding the placement of people who lost jobs during
a transition of closing out in house printing. He said
there were always openings for skilled people in the
printing industry, because the printing industry relied
on volume. He described the bidding procedure, and
expressed their inability to compete. He said, "When
the state put in the publication and graphics section,
I laid off two people. I urge your support of this
bill." (See exhibit #5.)

Charles Walk testified that they supported SB 354 on the
basis that it was a continuation of their association's
long standing support of the privatization of the
printing industry in Montana. He said this was an
excellent way for Montana to provide support to the
printing industry. "We urge a do pass on this bill."
(See exhibit #6)

John Barnhart said his shop had installed \$90,000 in new
sophisticated equipment that was ahead of the market at
the moment. He supported the bill because he felt that
any jobs that were lost in the state agencies could be
filled in the private sector. He said that the
transfer of printing from state agencies would help
those in the private sector. He believed there were
jobs for trained personnel in the printing industry.

Testimony: Marvin Eicholtz said he oversaw the graphics division of the printing division for the Department of Administration. He said they did contract printing with the commercial sector whenever possible. He said he spoke in opposition to the bill, with the concurrence of the Governor's Office. Mr. Eicholtz said there were some kinds of printing that were more cost effective for the state shop to do, and certain types were more cost effective when done by the private sector. He stated cost, capability, complexity, and delivery time determined whether the individual printing jobs would be procured commercially or filled internally. He said this bill eliminated that option. The bill, by law, would require any publication delivered to the public must be printed in the commercial sector. He stated the bill's language had nothing to do with determining cost effectiveness of the job letting process.

Mr. Eicholtz said there were approximately 25,000 documents annually, which would require a decision as to whether it was or was not a public document. He expressed a concern over the time that would be spent making that decision alone. He said the legislation would basically lock the state into a situation which would not allow adjustments for cost effective decision making. He said there were serious problems in implementing this bill, and he would also be asking for a fiscal note.

Mr. Eicholtz said the Governor's rule making authority gave him the ability to decide which direction printing should be done. He stated, the administration was committed to privatization of services and hoped they would be given the opportunity to address the problem administratively. "By rule, we will be able to do a variety of different things. We can try putting out bids on some of the printing we do in-house now, and see what kind of service we'll get." (See exhibit #7)

Ken Stolz testified on behalf of the administration of the University, and spoke in opposition to SB 354. He agreed with the Department of Administration, that more cost effective jobs could be made available, to Montana printers, without the binding language in the law.

He said the current policy of the University System was to not accept printing business from the private sector, and was a specific recommendation of the advisory council. He stated the advisory council had also recommended legislative bill printing should

continue being produced in-house. He said this bill was inconsistent with several areas of the advisory council's guidelines. He said the wording, of the bill, did not give rule making authority in determining technology. He added, "How do you determine whether this is a public document?"

Mr. Stolz said, 40% of the jobs bid last year were, in fact, printed out-of-state. He said he didn't feel that was part of the build Montana program. He said the University of Montana believed the legislation requested by the Associated Printers and Publishers of Montana would not save the taxpayers a dime. He said he felt the legislation would raise the cost of government and take jobs from skilled Montana citizens, who might have to find work out of state. "For all these reasons I oppose SB 354."

Al Maddison said the University printing service had been in existence for 58 years. He said they were not the exception, but the rule. The universities in North Dakota, Wyoming, Minnesota, Utah, Utah State, University of Washington, Washington State, University of Oregon, and Oregon University all had school print shops. He stated some private industries also had their own printing plants, such as Montana Power in Butte, Ryan Grocery in Billings, and others.

He said the handout showed three different kinds of technology. He said the economic report had been set up with a lazar printer computer, they had done the cover for the snowmobiling report, as well as the inside duplicating, and the forestry report was typeset with paste-up work. He cited all of the projects as having been produced by the University Printing Department.

Mr. Maddison said they had two things to offer, quality and service. He said the University had won two national prizes, and it serviced the needs of the university. He said their time frame was usually shorter than in the private sector. He said they stored job information on plates and negatives, for repeat or expanded work. If someone came in and wanted additional work done, all they had to do was pull the job down and go to work.

He said printing was a complicated business, and a large part of their time was spent deciding cost efficiency and communicating with the departments in how to produce the message they wanted to convey. "We know our equipment, and the papers. We know what we

have on hand, and we know the size of our equipment, so we provide those services very easily. We give this advice to union employees, who average about twenty-six years of printing experience. Of those union employees, 87% own their homes in Missoula and if this bill passes, some would have to move to seek employment. In the education field, we offer tours and employ a number of students...They usually employ six to eight students depending on their schedules, their expertise, and how easily they can be trained. I strongly ask that you vote no to SB 354." (See exhibit #8)

Marilyn Wessel, Director of Communications at Montana State University, said the Montana State University multilith had been in existence for fifty years. It was founded initially to serve the Extension Service and the Experiment Station, and now provided the entire campus with printing services. She said it began as a spartan operation and remained so today. They served only Montana State University faculty, staff, and students, and took no work from the private sector or other campuses. She stated they didn't do any form of color work or were they involved in the use of coded stock, complex coding or binding operations. Because of these self-imposed limits on the operation, they did a considerable amount of work with the private sector. Last year, MSU bid out one million dollars worth of printing to the private sector. They had an excellent relationship with a large number of printers in the state.

She said, "This legislation, as written, does give us some concerns. We fall into the category of impeding our ability to provide quick efficient service on simple jobs. The current bill would drastically effect their ability to off-set their own type and maintain their own data bases, be responsible for their own graphic design." She showed the commencement program, which was printed in the private sector. However, they maintained the data base with all the names on campus, and they did their own typesetting on campus. As you may realize, students don't know until close to the last minute, whether they will graduate. Through this method, they were maintaining the data on campus and transmitting the material electronically to a typesetter, and getting it out to a private printer. She said the same was true with the university catalog. We print it in the private sector, but they are continually updating the class work and the course work, and they do their own typesetting on it. She

stated those were examples of why the MSU campus print shop was necessary. She said she would appreciate consideration for the problems presented by SB 354.

She said the bill made it appear that they would be able to do very little work for MSU students. She said the exemptions for public documents definition, found on page 5, line 4, stated they could only provide services for agencies or University employees. Ten thousand students, plus an additional five thousand extended study students, would not be eligible for use of in-house printing services.

She stated their land grant mission, charged them with reaching students beyond those traditionally enrolled in programs at Montana State University. She said their Extension Specialist, and other public service staff members provided educational materials to thousand of Montanans each year. She cited those documents as simple, requiring fast, inexpensive printing, and the definition would require many such publications to go through the bidding process.

Ms. Wessel showed several bulletins they had produced, and said they were the type sent out for workshops, or to individuals who had requested the information. She said that SB 354 would prevent the MSU print shop from producing those items.

Ms. Wessel said definition of duplicating, on page 2, line 18, was too restrictive. She stated, that definition would require the spot card for University transfer students would have to be bid out, and would have to be on card stock, which made a very simple job expensive.

Ms. Wessel felt they had a good balance between in-house production and private sector printing. She said they maintained a modest in-house operation. She state that operation allowed them production of educational documents for students, faculty and staff, on a quickly efficient, inexpensive basis. As currently written, SB 354 would seriously curtail that operation. She said they opposed the bill in its current form, but would be happy to work on amendments or compromise. (See exhibit #9)

Tom Schneider, appeared before the committee in representation of the employees on the university campuses, who were involved in the printing operation.

He said people kept saying there were jobs in the private sector, and people who lost their job would be employed in the private sector, but this involved more than employment involved. He said the bill made no guarantee for reemployment, and released print shop employees would lose future benefits accrued in the retirement system.

Mr. Schneider asked for the bill to be amended to guarantee there would be no loss of benefits. He suggested an amendment to allow continuance in the public Employees Retirement System, while working in the private sector. He stated that if the bill passed, as written, there would be a loss of the right to future benefits.

He said there were many more print shops today than there were when the private sector was doing the state printing. The private sector had not suffered for lack of state printing, and it actually has expanded. He said, previously, the major printing jobs went out-of-state, but currently, they were being done by the private sector.

Stacy Farmer stated that students used the printing service for a variety of projects. She said posters for campus activities can be made at the campus print shop, or the student can purchase them from a private printer. She said SB 354 would remove that option for university printing.

She stated that often professors' handouts were more than three pages long, and needed to be punched and stapled. She cited the bill as stipulating a three letter fold as the only option.

Mike Craig said his organization opposed this bill, because students want the option of having a campus print shop. He cited the campus print shop staff as doing quality work at reasonable prices, as conveniently located, and as saving student activity funds, which are state funds. He said the student newspaper was drafted on campus, with students learning heading, typesetting, and photography, before it was printed at the Missoulian. He stated SB 354 would put an end to students participating in that training process. He said that additionally, several student organizations on campus print their own newsletters, and the bill would eliminate even more training there.

Questions From Committee Members: Senator Williams asked Ken Dunham why \$1.4 million worth of printing was done out of state? Mr. Dunham stated one reason for out of state printing was that printers in-state did not have the sophisticated printing equipment.

Senator Williams asked for an example of that. Mr. Dunham said some jobs were specified to be done on 'large web presses' that use rolled paper that goes through at a tremendous speed. He said these were specification problems, because most in-state printers only used sheet fed printers. He stated there were other technical areas of bindings, and paper coatings that can't go through the printer. He said the printers' point was that nobody in Montana was going to invest in expansion, if there was no hope for an opportunity to compete and grow.

Senator Williams asked what percent of printing work went out of the country? Mr. Dunham stated that the work was kept in the United States. He said Japan and Korea did provide cheaper printing, but anything printed out of the country had an accompanying statement required for customs.

Senator Boylan asked Marilyn Wessel how Montana State University decided what to bid out? She stated technology was the deciding criteria. She said anything which required color, pictures, a very large press run, complex folding, or binding was beyond their capabilities, and was bid out.

Senator Boylan asked why they maintained their own typesetting? Ms. Wessel said that was a matter of convenience for faculty and staff, who were regularly involved in printing publications. She said they could not retain control over graphic design if those jobs were bid out. Secondly, in-house data bases are maintained, and that prevents having to reset the type already stored in the computer.

Senator Williams asked if work benefits traveled with employees when they were loaned between print shops? Emmett Cronnelly said that if the shop was a union contractor, the pension and welfare payments, to the union pension plan, were paid for each shift worked. He said union members received benefits whenever they worked in any union shop.

Senator Williams asked, if the passage of this bill resulted in state employees being laid off, could they regain their state pension plan benefits when you rehired

them? Mr. Cronnelly stated benefits were based on a journeyman's pay scale. He said they could work sixty days before joining a union, but it was mandatory to join the union after sixty days. He said their contributions to the union pension plan started with day one, and it was a union negotiated pension plan.

Senator Weeding asked what the lag time was for letting out printing bids? Marilyn Wessel said the Publications and Graphics Division handled the bidding, and the bid process took from three to five weeks to get the project bid and know which printer would be working with you. She said that if a researcher had the writing completed and corrected, campus printing went straight to multilith and they had it back within a day or two. She stated the campus print shop needed a minimum of three weeks to complete more complex jobs.

Senator Weeding asked if that time frame was typical, and about the same for the state printing division? Mr. Eicholtz said the minimum was three weeks, and the more complex a job was, the longer it took.

Senator Williams said he had a problem understanding why forty percent of the printing jobs were sent out of state. Ken Dunham remarked, that if the agency stipulated specifications which could not be found in the state, the jobs went out of state. He said the agency could prevent some of that, if they watched the type of specifications requested.

Senator Williams asked for an explanation of what the different types of printing were. Mr. Eicholtz handed the committee a list describing the items that were produced internally, by in-state vendor contracts and by out-of-state vendor contracts. (See exhibit #10)

Senator Williams asked if there was any way state employees could be picked up by private printers. Mr. Schneider said no, there wasn't any way the unions were going to allow them to continue on PERS instead of joining their union.

Closing by Sponsor: Senator Beck said he appreciated the position of those opposing SB 354. He said he would like to make an attempt at finding a compromise. He said he thought Ken Dunham would compromise. He stated the Montana State Prison had expressed some concern, as this annihilated their print shop, and that was a rehabilitation program. He said he wondered if a state agency should compete with private enterprise. Senator Beck said he felt they needed to give the private

sector every opportunity to stay in business in the state, and he thought that was the purpose of SB 354.

DISPOSITION OF SENATE BILL 354

Discussion: None

Amendments and Vote: None

Recommendation and Vote: None

HEARING ON SENATE BILL 330

Presentation and Opening Statement by Sponsor: Senator Beck, Senate District 24, said the general purpose of SB 330 was to change certain laws regulating insurance in Montana. It was not intended to prohibit the growth of insurance, but it would bring Montana's laws into agreement with other states.

Senator Beck said the first portion of the bill allowed the Commissioner to rescind or revoke an insurers certificate of authority, if the insurer transacted insurance in this state through an unlicensed insurance agent, or failed to supervise its insurance agents reasonably, and assured compliance with the Montana insurance code. This would make insurers transacting business in Montana more responsible. The bill called for adopting an updated version of the National Association of Insurance Commissioners Insurance Code and accompanying Systems Regulatory Act. The bill required insurance holding companies to register properly, and provide accurate information to the Montana Insurance Department about their transactions.

Senator Beck said the final portion of the bill had been adopted from the National Association of Insurance Code Law and was the model law on credit for reinsurance. He said this portion of the bill modified portions of the Montana Insurance Law. He stated, most importantly, it allowed for credit when reinsurers established trusts or letters of credit to cover amounts owed other insurers. He said the bill also tightened the requirements for alien reinsurance.

List of Testifying Proponents and What Group They Represent:

Kathy M. Irigoin - State Auditor's Office
Patrick Driscoll - American Council of Life Insurance
Jacqueline Terrell - American Insurance Association

List of Testifying Opponents and What Group They Represent:

None

Testimony: Kathy Irigoien presented her written testimony for the record, and explained each section of the bill for the committee. (See exhibits #11 and #12)

Patrick Driscoll stated they generally supported the bill in its attempt to bring Montana into compliance with the National Association of Insurance Commissioners models. However, the provisions in section 8, pertaining to reinsurance credit, are probably a major difference from the model act. He said they supported the bill, with that reservation.

Jacqueline Terrell said her association supported this bill, to the extent that reflects the National Association of Insurance Commissioners model language. She stated the provisions in Section 1 were more far reaching than was warranted, but they generally supported SB 330.

Questions From Committee Members: Senator Thayer asked if the bill went beyond what the model act suggested. Mr. Driscoll said Montana law currently went beyond the model act and this bill brought Montana law into closer compliance with the model act, but the bill would still allow Montana to consider reinsurance arrangements for non-domestic insurers.

Senator Thayer asked why we were trying to be more stringent, and do more than the national models required? Kathy Irigoien said the bill was pretty much in line with two different models of the National Association of Insurance Commissioners codes. She said the first section of the bill was not from the National Association of Insurance Commissioners code model. She said the second section complied with the holding companies model from the National Association of Insurance, and contained a few changes that the legislative council recommended.

She stated the third portion of the bill, on reinsurance, was the only departure from the model. She said Section 8 allowed the law to be applied to all insurance companies, which was the way current reinsurance laws are. In that last section of the bill, we tighten up one part and loosen up another part, as suggested by the National Association of Insurance Commissioners model.

We tightened up, to no longer give credit for reinsurance, if the insurance is needed for an alien insurer that only has a resident attorney in the United States. Under the proposed, bill the alien reinsurer has to have a trust fund of twenty million dollars in a federal reserve system bank, or the reinsurance has to involve risks entirely outside the United States.

Senator Thayer asked if the industry people were satisfied with this bill, or were they offering any amendments? Patrick Driscoll said they were not offering any amendments and were basically satisfied.

Senator Noble asked if the tightening was because there had been quite a lot of past trouble in being paid off by reinsurers? Kathy Irigoien said the main problem with alien insurers was that they were domiciled outside of the country, and if something went bad with the reinsured, it was difficult for the company here to deliver insurance, or to collect on reinsurance. She said it was shaky, especially if the only connection that alien insurer had, to the United States, was someone living here as their agent. She said a required trust account helped avoid a lot of problems, because you had some money physically in the United States that could be attached.

Closing By Sponsor: Senator Beck stated that when you had the industry and the departments all in favor of a bill it has to be a good bill. I hope you will pass it.

DISPOSITION OF SENATE BILL 330

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON SENATE BILL 335

Presentation and Opening Statement by Sponsor: Senator Thayer, Senate District 19, said that in 1986 the Federal Home Loan Bank Board of Regulation granted federally chartered savings and loan associations, located in one state, the authority to merge with savings associations of other states, or to branch into other states, provided state law of each state involved would permit state chartered savings association to do so. The interstate merger branching authority was

conditioned on enactment of a neighboring legislation by the states. He said banks had previously been granted similar authority. At the time of the adoption of the Federal Home Loan Bank Board of Regulation, related to savings institutions, only fourteen states had enacted such legislation. Forty-five states have adopted this authority, and only five states have not enacted interstate expansion legislation.

Senator Thayer stated SB 335 would permit interstate merger by both state and federally chartered savings loan associations in Montana, either by acquisition of a foreign association by the Montana association or visa versa. He said it would not permit interstate branching. He stated that in the absence of such authority, interstate merger would only be only permitted in a rescue situation under the authority of the Federal Savings and Loan Insurance Corporation.

He said one of the purposes of this bill would be to get merged before a stress situation occurred.

He said the bill was also designed to recognize the growing advantages of interstate and regional credit activities.

He said the bill addressed special needs of the savings and loan industry. He stated problems in the savings and loan industry were created by poorly operated agencies, but the burden was being passed on to the healthy institutions. He said savings and loan associations need greater flexibility in operation, including the ability to merge when that would be advantageous to the shareholders and depositors.

List of Testifying Proponents and What Group They Represent:

Ken Neill - Attorney/Fidelity Savings and Loan, Great Falls , Montana
John Buchanan - Fidelity Savings and Loan, Great Falls, Montana
Brad Walterzkirchen - Fidelity Savings and Loan, Great Falls, Montana

List of Testifying Opponents and What Group They Represent:

Roger Tippy - Montana Independent Bankers, Helena, Montana

Testimony: Ken Neill said SB 335 proposed to permit mergers by savings association who conduct business in Montana with out-of-state associations. He said Section 32-2-

271 MCA, specifically prohibited branching by foreign associations into Montana. He said SB 335 provided for the necessary changes. Mr. Neill stated the bill would not permit branching.

Mr. Neill pointed out an error in the bill. He said that on page 4, line 22, after the word Montana, there was a 'period', and it should be a 'semi-colon', and the word 'nor may' should be inserted. He said that section made it clear, mergers must be done in strict compliance with these codes.

He said he thought the bill established a good set of standards to govern the Department of Commerce, in making a determination as to whether or not they would allow a proposed merger. He said the bill contained a criteria for evaluating the soundness of the proposed merger. He said that, as a state chartered association, Fidelity Savings and Loan wanted to keep abreast with the opportunities, and have any options that were available in the financial community. (See exhibit #13

John Buchanan said remaining a state charter was important to them, as they wanted to be a member of the Montana community. He said the legislation was important, because it provided them with the ability to merge with another association if the opportunity arose. He said it also gave those opportunities to federally chartered associations. He stated the legislation could prevent forced mergers.

Mr. Buchanan said they were a mortgage loan lender and that was what they planned to remain as. He said one way for them to continue on, was to consider the purchase of other savings and loan institutions, from out-of-state, and lend that capital in Montana. He expressed a concern that the Federal Depository Insurance would be governing their business through the federal savings and loan rescue plan. (See exhibit #14).

Sheila Buchanan said she felt it was important to keep our state codes current with the rest of the states. She said we needed to open new doors of opportunity for the savings and loan associations. She stated SB 335 had safe guards, which limited a merger to beneficial situations, and urged its passage. (See exhibit #15)

Brad Walterzkirchen said Fidelity Savings and Loan had a very strong commitment to housing. He said they were locally owned and operated, by Great Falls residents,

and their loan growth was exceeding their deposit growth. He said they did not want to reach a point of discontinuing mortgage loans. He said that in order to meet their loan demand, they needed an alternate source of funds. He cited SB 335 as an added method of obtaining funds, capital reserve, and obtaining housing in Montana. (See Exhibit #16)

Roger Tippy said he was handing out a case copy, which stated this bill was legislating in areas that would affect fifty-six national banks in the state. In 1987 the United States Court of Appeals, Fifth Circuit, Mississippi vs. Clark, allowed the Comptroller of the Currency to equate the savings association with a bank, under Mississippi law. He said this decision was within the purposes of the McFadden Act, which decreed how much branching national banks were allowed to do. He said he had highlighted the relevant points, in the handout. (See exhibits #17 & #18).

He said he saw SB 335 repealing 32-2-271 MCA, which stated branching was prohibited. He said that by utilizing the Comptroller's decision, the fifty-six nationally chartered banks in Montana would be able to branch right along with the state savings and loans. He said neither the National Banking Association or the Montana Independent Bankers were in favor of unrestricted state wide banking.

He said they had a grave concern with repealing 32-2-271, but he would be happy to help work out some version of this bill that did not require the repealer.

Questions From Committee Members: Senator McLane asked if you merged with an out of state savings and loan, would that entity close, or how do they operate when capital is removed? Ken Neill said that both places of operation would continue to do business, but one association disappeared, and you would have one surviving association.

Senator McLane asked about Roger Tippy's testimony, wondered if there was a way to work with the problems he spoke of. Fred Flanders from the Department of Commerce said they did not think the bill presented the problem Mr. Tippy had testified to. He said if he could prove it was a problem, they would be more than happy to sit down and work it out.

Closing by Sponsor: Chairman Thayer said he wanted to tell the Independent Bankers and Mr. Tippy that they didn't

think the bill presented the problem testified to. He said that if they could prove that it was a problem, they would be more than happy to sit down and work it out. He said he would urge the parties to get together and discuss this. He said he felt a need to keep our Montana institutions moving forward, and hoped the committee would act favorably on the bill.

DISPOSITION OF SENATE BILL 335

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

ADJOURNMENT

Adjournment At: 12:12 p.m.



SENATOR GENE THAYER, Chairman

GT/ct

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 2/9/89

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.

Dear Senator:

As an employee of the University of Montana Printing Services I urge you to vote against SB354.

The University of Montana's Print Shop has been in existence since the early 1930s. Since that time it has served the University of Montana with fast dependable service and the finest quality of printing done anywhere in the United States. The Printing Services of the University of Montana has won many awards over the past years for outstanding printing.

If SB354 is passed it will shut down the University of Montana's Printing Services. If the plant is shut down it will be very detrimental to the University of Montana. It will cost the University of Montana more money to get their printing done.

UM departments get very rapid turnaround on their UM print jobs. Simple duplicating jobs are completed in a few hours while more complex color print jobs may take 3 to 10 working days. UM Printing Services regularly run two shifts, thus making optimum use of facilities and equipment. Proofs and completed print jobs are delivered directly to campus offices. If SB354 is passed this will be all lost!

In comparison it takes about three weeks to bid a print job through the Publication and Graphics Bureau and approximately three weeks to receive the final product from the printer. In addition, a fee of 3 to 15 percent is added to the job cost to cover Department of Administration administrative costs.

Last year 58 percent of the jobs (in dollars) bid out by Publication and Graphics were printed out-of-state. If SB354 passes the majority of the work now being done by the state of Montana will be done by out-of-state printers. Private printers in the state of Montana cannot compete with the large commercial printing plants located out-of-state. Out-of-state printing plants are fully automated with the finest equipment available anywhere in the world. An example of this type of plant is Hart Press, Cathedral Press, located in Long Prairie, Minnesota. Montana printing can be found in their plants. If SB354 passes I am sure that they will be doing much more of Montana's printing. If SB354 passes Montana will be the loser.

UM Printing Services employs 17 full-time union staff, 2 on-call union staff, 6 students, a production manager and a director. The staff have an average of 26.3 years of experience in the printing industry. Eighty-eight percent of the staff own their own homes. They all pay taxes, federal, state and personal property taxes. Salaries for the staff at UM Printing Services closely parallel comparable private salaries as reported by the APPM.

UM Printing Services is funded solely from charges to UM departments for printing. UM Printing Services pay rent (including utilities) and pays for all support functions such as accounting and computing.

If SB354 passes it will eliminate many jobs in the state of Montana's printing plants. They will not be hired by the private sector--maybe a few will. But the majority of the state printing employees will have to seek employment out of the state of Montana.

If SB354 passes the state of Montana will be the loser in many ways. Its printing will cost more money. It will lose many taxpayers. State money will go to out of state printers. It is very possible that some state printing will be done in foreign countries. I urge you to not support SB354.....Thank you.

Sincerely,

Robert R. Kuenzel
2706 Gilbert
Missoula, Montana 59802

To: Senator Gene Thayer

Re: SB 354

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. EX 2

DATE 2/9/89

BILL NO. SB 354

Short and to the point

1. I am not sure this bill is the solution to any problem. I see it as change for change sake.

If saving money is the object - are the taxpayers served by eliminating the jobs this will end. Currently state agency, department and University printing is mostly done in state by Montana residents and taxpayers. The Department of Administration's Printing Advisory Council set up by direction of the last Legislature found that of the printing put out on contract 40% went out-of-state if state printing is all put out on bid then 40%, or so, of it all will go out-of-state, exporting Montana work and reducing tax revenue. Also what will be the cost in unemployment and welfare for displaced workers - The in-state printers will employ some but not all of the laid off workers.

The state's 5% in state bidder preference will guarantee an increase in cost of the printing because there will no longer be in house options to 'keep them honest'!

In the case of the Universities there will be fewer jobs for students on work study. Private printers do not hire work study students for delivery, cleanup or odd jobs, as do the university print shops.

The state agencies, departments and Universities will suffer delays of several days to weeks while the bidding process moves through Helena. An additional step not necessary with in-house printing. This can also lead to use and misuse of copy machines and lower quality duplicators and memo machines, as persons try to avoid hassles in the bid system.

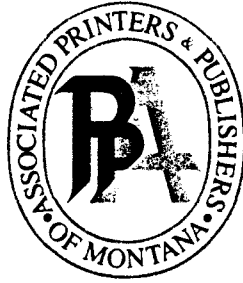
Also at the University of Montana the rent on space will no longer be paid, and since there is no print shop budget there will be no savings.

Most departments will still spend print budgets so again no savings.

So why change a system that works and works well.

2. I respectfully request you kill this bill in committee

Thank you
Lindeborg
MT



Associated Printers & Publishers of Montana
(406) 443-0640

Ken Dunham
Executive Secretary

INTRODUCTION

Perhaps no segment of Montana's economy has faced more competition from state and local government than the printing and graphic arts industry. Beginning in the early 1970's, state government began the expansion of printing presses, elaborate folding machines and other machinery associated with the printing industry. Printing jobs that were previously done in the private sector were shifted to in-house production, under the guise of claims that the work could be performed in-house more quickly and more cost effectively.

The Montana printing industry has contended that both claims of efficiency and cost effectiveness are false. Information has been difficult to obtain from state government, and in fact, not before 1988 did the Montana Department of Administration even have a clear picture of the number and extent of state printing operations.

In the 1988 gubernatorial campaigns, both candidates called for more "privatization" of state government services and state printing was singled out on numerous occasions as an example of where to start.

The Montana printing industry is concerned about the future of Montana on several levels. The most obvious concern is that the printing industry is concerned for its survival; government printing at all levels is an important part of printing business. But beyond that, the printing industry is concerned that government operate fairly and efficiently. Data collected in 1988 demonstrates that in numerous instances state printing operations operate neither fairly or efficiently.

Legislation is proposed for 1989 that would begin to correct the situation and shift more government printing back into the private sector.

2/9/87

1987-88 ACTIONS

In 1987, the Montana Legislature considered Senate Bill 328, which would have shifted a considerable amount of printing from state print shops to private print shops. The printing industry contended that this would result in better prices because of the competitive bidding for the jobs, better quality because of the frequent updating in equipment and techniques in the private sector, and better service because the private printer has to meet demand to stay in business. Additional tax revenue would have been generated because of the additional business in the private sector, and private print shops would have been able to expand their operations because of additional business. The bill passed the Montana Senate and was eventually sidetracked in the House Business and Labor Committee.

Much of the debate and discussion on Senate Bill 328 revolved about some issues that were peripheral to the main point of the bill, and we were able to come to general agreement on many of the points. Some of those issues were:

The impact on state employees: It was repeatedly stated by the printing industry that with increased work loads it would require trained employees. Trained employees are usually not readily available in Montana and any state employees who might be displaced from a job would most likely find similar employment in the private sector. It is not uncommon for printing employees to move back and forth between private and government print shops.

Should the state continue to print certain types of work?: After much discussion it was agreed that the state should be allowed, under any bill passed, to print any "internal" documents - that is, materials primarily distributed to state employees or of a strictly internal nature. This might include memos, photo copy pieces, internal reports and other such materials.

It has also been agreed that certain types of specialty printing that might fall under the bill would be exempted in any legislation. The Montana Department of Highways in its map-making department is the best example of this type of special printing.

The printing industry also agreed that the Montana Legislature should continue to operate the duplicating shop that produces the daily bills and other immediate legislative printing.

2/9/89

What is considered "printing"?: While printing is defined in state law, there was much discussion about new technology that relates to the printing industry. The printing industry agreed that this bill would not affect photo copy work or desktop publishing.

The Montana printing industry would hope that these issues have been settled for 1989, and that debate in 1989 would center upon the main issue of private versus government print shops.

HOUSE JOINT RESOLUTION 52, 1987

In the final days of the 1987 session HJR 52 was passed, providing for the creation of a Printing Advisory Council, providing for a study in 1988 of the state printing system. The Council was composed of members of both the private printing industry and state government representatives. No funding for the Council was provided and all expenses of travel for the private members of the Council has been their own. It is anticipated that a final report from the commission will be made in December, 1988.

Meetings were held in October, 1987; January, 1988; April, 1988; July, 1988; October, 1988, and a final meeting is planned for December, 1988. Meetings have been held in Helena, Missoula, Bozeman and Deer Lodge so that members could tour state printing plants in those cities.

Extensive and exhaustive materials have been reviewed by the Council members at each meeting, and it is expected that that materials will be summarized in the final report.

LEGISLATIVE AUDIT OF STATE PRINT SHOPS IN HELENA

The Printing Advisory Council asked the Legislative Audit Committee to do a performance audit of all satellite print shops in Helena, and the Legislative Auditor was expected to begin the audit in late November or early December.

The purpose of the performance audit will be to determine if the various state-operated shops are cost effective; and if they should remain as satellite shops or be merged into Publications and Graphics, the state's main print shop in Helena. A final report is not expected prior to the opening of the 1989 legislature.

2/9/89

WHAT THE MONTANA PRINTING INDUSTRY IS SEEKING TO ACCOMPLISH IN 1989.

1. Amending Title 18 of Montana Code Annotated to accomplish the following:
 - A new section that states all public documents (as defined in a new definition) must be awarded by contract to a private printer.
 - A new section covering the in-state preference to resident printers, unless prohibited by federal law
 - A new definition of "Public Document" that includes any publication of a state agenc~~t~~ meant for dissemination to the public. It would not include printed materials distributed to agencies or employees, or documents prepared for and used in the competitive bidding process.
 - a section covering the public disclosure of costs section.
 - An expansion of the term "printing" as defined in 18-4-123 that would not include photo copies, typewriters, personal computers and desktop publishing as "printing".

2. A separate piece of legislation that would prohibit printed materials purchased under the "Bed Tax" funds from being printed out of state. The money was collected in Montana to directly assist the state's tourism industry, yet a sizable amount of the printing for that purpose is going to out of state printers.

Ex. #3

2/9/89

THE IMPACT OF THE PRIVATE PRINTING INDUSTRY IN MONTANA

Including newspapers that operate commercial printing operations, there are approximately 200 private print shops in Montana. These operations range from print shops with one person to several that employ more than 100 persons. Gross volume of business ranges from less than \$50,000 to more than \$4,000,000.

Slightly more than 50% of Montana print shops report annual gross sales of less than \$250,000. The printing business requires a considerable amount of expensive equipment. A \$100,000 - \$500,000 investment in the business is reported by over 40% of the shops who replied to a recent survey. Another 45% reported an investment of up to \$100,000. Nearly 7% of Montana printers reported an investment of more than \$4,000,000.

The best estimate of the number of persons employed in the private printing industry in Montana is 2,500.

Most Montana printers are optimistic about the future of their businesses. 43% of those who responded to a recent industry survey expected business expansion in 1989, while 36% expected to stay at 1988 levels.

38% of those printers expected to add employees in 1989.

Ex. #3
2/9/89

AGENCY	PERSONNEL			FUNDING SOURCE			FINANCIAL		OTHER/EXPLANATION
	FULL TIME PERSONNEL	PART TIME/ON CALL	STUDENT/INMATE	INDIRECT ALLOCATION/BUDGETED	RATE SCHEDULE	TIME AND MATERIALS	INCOME	EXPENSES	
BUREAU OF MINES AND GEOLOGY	4	1	-	-	-	-	209,972	209,972	SEE RESOURCE REPORT FOR FTE ALLOCATION SEE RESOURCE REPORT FOR PUBLICATION COST RECOVERY
EASTERN MONTANA COLLEGE	FY 87-3 FY 88-2	-	3	-	-	-	123,785	152,398	SEE RESOURCE REPORT FOR FY 87-FY 88 FTE ALLOCATION SUBSTITUTE BALANCE SHEET SUBMITTED
FISH, WILDLIFE AND PARKS	1.9	-	-	-	-	-	103,438	109,322	
HIGHWAY PATROL	2	-	-	-	-	-	0	56,473	ALTERNATE EXPENSE SUMMARY SUBMITTED
HIGHWAYS	5	-	-	-	-	-	204,699	253,129	
NO IN-HOUSE PRINTING FACILITIES									
HISTORICAL SOCIETY									
INSTITUTIONS	1	-	6	-	-	-	84,558	102,443	
LABOR AND INDUSTRY	1.95	-	-	-	-	-	99,184	101,815	
MILITARY AFFAIRS	-	-	-	-	-	-	0	525	SEE RESOURCE REPORT REFERENCING FEDERAL CIVIL SERVICE
MONTANA STATE UNIVERSITY	14.17	-	-	-	-	-	465,257	463,391	
MONTANA TECH	2	-	YES	-	-	-	111,031	120,278	SEE RESOURCE REPORT FOR MAILROOM AND BOOKSTORE OPERATION
NATURAL RESOURCES	4	-	-	-	-	-	2,028	112,315	
NORTHERN MONTANA COLLEGE	1.2	-	-	-	-	-	75,716	115,938	
PUBLICATIONS AND GRAPHICS	25 1/2	-	-	-	-	-	3,307,510	3,249,642	INCLUDES \$1,640,256 IN PASS THROUGH PRINTING TO COMMERCIAL PRINTERS, DOES NOT INCLUDE \$565,000 IN PHOTO COPY POOL ACTIVITY
PUBLIC INSTRUCTION	1.70	-	-	-	-	-	0	39,245	
UNIVERSITY OF MONTANA - PRINTING SERVICES	14 3/4	5	8	-	-	-	829,871	791,588	
UNIVERSITY OF MONTANA - REPROGRAPHICS/OFFICE STORES	4 1/4	1	2	-	-	-	213,786	185,180	POSITIONS ASSOCIATED WITH OFFICE STORES HAVE BEEN DELETED IN SUMMARY REPORT
NO IN-HOUSE PRINTING FACILITIES									
WESTERN MONTANA COLLEGE									

SOURCE: STATE PRINTING ADVISORY COUNCIL
RESOURCES REPORTS - COMPILED DECEMBER 1987
- UPDATED MARCH 1988

STATE PRINTING ADVISORY COUNCIL RESOURCE REPORT - FUNCTION/SERVICE SUMMARY

Attachment #3
2/9/89

AGENCY	PLANNING WRITING COORDINATION	COMPOSITION AND PREPRESS						PRESSROOM			OTHER/EXPLANATIONS
		WORD PROCESS.	PERSONAL COMPUTER	LINOTYPE	PHOTO TYPESETTING	GRAPHIC ARTS/ PASTEUP	DARKROOM	PLATING	PRINTING	BINDERY	
BUREAU OF MINES AND GEOLOGY	YES	NO	NO	NO	YES	YES	NO	NO	NO	NO	RESOURCE REPORT INCLUDES ADDITIONAL SERVICES I.E. EDITING, CARTOGRAPHY
EASTERN MONTANA COLLEGE	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	
FISH, WILDLIFE AND PARKS	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	QUICK COPY CENTER ASSOCIATED WITH MAILROOM & OFFICE SUPPLY OPERATION
HIGHWAY PATROL	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	UNIT ALSO PROVIDES SERVICES IN PHOTOGRAPH PROCESSING
HIGHWAYS	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	RESOURCE REPORT ALSO PROVIDES DIAZO AND MAPPING
HISTORICAL SOCIETY	NO IN-HOUSE PRINTING FACILITIES										
INSTITUTIONS	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	SEE RESOURCE REPORT FOR TRAINING
LABOR AND INDUSTRY	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	UNIT ALSO PROVIDES SERVICES IN MAILING AND SUPPLY
MILITARY AFFAIRS	NO	NO	NO	NO	NO	NO	NO	NO	YES	NO	
MONTANA STATE UNIVERSITY	YES	NO	NO	NO	YES	YES	*	YES	YES	YES	* NEGATIVES ARE PURCHASED
MONTANA TECH	NO	NO	NO	NO	NO	YES	NO	YES	YES	YES	UNIT ALSO ADMINISTERS PHOTO COPY POOL THROUGHOUT CAMPUS
NATURAL RESOURCES	YES	NO	NO	NO	NO	YES	NO	NO	NO	NO	UNIT ALSO PROVIDES SERVICE IN CARTOGRAPHY AND PLOTTING SEE RESOURCE REPORT FOR EQUIPMENT UTILIZATION
NORTHERN MONTANA COLLEGE	NO	NO	NO	NO	NO	YES	NO	NO	NO	NO	RESOURCE REPORT ALSO CONTAINS PHOTO COPY ACTIVITY
PUBLICATIONS AND GRAPHICS	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	UNIT IS ALSO RESPONSIBLE FOR THE PROCUREMENT OF PRINTING FROM THE PRIVATE SECTOR
PUBLIC INSTRUCTION	YES	YES	NO	NO	YES	YES	NO	NO	NO	*	* SEE RESOURCE REPORT FOR BINDERY
UNIVERSITY OF MONTANA - PRINTING SERVICES	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES	
UNIVERSITY OF MONTANA - REPROGRAMMABLES/OFFICE STORES	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	UNIT ALSO PROVIDES SERVICES IN INSERTING, ADDRESSING, LABELING, SORTING AND OFFICE STORES
WESTERN MONTANA COLLEGE	NO IN-HOUSE PRINTING FACILITIES										

SOURCE: STATE PRINTING ADVISORY COUNCIL
RESOURCES REPORTS
- COMPILED DECEMBER 1987

Ex. #3

2/9/89

Associated Printers & Publishers of Montana

MONTANA PRINTING INDUSTRY
ECONOMIC SURVEY
1988

INTRODUCTION

The information contained in this survey was compiled by a mailed survey form sent to all Montana commercial printers and newspapers in October, 1988. The return on the survey was 23.5%.

The figures contained in this survey are averages for the respondents and indicate trends and averages for the Montana printing industry. All respondents were informed that their responses would be confidential and that only industry totals and averages would be used so that individual businesses could not be identified.

Responses were obtained from virtually all sizes of Montana printing operations so that some valid industry averages can be obtained.

ASSOCIATED PRINTERS &
PUBLISHERS OF MONTANA
P.O. Box 1707
Helena MT 59624
(406) 443-0640

Ex. #3
2/9/89

Associated Printers and Publishers of Montana
ECONOMIC SURVEY/1988

1. Number of employees in printing, publishing, production, support services and other graphic arts areas, including management:

EMPLOYEES		
<u>Gross Sales of Shop</u>	<u>Full Time</u>	<u>Part Time</u>
A. Under \$250M	2.7	1.8
B. \$250M-\$500M	6.8	2.1
C. \$500M-\$1,000M	12.3	4.5
D. \$1,000M - \$2,500M	18.0	4.9
E. \$2,500M - \$4,000M	no responses	
F. Above \$4,000M	100.7	22.7

<u>Capital Investment of Shop</u>	<u>Full Time</u>	<u>Part Time</u>
A. Under \$50M	4.0	1.8
B. \$50M - \$100M	3.2	2.5
C. \$100M - \$500M	7.4	2.5
D. \$500M - \$1,000M	19.0	2.0
E. \$1,000M - \$2,500M	no responses	
F. \$2,500M - \$4,000M	no responses	
G. Above \$4,000M	100.0	23.0

2. Gross Sales in 1987

Number of Shops by Percentage

Under \$250M	54.5%
\$250M - \$500M	22.7%
\$500M - \$1,000M	9.1%
\$1,000M - \$2,500M	6.8%
\$2,500M - \$4,000M	no responses
Above \$4,000	6.8%

3. Capital Investment in Business

Under \$50M	13.6%
\$50M - \$100M	31.8%
\$100M - \$500M	43.2%
\$500M - 1,000M	4.5%
\$1,000M - \$2,500M	no responses
\$2,500M - \$4,000M	no responses
Above \$4,000M	6.8%

4. Do you anticipate business expansion in 1989?

Yes	43.2%
No	20.4%
About the same as 1988	36.4%

5. Do you expect to add employees in 1989?

Yes	38.6%
No	45.5%
Cannot answer	15.9%

TESTIMONY OF
KEN DUNHAM
Executive Secretary
Associated Printers & Publishers of Montana

Feb. 9, 1989

SB 354

This is not a "simple bill" or a "housekeeping bill" as so many say when they begin testifying. This is a critical bill to the Montana printing industry and may very well signal the mood of the legislature as it wrestles with the problems of Montana's economy. In 1988, both gubernatorial candidates singled out state printing as something they'd like to see reformed and to see more done in the private sector.

This bill is so important to the Montana printing industry that we have spent the past two years - at our own expense - participating in the activities of the Printing Advisory Council, a committee of four private printers and four state agency officials named to study the printing situation in state government.

That report has been distributed to all legislators and I hope that you have had a chance to review it. The council was not able to agree on the ultimate decision of whether or not the state should be in the printing business, but with the makeup of the council of four private printers and four state agency officials, no one really expected agreement on that issue.

There are some significant areas of agreement, however, and the report provided us all with some important information on state print shop equipment, costs as they reported them, personnel levels, and volume in dollars of printing produced. In 1987 when we pursued this same bill, we didn't have that information.

The charts in that report prepared by the Printing Advisory Council show the efficiency level of the various state print shops.

Ex. #4
2/9/89

The printing industry in this country operates under the general assumption that approximately \$80,000 in gross sales must be generated per employee to break even. The Montana printing industry did a survey in 1988 that largely backs up that figure for Montana as well so we're not off the national averages here.

But the state print shops don't get anywhere near that figure, ranging from six-thousand dollars produced per employee to most agency print shops producing in the \$50-60 thousand range. Those figures, too, don't include the part time help and on call help for the agencies. The figures were provided by the agencies themselves.

In 1987 we made the comparisons between the private printing industry and state shops a different way. We priced out different types of individual jobs and compared them to the price reported on the back on most every state job. The private printing industry was lower in virtually every case then.

The major stumbling block to this bill, in 1989 as it was in 1987 - not considering a philosophical question whether the state should not be competing with the private sector - was this matter of defining what a "public document" is.

A key part to this bill is defining a "public document" as printing that should be printed in the private sector. The state would be allowed to print internal documents designed primarily for internal use.

In 1987, after much discussion, this definition was agreed to by both the Department of Administration and the private printers, but apparently this year, there is opposition to the definition.

We have repeatedly asked those opposing the definition to suggest an alternative, but no one has been able to come up with a better suggestion in the more than two years we have been working on this bill.

Ex. #4
2/9/89

We know that there are going to be "grey" areas in which it will be difficult to determine if a printed piece is a public document or an internal document.

We are more than willing to let the Department of Administration make those judgments with administrative rules or executive orders, keeping in mind that the Printing Advisory Council recommended unanimously that printing be done in the private sector whenever possible. That is recommendation number 15 on page two of the report.

We've gone further in the bill, and also in the report of the Printing Advisory Council, in defining "duplicating". This is a recognition that there are various levels of printing quality and "duplicating" could also probably be called "quick print". This is a means of providing relatively simple, inexpensive, one-color printing on very standard papers. This is probably printing that is of a sufficient volume to warrant printing, or duplicating, rather than running through a copier. We agree that the state should be able to continue to do this type of printing, whenever it determines that it is more cost and time effective to do it in-house.

In the past several days we have talked with Montana State University about their concern that typesetting and graphics arts is part of the definition of printing and under this bill they would not be allowed to prepare the materials to be printed by a private printer. We agree with that point and would certainly accept an amendment.

We also agree that students at a university probably fall into the broad category of an "employee" and printed materials produced for students such as reports, tests, and the post card that MSU has as an example are items that we would consider "internal" printing and therefore appropriate for the university to print.

We do not support another bill introduced already this session that would simply exempt the university system from any provision of this bill, if passed.

Ex. #4

2/9/89

We think that the legislature should continue to run the legislative print shop that prepares your daily materials. That is something that the private sector would have a difficult time producing, although you probably don't really want to know what that costs you. It is necessary for the operation of the legislature.

We think that Montana State Prison ought to be able to continue to provide its limited printing shop as a rehabilitative service, and that it should be allowed to continue to print "internal" documents for itself and other state agencies. We do get upset when the prison gets out on the streets in Montana selling business cards, letterhead and envelopes to private businesses and we have discussed that with the Department of Institutions on more than one occasion.

Cutting back this one segment of state government will have much less impact on employees and equipment than perhaps any other area of state government.

If there are employees to be laid off as a result of this bill passing, there are jobs available today in the private printing industry in Montana. These jobs are at all levels and we see today a number of employees move back and forth between state and private print shops.

If there is equipment that is no longer utilized it will bring much more than the usual surplus sales prices. The printing equipment that the state has acquired over the years is first rate equipment and has been well maintained. It will be readily saleable on the private market.

As I said at the outset, this is not a simple piece of legislation. The various laws concerning printing are found in several sections of the Montana Codes. The laws have been pieced together over the years and often do not reflect what is happening in the technology of the printing industry.

2/9/89

Printing is a financially complicated business. Press sizes, matching proper jobs to the proper press, paper quality and quantity, pre-press work and administrative time, and the factor of how busy the shop is all contribute to the price that a person will pay for printing. Bargains can always be had and the State of Montana is generally going to find the best value by bidding out the jobs and letting competition in private business work for you.

This bill is important to Montana's printing industry. There are approximately 200 print shops in Montana, ranging in size from the "Mom and Pop" business to several that employ about 100 people each. There are approximately 2,500 people employed on Montana's printing industry, which is slightly less than one per cent of the state's work force.

We are talking about perhaps as much as four-million dollars that would shift from state shops into private print shops if this bill passes. While that figure isn't a large one compared to some of the other dollar amounts in state government, it could mean the difference between staying in business or failing to the Montana printing industry.

We are asking you today to pass this bill to eliminate the unfair competition that state government is for the private printing industry, and to put more dollars into private industry in Montana with a better return to state government on its expenditures in printing.

(This sheet to be used by those testifying on

NAME: Emmett Cronnelly

ADDRESS: Bu Hc

PHONE: 723 4200

REPRESENTING WHOM? Artemist Printers

APPEARING ON WHICH PROPOSAL: SB 354

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on EXHIBIT NO. 6)

DATE 2/9/89
BILL NO. SB 354
DATE: 2-9

NAME: CHUCK WALK

ADDRESS: HELENA

PHONE: 442-2850

REPRESENTING WHOM? Mt. Newspaper Assn.

APPEARING ON WHICH PROPOSAL: SB 354

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

ATTACHMENT 7

FY 1988 PRINTING EXPENDITURES

Publications and Graphics Bureau (Internal) \$1,074,000

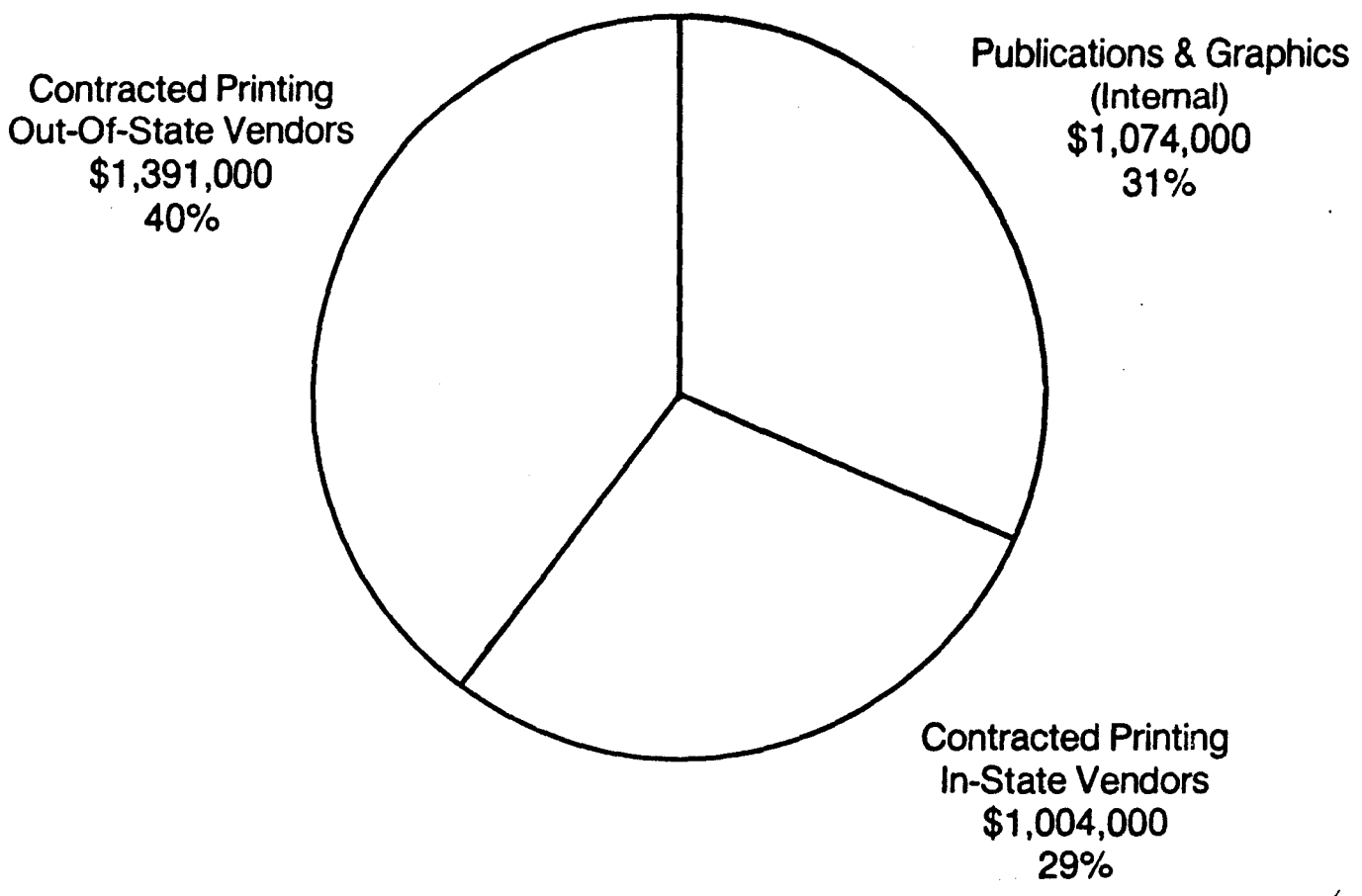
Contracted Printing

 In-State Vendors \$1,004,000

 Out-Of-State Vendors \$1,391,000

 Total Contracted Printing \$2,395,000

FY 1988 Printing Expenditures \$3,469,000



UM Printing Services Fact Sheet

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. # 8

DATE 2/9/89

BILL NO. SB354

Who do we serve? UM Printing Services provides printing for the UM campus, affiliated campus-based organizations, UM faculty, staff, and students, and Western Montana College of the University of Montana. In addition, we provide occasional printing services to other units of the Montana University System.

Who don't we serve? UM Printing Services does not accept printing from other governmental agencies, private businesses, or individuals.

UM does use private printers - UM departments use the services of private printers. This is most frequently done for very large runs (e.g., the *Montanan*) and for jobs where specialized equipment is more cost-effective (e.g., the *Kaimin*).

Time and cost to bid - It takes about three weeks to bid a print job through the Helena Publications and Graphics Bureau and approximately three weeks to receive the final product from the printer. In addition, a fee of 3 to 15 percent is added to the job cost to cover Department of Administration administrative costs.

Timely service - UM departments get very rapid turnaround on their UM print jobs. Simple duplicating jobs are completed in a few hours while more complex color print jobs may take 3 to 10 working days. UM Printing Services regularly runs two shifts, thus making optimum use of facilities and equipment. Proofs and completed print jobs are delivered directly to campus offices.

Out-of-state printing - Last year 58 percent of the jobs (in dollars) bid out by Publications and Graphics were printed out-of-state.

In-plant printing - Many other corporations and governmental entities have their own in-plant printing operations. Across the nation, there are an estimated 67,000 in-plant printing operations. There are more than 150 in-plant printing operations within colleges and universities nationwide.

Integrated services - The services provided by UM Printing Services are closely integrated with the campus offices of News and Publications, University Graphics, Word Processing Services, Computer Center, and Central Mail Services.

Modern technology - UM Printing Services is computer-linked to the UM and Western campuses through a modern telecommunications network allowing virtually instantaneous transmission of text. This greatly reduces typesetting time, cost, and errors.

Experienced staff - UM Printing Services employs 17 full-time union staff, 2 on-call union staff, 6 students, a production manager and a director. The staff have an average of 26.3 years of experience in the printing industry. Eighty-eight percent of the staff own their own homes. Salaries for the staff at UM Printing Services closely parallel comparable private salaries as reported by the APPM.

Equipment - UM Printing Services upgrades its equipment when cost-effective. While we have two relatively new presses, we also have some very serviceable presses and other equipment purchased in the 1960s, thanks to knowledgeable maintenance by staff.

Self-supporting - UM Printing Services is funded solely from charges to UM departments for printing. UM Printing Services pays rent (including utilities) and pays for all support functions such as accounting and computing.

Ex. # 8
2/9/89



University of Montana

Missoula, Montana 59812

Campus Services
January 10, 1989

The Honorable Mike Kadas
The Montana House of Representatives
Capitol Station
Helena, MT 59620

Dear Representative Kadas:

I am responding to a question that you posed of Sheila Stearns regarding Printing Services at the University of Montana. You asked how our prices compare to those offered by commercial printers. Comparing prices is difficult because it is often argued that the prices being compared are not for strictly comparable jobs. This year, however, we had one instance where an identical piece was printed both on and off campus, and we have several examples of somewhat comparable jobs.

This Fall UM Printing Services printed a 12-page, black and white, campus walking-tour brochure for distribution to visitors to our campus. The guide was so well received that the Missoula Area Chamber of Commerce suggested that we apply for Regional Cooperative Marketing Funds (Glacier Country Tourism Commission bed tax funds) to print additional copies of the brochure for distribution at visitor centers, mailing to tour operators and convention representatives, etc. As you may know, the Governor's Tourism Advisory Council guidelines require at least three bids. Thus we can compare the actual costs to have the brochure printed at UM Printing Services versus the written bids submitted to have additional copies of the very same brochure printed by commercial Montana printers. The results are arrayed below:

Printer	10,000 <u>copies</u>	15,000 <u>copies</u>	20,000 <u>copies</u>
Commercial Printer #1	\$1,475	\$2,150	\$2,725
Commercial Printer #2	\$1,328	\$1,880	\$2,435
Commercial Printer #3	\$1,289	\$1,823	\$2,360
UM Printing Services	\$1,140	\$1,620	\$2,150

The low bid commercial printer was 10 to 13 percent higher than UM Printing Services for the same job.

Ex. # 8
2/9/89

Page 2
January 10, 1989
The Honorable Mike Kadas

The UM Department of Athletics often receives funds from private sponsors to print posters that display the schedules of our athletic teams. When a private sponsor is identified well in advance, bids are solicited from Montana commercial printers, and the private sponsor pays the successful bidder directly. However, if a private sponsor cannot be identified well in advance, the Athletic Department has the poster printed by UM Printing Services.

The table below displays the cost for printing all of this year's athletic season posters. You will note that posters with a smaller number of copies cost more per poster because typesetting, darkroom, color separations, press setup, and other fixed costs are defrayed over a smaller number of copies.

Printed by UM Printing Services

- 1. 1988 Grizzly Football Poster (18x24-3/4, four color process, plus copper ink, design by Guffey/Madison).
\$1,994.75 / 4300 copies = \$0.46 per poster
- 2. 1988 Lady Griz Volleyball Poster (18x24, black and red ink, 10 pt. cover stock, design and pasteup by University Graphics).
\$505.50 / 550 copies = \$0.92 per poster

Printed by Commercial Printers

- 1. 1988-89 Men's (3,000) and Women's (2,000) Basketball Posters (18X24, four color, 100 lbs. quintessence gloss).
\$3,292 / 5,000 copies = \$0.66 per poster
- 2. 1988 Forest Products Classic Basketball Poster (18X24, four color).
\$2,237 / 1,500 copies = \$1.49 per poster

I don't think that one can conclude absolutely, from the poster costs above, that UM Printing Services offers less expensive printing than Montana commercial printers, because the print jobs are not exactly alike. However, when you combine the apparent cost competitiveness of our prices above with the quality, timeliness, computer integration, and other advantages of having an "in-plant" printing facility, I believe that you find why the University of Montana has chosen to maintain a quality print shop for 58 years.

Ex. #8

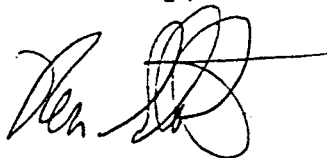
2/9/89

Page 3
January 10, 1989
The Honorable Mike Kadas

At our December 28 meeting, we were asked if UM Printing Services costs reflect all the costs of doing business. I indicated at that time that UM Printing Services is a fully self-supporting operation, that pays for space, utilities, custodial services, computing, accounting, etc. through well-documented and audited accounting procedures. I will be providing Senator Van Valkenburg, the Missoula delegation, and other interested parties with a copy of our December SBAS reports for both our printing and reprographics accounts. I hope that these official accounting records of the state will adequately document the self-supporting nature of our operations.

Mike, I would be pleased to answer any questions that this letter might raise or any other questions that you have about UM Printing Services. Thank you for your support.

Sincerely,



Kenneth Stolz
Director of Campus Services

KS/ks/CostComp.PrS

Ex. #8

2/9/89



University of Montana

Missoula, Montana 59812

Campus Services
January 12, 1989

The Honorable Fred Van Valkenburg
The Montana Senate
Capitol Station
Helena, MT 59620

Dear Senator Van Valkenburg:

At our meeting of December 28th, we were asked if UM Printing Services charges reflect the full costs of doing business. I indicated at that time that Printing Services is a fully self-supporting operation, that pays for space, utilities, custodial services, computing, accounting, etc. through well-documented and audited accounting procedures.

Attached please find a copy of our December SBAS reports for both our printing and reprographics accounts. I have added explanatory comments in the margins where the standard descriptions may not fully describe the accounting activity taking place. You may note that both accounts have a negative ending balance at this time. This is a normal condition for mid-year, as our monthly SBAS accounting reports do not reflect work-in-progress (\$38,000 through December), receivables (\$8,500 through December), or inventory increase (\$34,000 through December). However, a positive fund balance is maintained in our accounting entity because of carryover balances from previous years.

I hope that these SBAS reports, the official accounting records of the state, will adequately document the self-supporting nature of our operations.

Fred, I would be pleased to answer any questions that this letter might raise or any other questions that you have about UM Printing Services. Thank you for your support.

Sincerely,

Kenneth Stolz
Director of Campus Services

Datagraphix

REPORT PAGE NO. 1 OF 7
 CONSECUTIVE PAGE NO. 8159
 SBAS FORM 661
 REPORT 3364 P
 RECORD FOR AGENCY 5103
 STATE OF MONTANA
 RESPONSIBILITY CENTER FINANCIAL REPORT
 FOR THE MONTH OF: DECEMBER 1988
 CENTER 1826 - REPROGRAPHICS / OFFICE STORES
 FISCAL PERIOD: 07-01-88 TO 06-30-89 PERCENT ELAPSED TIME: 170 50%

REPORT DATE: 12/30/88
 UNIVERSITY OF MONTANA
 STOLTZ, K / MITCHELL, G
 REPRO / AUXILIARIES

PART A - OBJECT SUMMARY

INCOME BUDGET CURRENT MONTH CURRENT YEAR PRIOR YEAR BALANCE XCOL

0465 JOB/PRODUCTION INCOME NB 14,179.63 81,766.37

*** TOTALS - NON-BUDGETED INCOME NB 14,179.63 81,766.37

EXPENSES BUDGET CURRENT MONTH CURRENT YEAR PRIOR YEAR BALANCE XCOM

* * PERSONAL SERVICES

1109 NON-PROFESSIONAL NB 4,703.52 14,143.63
 1124 CONTRACT PROFESSIONAL & ADMIN NB 1,411.21 7,056.05
 1125 CLASSIFIED EMPLOYEES NB 590.15 10,699.19
 1100-SALARIES NB 6,704.88 31,898.87
 1202 OVERTIME NB 191.52 1,545.04
 1224 NON-CLASSIFIED EMPLOYEES NB 2,576.56
 1225 STUDENTS NB 190.75 537.25
 1200-HOURLY WAGES NB 382.27 4,658.85
 EMPLOYEE BENEFITS
 1403 GROUP INSURANCE NB 575.00 3,243.00
 1499 GENERAL NB 4,253.95
 1400-EMPLOYEE BENEFITS NB 575.00 7,496.95
 1000-PERSONAL SERVICES NB 7,662.15 44,054.67

* * OPERATING EXPENSES

CONTRACTED SERVICES
 2107 LAUNDRY NB 5.11 40.75
 2175 COMPUTER PROCESSING/NON-D OF A NB 972.00 972.00
 2100-CONTRACTED SERVICES NB 977.11 1,012.75
 SUPPLIES & MATERIALS
 2212 PHOTO & REPRODUCTION NB 2,083.70
 2214 PRINTING NB 668.70 3,951.98
 2282 INK NB 111.20
 2290 OTC SUPPLIES/INTERNAL NB 27.84 141.43
 2200-SUPPLIES & MATERIALS NB 696.54 6,288.31
 COMMUNICATIONS
 2371 TELEPHONE EQUIP CRG/NON-D OF A NB 316.00
 2385 LONG DISTANCE CHRG/D OF A NB 11.91
 2300-COMMUNICATIONS NB 327.91
 TRAVEL
 2415 OUT-OF-STATE OTHER NB 138.30 138.30
 2400-TRAVEL NB 138.30 138.30
 RENT
 2506 POSTAGE METER NB 113.40
 2528 RENT/NON-D OF ADM BLDGS NB 6,725.34 20,176.02
 2500-RENT NB 6,725.34 20,289.42

REPORT PAGE NO. 2 OF 7
 CONSECUTIVE PAGE NO. 8160
 SBAS FORM 663
 REPORT 3564.9
 RECORD FOR AGENCY 5103

STATE OF MONTANA
 RESPONSIBILITY CENTER FINANCIAL REPORT
 FOR THE MONTH OF: DECEMBER 1988
 CENTER 1826 - REPROGRAPHICS / OFFICE STORES
 FISCAL PERIOD: 07-01-88 TO 06-30-89 PERCENT ELAPSED TIME: YTD 50%

REPORT DATE: 12/30/88
 UNIVERSITY OF MONTANA
 STOLTZ, K / MITCHELL, S
 REPRO / AUXILIARIES

PART A - OBJECT SUMMARY

EXPENSES	BUDGET	CURRENT MONTH	CURRENT YEAR	PRIOR YEAR	ENCUMBERED	BALANCE	%COM
REPAIR & MAINTENANCE							
2705 SHOP PLANT INDUSTRIAL EQUIP NB		175.00	972.00				
2750 MAINTENANCE CONTRACTS NB		175.00	3,141.50				
2760-REPAIR & MAINTENANCE NB			4,113.50				
OTHER EXPENSES							
2827 INDIRECT/ADMINISTRATIVE COSTS NB		692.00	2,076.00				
2800-OTHER EXPENSES NB		692.00	2,076.00				
GOODS PURCHASED FOR RESALE							
2901 RAW MATERIALS NB		1,875.91	8,138.45				
2902 MERCHANDISE NB			95.87-				
2919 POSTAGE & MAILING NB			3,500.00				
2900-GOODS PURCHASED FOR RESALE NB		1,875.91	11,542.58				
2000-OPERATING EXPENSES NB		11,280.20	45,788.77				
*** TOTALS - NON-BUDGETED EXPENSES NB		18,942.35	89,843.44				

PART B - BALANCE FORWARD

BEGINNING BALANCE	.00
TOTAL INCOME TO DATE	81,766.37
TOTAL EXPENSE TO DATE	89,843.44
INCOME LESS EXPENSES	8,077.07-
ENDING BALANCE	\$ 8,077.07-

Innovation of University administrative costs

Ex. # 2/9/88

Datagram

REPORT PAGE NO. 1 OF 11
 CONSECUTIVE PAGE NO. 8148
 SBAS FORM 661
 REPORT 3364 P
 RECORD FOR AGENCY 5103
 CENTER 1825 - PRINT SHOP
 FISCAL PERIOD: 07-01-88 TO 06-30-89 PERCENT ELAPSED TIME: YTD 50%

STATE OF MONTANA
 RESPONSIBILITY CENTER FINANCIAL REPORT
 FOR THE MONTH OF: DECEMBER, 1988
 UNIVERSITY OF MONTANA
 STOLTZ, K. / MITCHELL, G.
 PRINT SHOP / AUXILIARIES
 REPORT DATE: 12/31/88

PART A - OBJECT SUMMARY

INCOME	BUDGET	CURRENT MONTH	CURRENT YEAR	PRIOR YEAR	BALANCE
0450 OTHER INCOME AUX ENT	NB	2,343.42	8,498.16		
0451 ADVERTISING-CLASSIFIED	NB		998.85		
0460 SALES	NB	3,510.75	31,740.88		
0465 JOB/PRODUCTION INCOME	NB	33,461.44	257,341.58		
0471 VENDING SALES	NB	93.42	193.85		
0905 EARNINGS-S.T.I.P.	NB	360.27	360.27		
0989 OTHER INCOME	NB		834.35		
** TOTALS - NON-BUDGETED INCOME	NB	39,769.30	299,967.94		

EXPLANATION: "Partial" jobs such as a PMT of a graph for class handout. Sale of copy paper and forms to departments. income from software machine. interest in come on cash balances. sale of surplus and recyclable materials.

EXPENSES	BUDGET	CURRENT MONTH	CURRENT YEAR	PRIOR YEAR	ENCUMBERED
* * PERSONAL SERVICES					
SALARIES					
1109 NON-PROFESSIONAL	NB	16,588.08	79,281.88		
1124 CONTRACT PROFESSIONAL & ADMIN	NB	1,411.21	7,056.05		
1125 CLASSIFIED EMPLOYEES	NB	5,871.54	21,123.16		
1133 TERMINATION PAY - SICK LEAVE	NB		733.41		
1134 TERMINATION PAY - VACATION	NB		94.95		
1100-SALARIES	NB	23,870.83	108,290.45		
HOURLY WAGES					
1202 OVERTIME	NB	2,587.22	9,303.08		
1223 CLASSIFIED EMPLOYEES	NB	1,747.77	8,700.77		
1224 NON-CLASSIFIED EMPLOYEES	NB		4,342.99		
1225 STUDENTS	NB	763.75	1,833.75		
1226 FEDERAL WORK STUDY	NB	30.96	135.26		
1229 STATE SUMMER WORK STUDY	NB		303.98		
1200-HOURLY WAGES	NB	5,129.70	24,619.83		
EMPLOYEE BENEFITS					
1403 GROUP INSURANCE	NB	1,610.00	9,062.00		
1499 GENERAL	NB		17,098.40		
1400-EMPLOYEE BENEFITS	NB	1,610.00	26,160.40		
1000-PERSONAL SERVICES	NB	30,610.53	159,070.68		
* * OPERATING EXPENSES					
CONTRACTED SERVICES					
2107 LAUNDRY	NB	74.90	458.68		
2173 COMPUTER PROCESSING/NON-D OF A	NB	1,904.00	1,904.00		
2100-CONTRACTED SERVICES	NB	1,978.90	2,362.68		
SUPPLIES & MATERIALS					
2208 LABORATORY	NB		87.97		
2210 MINOR TOOLS INSTRUM., & EQUIP	NB		2.68		
2212 PHOTO & REPRODUCTION	NB	1,282.19	5,231.98		
2214 PRINTING	NB	1,311.12	4,194.39		
2215 VEHICULAR	NB	190.40	1,522.35		

#8
2/9/89

REPORT PAGE NO. 2 OF 11
 CONSECUTIVE PAGE NO. 8149
 SBAS FORM 661
 REPORT 3364-P
 RECORD FOR AGENCY 5103

STATE OF MONTANA
 RESPONSIBILITY CENTER FINANCIAL REPORT
 FOR THE MONTH OF: DECEMBER, 1988
 CENTER 1825 - PRINT SHOP
 FISCAL PERIOD: 07-01-88 TO 06-30-89
 PERCENT ELAPSED TIME: YTD 50%

REPORT DATE: 12/30/88
 UNIVERSITY OF MONTANA
 STOLTZ, K. / MITCHELL, S.
 PRINT SHOP / AUXILIARIES

PART A - OBJECT SUMMARY

EXPENSES	BUDGET	CURRENT MONTH	CURRENT YEAR	PRIOR YEAR	ENCUMBERED	BALANCE
2231 PHOTOGRAPHIC	NB		867.87			
2241 OFC SUPPLIES/NON-STATE PROC	NB		41.75			
2245 DATA PROCESSING SUPPLIES	NB		69.20			
2267 PAPER PRODUCTS	NB		1,831.68			
2282 INK	NB		2,017.47			
2290 OFC SUPPLIES/INTERNAL	NB	368.55	704.91			
2200-SUPPLIES & MATERIALS	NB	3,152.26	12,732.95			
COMMUNICATIONS						
2304 POSTAGE & MAILING	NB	58.12	276.96			
2371 TELEPHONE EQUIP CRG/NON-D OF A	NB		457.09			
2372 TELEPHONE ADD/MOVE/CHANGE	NB		55.00			
2385 LONG-DISTANCE CHRG/D OF A	NB	12.99	156.46			
2387 CREDIT CARD CALLS	NB	71.11	12.99			
2300-COMMUNICATIONS	NB		958.50			
TRAVEL						
2401 IN-STATE PERSONAL CAR MILEAGE	NB		80.78			
2405 IN-STATE OTHER	NB	35.00	75.96			
2415 OUT-OF-STATE OTHER	NB		391.29			
2400-TRAVEL	NB	35.00	546.03			
REPAIR & MAINTENANCE						
2701 BUILDINGS & GROUNDS	NB		305.84			
2705 SHOP-PLANT INDUSTRIAL EQUIP	NB	326.22	1,140.78			
2711 WINDS TOOLS & INSTRUMENTS	NB	286.55	429.60			
2714 PHOTOGRAPHIC EQUIPMENT	NB	51.75	570.49			
2750 MAINTENANCE CONTRACTS	NB		8,076.00			
2759 PRINTING EQUIPMENT	NB		254.66			
2700-REPAIR & MAINTENANCE	NB	664.52	10,777.37			
OTHER EXPENSES						
2801 DUES	NB		100.00			
2802 SUBSCRIPTIONS	NB		18.00			
2822 FREIGHT & EXPRESS	NB	3,563.57	4,137.32			
2824 ENTERTAINMENT	NB		90.35			
2826 JOB CANDIDATE EXPENSE	NB		1,074.27			
2827 INDIRECT/ADMINISTRATIVE COSTS	NB	1,646.00	4,938.00			
2800-OTHER EXPENSES	NB	3,209.57	10,357.94			
GOODS PURCHASED FOR RESALE						
2901 RAW MATERIALS	NB	20,642.65	117,994.84			
2902 MERCHANDISE	NB	3,181.76	17,507.96			
2900-GOODS PURCHASED FOR RESALE	NB	23,824.41	135,502.80			
2000-OPERATING EXPENSES	NB	34,935.77	173,238.27			
* TRANSFERS						
MANDATORY TRANSFERS						
8701 PRINCIPAL AND INTEREST	NB		5,000.00			
8700-MANDATORY TRANSFERS	NB		5,000.00			
8000-TRANSFERS	NB		5,000.00			

Cost to bring production manager candidate to Missoula for interview

Preparation of University administrative costs

Payments on equipment financed with bonds

Ex. 2/9/89

REPORT PAGE NO. 3 OF 11
 CONSECUTIVE PAGE NO. 8150
 STATE OF MONTANA
 RESPONSIBILITY CENTER FINANCIAL REPORT
 FOR THE MONTH OF: DECEMBER, 1988
 CENTER 1825 - PRINT SHOP
 FISCAL PERIOD: 07-01-88 TO 06-30-89 PERCENT ELAPSED TIME: YTD 50%
 REPORT FOR AGENCY 5103
 REPORT DATE: 12/30/88
 UNIVERSITY OF MONTANA
 STOLTZ, K. / MITCHELL
 PRINT SHOP / AUXILIARIES

PART A - OBJECT SUMMARY

BUDGET CURRENT MONTH CURRENT YEAR PRIOR YEAR ENCUMBERED BALANCE XCOM
 EXPENSES

*** TOTALS - NON-BUDGETED EXPENSES NB 65,546.30 337,308.95


PART B - BALANCE FORWARD

BEGINNING BALANCE	.00
TOTAL INCOME TO DATE	299,967.94
TOTAL EXPENSE TO DATE	337,308.95
INCOME LESS EXPENSES	37,341.01-
ENDING BALANCE	37,341.01-


Ex. #8

2/9/89

SB 354



SNOWMOBILING IN MONTANA



Prepared for

The Montana Snowmobile
Association

The Institute for Tourism and
Recreation Research,
University of Montana
The Montana Department of Fish,
Wildlife, and Parks

by

The Bureau of Business and
Economic Research
University of Montana
Missoula, Montana 59812

Fall 1988



Ex. #8

2/19/89

The 14th Annual Economic Outlook Seminar

Presented by
Bureau of Business and Economic Research
School of Business Administration
University of Montana

Kalispell
January 23, 1989
Cavanaugh's Motor Inn
*cosponsored by the
Kalispell Area Chamber
of Commerce*

Missoula
January 27, 1989
Village Red Lion
*cosponsored by the
Missoula Area Chamber
of Commerce*

Great Falls
February 2, 1989
Rainbow Hotel
*cosponsored by the
Great Falls Area
Chamber of Commerce*

Butte
January 25, 1989
War Bonnet Inn
*cosponsored by the
Butte Area Chamber
of Commerce*

Billings
January 31, 1989
Northern Hotel
*cosponsored by the
Billings Area Chamber
of Commerce*

Helena
February 3, 1989
Colonial Inn
*cosponsored by the
Helena Area Chamber
of Commerce*

SEMINAR SCHEDULE	
8:30 a.m.	Coffee and registration
8:45 a.m.	The State and Local Outlook Paul E. Polzin Montana's Natural Resource Industries Oil and Gas, Nonfuel Minerals Larry D. Swanson Forest Products Charles E. Keegan
10:00 a.m.	Coffee
10:20 a.m.	Montana's Growing Market Segments Larry D. Swanson The Consumer View Mary L. Lenihan The Local Business Panel
Noon- 1:15 p.m.	Luncheon - Billings, Butte, Great Falls, Helena, and Missoula: Keeping Montana Consumers Happy Susan Sellg Wallwork Luncheon - Kalispell The Future of Montana's Forest Products Industry: Charles E. Keegan

THE
FOREST **P**RODUCTS **I**NDUSTRY
IN
MONTANA

Forest resources are an integral part of Montana. The elegant Douglas-fir, the stately ponderosa pine, and the heavily timbered slopes of lodgepole pine form the pictures and playgrounds we associate with Montana. Trees are also vital to one of the largest and most important industries in Montana: the forest products industry.

One of Montana's major basic industries, the forest products industry produces a wide array of valuable products from paper to plywood, lumber to posts and poles, and particleboard to turpentine. This publication describes the operations of Montana's forest products industry in order to acquaint people with this vital industry and its products.

The forest products industry is Montana's largest manufacturing activity with \$900 million in sales in 1987. During the 1980s, labor income in the wood and paper products industry approximately equaled labor income in agriculture, which is the number one industry in the state. Montana's forest products industry supplies 4 percent of the softwood lumber produced in the United States, and 3 percent of the nation's softwood plywood.



Photo by Roger Bergmeier

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

EXHIBIT NO.

9

DATE

2/9/89

BILL NO.

SB 354

DATE:

2/9/89

NAME: Marilyn J. Jussal

ADDRESS: Montana State University

PHONE: 994-5341

REPRESENTING WHOM? MSU

APPEARING ON WHICH PROPOSAL: SB 354

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

The following lists briefly describe types of items produced internally at Publications and Graphics and procured from the commercial vendors:

INTERNAL PRODUCTION

Letterhead
Brochures
Memos
Flat Forms
Note Pads
Reports
Legislative Bills
Rules
Policies

IN-STATE VENDOR CONTRACTS

Standard Envelopes
Business Cards
Continuous Letterhead
Single and Multi Ply Continuous Forms
Brochures
Snap Apart Forms
Booklets and Books
Posters
Newsletters
Tabloids
Magazines

OUT-OF-STATE VENDOR CONTRACTS

Data Mailers
Binders and Tabs
Checks
Labels
Decals
Portfolios
Custom Envelopes
Continuous Forms
Case Bound Books
Tickets
Copyrighted Materials
Magazines
Maps
Long Run Pamphlets and Books (i.e. Travel Promotion Material)

WITNESS STATEMENT

EXHIBIT NO. 11

DATE 2/9/89

DATE: NO 2/9/89 SB 330

NAME: Kathy M. Irigoin

ADDRESS: P.O. Box 4009 Helena

PHONE: 444-2040

REPRESENTING WHOM? State Auditor's Office

APPEARING ON WHICH PROPOSAL: SB 330

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: Testimony attached.
see exhibit #72

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Kathy M. Irigoin
State Auditor's Office
444-2040

TESTIMONY ON SENATE BILL 330
STATE AUDITOR'S OFFICE
February 9, 1989

I. Introduction

SB 330 has three parts all intended to update and bring Montana's law in line with what is happening in other states without impeding the growth and development of insurers transacting insurance in Montana. Most of SB 330 is based on models from the National Association of Insurance Commissioners (NAIC).

II. Section-by-section explanation

A. Suspension or Revocation Authority

The first section of the bill (page 2, line 4 through line 12, page 6) allows the commissioner to suspend or revoke an insurer's certificate of authority if the insurer transacts insurance in this state through an unlicensed insurance agent or fails to supervise its insurance agents reasonably to assure their compliance with the Montana Insurance Code. Providing this authority to the commissioner would make insurers transacting insurance in Montana more responsible for the actions of their agents and encourage them to employ only people who have true knowledge of the insurance products they sell.

B. Insurance Holding Company Systems

Sections 2 through 7 (page 4, line 13 through line 11, page 23) incorporate the updated version of the NAIC Insurance Holding Company System Regulatory Act. Generally, this portion of the bill requires insurance holding companies to register properly and provide accurate information to the Montana Insurance Department about their affiliated company transactions. Specifically, obsolete and vague language that never was part of a model act is deleted in section 2 (page 6, line 21 through line 7, page 7).

In section 3, on page 10, lines 20 through 25, an acquiring party is required to pay certain costs of reviewing a proposed merger or acquisition of a domestic insurer.

In section 4, language that is unique to Montana is being stricken (page 11, lines 5 through 10). The language being stricken was relied upon by Life of Montana to argue that the commissioner had no authority to review the acquisition of Life of Montana by a certain entity because the acquisition was

Ex. # 12
2/9/89

being effected through the transfer of "not issued and outstanding" shares. For example, if 1,000 shares were authorized and only 200 shares issued, Life of Montana argued that the remaining 800 shares (not issued and outstanding) could be issued to a single entity and control of Life of Montana thereby be transferred to the entity without prior approval of the commissioner. Judge Gordon Bennett held that such a transfer should not be allowed without approval of the commissioner, deciding the language proposed to be stricken in SB 330 had no logical meaning.

Section 5 of SB 330 (page 12, line 17 through line 20, page 16) requires an insurer which is a member of an insurance holding company system to register with the commissioner and to file an annual registration statement containing material information about the relationship between the insurer and the insurance holding company system. An insurance holding company system insurer must also notify the commissioner of changes in the information contained in the registration statement (page 15, lines 3 through 6). A person in an insurance holding company system must provide accurate information to an insurer that is subject to the holding company registration requirements (page 15, lines 16 through 20).

Subsection (1) of section 6 of SB 330 (page 16, line 21 through line 16, page 17) requires that fees and expenses charged to an insurer by its affiliate must be reasonably calculated and documented. The purpose of this requirement is to prevent an affiliate from overcharging an insurer, thereby harming policyholders. Subsection (2) of section 6 (page 17, line 17 through line 14, page 19) enumerates a list of material transactions between an insurer and an affiliate which must be reported to the commissioner 30 days in advance. The commissioner may disapprove such a transaction. Materiality is determined for each kind of transaction and each kind of insurer by setting specific thresholds. The requirement that certain transactions between insurers and affiliates be reviewed by the commissioner is intended to prevent adverse financial effects on the insurer.

Subsection (3) of section 6 (page 19, lines 15 through 22) provides that a series of similar transactions within a 12-month period are considered as a single transaction if the intent behind them was to evade review. The provision is intended to prevent circumvention of the law by an insurer which purposely structures its transactions so that they fall slightly below the thresholds set for review by the commissioner.

Subsection (4) of section 6 (page 19, line 23 through line 2, page 20) requires the commissioner's review to be keyed to whether a transaction may harm policyholders. Subsection (5) of section 6 (page 20, lines 3 through 7) require an insurer to notify the commissioner within 30 days if it has purchased more than 10% in a corporation.

Section 7 specifies a civil penalty for an insurer which fails to file a registration statement (page 21, lines 13 through

21), specifies a civil penalty for a director or officer who violates a registration statement requirement (page 21, line 22 through line 9, page 22), and permits the commissioner to stop or reverse a transaction that is not reported and is harmful to policyholders, creditors, or the public (page 22, lines 10 through 20). Without penalties in the statute, the registration statement requirements would be meaningless.

C. Credit for Reinsurance

Section 8 (page 32, line 12 through line 21, page 28) incorporates the updated NAIC Model Law on Credit for Reinsurance, a model act that has been adopted by many other states and has been effective in ensuring that an insurer's financial statement properly reflects the results of ceding reinsurance to a reinsurer. Specifically, the changes in subsection (2) of section 8 (page 23, lines 17 through 25) are for clarification purposes only. Subsection (3) of section 8 (page 24, line 1 through line 9, page 26) defines the circumstances under which the commissioner may grant credit for reinsurance to an alien insurer. To receive credit for reinsurance, an alien reinsurer must either (1) maintain a trust fund of at least \$20 million in the United States with a member bank of the federal reserve system and have the trustees of the fund report annually to the commissioner (page 24, line 11 through line 4, page 26); or (2) write risks that are entirely outside the United States (page 26, lines 5 through 9).

Subsection (4) (page 26, line 10 through line 6, page 27) sets forth additional conditions (related mostly to court procedure and jurisdiction) for credit for reinsurance involving a foreign or alien reinsurer that is not authorized to transact insurance in Montana.

Subsection (5) (page 27, line 7 through line 4, page 28) provides that, if a reinsurer is not licensed to transact insurance in Montana and does not meet minimum Montana financial standards, then credit for ceded reinsurance is still possible if the ceding insurer holds: (1) cash belonging to the reinsurer, (2) qualifying securities of the reinsurer, (3) clean irrevocable letters of credit issued by a federal reserve system bank, or (4) a security acceptable to the commissioner.

The main reasons for section 8 are that standards for alien reinsurers under current Montana law is too liberal in requiring an alien reinsurer simply to have an attorney-in-fact residing in the United States. Also, current Montana law on credit for reinsurance is too inflexible in not considering trusts or letters of credit in determining credit for reinsurance. In general, this portion of the bill tightens up the requirements on alien reinsurance and allows new ways of receiving credit for reinsurance.

EXHIBIT NO. 13

DATE 2/9/89

BILL NO. SB 335

DATE: 2/9/89

NAME: Ken Neill

ADDRESS: P.O. Box 1692, Gt. Falls, N.H. 59403

PHONE: 727-2220

REPRESENTING WHOM? Fidelity S-L

APPEARING ON WHICH PROPOSAL: SB 335

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT NO. 14

DATE 2/9/89

DATE: 2-9-89

BILL NO. SB 335

NAME: John Buchanan

ADDRESS: P.O. Box 1643 6+ Falls

PHONE: 761 0372

REPRESENTING WHOM? Fidelity Sel

APPEARING ON WHICH PROPOSAL: # 335

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a

EXHIBIT NO. 15
Bill.)

DATE 2/9/89

BILL NO. SB 335

NAME: Sheila Buchanan

DATE: 2-9-89

ADDRESS: PO Box 1643 / CF MT

PHONE: 727-3969

REPRESENTING WHOM? FIDELITY SAVINGS & LOAN

APPEARING ON WHICH PROPOSAL: 335

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on EXHIBIT NO. 1)

16

DATE 2/9/99

BILL NO. SB 335

DATE: 2-9-89

NAME: Brad Walterskirchen

ADDRESS: P.O. Box 2779, Great Falls, Md.

PHONE: 727-6106

REPRESENTING WHOM? FIDELITY SAVINGS PLAN

APPEARING ON WHICH PROPOSAL: SB 335

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE 2/9/89

The judgment of the district court is AFFIRMED with respect to its award of attorney's fees. With respect to its award of unearned wages and maintenance, however, the judgment is REVERSED and REMANDED for further proceedings not inconsistent with this opinion.



THE DEPARTMENT OF BANKING AND CONSUMER FINANCE OF THE STATE OF MISSISSIPPI, et al., Plaintiffs-Appellants,

v.

Robert L. CLARKE, Comptroller of the Currency of the United States and Deposit Guaranty National Bank, Defendants-Appellants.

No. 85-1722.

United States Court of Appeals, Fifth Circuit.

Feb. 9, 1987.

National banking corporation sought permission from the Comptroller of the Currency to open branch bank in state. After the Comptroller granted permission, state Department of Banking sought to enjoin opening of branch. The United States District Court for the Southern District of Mississippi, 617 F.Supp. 566, Tom S. Lee, J., granted injunctive relief, and Comptroller and corporation appealed. The Court of Appeals, Politz, Circuit Judge, held that: (1) Comptroller properly used federal

Because Dowdle paid for the March 1985 treatment in question under his private insurance policy, the treatment was not paid for by a third party. See *Gaultier v. Crosby Marine Service, Inc.*, 752 F.2d 1085, 1090 (5th Cir.1985).

law to define terms of National Bank Act branching provisions; (2) Comptroller properly considered whether state savings associations were actually "state banks" within meaning of National Bank Act; and (3) finding that state savings associations were "state banks" engaged in banking business within meaning of National Bank Act was supported by evidence.

Injunction vacated, judgment reversed.

1. Banks and Banking § 236

In interpreting and applying National Bank Act provisions regarding bank branching, Comptroller of Currency may seek guidance of helpful state law, but is bound to follow federal law in defining terms contained in federal statute, as in enacting branching provisions Congress intended to place national and state banks on basis of competitive equality, with neither system having advantage over other in use of branch banking. National Bank Act, 12 U.S.C.A. § 56(c), (b).

2. Banks and Banking § 236

In determining what constituted "state banks" within meaning of National Bank Act provisions regarding branching of national banks within state, Comptroller of the Currency properly considered whether state savings associations were actually "state banks" carrying on banking business. National bank act, 12 U.S.C.A. § 36(h).

3. Banks and Banking § 236

Finding that state savings associations were "state banks" engaged in banking business for purposes of branching provision of National Bank Act, and thus that national banking corporation could branch on a statewide basis, was supported by evidence that savings associations in state carried on functions of accepting deposits, paying checks, and making loans. National Bank Act, 12 U.S.C.A. § 36(h); Miss. Code 1972, § 81-12-173.

Anthony J. Steinmeyer, Appellate Staff, Civil Div., Dept. of Justice, Washington,

D.C., Dan M. McDaniel, Jr., Asst. U.S. Atty., John F. Daly, Jackson, Miss., for Comptroller of Currency.

Luther T. Munford, Lawrence J. Franck, Jackson, Miss., for Deposit Guar. Bank. Hubbard T. Saunders, Stephen J. Kirshmayr, Jr., Robert M. Arcuson, Jr., Champ Terney, Jackson, Miss., for Dept. of Banking.

G.E. Estes, Jr., Gulfport, Miss., for Merchants Bank.

John M. Harrel, Knox White, Gulfport, Miss., for Hancock Bank, et al.

W. Joel Blass, Gulfport, Miss., for Gulf Nat'l. Bank.

Appeal from the United States District Court for the Southern District of Mississippi.

Before POLITZ, RANDALL, and JOLLY, Circuit Judges.

POLITZ, Circuit Judge:

This appeal by the Comptroller of the Currency of the United States and Deposit Guaranty National Bank of Jackson, Mississippi, from a judgment enjoining the Comptroller and Deposit Guaranty from establishing a branch office in Gulfport, Mississippi, poses a sole question: did the Comptroller err in his interpretation of the term "state bank" as found in 12 U.S.C. § 36(h), when he granted approval of Deposit Guaranty's application to establish the branch? The district court concluded that the Comptroller had erred, 617 F.Supp. 566. We disagree and reverse.

Background

In September 1981 Deposit Guaranty, a national banking corporation chartered under the laws of the United States with its principal office in Jackson, Mississippi, applied to the Comptroller for permission to open a branch bank in Gulfport, Mississippi. Gulfport is more than 100 miles distant from Jackson. During the public comment period following the publication of notice of Deposit Guaranty's application, the Depart-

ment of Banking and Consumer Finance of the State of Mississippi and several state-chartered commercial banks with offices in or near Gulfport protested. On July 9, 1985, the Comptroller rejected the protests and granted the requested approval. The Department of Banking promptly filed the instant action, seeking to enjoin the opening of the Gulfport branch. Several state commercial banks were allowed to intervene. After reviewing the record developed before the Comptroller, the district court granted the injunctive relief. Both the Comptroller and Deposit Guaranty timely appealed.

Like most states, the State of Mississippi has historically recognized and chartered two kinds of financial institutions, commercial banks and savings associations. The commercial banks are chartered under Miss.Code Ann. § 81-3-3 and are regulated by the Department of Banking. The savings associations are chartered under Miss.Code Ann. §§ 81-12-25 to 81-12-43 and are under the authority of the Mississippi Department of Savings Associations, Miss.Code Ann. § 81-12-11. Originally the financial activities of the two institutions differed. In recent years, however, because of changes in state and federal law, the savings associations have become highly competitive with the state banks and other financial institutions, including national banks.

The traditional powers and functions of a bank, constituting the business of banking, are enumerated in the National Bank Act, 12 U.S.C. § 24 (seventh):

- (1) the discounting and negotiating of promissory notes, drafts, bills of exchange, and other evidence of debt;
- (2) the receiving of deposits;
- (3) the buying and selling of exchange, coin and bullion;
- (4) the loaning of money on personal security; and
- (5) the issuing and circulating of notes under the National Bank Act.

As is noted by the Comptroller and generally acknowledged, items (3) and (5) are of little relevance. Hence, the banking busi-

ness, reduced to essentials, involves receiving deposits, making commercial loans, and negotiating checks and drafts.

Starting in 1980, Mississippi's statutes and regulations dramatically changed, conferring traditional banking powers upon Mississippi savings associations which are now authorized to: offer negotiable order of withdrawal (NOW) accounts and interest-bearing checking accounts, Miss.Code Ann. §§ 81-12-149, 81-12-151; receive and pay interest on savings deposits and other accounts, Miss.Code Ann. § 81-12-49(d); lend and invest funds, Miss.Code Ann. §§ 81-12-49(p), 81-12-155, 81-12-159; service loans and investments, Miss.Code Ann. § 81-12-49(u); and sell money orders and travelers' checks, Miss.Code Ann. § 81-12-49(v). Under what is sometimes referred to as the "wild card" statute, Miss.Code Ann. § 81-12-49(r), Mississippi savings associations may engage in any activity permitted a federally chartered savings and loan association in that state. And, of some significance, savings associations may now use the appellation "savings bank," contrary to the former law reserving the title "bank" for commercial banking institutions. Miss.Code Ann. § 81-3-3; Miss. Savings Rule 16.1.

Consistent with the previous sharp separation of functions, banks and savings associations were accorded different treatment. One difference central to the case at bar involves branch units. A savings association may open branches throughout the state, Miss.Code Ann. § 81-12-175, whereas the state commercial banks, since the 1986 amendments, are allowed to open branches only in the county in which the bank's principal office is located, or within a 100-mile radius, Miss.Code Ann. § 81-7-7.

The Comptroller is responsible for the supervision of 5,000 national banks chartered under federal law. Congress has empowered the Comptroller to make definitive judgments on the application of national banks for permission to relocate or to open branches, 12 U.S.C. §§ 30, 36. The federal branching provision, commonly referred to

as the McFadden Act, permits a national bank to open branches anywhere that a state bank may. The National Bank Act, 12 U.S.C. § 36, provides in pertinent part:

(c) A national banking association may, with the approval of the Comptroller of the Currency, establish and operate new branches . . . at any point within the State in which said association is situated, if such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restrictions as to location imposed by the law of the State on State banks.

Analysis

[1] The threshold issue we confront is whether the Comptroller, in his interpretation and application of a federal statute, in this case 12 U.S.C. § 36(h), should look to state or federal law to define the statute's terms. We conclude and hold that in his interpretation of 12 U.S.C. § 36(c) and (h) the Comptroller may see: the guidance of helpful state law, but is bound to follow federal law in defining terms contained in the federal statute. This includes, of course, the terms "State bank" and "banking business."

The Supreme Court's reasoning in *First National Bank of Logan v. Walker Bank and Trust Co.*, 385 U.S. 252, 87 S.Ct. 492, 17 L.Ed.2d 343 (1966), illuminates our path. The Court there held that national banks in Utah were constrained to establish branches in the same manner as state banks in that state. The Court opined that "[i]t appears clear from . . . the legislative history of § 36(c)(1) and (2) that Congress intended to place national and state banks on a basis of 'competitive equality' insofar as branch banking was concerned." 385 U.S. at 261, 87 S.Ct. at 497. It was this concern for competitive equality that drove the Court's decision in *First National Bank in Plant City v. Dickinson*, 396 U.S. 122, 90 S.Ct. 337, 24 L.Ed.2d 312 (1969), wherein it held that the definition of "branch" in 12 U.S.C. § 36 was a matter of federal law.

In *Plant City*, the Court emphasized the importance of employing a federal definition to ensure that national banks would be

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able to perform the same branching functions as neighboring state banks. The Court relied on the legislative history of the McFadden Act, codified as 12 U.S.C. § 36, reasoning that to allow the states to regulate banking functions "would make them the sole judges of their own powers. Congress did not intend such an improbable result...." 396 U.S. at 133-34, 90 S.Ct. at 343. The court cited legislative history demonstrating that Congress was concerned that "neither system have advantages over the other in the use of branch banking" and that national banks would be protected "from the unrestricted branch bank competition of state banks." *Id.* at 131, 90 S.Ct. at 342.

The principle of competitive equality guided the Comptroller's analysis and informed his decision in the present case. He observed that "the concept of competitive equality requires a federal definition of 'State bank' to prevent states from disadvantaging national banks vis-a-vis state-chartered institutions by merely denominating these institutions 'banks' and treating them somewhat differently from state commercial banks, though not so differently as to prevent these institutions from competing with national banks."

We conclude that the Comptroller's use of federal law and the competitive equality standard was legally correct. By doing so the Comptroller was faithful to the congressional mandate and demonstrated considerable expertise in balancing national and state interests in this constantly evolving area.

1. In other areas traditionally regulated by state law, the Supreme Court has applied federal definitions to federal statutory terms even when the federal statute contains references to state law provisions. See *Chase Manhattan Bank v. City Finance Admin.*, 440 U.S. 447, 99 S.Ct. 1201, 59 L.Ed.2d 445 (1979) (definition of "tax" under federal statute governing state taxation is a question of federal law); *SEC v. Variable Annuity Life Insurance Co.*, 359 U.S. 65, 79 S.Ct. 618, 3 L.Ed.2d 640 (1959) (definitions of "insurance" and "annuities" for purposes of federal regulation are questions of federal law even if such

tions are listed in the National Bank Act's definition of branch in 12 U.S.C. § 36(f).³

As a reviewing court, we must accept the Comptroller's factual findings unless we find that they are arbitrary or capricious. 5 U.S.C. § 706. Our determination must be made on the basis of the administrative record. *Camp v. Pitts*, 411 U.S. 138, 93 S.Ct. 1241, 36 L.Ed.2d 105 (1973).

[3] The Comptroller's factual determination that the savings associations are engaged in the banking business is amply supported by the record. These associations, consistent with state law, accept deposits, pay interest on accounts, offer checking accounts, act in a fiduciary capacity, make personal loans, sell money orders and travelers' checks, service loans, manage investments, honor withdrawals from savings accounts, and purchase, sell, lease, and mortgage both personal and real properties. This factual finding by the Comptroller is neither arbitrary nor capricious. It is patently correct.

In reaching our conclusion we are not unmindful of the *Garn-St. Germain Act*, adopted in 1982, 12 U.S.C. § 1461 *et seq.*, expanding the regulatory scheme for savings and loan associations. That regulatory scheme, intended to ensure that savings and loan institutions maintain their status "as the nation's primary home lender," S.Rep. No. 611, 97th Cong.2d Sess. 88, reprinted in 1982 U.S. Code Cong. & Ad. News 3054, 3431, differs from the regulation of the traditional bank. The principal difference involves the limits placed on commercial and consumer loans and investments of the savings institutions, designed to protect their capacity to make needed

Thus, for example, automatic teller machines constitute "branches" for purposes of the Act. 3. The Supreme Court has defined "banking business" similarly in antitrust cases. In *United States v. Philadelphia National Bank*, 374 U.S. 321, 83 S.Ct. 1715, 10 L.Ed.2d 915 (1963), the Court stated that of the various banking services and products, the creation of additional money and credit, the management of additional money and credit, the management of the checking account sys-

home loans. That legislation neither prohibits the functional analysis made by the Comptroller nor militates against his interpretation of 12 U.S.C. § 36(h).

The Comptroller did not incorrectly interpret the controlling statutory provisions. His interpretation was more than a mere "permissible construction," all that is required in order to secure this court's deference. See *Chevron v. Natural Resources Defense Council; United States v. Riverside Bayview Homes, Inc.*, 474 U.S. 121, 106 S.Ct. 455, 88 L.Ed.2d 419 (1985); and *Texas v. United States*. We find the Comptroller's interpretation to be amply supported by the express "language employed by Congress," giving the words its "ordinary meaning." *American Tobacco Co. v. Patterson*, 456 U.S. 63, 68, 102 S.Ct. 1534, 1537, 71 L.Ed.2d 748 (1982).

The district court erred in enjoining the Comptroller and Deposit Guaranty. The injunction imposed is vacated and the judgment is reversed. The Comptroller is entitled to judgment as a matter of law. The matter is returned to the district court for entry of an appropriate judgment.

REVERSED.



tem, and the furnishing of short-term business loans would appear to be the most important. 374 U.S. at 326-27, 83 S.Ct. at 1721. The Court has repeated this delineation of banking functions in subsequent antitrust cases, see, e.g., *United States v. Phillipsburg National Bank*, 399 U.S. 350, 90 S.Ct. 2035, 26 L.Ed.2d 658 (1970); *United States v. First National Bank*, 376 U.S. 665, 84 S.Ct. 1033, 12 L.Ed.2d 1 (1964).

Cross-References

Contracts — illegal objects and provisions,
Title 28, ch. 2, part 7.

DATE 2/9/89

BILL NO. 5B335

32-2-264. Shares of stock and savings accounts subject to attachment. The stock or savings accounts of such foreign associations doing business in this state shall be subject to attachment in the same manner as now provided by law in the case of domestic associations.

History: En. Sec. 32, Ch. 57, L. 1927; re-en. Sec. 6355.33, R.C.M. 1935; R.C.M. 1947, 7-134; amd. Sec. 11, Ch. 5, L. 1983; MCA 1981, 32-2-224; redes. 32-2-264 by Code Commissioner, 1983.

Cross-References

Prejudgment attachment — corporate stock,
27-18-410.

Business corporations — liability of subscribers and shareholders, 35-1-510.

32-2-265 through 32-2-270 reserved.

32-2-271. Consolidation and transfer — branching prohibited. (1) Only building and loan associations organized and chartered under the laws of the state of Montana may, with the approval of the department, consolidate and become incorporated in one body, with or without any dissolution or division of the funds or property of any of them. Any association may transfer its engagements, funds, and property to any other association upon terms agreed upon by a majority vote of the respective board of directors and ratified by a two-thirds vote of the shares or members owning at least two-thirds of the withdrawable deposits in the association, present and voting in person or by proxy at a special meeting or meetings of the stockholders or members of the respective associations convened for that purpose, upon notice given as provided by law; the notice to state the object of the meeting. A transfer may not prejudice any right of any creditor of the association.

(2) Branching by merger or branching otherwise between a building and loan association organized and chartered under the laws of Montana and a building and loan association organized and chartered under the laws of any other state is prohibited. Branching de novo in Montana by a foreign-chartered building and loan association is prohibited.

(3) Insofar as this section limits or reduces the rights, powers, or privileges of building and loan associations previously granted by law, it shall apply only to proposed consolidations or mergers of associations which are initiated by action taken by their board of directors and shareholders subsequent to April 14, 1977.

History: (1), (2) En. as Subd. 22, 7-113, by Sec. 1, Ch. 168, L. 1931; repealed by Sec. 4, Ch. 11, L. 1933; re-en. Sec. 1, Ch. 11, L. 1933; Sec. 7-113(22), R.C.M. 1947; amd. and redes. 7-113.2 by Sec. 73, Ch. 431, L. 1975; amd. Sec. 1, Ch. 363, L. 1977; Sec. 7-113.2, R.C.M. 1947; (3) En. 7-113.3 by Sec. 2, Ch. 363, L. 1977; Sec. 7-113.3, R.C.M. 1947; R.C.M. 1947, 7-113.2, 7-113.3; amd. Sec. 12, Ch. 5, L. 1983; MCA 1981, 32-2-231; redes. 32-2-271 by Code Commissioner, 1983.

Cross-References

National bank powers extended to state banks, 32-1-362.

Consolidation or merger of banks, 32-1-371.

Branch bank prohibited — exceptions,
32-1-372.

Laws of other states — reciprocity, 32-2-105.
Credit unions — merger, 32-3-322.

Business corporations — procedure for merger, consolidation, and share exchange,
35-1-801.

DATE

2/9/99

COMMITTEE ON

Business & Industry

VISITORS' REGISTER

10/2

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Sheila F. Buchanan	Fidelity Savings & Loan	335	X	
John Buchanan	" " "	335	X	
Brad Walterskirchen	Fidelity Savings & Loan	335	X	
Ken Neill	Fidelity S + L	335	X	
J.P. Maden	W of Mont Realty	354		X
Alan Smart	Montana State Univ.	354		X
Chuck Walk	MT. Newspaper Assn	354	✓	
Ernie H. Cronnelly	Arkerst Printers	354	✓	
EU DUNHAM	Associated Writers' Publishers	354	X	
Jan Russell	Dept of Just	354		X
Mike Craig	Associated Student of UM	354		✓
Yannis Eschaltz	DoA	354		✓
Ken Heikes	Eastern Mt. College	354		✓
Sony Wolf	DoA	354		
John Bamhart	Associated Printers	354	X	
Roger Gippy	Mt. Indep Bankers	335		✓
Maureen Grobe	OA	354		
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Bill Lentz	Am Ind.	354		X
et al. Laminons	Mathographics	354		X
Tom Schneider	MTEA	354		X

