

MINUTES

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

Call to Order: By Chairman Gene Thayer, on March 14, 1989,
at 10:00 a.m., room 410

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 HOUSE BILL 355

Presentation and Opening Statement by Sponsor:

Representative Cohen, House District 3, distributed handouts for committee members. (See Exhibit #1) He said a representative of the African Development Bank had contacted him, and asked if he would be interested in carrying this legislation. He said the same representative had also contacted Senator Crippen, in regard to carrying the bill on the Senate floor.

Representative Cohen referred to page three of exhibit #1, which was a letter of support written on behalf of the African Development Bank. He said the African Development Bank was a bank that initially consisted of the black African nations. He stated that early in this decade, those nations found a lack of financing for desired projects, and they had approached the governments of the United States, Great Britain, and some of the Western European countries to ask if these other nations would join with the African development planning. He said they were seeking help to fund some of the development projects in the third

world countries. He said the United States Government had joined them in 1982. He stated that the bonds issued by the African Development Bank were all triple A and double A rated, and were a very secure investment. He said HB 355 simply amended a section in the insurance code to allow an insurer to make investments in the African development organizations. He stated that nearly forty states had already endorsed this legislation, and it was being considered in a number of others. He said that exhibit #1 contained substantial support for the bill.

List of Testifying Proponents and What Group They Represent:

Senator Bruce Crippen - Senate District 45

List of Testifying Opponents and What Group They Represent:

None

Testimony: Senator Crippen said he was the co-sponsor of HB 355, and he would not expand upon what Representative Cohen had said. He stated that as co-sponsors, they had told Mr. Aronofsky, who testified in the House committee, that they didn't feel it was necessary for him to be present for this hearing. He said the one concern of the State Auditor's Office had been resolved, and he thought HB 355 was a very good piece of legislation. He said he felt the legislation would put Montana in the main stream for national institutions to invest in these bonds. He said he would be happy to carry the bill on the Senate floor.

Questions From Committee Members: Senator Hager asked if there was any reason to believe that passage of HB 355 would take money from Montana projects? Senator Crippen said he didn't believe so, and he thought this would offer another area of investment. He said Montana law restricted the areas of investment, and bonds had to have a substantial bond rating. He said he didn't think that funds would necessarily be going into other projects.

Senator Lynch stated that there had been an attempt to avoid the effective on passage and approval language within bills, and asked if that language was that timely in HB 355? Senator Crippen said he thought it was, but he did realize there was an effort for one effective date.

Representative Cohen told Senator Lynch he understood the problem, and didn't think there was anything that critical within the effective date. He said the matter

just hadn't come up in the House, and he had no objection to a October 1 date.

Senator Crippen said he did think the application of the legislation was going to be somewhat restrictive in nature, and he felt those who qualified for its use were already aware of the legislation. He said HB 355 was not as critical to be generally noticed.

Closing by Sponsor: Representative Cohen said he had copies of the concerns which Mr. Borhardt had expressed. (See Exhibit #2) He stated that HB 355 presented another well secured operation for insurers in Montana, and it gave an additional vehicle for investment. He said he did not see any reason to delay the effective date.

DISPOSITION OF HOUSE BILL 355

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch made a motion HB 355 BE CONCURRED IN. Senator Boylan seconded the motion. The motion Carried Unanimously. Senator Crippen carried the bill on the Senate floor.

HEARING ON HOUSE BILL 662

Presentation and Opening Statement by Sponsor:

Representative Rice, House District 43, said he thought everyone was aware of the plight of the state park system, and the problems with financing. He said HB 662 dealt with the tremendous discounts which were presently in statute for camping fees. He said the legislation only dealt with the camping fees that had been in existence for a long time, and not the user fee adopted by the Fish and Game Commission. He said one particular discount was to senior citizens, and it allowed them to pay a one time fee of one dollar, and they received free lifetime camping in the state park system. He stated that, in itself, was a tremendous expense, and the discount was also extended to the disabled as well. He said they were finding that it was a wonderful benefit which could no longer be afforded, if there was to be adequate maintenance of the state park system.

He said HB 662 would reduce that particular benefit, and technically they were doing away with the Golden Years Pass. He said the bill was simply granting the Department authority to allow discounts at the rate of fifty percent of the normal camping fees. He stated that this was in line with the discount given in the federal parks, and would make the discount consistent. He said he felt everyone did recognize that the one time, one dollar fee for lifetime camping was unaffordable for the state park system.

He said he thought the fiscal note was a little misleading, because it showed passage of HB 662 resulting in \$53,000 per year in additional park revenue. He said that should be added into the dollars they would save from program expenses for administering the Golden Years Pass, which would be a savings they would realize. He said the total impact would be approximately \$60,000 annually.

List of Testifying Proponents and What Group They Represent:

Ron Marcoux - Department of Fish Wildlife and Parks
Gene Phillips - Good Sam Club
Self - Private Citizen
Lloyd Anderson - East Helena RV Group
Janet Ellis - Montana Audubon Legislative Fund

List of Testifying Opponents and What Group They Represent:

Martin Lukes - Great Falls, Montana, (Telephone Call to Chairman Thayer)

Testimony: Ron Marcoux said they supported HB 662, as it would bring our senior citizen and disabled camping fee discounts in line with current federal laws. He went on to read his testimony in Exhibit #3.

Gene Phillips said he, and his group were in support of HB 662. He said Good Sam members were presently paying the proposed fifty percent fee on a federal basis. He said they felt that having the one half fee for state parks was a good idea, and would help get the state parks upgraded, and make a few more facilities available. He said the Good Sam members spent a lot of time working around campgrounds, and were very supportive of HB 662.

Lloyd Anderson said they knew that facilities had to be paid for and maintained, and they supported a fair and equitable approach to the problem. He stated that they paid the one half fee for federal parks, and felt the

SENATE COMMITTEE ON BUSINESS AND INDUSTRY

March 14, 1989

Page 4 of 16

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same state fee would be OK with his group.

Janet Ellis said their group followed the park system's issues. She said many businesses gave senior discounts, and she wanted to emphasize that they were discounts. She stated that no one could run a business, by not charging fees. She said that even though state parks weren't a business in the traditional sense, Montana could not afford to not charge. She said the parks were currently, financially strapped, and the facilities were going to suffer. She stated that she thought this was a logical bill to have, and it did parallel the national park service, and the U.S. Forest Service practices.

Chairman Thayer told the committee he had a telephone call from Martin Lukes, who had asked to be recorded as an opponent of the bill.

Questions From Committee Members: Senator Lynch said he assumed that the people had bought the dollar license, with the understanding they had a lifetime exemption. He said it seemed that could not be taken away, and asked if they were grandfathered in? Representative Rice said they were not. He said the rationale was that a one dollar investment was not a major investment, and didn't seem to be a significant enough factor to have to administer any type of refund, or discern who had those passes.

Senator Lynch said he had a concern that anyone who wanted to challenge, could. He stated that the passes had been purchased in good faith, and that it was a lifetime pass. Representative Rice said he had no way of knowing if anyone would challenge, but he didn't feel it was a big problem.

Senator Noble asked if there was some way the dollar fee could be refunded on the daily fee, when the pass was presented and relinquished? Representative Rice said he hadn't thought about it, but maybe that was an answer if there was going to be a problem.

Senator Williams asked how long the Golden Years Program had been in affect? Ron Marcoux said it had been approximately ten years.

Closing by Sponsor: Representative Rice said he closed.

DISPOSITION OF HOUSE BILL 662

Discussion: Senator Lynch said there was no question that if you agreed to a lifetime fee, those people had every right to expect the lifetime privilege. He said to just take it away was looking for trouble. He said he thought the only thing that could be done, was grandfather the purchasers of a lifetime golden pass, and require the one half price fee from newcomers to the age group.

Senator Meyer said he agreed.

Mary McCue said she thought that was a legitimate question, however to have a valid contract there had to be a consideration. She said it seemed to be more of a benefit conferred by the state of Montana.

Senator Lynch said a dollar down on a quick deed, constituted a valid contract.

Mary McCue stated that was true, and a good point.

Dave Conklin, Chief of program planning for the parks division, said the golden years pass cost one dollar and that was basically an administrative charge. He said the bill tried to coordinate that with the disabled discounts. He said the department was concerned about the equity to the user.

Chairman Thayer asked about the fact that one legislature could not bind a future legislature? He said the federal government repeatedly withdrew future benefits, such as IRS benefits. He said he felt it was a real gray area.

Mary McCue said that in order to have a contract, the parties had to be thinking that this was an agreement being entered into, and each party was to receive a consideration in exchange. She said she really wondered if people thought the one dollar was making a contract, or were they simply giving one dollar to pay the administrative costs for a benefit the state was conferring. She said it was probably a good lesson, that the state probably should not confer a benefit for a specific charge. She said the problem would not exist, if the one dollar charge had not been made, and only the benefit had been conferred.

Senator Hager asked if there was any language stating that the passes would not be honored? He said he understood

that the whole section was being stricken, so no one would be able to buy those passes any more, but he did not see language to state that existing passes could not be used. Mary McCue said the intent stated that they would not be able to use the passes.

Senator Lynch asked what the impact would be if the existing passes were grandfathered in? Mr. Conklin said they were finding that twenty-four percent of their camping use was by exempt people.

Senator Meyer asked if they could somehow allow existing pass holders to be grandfathered in, and restrict the number of guests each pass exempted. Mary McCue said that was a part of the original contract, and referred to a vehicle pass, and not to individuals.

Chairman Thayer asked if the department had reviewed the bill with any legal personnel? Mr. Conklin said their legal staff didn't have a problem with the bill, because they had interpreted it as an administrative fee. He said that was why, when a later amendment added the disabled, they had opted not to issue a pass which would require printing and reissuing of the passes.

Chairman Thayer said the change had to be made, or the problem would continue forever.

Senator Weeding asked if they could hold the bill for another day, to see what could be worked out?

Mr. Conklin suggested a possible rebate.

Senator Lynch said the only way the bill would work, was to say from this day forward, and refrain from issuing any more one dollar lifetime fees.

Chairman Thayer said he thought it was the consensus of the committee, to hold the bill for another day.

Amendments and Votes: None

Recommendation and Vote: Senator McLane made a motion HB 662 BE CONCURRED IN. Senator Noble seconded the motion.

Senator McLane withdrew his motion, to allow time for clarification to be made. Senator Noble withdrew his second.

HEARING ON HOUSE BILL 483

Presentation and Opening Statement by Sponsor:

Representative Driscoll, House District 92, said HB 483 expanded the port authority. He said that presently, a port authority could only be established to develop and maintain ports, transportation and storage facilities, and HB 483 would allow them to get involved in any economic development which would promote the general welfare and well being of the citizens of the area.

He said the language at the bottom of page 5 and the top of page 6 was to clarify that ports could not get involved in supporting private organizations. He said they may want to consider an amendment to make the language a little clearer.

He said page 8, lines 8 through 12 stated that if port authorities were not successful, and lost money or went broke, the general credit of the state, county, or municipal government was not pledged to bail them out. He said port authorities received money from revenue bonds, and federal grants, to fund their operation.

He said he felt the bill had enough safeguards to protect local and state governments, and would promote business in the area.

List of Testifying Proponents and What Group They Represent:

Cal Cumin - Economic Development Director, Yellowstone County
Kay Foster - Billings Chamber of Commerce
Grace Edwards - Yellowstone County Commissioner
Jim Tutwiler - Montana Chamber of Commerce
Chris Gallus - Butte Silver Bow

List of Testifying Opponents and What Group They Represent:

None

Testimony: Cal Cumin said port authorities had been in existence for about fifty years, internationally, and their primary function was to aid commerce. He said they were a unit of local government, and had considerable powers. He said that in addition to operating warehouses and transportation facilities, they could also become involved in free trade loans, foreign trade loans, had a permissive tax levy ability of up to two mills, could issue revenue bonds, were eligible for federal loans from block grant funds, and had the powers of a corporation. He said that as

powerful as they were, existing Montana law extremely limited them. He stated that HB 483 proposed to loosen those extreme limitations, by allowing them to include any economic development activity.

He stated that HB 483 provided more tools for the local economic development activities, by providing a partnership of the public powers and private initiative, keyed to economic development in Montana. He said it worked hand in hand with local development organizations, and the development corporations defined in Montana law. He said the bill was drafted with an acute awareness of the impact of the White Decision. He stated that no state funds were required to enact the bill, and if it passed, it would benefit everyone in the state.

Kay Foster said they worked in coordination with an economic development corporation of Billings, called Forward Billings, and they were all in support of the proposed changes in the port authority. She said it would be beneficial to communities with port authorities, but would also broaden economic development throughout Montana.

Grace Edwards said she spoke in support of HB 483, because they thought it would encourage development on the county level, and have a regional affect. She said they felt it would have a broad overall affect on the entire area, to help other counties which surrounded them.

Jim Tutwiler stated that previous testimony had spoken to the bill's merits, and they would ask to be on record as firmly in support of HB 483.

Chris Gallus said they supported HB 483. He said that in Butte, their port authority, local government, and economic development corporation already were working closely together. He said this bill would strengthen their ability to do so, and aid the economic development programs around the state.

Questions From Committee Members: Senator Williams asked if the two mill permissive levy was levied in Yellowstone County, or the city of Billings? Cal Cumin said it would be county-wide, and it was already in existence now.

Chairman Thayer asked Representative Driscoll if he had specific language he wished to use for the amendment he suggested on pages 5 and 6? Representative Driscoll

said the House amendment had made the language confusing, and the intent was that the port authority could not borrow money and give it to a private organization.

Chairman Thayer asked if that was to take care of the White Decision? Representative Driscoll said it was, and it would also prevent a competition situation from developing, when help was being rendered to various corporations.

Chairman Thayer stated that Mary McCue had found a typo on page 8, line 12, and there would probably be a technical amendment needed there.

Mary McCue said the word organization had been misspelled. She said the last sentence in the added material, was already in the Development Corporation Act, and she wondered if the language was needed in both places? Representative Driscoll said he would let Mary McCue make the needed changes.

Closing by Sponsor: Representative Driscoll said that if they found favor with the bill, he thought Senator Crippen or Senator Keating would probably agree to carry it on the Senate floor.

DISPOSITION OF HOUSE BILL 483

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 577

Presentation and Opening Statement by Sponsor:

Representative Simon, House District 91, said HB 577 was a companion bill to HB 483. He said HB 577 dealt with local development corporations and he would let Cal Cumin explain how the bill worked.

List of Testifying Proponents and What Group They Represent:

Cal Cumin - Economic Development Director, Yellowstone
County
Kay Foster - Billings Chamber of Commerce

Grace Edwards - Yellowstone County Commissioner
Shelly Lane - Director, Administrative Services for the
City of Helena

List of Testifying Opponents and What Group They Represent:

None

Testimony: Cal Cumin said that with the slight changes suggested by HB 577, local development corporations were one of the tools which Montana communities could more fully utilize for economic growth. He said HB 577 amended existing development corporation law, and would allow a local development corporation to accept investment funds from local governments or authorities. He said the funds then became part of the capital utilized by the local development corporation, to attract private capital to be combined with state grants to accumulate a sizeable amount of capital. He said HB 577 had also taken the White Decision in consideration, and addressed the specific issues within the Decision. He said HB 577 would benefit all existing and future organizations in Montana, who were trying to do economic development, and did not require any state funding.

Kay Foster said they supported the comments made by Mr. Cumin, and said she felt expansion of more cooperation between local government and local government funding entities would lead to more economic development.

Grace Edwards stated that Mr. Cumin was their consultant, and he was speaking for them, and Yellowstone County supported the bill.

Shelly Lane said the mayor and city commissioner pledged their support to economic development, and recognized the important role that development corporations could play in the area. She said that allowing development corporations to borrow from municipal agencies or authorities was viewed by the commission, as a positive change. She said the city urged them to support HB 577.

Questions From Committee Members: Senator Williams asked if the passage of both bills would allow levying of the two mills, to be put into the port authority to loan money to the development corporations? Cal Cumin said he didn't think you would want to put all of the money into a local development corporation, because it may be looked at as unfunded financing.

Senator Williams asked if there was a need for matching funds within the development corporation, in order to receive money from the port authority? Mr. Cumin said there was no provision for that. He said the purpose was to pool money from all available sources.

Chairman Thayer asked why the White Decision was mentioned in both of these bills? He said the Decision dealt with bonding, and there was no bonding involved in these bills. Cal Cumin said there was an exception to the authority's borrowing capacity, and that was for providing financial support of private organizations through the issuing of bonds. He stated that tax levied money could not be invested in private development activity, and that was what the White Decision had dealt with. He said that was why the redundant language had to be cleared up, so that the bond council would not have a question as to the meaning.

Chairman Thayer asked if there would be a test case for both of these pieces of legislation? He said that if you had bonds, there had to be a test case. Cal Cumin said they did not have any plans to do that, because with directors, that could be avoided.

Closing by Sponsor: Representative Simon thanked them for a good hearing, and said he appreciated the proponents support. He said they were trying to supply the necessary tools to create jobs in Montana. He said they would appreciate their favorable support, and perhaps Senator McLane would carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL 577

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Noble made a motion HB 577 BE CONCURRED IN. Senator Boylan seconded the motion. The motion Carried Unanimously. Senator McLane carried the bill on the Senate floor.

HEARING ON HOUSE BILL 591

Presentation and Opening Statement by Sponsor:

Representative Phillips, House District 33, said HB 591 would allow the child support division to exchange

debtor information with the credit reporting agencies. He said there was already existing law, but HB 591 was for the purpose of streamlining that law. He stated that current technology was available to exchange electronic tapes of information, and the idea was to tighten control on those not paying their child or spouse support. He said it was designed to allow the department of revenue to develop procedures for making support debt information available to consumer credit reporting agencies. He said the intent was for the department to provide such information to agencies, for the protection of business and financial institutions.

List of Testifying Proponents and What Group They Represent:

Darrell Micklewright - President, Associated Credit Bureaus of Montana
John Cameron - Board Member, Associated Credit Bureaus of Montana
Charles Brooks - Executive Vice President, Montana Retail Association

List of Testifying Opponents and What Group They Represent:

None

Testimony: Darrell Micklewright said they represented virtually all of the credit reporting agencies in Montana. He said that even though there was an existing law, HB 591 would enhance the credit reporting files, and would better enable financial institutions to make decisions in extending credit. He said the law also outlined another step to the reverification process, which would further assure against misinformation going to credit reporting agencies.

John Cameron said he was also in favor of HB 591, because it would help credit grantors make their credit decisions, and it would help collect additional revenue in child support. He said that presently child support information could be manually picked up at the county level, by various credit reporting agencies throughout Montana. He said that by using the magnetic tapes to report directly to the credit reporting agencies, the information would go on the individual's credit file, and could be used throughout the country. He said other states were beginning the use of this system, and noting an increase of collected revenues. He said that presently the child support division was reporting approximately 9,000 delinquent cases, and that represented an excess of \$4,000,000.

Charles Brooks said they believed HB 591 would give protection to commercial lenders and retailers, by insuring that all of the customer's financial obligations were considered. He said they urged support of the bill.

Questions From Committee Members: Chairman Thayer asked if the bill had originated from the credit people, or the child support division? Representative Phillips said it had been a combination of both. He said the child support division had not testified, but they had an attorney present to answer any questions.

Closing by Sponsor: Representative Phillips said there hadn't been any opposition to the bill. He stated that he had asked for a safeguard amendment in the House committee, which required the child support division to report a paid up debt within thirty days. He said that since Senator Noble was a lender at times, he might carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL 591

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Noble made a motion HB 591 BE CONCURRED IN. Senator Meyer seconded the motion. The motion Carried Unanimously. Senator Noble carried the bill on the Senate floor.

DISPOSITION OF HOUSE JOINT RESOLUTION 5

Discussion: Senator Lynch said the insurance people stated this didn't amount to much, but he said they were the biggest business in the country. He said that he couldn't see why they were so upset by a letter, which was all a resolution was. He said he continually heard complaints from his constituents, regarding insurance monopolies, the liability crisis, and he thought it was a good resolution.

Senator Noble said the rate increase in the commercial insurance market has forced them to study their coverage, and clean up unneeded policy inclusions. He said they were now paying less, through their study efforts, and through regular competitive bidding by

insurance companies. than they had been paying five years ago. He said the commercial area was now very competitive, and he felt good about what he had found within that portion of the industry. He thought maybe those who were complaining, should do more homework on the coverage they had.

Senator Williams asked if the control should be kept on a state level? Senator Noble said he definitely thought they should, and opposed the resolution. He said he favored the state setting the policy, and he would hate to see the agency that could develop with federal control.

Senator Lynch said he felt we were easy picking to the big insurance companies. He said their volume of business, and margin of profit was so great that the state had no means of controlling that size of industry. He said he thought it was a good idea, and even though a resolution may not accomplish anything, it would show their concern.

Chairman Thayer said he was going to vote against the measure, because he thought it was a philosophical thing. He said he thought state government interfered too much in the lives of local people and government. He said he felt the control should always be kept at the lowest level of government that was possible. He stated that this was one area where the state had that control, and he also felt there had been a significant number of regulatory bills passed on the insurance industry. He said he agreed with Representative Bardanouve that the insurance industry had better clean up their industry, but portions of the wording in HJR 5 bothered him.

Senator Boylan said he was going to vote against the resolution, because of the mandatory insurances that were already required, and this would play to the same end.

Senator Hager said he was going to speak against the resolution, because his experience of dealing with the federal government on other issues had not been that productive. He said that if you had a problem with insurance in Montana, you were able to call the insurance department and get help, but he thought that would change if you were making inquiries of the federal government.

Senator Noble asked if federal enactment of this legislation would eliminate the state insurance commissioner's

position? Kathy Anderson said it would not entirely eliminate it, but she would say that it would probably limit the staff.

Senator Williams said he thought it would tend to put everyone on the same level, and cut some of the comparison problems they were always hearing.

Senator Weeding said that even though he agreed with keeping local control, he was going to vote for the motion. He said he wondered just how much the insurance commissioner got from the insurance companies. He said he didn't feel the insurance department had the authority to affect any changes in the companies policies.

Amendments and Votes: None

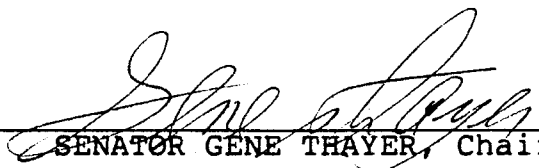
Recommendation and Vote: Senator Noble made a motion HJR 5 BE NOT CONCURRED IN. Senator Meyer seconded the motion.

Senator Lynch made a substitute motion that HJR 5 BE CONCURRED IN. The motion failed, with Senator Meyer, Senator Boylan, Senator Noble, Senator Hager, Senator McLane, and Senator Thayer opposing the motion. Senator Lynch requested a minority report so that there would be a discussion on the Senate floor.

Action reverted back to Senator Noble's original motion to BE NOT CONCURRED IN. The motion Carried, with Senator Williams, Senator Weeding, and Senator Lynch opposing the motion. Senator Thayer carried the majority report, and Senator Lynch carried the minority report on the Senate floor.

ADJOURNMENT

Adjournment At: 11:34 a.m.



SENATOR GENE THAYER, Chairman

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 3/14

51st LEGISLATIVE SESSION 1989

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

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 14, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 355 (third reading copy -- blue), respectfully report that HB 355 be concurred in.

Sponsor: Cohen (Crippen)

BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

4/10
4/31 5/15/89
8:6

SENATE STANDING COMMITTEE REPORT

March 14, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 591 (third reading copy -- blue), respectfully report that HB 591 be concurred in.

Sponsor: Phillips (Noble)

BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

110-154
3/15/89
8:00 a.m.

SENATE STANDING COMMITTEE REPORT

March 14, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 577 (third reading copy -- blue), respectfully report that HB 577 be concurred in.

Sponsor: Simon (McLane)

BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

21.0.
3/15/89
8:00 AM

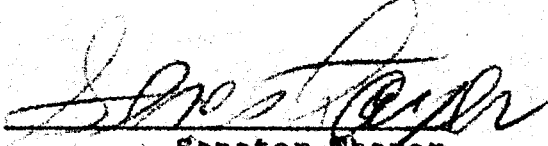
SENATE STANDING COMMITTEE REPORT

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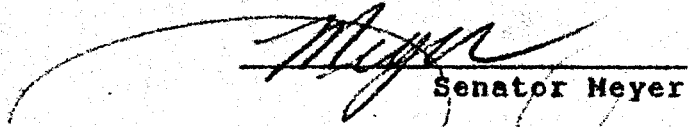
MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HJR 5 (third reading copy -- blue), respectfully report that HJR 5 be not concurred in.

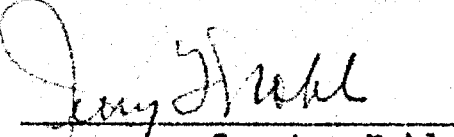
Sponsor: Bardanoue (Thayer)



Senator Thayer



Senator Meyer




Senator Noble



Senator Boylan

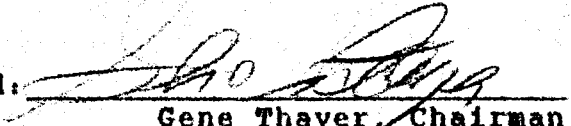


Senator McLane



Senator Hager

MAJORITY REPORT
BE NOT CONCURRED IN

Signed: 

Gene Thayer, Chairman

110
3/15/89
S. 25
a.

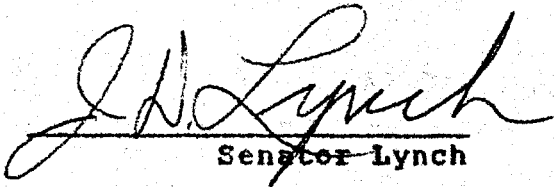
SENATE STANDING COMMITTEE REPORT

March 14, 1989

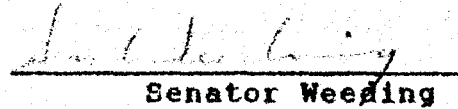
MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HJR 5 (third reading copy -- blue), respectfully report that HJR 5 be concurred in.

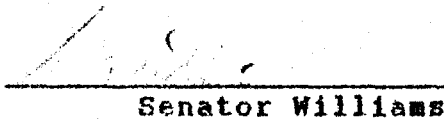
Sponsor: Bardanouve (Lynch)



Senator Lynch



Senator Weeding



Senator Williams

**MINORITY REPORT
BE CONCURRED IN**

*H.C. 89
3/15/89
8:00 am*

MEMORANDUM

AFRICAN DEVELOPMENT BANK STATE
LEGISLATIVE PROGRAM - MONTANA

I. Background

The African Development Bank ("the Bank") is currently seeking the enactment of legislation, where necessary, which would permit state-regulated banks, insurance companies, fiduciaries and public employee retirement systems to invest in Bank obligations if they choose to do so. Several years ago, largely through the joint efforts of the Congressional Black Caucus and the Reagan Administration, Congress enacted Title XIII of P.L. 97-35 authorizing United States membership and financial participation in the Bank, which was initially created in 1964 and until 1982 limited its membership to African countries. Today, the Bank's membership includes all African nations except for South Africa, plus the Governments of the United States, Canada, Japan and Western Europe.

The Bank, a principal source of financing for economic development projects on the African continent, funds these projects through the sale of its obligations in the world's capital markets. As with the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank and the Asian Development Bank, investments in African Development Bank securities by the state-regulated institutions described above generally require either state legislation or administrative agency rulings prior to the time such securities can be marketed in a particular state. P.L. 97-35 referred to above authorized federally regulated financial institutions to invest in such securities.

Since initiating state legislation activities several years ago, the Bank has obtained passage of legislation or secured comparable administrative agency rules qualifying its securities for investments in forty-two states.^{1/}

1/ These include Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Washington, West Virginia and Wisconsin.

Ex. #1
3/14/89

Bills are also pending in additional states, while others have laws which already permit such investments under a "prudent investor" standard. It should be noted that each state has its own particular laws applicable to state-regulated institutional investors and no two states are alike in this regard.

The Bank entered the United States capital market for the first time in the Fall of 1985 and most recently in early November 1987 with highly successful bond issues. The three principal American bond rating services have given its bonds AAA, AAA and AA ratings, which makes this type of investment quite attractive once a regulated investor receives appropriate legal authorization. In order to assure a successful United States market presence, the Bank is seeking enactment of legislation in a number of additional states, including Montana, to obtain this authorization.

II. Specific Legislation Needs in Montana

A review of the applicable Montana laws indicates a need for amending only one section of the Montana Code Annotated to gain investment authorization for state-regulated insurance companies. This involves merely adding the name of the African Development Bank to that of the International Bank for Reconstruction and Development (World Bank), whose obligations are already eligible for these investments. Other regulated investors apparently already have the necessary authority without the need for statutory change.

Based upon experience to date in other states, this legislation should be completely noncontroversial. President Reagan and the U.S. Treasury Department have actively supported efforts to get this legislation enacted, as have many Black political leaders around the country. Because of the high Bank securities ratings, prospective investors also support it since this increases their high-yield, low-risk portfolio options and provides them an opportunity to make both profitable and socially worthwhile investments. Finally, since the Bank is the major source of foreign exchange financing for transactions in or with Africa, American exporters to that continent, particularly in the agricultural sector, have ample incentive to support the Bank's financial success.

Prepared November 1988 by:

David Aronofsky, Esq.
U.S. Legal Counsel, African Development Bank
Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339
202-857-6054



THE SECRETARY OF THE TREASURY
WASHINGTON

Ex. #1
3/14/89

FEB 12 1988

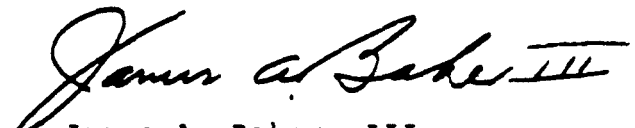
Dear Governor Schwinden:

I am writing in support of the African Development Bank's efforts to obtain the qualification of its obligations in the State of Montana for investment by certain state-regulated institutions.

The African Development Bank was established as a multilateral development bank in 1963 to foster economic and social development of its African members individually and through regional cooperation. In addition to all independent African countries except for South Africa, the Bank's membership now includes the United States, as well as the countries of Western Europe, Japan and other developed nations. The African Development Bank is patterned after the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank and the Asian Development Bank, in that they all make extensive use of the world's capital markets through the sale of their highly rated bonds and other obligations to obtain funds for development lending activities. A substantial percentage of such funds finances the purchase of American goods and services used in critical development projects. This in turn enables American businesses and academic institutions to participate directly in these activities, to the benefit of all concerned.

I would appreciate your State taking the necessary steps to have the African Development Bank receive at least as favorable treatment under the laws of Montana as is currently accorded to one or more of the other multilateral development banks with respect to the qualification of the Bank's securities for purchase by state chartered banks, savings and loan associations, insurance companies, public employee retirement systems and any special statutory or constitutional funds. At least 34 states have already wholly or partially accorded such treatment to the African Development Bank through enactment of legislation or, where appropriate, administrative agency rulings. I anticipate that the Bank will be in touch with you through its American legal counsel to present detailed legislative proposals.

Sincerely,


James A. Baker, III

The Honorable Ted Schwinden
Governor, State of Montana
Helena, MT 59620

cc: The Honorable Bill Norman
The Honorable Robert L. Marks

Ex. #1
3/14/89



THE SECRETARY OF THE TREASURY
WASHINGTON

FEB 12 1988

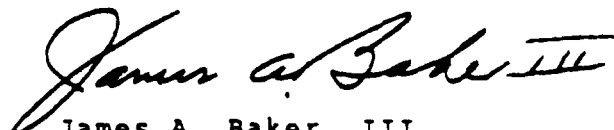
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Sincerely,


James A. Baker, III

The Honorable Bill Norman
President, Montana Senate
Helena, MT 59620

cc: The Honorable Ted Schwinden
The Honorable Robert L. Marks

Ex. #1
3-14-89



THE SECRETARY OF THE TREASURY
WASHINGTON

FEB 12 1988

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Sincerely,

James A. Baker III
James A. Baker, III

The Honorable Robert L. Marks
Speaker, Montana House of
Representatives
Helena, MT 59620

cc: The Honorable Ted Schwinden
The Honorable Bill Norman

3-14-89

Faces

Behind the Figures

Edited by Lisa Gubernick

Family fun

Quarrels are as old as families. "You're supposed to keep things like this inside the house," says Laurence Price, 41, and he should know. Last month, in the latest move in a two-year legal battle, Laurence Price sued Sol Price, his father, retailing innovator and founder of the \$3.3 billion (fiscal 1987 revenues) Price Club chain of discount warehouses, along with his brother Robert and the Price Club, for \$100 million.

Laurence says the trouble began brewing in 1976, when the chain was just getting started. "I was just too independent," says Laurence. "We were all in the same office and things got very difficult. I thought the best thing was to leave and start my own business."

Sol helped his son to open up tire-mounting stores adjacent to the Price warehouses. At \$4.25 a tire, that doesn't sound like much, but Price sells a lot of tires. Laurence says the business did \$5.2 million in sales in 1985. "The bigger it got," says Laurence, "the worse my relationship with my father got."

That relationship reached its nadir when Laurence left his wife in the early 1980s. Says Laurence: Sol ordered him not to move near her home

and to give his wife custody of the two kids. When the boys moved in with Dad, Sol told Laurence to send them back. He refused to obey, and his father retaliated by grabbing control of the tire business. After all, Sol still held the lease on the stores.

Laurence sued. First, father and son tried to settle their disputes in arbitration. Earlier this year Laurence got a \$3.7 million arbitration award, but he considers that more of a defeat than a victory, considering taxes, the business debts he has to pay, lawyer bills and some damages. Now his lawyer, mighty Marvin Mitchelson of palimony fame, is asking for additional money for Laurence's suffering. (Dare we call it solimony?)

What does Dad have to say? The company lawyer says Sol will do his talking in court.—Jerry Flint

Out of Africa

For Babacar N'Diaye (pronounced *fen-AYE*), the stock market crash couldn't have come at a better time. Just as the Dow dropped 508 points on Oct. 19, N'Diaye and his staff at the African Development Bank (assets, \$18 billion) were readying a \$200 million bond offer. With U.S. investors suddenly scrambling for safety and high yields, the bonds sold as fast as Coca-Cola in Khartoum.

The ADB bonds, secured by the bank's 75 member nations, were sold through lead underwriter Kidder, Peabody. Some were sold in denominations as small as \$1,000. The selling pitch? A 10% coupon and a triple-A rating from Moody's.

"The stock market shock, if it leads to worldwide economic slowdown, could eventually affect African countries," says N'Diaye, 51-year-old president of the ADB. "But for now the slowdown seems to be keeping the level of interest rates low, and that helps Africa's indebted countries."

Americans don't hear much about Africa's debt crisis. That's largely because commercial banks hold less than 40% of Africa's foreign debt, as against nearly 70% of Latin America's. The bulk of African debt, by con-



African banker Babacar N'Diaye
Benefiting from Black Monday.

trast, is on the books of a handful of official lenders, such as the African Development Bank, the World Bank and foreign governments.

That could prove an advantage. N'Diaye is currently crafting his own debt-relief plan, calling for much of Africa's \$160 billion foreign debt to be collateralized into long-term bonds that could be sold to the public or traded among institutional investors. Arranging the bond program with Africa's handful of major creditors will be a lot easier than getting a similar agreement from the 500 or so commercial banks with loans out to Latin America. Moreover, N'Diaye has figured out that what private investors want is a solid rating and a fat return.—Edwin A. Finn Jr.

Will Britannia rule?

Babacar N'Diaye isn't the only one reaping benefits from Black Monday. David Snell, finance director of the British Royal Mint, couldn't be happier about the weakening stock market. Snell, 47, was in Los Angeles and New York City early last month to launch the mint's new gold coin, the Britannia. Snell hopes shaken investors will put more of their assets in gold—coins in particular.

Britain is no newcomer to the market. Its gold sovereign, first minted in 1489, was the world's most widely held gold coin until the late 1960s. Then South Africa's Kruggerand, minted in a convenient one-ounce weight, came along. The traditional sovereign, a tedious .2354 ounces, makes quick calculations of value difficult. The new Britannia will weigh in at one, one-half, one-quarter and



Sol's son, Laurence Price
Suing Dad for \$100 million.

EX. #1
3-14-87

Third World Projects Create a New Market

By CLYDE H. FARNSWORTH

Special to The New York Times

WASHINGTON, Oct. 9 — Although the market for exports to cash-strapped developing countries has fallen strikingly in the past decade, third-world projects financed by the international development banks have created a booming market for an array of products.

Under their crushing debt burden, developing countries, which normally buy about a third of all American exports, cut purchases from the United States by 13 percent since 1981, to \$82.7 billion in 1987.

But in the same period, American companies doubled, to \$2.1 billion a year, their sales of items needed for projects financed by the four leading development banks — the World Bank, the Inter-American Development Bank, the African Development Bank and the Asian Development Bank.

The market created by the development banks includes power generators, water pumps, trucks, tractors, drilling rigs, irrigation equipment, farm implements, telecommunications equipment, pesticides, seeds and schoolbooks.

In the past five years, the World Bank and the three regional institutions have disbursed \$76 billion to business contractors, chiefly in the industrial countries, to support projects in more than 100 developing countries, according to a recent report by Development Bank Associates Inc., a research group based in Washington.

Chances are that future disbursements will be even greater, following recent Congressional action authorizing American participation in a \$75 billion increase in the resources of the World Bank, nearly doubling its capital. A large increase in funds for the Inter-American Development Bank is likely to be approved in the next few months as well.

"The development banks have created an enormous market," said David A. Raymond, director of international programs for the Enserch Corporation of Dallas, a diversified energy operator which aggressively pursues World Bank contracts. "It isn't an easy business and there's more competition than ever. But it pays hard currency on projects throughout the world."

Despite the numbers, analysts here note that American bidders like Enserch are still relatively few.

"Many business executives do not

The development banks are bringing about a boom for many products.

know about the bidding process," the United States Chamber of Commerce said in a special study of the market published two years ago. "Others fear red tape."

Development Bank Associates said in a recent report, "A Practical Guide to the Development Bank Business," that less than 3 percent of United States exporters are actively engaged in marketing products for such projects.

The lack of interest has hit the pocketbook. Even as the United States has strikingly increased exports to the development-bank market, it has been losing market share to its principal commercial rivals — West Germany and Japan.

By far the biggest of the development institutions, the World Bank committed \$17.7 in 1987 to expand power distribution in Argentina, build irrigation works in Belize, expand technical education in Brazil and to aid scores of other programs. Commitments by the three regional institutions totaled \$7 billion, bringing the total for the four to \$24.7 billion.

The commitments become actual disbursements as the multiyear projects reach varying stages of completion needing additional equipment and supplies.

Most of the contracts are relatively small — in the range of \$10,000 to \$50,000. In a recent year, 65 percent of all equipment contracts and 55 percent of all consultancy contracts on World Bank projects were for less than \$50,000, according to the Development Bank Associates study.

Over the same period there were 2,000 payments by the World Bank of more than \$1 million.

The development-bank business is confined to developing countries, which includes nearly all countries with per-capita yearly income of less than \$3,000. These include such giants as China and India and such tiny island states as Kiribati and Vanatu. The market also includes some East bloc countries like Hungary and Poland.

low rates. Others disagree.

"I think tax policy in 1989 is going to be a back-burner issue," said Donald H. Straszheim, chief economist for Merrill Lynch & Company, even though "the budget and trade deficits are troubling to economists."

"We're likely to end up with higher taxes down the road, but not immediately," he said. Some form of energy tax is likely, he suggests, and eventually a value-added tax could be imposed. If income tax rates are raised, then preferential treatment for capital gains is "not unreasonable," he said. But with a new Administration and a new Congress due to take office, he does not expect the tax rates to be changed in 1989.

Mr. Straszheim sees a modest recession and lower interest rates for the second half of 1989. If that forecast is accurate, it would argue against making tax-driven sales of bonds now, because bond prices would rise if rates fell. One strategy, though, would be to sell bonds on which one has a loss and replace them with similar securities.

Vern Martens, vice president of Merrill Lynch Tax Advisory, noted that if there is no change in tax rates next year, "taxpayers will pay lower taxes because of indexing for inflation." Nevertheless, he said, "people are still looking for something that will provide a tax break."

The most popular tax-exempt investments are municipal bonds, although certain municipal bonds are subject to the alternative minimum tax. These latter bonds pay slightly higher rates and thus are attractive to investors who are not liable for the alternative minimum tax.

Mr. Martens offered these additional possibilities for reducing taxes:

• Rehabilitation credits for low-income housing can cut taxes by up to \$7,000.

• Tax-deferred annuities can be attractive for retirement plans.

• By switching from money market funds to certificates of deposit or Treasury bills or notes, investors can defer income into future years. A switch in October, however, will only reduce 1988 interest income by 25 percent.



Wart Goldenberg

as a current investment ears, but the it by 1991.

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Oil Producers' Challenge to OPEC

1 From First Business Page

els a day, from around 4.3 arrels a day a month ago. ficials said their current was to keep their production protect their share of the market against other pro- at are discounting their oil easing production to secure les.

il industry officials said that posal would substantially overall OPEC ceiling, bring- ser to 19 million barrels a 4 million barrels above the ood. The higher ceiling

manently lower oil prices.

One industry expert said the tentative proposal depended upon a compromise between Iraq and Iran under which the countries would agree to equal production shares of 2.5 million barrels a day each. Iraq is now producing about 2.7 million barrels a day, while Iran's output is just below 3 million barrels a day.

Under the new proposal, OPEC would also agree to lower the official price it has used as a yardstick, to closer to \$15 a barrel, from \$18.

But OPEC officials and oil analysts fear that until an agreement is reached, a further steep drop in oil prices is a real possibility, bringing

Pillsbury Sued Over Offer

... to protect the interests of the

Presidential Documents

3-14-89

Title 3--

Executive Order 12403 of February 8, 1983

The President

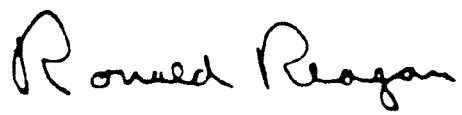
African Development Bank

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 1 of the International Organizations Immunities Act (22 U.S.C. 288), Reorganization Plan No. 4 of 1965, and the African Development Bank Act (22 U.S.C. 290i), and in order to facilitate United States participation in the African Development Bank, it is hereby ordered as follows:

Section 1. The African Development Bank, in which the United States participates pursuant to Sections 1332-1342 of Public Law 97-35 and the Agreement Establishing the African Development Bank, is hereby designated as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect the privileges and immunities which such organization has acquired or may acquire by treaty or Congressional action. This designation shall not affect in any way the applicability of Section 1 of Article 52 of the Agreement, Article 57 of such Agreement or the Declaration made by the United States pursuant to Article 64 of the Agreement.

Sec. 2. Executive Order No. 11269, as amended, is further amended by deleting "and African Development Fund" and adding ", African Development Fund, and African Development Bank" in Sections 2(c), 3(d) and 7, respectively.

Sec. 3. The functions vested in the President by Sections 1333(c), 1334, 1338(a) and 1341(b) of Public Law 97-35 (22 U.S.C. 290i-1(c), 290i-2, 290i-6(a), and 290i-9(b)) are delegated to the Secretary of the Treasury.



THE WHITE HOUSE
February 8, 1983.

[PR Doc. 83-0084
Filed 2-9-83 11:00 am]
Billing code 3185-01-04

Editorial Note: The President's remarks on signing EO 12403, and a letter to the President of the African Development Bank on U.S. membership in the Bank, both dated Feb. 8, 1983, are printed in the *Weekly Compilation of Presidential Documents* (vol. 19, no. 8)

Ex. #1
3-14-89

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

February 8, 1983

REMARKS OF THE PRESIDENT
IN CEREMONY MARKING U.S. MEMBERSHIP
IN AFRICAN DEVELOPMENT BANK

The State Dining Room

1:51 P.M. EST

THE PRESIDENT: Your Excellencies, President Mung 'Cmba Secretary Regan and members of the Congress and distinguished guests, one of the great pleasures of this office is that I often have a chance to do something unabashedly positive in nature. And I'm pleased to say that what we're about to do offers such an opportunity.

Today we mark the new American partnership, as I'm sure Secretary Regan has told you, with the people of Africa through our acceptance of membership in the African Development Bank.

We take the step purposefully and by it we underscore our commitment to African growth.

The United States has always taken a farsighted view to assist the growth of developing nations. At the Cancun Summit in October of '81, the United States laid out a broad-based program of trade, investment and aid to meet the diverse needs of the developing countries. Last year, we put this approach into practice in our Caribbean Basin Initiative for the developing countries of the Caribbean and Central America. And with this step today, the United States reaches out to its developing nation partners in Africa.

The United States and the African Development Bank are not new friends by any means. Since '68, the United States has provided technical assistance to the bank through the Agency of International Development. And since '76, we've channeled part of our development assistance to Africa through the bank's affiliates — or affiliates, I should say, of the African Development Fund.

And now, by opening its membership to the non-African countries, the African Development Bank has given us the opportunity for even closer cooperation. I'm happy to say we accept the invitation and stand ready to do our share.

We're painfully aware that Africa's economic development is encountering difficult obstacles. As the leader in the cause of the progress, the African Development Bank group along with other assistance organizations must strive for more effective use of the limited development funds.

The African governments who carry the heaviest responsibility for their own domestic economy — or economic conditions

MORE

Ex. #1
3/14/89

must pursue a sound, growth-oriented economic program in order to be made. Far too often, the governments of developing countries undermine their own private sector -- one of the essentials for commercial and industrial expansion -- only to see the standards of living decline in the countries that do that.

If the leaders of Africa's nations recognize the critical role of private enterprise, they can then expect to share in much more of the worldwide economic upturn that we think is now beginning in this country. Americans recognize both the special development needs and the great potential of Africa. The African Development Bank Group symbolizes the determination of Africa and the International Community to meet those needs and to achieve that potential.

We, in the United States, are enthusiastic about this partnership as I am sure the Secretary has told you. And we look forward to seeing tangible results from this cooperative and very special effort.

And now, I am going to sign a letter to the President of the Bank, and I am going to sign our Action Paper.

(The documents are signed. Applause.)

There, that makes it absolutely official.
(Applause.)

PRESIDENT MUNG'OMBA: Mr. President of the United States, Mr. Secretary of the Treasury, and the Governor of the African Development Bank, distinguished Senators and Congressmen, Your Excellencies, ladies and gentlemen, on behalf of the Board of Governors and the Board of Directors of the African Development Bank and on my own behalf, permit me to acknowledge with sincere gratitude the singular honor you have done the Bank and ourselves today in deciding to mark the signing of the formal instruments of accession of the United States to membership of the African Development Bank with this special ceremony.

Mr. President, the ceremony we have just witnessed is significant in many respects. But I think it is most obviously significant in that it marks the clearest commitment of the government and the people of this great country to the development objectives and aspirations of the African peoples as collectively expressed in their institutions that form the African Development Bank Group.

Mr. President, we have long had clear and consistent proof of the sincerity and sympathy of the United States toward these institutions. Your country's assistance both in the form of funds and technical assistance to the Bank has been a reliable and invaluable supplement to the Bank's own efforts for nearly as long as the Bank has been in existence. And this notwithstanding that, for reasons that are now happily historical, the United States could not at that time be a member of the African Development Bank.

The same history of great care and concern is even more amply evident in the clear leadership position that the

MORE

Ex. #1
3/14/79

United States unreservedly accepted, in terms of both direct contributions and indirect assistance, when it became possible for this country to become a state participant in the African Development Fund a few years after its creation. Sir, today it marks a further confirmation of the commitment of your people, your government, and we recognize it as an explicit assurance that it is a long-term commitment.

And because it's long-term in nature, it further underscores the concern of the people of this country for the plight of the people of Africa, which is the chief duty of the institutions of the Bank group to help mitigate.

On behalf of the governing bodies of the Bank, it is my singular honor and pleasant duty to welcome the United States of America to membership of the Bank. You will, Mr. President have, no doubt, have been informed at least in outline of the long period of internal debate which preceded the decision of our governors to admit non-African countries to membership of the Bank. In the end, what persuaded them was the consideration that non-African membership could create an opportunity on the continental level and under their own leadership, for a more extensive dialogue and partnership between the two sides in combatting Africa's endemic development problems.

Mr. President, it is this opportunity which we in the Bank, with the assistance of countries like yours, have the responsibility to translate into reality. And I am convinced that we will succeed in this endeavor. There can be no doubt that with the material and technical resources that will be made available to the Bank as the result of this day's work, its effectiveness in manning this frontier and pushing it back is significantly enhanced.

Mr. President, your decision to have present at this ceremony such a distinguished and broadly representative selection of the members of the executive, the legislature and the business and banking organs of the nation signifies clearly to all of us how essential is the participation of all these sectors of the nation before this great adventure in international cooperation can become a true success.

Allow me, sir, to address a word of gratitude to the many concerned friends of Africa in the Senate and Congress whose consistent support for this program over all these years has today brought our efforts to fruition.

Equally, sir, a word of thanks is due to these tasks of both of the executive and the legislative who sought tirelessly and patiently assisted us at all stages of our preparations.

Mr. President, I would on this happy occasion go further and take this wonderful opportunity, on behalf of my colleagues, myself, the African Development Bank, personally to wish you a belated Happy Birthday and sincere good wishes for health, success and God's blessings in your future endeavors.

Sir, on behalf of the Boards of Governors and Directors of the Bank group, accept our most sincere welcome to the African Development Bank and our thanks to you and to the people of your great country. (Applause.)

END

2:05 P.M. EST

EX. #1

3/14/79

amount of the initial payment is determined by applying the value of the annuitant's contract as of the date of annuitization (adjusted for any deductions) to the annuity purchase rate for the annuitant's annuity option, sex, and adjusted age. The specific time when the calculation will be made and the particular deductions that will be made at that time also should be disclosed. Registrants should disclose that the amount of subsequent annuity payments is determined by multiplying the number of annuity units credited to an annuitant's account by the value of an annuity unit at the time of each payment where (1) the number of annuity units credited to an annuitant's account is determined by dividing the amount of the first annuity payment by the value of an annuity unit at the time of that payment, and (2) the value of an annuity unit changes to reflect investment performance of the underlying portfolio company, adjusted by a factor to neutralize the assumed investment return. Registrants should disclose any deductions affecting the amount of annuity payments, and, where applicable, that changes in the value of an annuity unit reflect deductions of mortality and expense risk charges.

Guide 11. Crediting of Contract Values

Item 10 of Form N-4 requires disclosure about when initial and subsequent purchase payments are credited. Section 22(c) of the 1940 Act (15 U.S.C. 80a-22(c)) and rule 22c-1 (17 CFR 270.22c-1) establish standards for crediting purchase payments for securities of registered investment companies. However, the staff has not objected to disclosure that an initial purchase payment under a variable annuity contract would be credited within two business days of receipt if the contract application and other necessary information were complete as received by the office issuing the contract, and within five business days of receipt if the application and other information were incomplete when received. Registrants following this practice must disclose it and also disclose that, if the initial purchase payment is not credited within five business days, the purchase payment will be immediately returned unless the prospective purchaser has been informed of the delay and specifically requests that the purchase payment not be returned.⁶

Additionally, registrants should disclose any special procedures for crediting initial purchase payments in the case of incomplete applications (e.g., allocation of an initial purchase payment to the sub-account which invests in the money market fund if no sub-account has been specified).

Guide 12. Automatic Annuity Options

Item 8 of Form N-4 calls for disclosure about annuity option choices available to a prospective annuitant and the effect of not specifying a choice. Registrants should disclose any automatic purchase of a fixed annuity (i.e., the annuity selection that will be made by the company if the prospective

annuitant has not chosen an option). The staff has taken the position that an automatic annuity involving a fixed pay out of amounts that have accumulated on a variable basis is not consistent with section 27(c)(1) of the 1940 Act (15 U.S.C. 80a-27(c)(1)). However, the staff does not object to an automatic fixed annuity purchase if the only options available under the variable annuity contract are fixed annuities.

[FR Doc. 85-14886 Filed 6-24-85; 2:45 am] BILLING CODE 8750-01-8

17 CFR PART 288

[Release Nos. 33-6599-34-22184; 38-992; AFDB-1]

Primary Offerings by the African Development Bank

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today is adopting a new regulation specifying the periodic and other reports to be filed with it by the African Development Bank. The regulation is virtually identical to the regulations previously adopted by the Commission in connection with primary distributions of securities issued by the International Bank for Reconstruction and Development, the Inter-American Development Bank and the Asian Development Bank.

EFFECTIVE DATE: June 25, 1985.

FOR FURTHER INFORMATION CONTACT: Carl T. Bodolius, (202) 272-3248, or Martin L. Meyrowitz, (202) 272-3250, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (the "Commission") today adopted rules and regulations specifying the periodic and other reports to be filed with it in connection with the primary distribution of securities issued by the African Development Bank ("AFDB" or "the Bank"). The regulation, which would be designated Regulation AFDB,¹ is virtually identical to Regulations BW,² LA,³ and AD,⁴ which prescribe the

reports to be filed with the Commission by the International Bank for Reconstruction and Development ("IBRD"), the Inter-American Development Bank ("IAD"), and the Asian Development Bank ("AD"), respectively. (These three, along with the African Development Bank, may sometimes be collectively referred to herein as the "Banks").⁵

I. Background

United States membership in the IBRD, IAD, AD and AFDB was authorized by the Bretton-Woods Agreements Act, the Inter-American Development Bank Act, the Asian Development Bank Act, and the African Development Bank Act (the "Act"), respectively.⁶ Section 9(a) of the Act⁷ and each of the aforementioned Acts provides, in relevant part, that certain securities issued or guaranteed by each of the Banks are "exempted securities" within the meaning of section 3(a)(2) of the Securities Act of 1933⁸ and section 3(a)(12) of the Securities Exchange Act of 1934.⁹ An exemption is also available under the Trust Indenture Act of 1939.¹⁰ Despite the exemptions, each of the Acts requires the Banks to file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be necessary in the public interest or for the protection of investors.¹¹

The organization and financing of the AFDB closely follows the pattern of the other international development banks which preceded it. These development banks differ somewhat from traditional banks. They are non-profit financial institutions which do not accept deposits or make short-term loans. Their shareholders are governments. They are organized to make loans fostering

⁶ Regulation BW was adopted in Securities Act Release No. 3364 (January 8, 1950). Regulation LA was adopted in Securities Act Release No. 4290 (October 25, 1960). Regulation AD was adopted in Securities Act Release No. 4889 (December 18, 1967).

⁷ 22 U.S.C. 286 et seq., Pub. L. No. 78-171, approved July 31, 1943; 22 U.S.C. 283 et seq., Pub. L. No. 86-147, approved August 7, 1959; 22 U.S.C. 285 et seq., Pub. L. No. 89-388, approved March 18, 1966; 22 U.S.C. 290i, Pub. L. No. 97-35, approved August 13, 1981, respectively.

⁸ 22 U.S.C. 280-8(a).

⁹ 15 U.S.C. 77e-77ee (1976 and Supp. V 1981), as amended by the Business Regulatory Reform Act of 1982, Pub. L. No. 97-381, § 18(d), 96 Stat. 1123 (1982); specifically 15 U.S.C. 77c(a)(12).

¹⁰ 15 U.S.C. 78a-78kk (1976 and Supp. V 1981), as amended by the Act of June 6, 1963, Pub. L. No. 96-38, specifically 15 U.S.C. 78c(a)(12).

¹¹ 15 U.S.C. 77aaa-77bbb, as amended, specifically 15 U.S.C. 77ddd(4).

¹² See note 7, supra.

⁶ The Commission proposed codifying these standards in an amendment to rule 22c-1 under the Act. See Investment Company Act Release No. 13613 (May 1, 1984) [49 FR 18320 (May 7, 1984)].

¹⁷ 17 CFR Part 288.
¹⁸ 17 CFR Part 285.
¹⁹ 17 CFR Part 286.
²⁰ 17 CFR Part 287.

economic and social development within certain limitations embodied in their charters. These activities are financed primarily through paid-in capital by members and through borrowing in international capital markets.

As is the case with the other development banks, public offerings in the United States of securities issued or guaranteed by the AFDB would be subject to a number of safeguards both in the Bank's charter and provided for in the Act. First, the capital structure of the Bank is such that its obligations, in effect, rest ultimately on the credit of its member countries, one of which is the United States. Member countries subscribe to capital shares, a percentage of which are paid-in and a percentage of which are subject to call if necessary to meet the Bank's obligations. In the event of default, the Bank would issue a call, on a pro rata basis, to member countries for the amount necessary to meet the obligations. A second call could issue to make up any deficiencies caused by member countries' failure to meet the initial pro rata share.

The Act also provides certain safeguards, modeled on the provisions governing the other development banks in which the United States participates. First, before the AFDB issues any securities in the United States, approval would be required of the National Advisory Council on International Monetary and Financial Problems (the "NAC") under the general direction of the President.¹² Secondly, although the Bank's securities are exempt, the Act, as previously indicated, also provides that the Bank will file with the Commission such annual and other reports as the Commission considers appropriate. Finally, the Act authorizes the Commission, after consulting with such agency or officer as the President designates, to suspend the exemption in whole or in part at any time.¹³

II. Synopsis of Regulation AFDB

Regulation AFDB, and the rules thereunder, require the Bank to file with

¹² 22 U.S.C. 2901-3. The NAC was created to coordinate the policies and operations of representatives of the United States on the development banks or on agencies otherwise engaged in foreign financial transactions. It is composed of the Secretary of the Treasury (Chairman), the Secretaries of State and Commerce, the Chairman of the Federal Reserve Board and the President of the Export-Import Bank of Washington. 22 U.S.C. 2906. See Executive Order No. 11289 of February 14, 1966 (as amended by Ex. Or. No. 11334, March 2, 1967) (providing that the Chairman may consult with interested but unrepresented agencies and may invite them to designate representatives to participate in NAC deliberations).

¹³ 22 U.S.C. 2901-9(b).

the Commission quarterly financial reports and copies of the annual report to its governing board.

The quarterly financial reports will be required to be filed with the Commission within 90 days after the end of each fiscal quarter. This time period is consistent with Regulation AD, but longer than that provided in Regulations IBRD and IAD, which allow only 45 days. The reason for giving the AFDB and the AD additional time is that the main offices of the AFDB and the AD are in Africa and the Philippines, respectively, while the main offices of the IBRD and the IAD are located in the United States.

The Bank will also be required to file a report with the Commission on or prior to the date on which any of its primary obligations are sold to the public in the United States. Schedule A under Regulation AFDB sets forth the information and documents to be furnished in a report filed with respect to a distribution of primary obligations of the Bank.

The Commission has been informed by the Bank that no public offering of securities guaranteed by the Bank is presently contemplated in the United States. Accordingly, the new rules, insofar as they require the reporting of the proposed public sale of securities, are limited to the sale of primary obligations of the Bank. Rules with respect to reporting the sale of securities guaranteed by the Bank will be proposed by the Commission when and if the need therefor arises. Regulations BW, IA, and AD likewise are limited to primary obligations only.

List of Subjects in 17 CFR Part 288

Reporting and recordkeeping requirements. Securities.

IV. Text of Amendment

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

1. By adding new PART 288 to read as follows:

PART 288—GENERAL RULES AND REGULATIONS PURSUANT TO SECTION 9(a) OF THE AFRICAN DEVELOPMENT BANK ACT

Sec.

288.1 Applicability of this Part.

288.2 Periodic reports.

288.3 Reports with respect to proposed distribution of primary obligations.

288.4 Preparation and filing of reports.

288.101 Schedule A. Information required in reports pursuant to § 288.3

Authority: Sec. 9(a), 95 Stat. 743, 22 U.S.C. 2901-9(a); sec. 10(a), 48 Stat. 85, 15 U.S.C. 776(a).

§ 288.1 Applicability of this Part.

This Part (Regulation AFDB) prescribes the reports to be filed with the Securities and Exchange Commission by the African Development Bank pursuant to section 9(a) of the African Development Bank Act.

§ 288.2 Periodic reports.

(a) Within 90 days after the end of each of its fiscal quarters, the Bank shall file with the Commission the following information:

(1) Information as to any purchases or sales by the Bank of its primary obligations during such quarter.

(2) Two copies of the Bank's regular quarterly financial statement and

(3) Two copies of any material modifications or amendments during such quarter of any exhibits (other than (i) constituent documents defining the rights of holders of securities of other issuers guaranteed by the Bank, and (ii) loans and guaranty agreements to which the Bank is a party) previously filed with the Commission under any statute.

(b) Two copies of each annual report of the Bank to its Board of Governors shall be filed with the Commission within 10 days after the submission of such report to the Board of Governors.

§ 288.3 Reports with respect to proposed distribution of primary obligations.

The Bank shall file with the Commission, on or prior to the date on which it sells any of its primary obligations in connection with a distribution of such obligations in the United States, a report containing the information and documents specified in Schedule A (17 CFR 288.101). The term "sell" as used in this section and in Schedule A means the making of a completed sale or a firm commitment to sell.

§ 288.4 Preparation and filing of reports.

(a) Every report required by this regulation shall be filed under cover of a letter of transmittal which shall state the nature of the report and indicate the particular rule and subdivision thereof pursuant to which the report is filed. At least the original of every such letter shall be signed on behalf of the Bank by a duly authorized officer thereof.

(b) Two copies of every report, including the letter of transmittal, exhibits and other papers and documents comprising a part of the report, shall be filed with the Commission.

(c) The report shall be in the English language. If any exhibit or other paper or document filed with the report is in a

3/14/80

Ex. #1
3-14-89

foreign language, it shall be accompanied by a translation into the English language.

(d) Reports pursuant to Rule 3 (17 CFR 288.3) may be filed in the form of prospectus to the extent that such prospectus contains the information specified in Schedule A (17 CFR 288.101).

§ 288.101 Schedule A. Information required in reports pursuant to § 288.3.

This schedule specifies the information and documents to be furnished in a report pursuant to Rule 3 (17 CFR 288.3) with respect to a proposed distribution of primary obligations of the Bank. Information not available at the time of filing the report shall be filed as promptly thereafter as possible.

Item 1. Description of obligations.

As to each issue of primary obligations of the Bank which is to be distributed, furnish the following information:

(a) The title and date of the issue.
(b) The interest rate and interest payment dates.

(c) The maturity date or, if serial, the plan of serial maturities. If the maturity of the obligation may be accelerated, state the circumstances under which it may be so accelerated.

(d) A brief outline of (i) any redemption provisions and (ii) any amortization, sinking fund or retirement provisions, stating the annual amount, if any, which the Bank will be under obligation to apply for the satisfaction of such provisions.

(e) If secured by any lien, the kind and priority thereof, and the nature of the property subject to the lien; if any other indebtedness is secured by an equal or prior lien on the same property, state the nature of such other liens.

(f) If any obligations issued or to be issued by the Bank will, as to the payment of interest or principal, rank prior to the obligations to be distributed, describe the nature and extent of such priority.

(g) Outline briefly any provisions of the governing instruments under which the terms of the obligations to be distributed may be amended or modified by the holders thereof or otherwise.

(h) Outline briefly any other material provisions of the governing instruments pertaining to the rights of the holders of the obligations to be distributed or pertaining to the duties of the Bank with respect thereto.

(i) The name and address of the fiscal or paying agent of the Bank, if any.

Item 2. Distribution of obligations.

(a) Outline briefly the plan of distribution of the obligations and state the amount of the participation of each principal underwriter, if any.

(b) Describe any arrangements known to the Bank or to any principal underwriter named above designed to stabilize the market for the obligations for the account of the Bank or the principal underwriters as a

group and indicate whether any transactions have already been effected to accomplish that purpose.

(c) Describe any arrangements for withholding commissions, or otherwise, to hold each underwriter or dealer responsible for the distribution of his participation.

Item 3. Distribution spread.

The following information shall be given, in substantially the tabular form indicated, as to all obligations which are to be offered for cash (estimate, if necessary):

	Price to the public	Selling discounts and commissions	Proceeds to the Bank
Per Unit			
Total			

Item 4. Discounts and commissions to sub-underwriters and dealers.

State briefly the discounts and commissions to be allowed or paid to dealers. If any dealers are to act in the capacity of sub-underwriters and are to be allowed or paid any additional discounts or commissions for acting in such capacity, a general statement to that effect will suffice, without giving the additional amounts to be so paid.

Item 5. Other expenses of the distribution.

Furnish a reasonably itemized statement of all expenses of the Bank in connection with the issuance and distribution of the obligations, except underwriters' or dealers' discounts and commissions.

Instruction. Insofar as practicable, the itemization shall include transfer agents' fees, cost of printing and engraving, and legal and accounting fees. The information may be given as subject to future contingencies, if the amounts of any items are not known, estimates, designated as such, shall be given.

Item 6. Application of proceeds.

Make a reasonable itemized statement of the purposes, so far as determinable, for which the net proceeds to the Bank from the obligations are to be used, and state the approximate amount to be used for each such purpose.

Item 7. Exhibits to be furnished.

The following documents shall be attached to or otherwise furnished as a part of the report:

(a) Copies of the constituent instruments defining the rights evidenced by the obligations.

(b) Copies of an opinion of counsel, in the English language, as to the legality of the obligations.

(c) Copies of all material contracts pertaining to the issuance or distributions of the obligations, to which the Bank or any principal underwriter of the obligations is or is to be a party, except selling group agreements.

(d) Copies of any prospectus or other sales literature to be provided by the Bank or any of the principal underwriters for general use in connection with the initial distribution of the obligations to the public.

V. Statutory Authority

The Commission finds that the notice and public procedure pursuant to the Administrative Procedure Act are unnecessary for the following reasons: (1) The African Development Bank is virtually identical in purpose and structure to the other international development banks; (2) the regulations adopted herein are virtually identical to those for the other international development banks, each of which was adopted without prior exposure to public comments; (3) the special character of the AFDB and its operations; (4) the Commission has never received a letter of complaint regarding any of the international development banks, their rules or disclosure requirements; and (5) the views of the AFDB have been received and considered.

In addition, the effective guarantee of the Bank's obligations by member nations, including the United States; the required prior approval of the United States Government for any offerings in the United States; and the Commission's authority to suspend the exemptions at any time constitutes substantial investor protection.

The Commission further finds, for the reasons set forth above, that there is good cause to make the rules adopted herein effective upon publication in the Federal Register. The Bank will be in a position to proceed immediately with public offerings of its securities in the United States if it so decides.

The Commission is adopting Regulation AFDB pursuant to section 9(a) of the African Development Bank Act and section 19(a) of the Securities Act of 1933.

By the Commission.

Shirley E. Hollis,
Assistant Secretary,
June 18, 1985.

**Securities and Exchange Commission
Regulatory Flexibility Act Certification**

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the rules relating to the exemptive regulation for the securities of the African Development Bank (the "Bank") contained in Securities Act Release No. 33-6588 will not, if promulgated, have a significant economic impact upon a substantial number of small entities. The reason for this certification is that the rules apply

Arent, Fox, Kintner, Plotkin & Kahn

EXHIBIT NO. 2DATE 3/14/89BILL NO. HB 355Washington Square 1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

February 9, 1989

David J. Aronofsky
(202) 857-8054Via TelecopyJames Borchardt
Chief Examiner
Montana Department of Insurance
Sam W. Mitchell Bldg.
Helena, Montana 59604Re: African Development Bank

Dear Jim:

Pursuant to our February 8 discussion about Representative Cohen's House Bill 355 to authorize insurer investments in African Development Bank obligations, I have attached a list of states which expressly permit such insurer investments by statute. I have also identified those states which allow such investments but do not statutorily name any of the four international development banks in which the U.S. Government is a member. We are presently seeking legislation (or in the case of Wisconsin, an administrative agency rule) in those states not listed here which already explicitly authorize insurer investments in at least one of the other banks. As we also discussed, some states listed in the Memorandum I gave you on Wednesday statutorily authorize investors other than insurers to purchase Bank obligations where at least one other bank is specifically named.

I hope the enclosed list demonstrates the desirability of legislation in Montana in terms of gaining treatment for the Bank under Montana law at least equal to that afforded in the large majority of other states. I appreciate your willingness to meet with us so promptly after the hearing to discuss this. I apologize for any inconvenience in not advising your Department sooner about the legislation. I would invite you to call me immediately with any further questions or information requests. Thank you again for your consideration.

Sincerely,


David Aronofsky
cc: The Honorable Ben Cohen
The Honorable Bruce Crippen
The Honorable Bob Pavlovich

HB 662
March 14, 1989

Testimony presented by Ron Marcoux, Department of Fish,
Wildlife & Parks

The Department of Fish, Wildlife & Parks supports HB 662 which would bring our senior citizen and disabled camping fee discounts into line with current practice in Forest Service and National Park campgrounds, as well as state parks in most other states, by offering a 50% discount rather than totally exempting overnight camping fees.

Department field studies in 1986 have shown that about \$120,000 of earned revenue is foregone annually as a result of fee waivers presently mandated by Section 23-1-105. Our population is aging as well, and net losses continue to increase each year.

This bill would reduce that loss to about \$60,000 per year. That savings would be used by the Parks Division to reverse the deteriorating condition of many of our camping facilities and provide the quality of service our guests expect for their money.

Approximately 26% of our overnight guests now qualify for the existing fee exemption, which is not based on income or ability to pay. During our recent public hearings on state park entry fees, we received numerous letters and testimony that the existing golden years and disabled fee exemptions are highly discriminatory to the three-fourths of our guests who have low and average incomes, yet must pay all of the costs.

This bill would not only make these discounts more equitable, but would also make them less costly to the public and easier for the department to administer by coordinating them and eliminating the requirement for a specific pass which the department must print, consign, sell, and be accountable for.

We urge your support of HB 662.

COMMITTEE ON

DATE

3/14/89

Bus & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
HAR MANSON	AMERICAN LEGION	662	X	
Shelly Laine	City of Helena	577	X	
Kay Foster	Billings Chamber	483	X	
" "	" "	577	X	
CAL CUMIN	YELLOWSTONE CO	483	X	
" "	" "	577	X	
GRIM PIGEON	MONTANA GOOD SAMS	662	X	
DARREL MICKLEWRIGHT	ASSOC CREDIT BUR OF MT	591	X	
JOHN CAMERON	ASSOCIATE CREDIT BUREAU OF MT	591	X	
John C. Koh	Technical Witness - CEB	591		
Janet Ellis	MT Audubon Society	HB 662	X	
Charles Brooks	MT Rep No. 1 Assoc	591	X	
Doyd Anderson	R.V. ⁹	662	X	
Chris Gallus	BUTTE SILVER BOW	HB 483	X	
JAMES Tutwiler	MT CHAMBER COMMERCE	HB 577 HB 483	X	
Joan Edwards	Yellowstone Co. Comm.	HB 483 577	X	