

# MINUTES

## MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

### CONFERENCE COMMITTEE ON SENATE BILL 038

**Call to Order:** By CHAIRMAN STEVE BENEDICT, on March 22, 1995, at 11:30 a.m., Room 405

#### ROLL CALL

**Members Present:**

Sen. Steve Benedict (R)  
Sen. John R. Hertel (R)  
Sen. John "J.D." Lynch (D)  
Rep. Bruce T. Simon (R)  
Rep. Robert J. "Bob" Pavlovich (D)  
Rep. Chase Hibbard (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Steve Maly, Legislative Council  
Carla Turk, Committee Secretary

**CHAIRMAN STEVE BENEDICT** stated that the Committee was called in order to examine the House Floor Amendments to SB 38 and asked if there was any discussion.

**Discussion:** None

**Motion:** SENATOR LYNCH Moved the Amendments by SENATOR BENEDICT, SB003801.ABC.

**Discussion:** CO-CHAIRMAN SIMON asked for an explanation of what was transpiring. CHAIRMAN BENEDICT explained that the amendments which SENATOR LYNCH had just moved, and proposed by himself, would merely strip the House floor action on SB 38 and restore it to the way it had come out of the House Business Committee. He accounted that it would insert \$8,000,000 rather than \$4,000,000, would strike "SAME" and insert "most favorable", strike "AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE" and insert "possible on any" and remove the reference to science and tech., strike "\$11.5" and insert "\$15.5", and again strike "\$4" and insert "\$8" on page 5, line 27.

CO-CHAIRMAN SIMON said he had no problem with the amendments except that he was concerned about what may happen on the floor of the House. He contended that he did not know if they could

develop enough support on the floor of the House to get these amendments stripped from the Bill. He said understood what was being attempted, but reiterated his concern.

**CHAIRMAN BENEDICT** attested that he had shared that concern with members of the Governor's Staff and the Commerce Department and had been assured, by both, that they were willing to take the risk of the Bill possibly dying if they didn't do their homework and influence changing some votes. He described the parties as satisfied that they could accomplish their goal.

**CO-CHAIRMAN SIMON** proclaimed that he understood the need to strip amendment # 2 and # 3, but was just trying to make it clear that there was a risk. He stated that he did not have a problem with adopting the amendment, with the understanding that it was not going to be an easy task to get the vote on the floor of the House.

**CHAIRMAN BENEDICT** replied that the parties were aware of the risk.

**CO-CHAIRMAN SIMON** queried as to whether there was any flexibility with regard to the \$4,000,000 and the \$8,000,000. He ventured as to whether that figure could be \$6,000,000 as a possible compromise or whether it was preferred to make the approach offered in the amendments?

**SENATOR LYNCH** responded that he would like the amendment to remain as offered.

**REPRESENTATIVE HIBBARD** said that he thought **REPRESENTATIVE JOHNSON'S** amendments put on in the House definitely changed the Bill remarkably. He stated that he felt stripping those amendments would give the Bill some trouble on the House Floor.

**CHAIRMAN BENEDICT** reiterated that the Commerce Department and the Governor's Office were willing to lose the Bill, rather than to let it move forward in its' present form. He reaffirmed that the parties were absolutely confident they could get the support needed.

**SENATOR LYNCH** called for the Question.

**REPRESENTATIVE PAVLOVICH** asked to have his memory refreshed as to what the vote had been when the Bill left the House Business Committee, when it was in the proposed form? He asked if it wasn't almost unanimous? **CHAIRMAN BENEDICT** responded that the vote had been fifteen to three.

**CHAIRMAN BENEDICT** stated that the Question had been called.

Vote:

The MOTION CARRIED UNANIMOUSLY.

CHAIRMAN BENEDICT reported that the House Floor amendments had been stripped from the Bill and it returned to the form it had been in upon passage from the House Business and Labor Committee.

Motion/Vote :

SENATOR LYNCH MOVED THAT THE COMMITTEE REPORT BE ADOPTED.

CHAIRMAN BENEDICT explained that the motion was to adopt the Conference Committee Report on a unanimous vote. He reported that as constituting a Unanimous vote on the Bill and the Committee was now voting to adopt the Conference Committee Report. He announced that the Question had been called for. The MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 11:38 a.m.



SENATOR STEVE BENEDICT, Chairman



Carla Turk, Secretary

SB/cmt

Conference Committee  
on SB 38  
Report No. 1, March 22, 1995

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 38, met and considered:  
House floor amendments to third reading copy (blue)

We recommend that SB 38 (reference copy - salmon) be amended as follows:

1. Title, line 6.

Strike: "\$4"

Insert: "\$8"

2. Page 3, line 27.

Strike: "SAME"

Insert: "most favorable"

3. Page 3, line 28.

Strike: "AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE"

Insert: "possible on any"

4. Page 5, line 20.

Strike: "\$11.5"

Insert: "\$15.5"

5. Page 5, line 27.

Strike: "\$4"

Insert: "\$8"

And that this Conference Committee report be adopted.

For the Senate:

Benedict

Chair

Hertel

Lynch

Amd. Coord.

For the House:

Simon

Chair

Pavlovich

Hibbard

Rosana Skelton  
Sec. of Senate

ADOPT

REJECT

661306CC.SPV

Amendments to Senate Bill No. 38  
Reference Bill Reading Copy

Requested by Sen. Benedict

Prepared by Bart Campbell  
March 20, 1995

1. Title, line 6.

Strike: "\$4"

Insert: "\$8"

2. Page 3, line 27.

Strike: "SAME"

Insert: "most favorable"

3. Page 3, line 28.

Strike: "AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE"

Insert: "possible on any"

4. Page 5, line 20.

Strike: "\$11.5"

Insert: "\$15.5"

5. Page 5, line 27.

Strike: "\$4"

Insert: "\$8"



# HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 38

Representative Royal Johnson

March 9, 1995 1:24 pm

Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 38 (third reading copy -- blue).

Signed:

A handwritten signature in blue ink, appearing to read "Royal Johnson".

Representative Royal Johnson

And, that such amendments to Senate Bill 38 read as follows:

1. The House Standing Committee Report amendment no. 5 is amended as follows:

The last sentence of the inserted material is amended to read:

"The department shall secure the ~~most favorable~~ same collateral position ~~possible on any~~ as the financial institution participating in the job investment loan."

-END-

ADOPT

81-16

①

REJECT

SB 38

HOUSE

551323CW.Hbk



# HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 38  
Representative Royal Johnson

March 9, 1995 1:25 pm  
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 38 (third reading copy - blue).

Signed:

  
Representative Royal Johnson

And, that such amendments to Senate Bill 38 read as follows:

1. Title, line 6.

Strike: "\$8"

Insert: "\$4"

2. Page 5, line 9.

Strike: "\$15.5"

Insert: "\$11.5"

3. Page 5, line 16.

Strike: "\$8"

Insert: "\$4"

-END-

ADOPT

74-23

②

SB 38

HOUSE

REJECT

551325CW.Hbk

## SENATE BILL NO. 38

INTRODUCED BY BENEDICT

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE JOB INVESTMENT ACT; AUTHORIZING THE DEPARTMENT OF COMMERCE TO ADMINISTER ~~\$8~~ \$4 MILLION OF THE PERMANENT COAL TAX TRUST FUND FOR LOANS TO BUSINESSES TO CREATE ~~OR~~ AND RETAIN JOBS; AMENDING SECTION 17-6-308, MCA; AND PROVIDING AN EFFECTIVE DATE."

## STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4 5] gives the department of commerce authority to adopt administrative rules for the administration of the Job Investment Act. The act is intended to provide funding for loans to Montana businesses as part of a financing package to permit business expansion ~~and~~ job creation, AND JOB RETENTION. The act is intended to expand the current capabilities of the economic development portion of the federal community development block grant program, which is highly effective but satisfies only a small portion of the existing need.

The job investment loans are intended to provide a portion of the financing necessary to permit business expansion ~~and~~ job creation, AND JOB RETENTION and may be used only in conjunction with equity and other debt financing in cases in which other funding would not satisfy the total need and would not be available without additional financing under the Job Investment Act.

The community development block grant program has also been used to leverage other forms of public and private financing to support job expansion and retention. The approximately \$2.6 million of community development block grant program economic development funding for the current fiscal year amounts to funding for less than one-half of the funding requests received during the first 4 months of the current fiscal year. If annualized, this year's funding experience would result in requests in excess of \$10 million. There is opportunity for significant economic impact from an expansion of the state's investment in projects that create AND RETAIN jobs which would not be fully funded from existing sources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:



1        NEW SECTION.   **Section 1. Short title.** [Sections 1 through ~~8~~ 9] may be cited as the "Job  
2   Investment Act".

3  
4        NEW SECTION.   **Section 2. Legislative findings -- purpose.** (1) The legislature finds and declares  
5   that:

6            (a) it is the policy of the state to foster and encourage economic development within the state in  
7   order to promote the general welfare of the people; AND

8            (b) access to capital for the creation, expansion, and retention of qualified businesses, particularly  
9   for working capital, is a serious problem that inhibits the growth of businesses, jobs, and tax revenue; ~~and~~

10           ~~(c) the public sector and the private sector are constrained from satisfying the financial needs of~~  
11   ~~state businesses because of federal and state financial regulatory rules and practices.~~

12            (2) The purpose of [sections 1 through ~~8~~ 9] is to create a job investment program that encourages  
13   and assists in the creation, development, and financing of businesses whose primary obstacle to expansion  
14   or retention of employment is access to the appropriate type and amount of financing. This financial need  
15   is particularly acute in areas of the state that are economically depressed, and emphasis should be given  
16   to projects that will be located in these areas if the projects meet the requirements of [sections 1 through  
17   ~~8~~ 9] and rules adopted pursuant to [section 4 5] and meet acceptable levels of financial risk as determined  
18   by the loan review committee.

19  
20        NEW SECTION.   **Section 3. Definitions.** As used in [sections 1 through ~~8~~ 9], unless the context  
21   requires otherwise, the following definitions apply:

22            (1) "Department" means the department of commerce provided for in 2-15-1801.

23            (2) "Loan review committee" means the committee that is established by the department to  
24   consider economic development loan applications for funding by the federal community development block  
25   grant program and that is responsible for reviewing and approving or denying job investment loans subject  
26   to [sections 1 through ~~8~~ 9] and rules implementing [sections 1 through ~~8~~ 9].

27            (3) "Qualified business" means a business enterprise that either is or will be located in the state  
28   and that produces goods or provides services that will, as a result of receiving a job investment loan, create  
29   jobs for Montana workers.

1        NEW SECTION. SECTION 4. LOAN APPLICANT ENDORSEMENT. APPLICANTS FOR JOB  
2 INVESTMENT LOANS MUST BE ENDORSED BY LOCAL GOVERNMENT ENTITIES OR LOCAL ECONOMIC  
3 DEVELOPMENT CORPORATIONS.

4  
5        NEW SECTION. Section 5. Rulemaking authority. The department shall adopt rules to implement  
6 the provisions of [sections 1 through 8 9], including rules:

7        (1) determining the amount of interest and the method of computation and payment of interest  
8 charged to recipients of job investment loans and specifying amortization schedules and other terms and  
9 conditions for job investment loans as necessary. The rate of interest charged on a loan may not be less  
10 than the prevailing market rate.

11        (2) establishing criteria for determining nonperformance and declaring default for a job investment  
12 loan;

13        (3) specifying security and collateral requirements that must be met as a condition of receiving a  
14 job investment loan;

15        (4) encouraging financial institutions to participate to the greatest extent possible in the financing  
16 of job investment projects;

17        (5) requiring ~~at least 50% of project funding to come from equity or debt sources other than a job~~  
18 ~~investment loan; and THAT THE PERCENTAGE OF PROJECT FUNDING THAT MUST COME FROM~~  
19 ~~SOURCES OTHER THAN A JOB INVESTMENT LOAN BE A MINIMUM OF 50% WHEN A JOB INVESTMENT~~  
20 ~~LOAN DOES NOT EXCEED \$100,000 AND 67% FOR A MAXIMUM JOB INVESTMENT LOAN OF \$500,000.~~  
21 ~~LOAN PARTICIPATION FROM SOURCES OTHER THAN A JOB INVESTMENT LOAN MUST BE IN~~  
22 ~~INCREASING INCREMENTS OF .0425% OVER THE MINIMUM 50% FOR EVERY \$1,000 OF A JOB~~  
23 ~~INVESTMENT LOAN IN EXCESS OF \$100,000, AND THE FUNDS FROM OTHER SOURCES MUST INCLUDE~~  
24 ~~A LOAN FROM A FINANCIAL INSTITUTION. THAT THE JOB INVESTMENT LOAN MAY NOT EXCEED THE~~  
25 ~~FUNDING PROVIDED BY PRIVATE LENDERS AND THAT AT LEAST ONE PRIVATE LENDER MUST BE A~~  
26 ~~FINANCIAL INSTITUTION. THE DEPARTMENT SHALL SECURE THE MOST FAVORABLE COLLATERAL~~  
27 ~~POSITION POSSIBLE ON ANY JOB INVESTMENT LOAN. THE DEPARTMENT SHALL SECURE THE SAME~~  
28 ~~COLLATERAL POSITION AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE JOB INVESTMENT~~  
29 ~~LOAN.~~

30        (6) establishing appropriate loan loss reserves; and

1       ~~(6)(7)~~ providing for an application process and a loan review process THAT:  
 2       (A) INCORPORATE THE FUNDING CRITERIA ADOPTED BY THE DEPARTMENT TO IMPLEMENT THE  
 3       FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM PURSUANT TO 90-1-103(5);  
 4       (B) MINIMIZE THE AMOUNT OF JOB INVESTMENT ACT FUNDS REQUIRED; AND  
 5       (C) REQUIRE FINANCIAL INSTITUTION REVIEW AND CONTINGENT APPROVAL OF THE PROJECT  
 6       BEFORE JOB INVESTMENT ACT FUNDS ARE COMMITTED.

7  
 8       **NEW SECTION.** **Section 6. Job investment administrative account.** There is a job investment  
 9       administrative account in the state special revenue fund. The department shall deposit ~~all loan origination~~  
 10       ~~fees, all service charges, and up to 2%~~ 20% of interest payments on job investment loans into the account.  
 11       Money in the account must be used to pay the costs of administering [sections 1 through ~~8~~ 9], including  
 12       personnel costs, operating costs, and administrative costs.

13  
 14       **NEW SECTION.** **Section 7. Loan review committee -- conflict of interest -- servicing of loans.** (1)  
 15       The department shall establish a loan review committee to administer [sections 1 through ~~8~~ 9]. The  
 16       committee shall accept and review loan applications pursuant to rules adopted by the department. The  
 17       committee shall approve or disapprove loans. A loan may not exceed \$500,000.

18       (2) ~~A IF A~~ member of the ~~department or the loan review~~ committee ~~who~~ has a financial interest  
 19       in a business that submits a job investment loan application ~~shall disclose the interest and abstain from any~~  
 20       ~~involvement in the application, due diligence, and approval processes,~~ THEN THE APPLICATION MUST BE  
 21       DENIED.

22       (3) The department ~~may~~ SHALL contract for the servicing of loans.

23  
 24       **NEW SECTION.** **Section 8. Legislative oversight.** The department shall report to the revenue  
 25       oversight committee annually on the performance of the job investment program. The report to the  
 26       committee must include:

- 27       (1) a summary of all loans made during the year;  
 28       (2) an analysis of job creation goals and performance;  
 29       (3) a summary of loan terms and conditions;  
 30       (4) a summary of funds leveraged with job investment loans; and

(5) an analysis of the job investment portfolio performance including calculations for returns on investments.

**NEW SECTION. Section 9. Grants, gifts, and donations.** The department may accept grants, gifts, and donations for purposes of [sections 1 through 8 9]. The department may expend the funds pursuant to laws and conditions governing the funds.

**Section 10.** Section 17-6-308, MCA, is amended to read:

**"17-6-308. Authorized investments.** (1) Except as provided in subsections (2) ~~and (3)~~ through (4) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions ~~as determined by the board determines~~ and must be repaid from ~~revenues of the board~~ revenue realized from the exercise of ~~its~~ the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the ~~revenues~~ revenue to the bonds and notes.

(3) The board shall allow the Montana board of science and technology development, provided for in 2-15-1818, to administer ~~\$15.5~~ \$11.5 million of the permanent coal tax trust fund for seed capital project loans and \$8.1 million of the permanent coal tax trust fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1997, for seed capital project loans and beyond June 30, 1995, for research and development project loans. Until the Montana board of science and technology development makes a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board ~~of investments~~ pursuant to the provisions of 17-6-201.

(4) The board shall allow the department of commerce to administer ~~\$8~~ \$4 million of the permanent coal tax trust fund for job investment loans pursuant to [sections 1 through 8 9]. As loans are repaid, the department of commerce may reinvest the principal in new loans. Until a loan is made, the board shall invest the funds pursuant to 17-6-201.

~~(4)~~(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations."

**NEW SECTION.** **Section 11. Codification instruction.** [Sections 1 through **8 9**] are intended to be codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to [sections 1 through **8 9**].

**NEW SECTION.** Section 12. Effective date. [This act] is effective July 1, 1995.

-END-

## STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0038, third readingDESCRIPTION OF PROPOSED LEGISLATION:

An act establishing the Job Investment Act by authorizing the Department of Commerce to administer \$8 million of the permanent coal tax trust fund for loans to businesses to create or retain jobs.

ASSUMPTIONS:

1. It is assumed that Job Investment Act funds will be loaned from the Coal Tax Trust account in amounts averaging \$300,000 per month, beginning September 1995.
2. Job Investment Act funds will be lent at an average rate of 10%, and amortized over a 10 year period.
4. Assume loan repayments (principal and interest) begin 2 months after funds are disbursed.
5. Assume that current Coal Tax Trust opportunity cost earnings, at 8% return on investment, continue over the next biennium.
6. Twenty percent of loan interest payments will be deposited in Job Investment Act state special revenue account (SSR) to be used for costs to administer the program.
7. Principal and 80% of loan interest payments will be deposited into Coal Tax Trust account upon receipt.
8. FY96 operating costs of \$18,000 are for contracted services related to servicing of that year's loans. FY97 operating costs of \$80,000 are for contracted services for loan servicing and administration.

FISCAL IMPACT:Expenditures:

	FY96 <u>Difference</u>	FY97 <u>Difference</u>
Department of Commerce:		
FTE	0	0
Personal Services	0	0
Operating Expenses	18,000	80,000
Equipment	0	0
Total	18,000	80,000

Funding:

Job Investment SSR (02)	18,000	80,000
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Revenues:

	FY96 <u>Difference</u>	FY97 <u>Difference</u>
Department of Commerce:		
Job Invest Interest (02)	18,000	80,000
Coal Tax Job Invest Interest	71,000	321,000
Coal Tax Opportunity Cost	(110,000)	(396,000)
Total	(21,000)	5,000

Net Impact:

	FY96 <u>Difference</u>	FY97 <u>Difference</u>
Job Investment SSR (02)	0	0
School Equalization (02)	(5,850)	(11,250)
General fund (01)	(33,150)	(63,750)
Total	(39,000)	(75,000)

*Dave Lewis* 1-25-95  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

*Steve Bebedict*  
 STEVE BEBEDICT, PRIMARY SPONSOR      DATE

Fiscal Note for SB0038, third reading

SB 38-#2

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The business expansion and job creating aspects of this proposal, while difficult to quantify, are beneficial to any locality in which businesses are expanded and jobs are created. In addition, persons previously unemployed would now would now be contributing to the income tax and property tax bases.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

It is estimated that over \$1,700,000 in Job Investment Act proceeds would be available for loans in FY98.

TECHNICAL NOTES:

It was intended that the revenue generated for the new SSR account (Section 5) would be sufficient to offset the administrative costs of the Job Investment Act. Some source of revenue, such as amending Section 5, would have to be implemented to cover the \$88,000 negative biennium amount since no other funds are available. Increases in the SSR account causes an equal decrease to the general fund.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

No. The Job Investment Action establishes a SSR which would be funded by a portion of interest payment proceeds from loan repayments. The proposed legislation would make loans to assist in the expansion of Montana businesses. The portion of interest payment proceeds dedicated to the SSR which this proposed legislation creates is funded entirely by those businesses receiving loan proceeds. The bill dedicates a portion of the interest revenues received to fund the administration of the program.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

By placing a portion of the proceeds of the proposed legislation into a SSR, the public, Montana businesses, and the legislature is assured that the program is enacted and working as intended.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? ☒ Yes ☐ No (if no, explain)

- d) Does the need for this SSR provision still exist? ☒ Yes ☐ No (Explain)

The proposed bill creates a SSR which is necessary to effectively and efficiently administer the Job Investment Act.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No. The dedicated revenue portion of this bill does not diminish the legislature's ability to scrutinize budgets, control expenditures, or establish priorities.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need?  
(Please explain)

Yes, provided the Legislature continues to mandate economic development and job creation efforts within Montana.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

The dedicated revenue provision, which is required in this proposed legislation, would provide accounting efficiencies within the Department of Commerce. It would allow for the quick and accurate analysis of how effective and efficient the Job Investment Act is operating. Establishment of a SSR would allow one to quickly determine if the Job Investment Act is accomplishing it's mission as intended.



DATE 3-22-95

SENATE COMMITTEE ON SB 38

BILLS BEING HEARD TODAY:

Joint Conference Committee

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Linda Reed	Gwin Office	SB38	-	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY