

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on January 18, 1995,
at 8:00 AM

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: Rep. Alvin A. Ellis, Jr.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 163, HB 152, HB 193, HB 168, SB 100
Executive Action: HB 193, HB 152, HB 163

HEARING ON HB 163

Opening Statement by Sponsor:

REP. BETTY LOU KASTEN, HD 99, McCone County said this bill was an act generally revising the requirements for bid security and contract performance security; removing the requirement that the Department of Administration require bid security in certain

circumstances; changing the amount of contract performance security required; and extending the term of certain contracts.

Proponents' Testimony:

Marvin Eicholtz, Department of Administration said this bill does three things. It changes the Department's bid and contract performance security, extends contract periods, and changes Montana financial institution requirements. He also suggested some amendments and further defined the term bid security. **Mr. Eicholtz** then discussed the impact on construction contracts and political subdivisions and the impact on future legislatures.
EXHIBIT 1.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. ELLINGSON asked what had been the performance history in regard to needing security on contracts with private vendors. Is the department suggesting the reduction of the performance security by 25% to 10%? **Mr. Eicholtz** said the department feels 25% of the contract price is excessive. If a vendor fails on a contract the 25% cannot be collected, only the actual damages. The actual damages are usually the department's cost to reissue the contract to acquire another vendor and the cost to the state is the higher cost to the second vendor.

REP. ELLINGSON then asked if there were ever a situation where the damages have been 25% of the contract. **Mr. Eicholtz** said this had never occurred. There were only four instances where the department has challenged a performance security and each of those instances contained only a minor fraction of the security. The department has not gone against a bid bond.

REP. ELLINGSON asked for an example of what kinds of contracts this might apply to regarding extending contracts. **Mr. Eicholtz** said if a vendor supplies a service that requires him to provide equipment which, as an example, might be a photocopier. With the extension of a contract period there is more discretion.

REP. MILLS asked what the department would gain by reducing the bid bond requirement. **Mr. Eicholtz** said the major reason the department is doing this is there are vendors who can get performance security and others cannot get this security. There would be better competition. There is a cost to asking for the security. The department ends up paying for the protection that is not necessary.

REP. DEVANEY asked if the bid security was mostly on a cash basis and **Mr. Eicholtz** said the department gets a little bit of everything in bid bonds. Sometimes if a vendor makes a mistake

in their bid and wants to rescind from the bid but it is in the departments' interest to not force this vendor to perform the contract at a loss.

Closing by Sponsor:

Sponsor closes.

HEARING ON HB 152

Opening Statement by Sponsor:

REP. VICKI COCCHIARELLA, HD 64, Missoula County said the first Workers' Compensation law was passed in 1915 in Montana. It has taken 70 years for the fund to get in the mess it is in. The bill was being presented on behalf of the self insurers association. There are three plans in Workers' Comp. Plan 1 is the self insured group. They are not an insurance company as opposed to the other two plans. Plan 2 are the private carriers and Plan 3 is the state fund. They are large enough to have enough money to put down to cover the risks that may be faced for Workers' Compensation claims. Plan 1 insurers are asking that the security deposit be allowed to be reduced. After three years of experience, which is how a mod factor is determined under Workers' Compensation, the risks and benefits paid out reflect a positive trend then the security deposit can be reduced if the department agrees and the self insurers agree.

Proponents' Testimony:

George Wood, Executive Secretary, Montana Self Insurers Association said the guarantee fund is made up of all self insurers except public agencies and they are required by law to belong to the guarantee fund which makes them joint and liable for any bankruptcy that occurs for a self insurer. The other self insurer must pay the claimants benefits. The Fund came to the association and asked that legislation be sponsored. Presently, the law provides for a security deposit. The present law allows the fund and the department to increase the amount of the security deposit but not to decrease it. This bill indicates that if, after three years, the outstanding liability of a self insured employer is less than \$250,000 the Department of Labor and the Montana Self Insurers Fund can agree to reduce the amount of the security deposit to an appropriate amount. **Mr. Wood** supplied a list of the Montana Self Insurers Association.

EXHIBIT 2

Chuck Hunter, Department of Labor talked of the history of the Workers' Compensation Act. The department sets the standards and rules regarding who may be self insured. There has been a partnership established in Montana. There is a good relationship with the self insurers.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. LARSON asked the formula for developing the \$250,000. Mr. Wood said the law states a security deposit in the amount of the three year average incurred liability or \$250,000 whichever is greater.

CHAIRMAN SIMON said approximately three years ago a financial institution went bankrupt and yet the department did little or nothing to remedy the situation. What are the safeguards with the department to insure that monitoring the financial health of these self insured people? Mr. Hunter said there were several things that had changed since that incident. The things which are done in the department are a thorough annual review of the finances of the self insured but more importantly there is the self insurance guarantee fund. The guarantee fund itself says that in the event of a failure, and after all the security deposit, the department holds are exhausted and consequently the fund itself gets becomes involved.

CHAIRMAN SIMON asked for an explanation of the first three of the last four completed years. REP. COCCHIARELLA said this means the last four years and not counting the current year, is the present year because there is not necessarily the numbers or the experience that has determined the time. The claims have all come in which are the most current of the last four years.

REP. EWER questioned the statement of everyone's security deposit and if it is liquidated before the guarantee fund. Mr. Hunter said no. The entire membership of the guarantee fund would be assessed to a prorated share based upon the payments needed.

REP. MARSHALL asked who gets the deposit interest on the account. Mr. Hunter said the actual interest would be credited to the depositor.

Closing by Sponsor:

Sponsor closes.

HEARING ON HB 193**Opening Statement by Sponsor:**

REP. DON LARSON, HD 58, Missoula County said this bill was brought by the request of the State Auditor. This bill adds two public members to the Montana Insurance Guarantee Association and the Montana Life and Health Insurance Guaranty Association.

Proponents' Testimony:

Frank Coty, Deputy Insurance Commissioner said there are two different guaranty associations and those associations are set up in the case of an insurance solvency. If a life and health insurance company goes solvent and there are consumers in Montana that have insurance with that particular company, they have benefits that will be lost because of the insolvency.. They may contact the Life Health Guaranty Association and recover their funds. They receive those funds by assessing other insurance companies that are not insolvent. Currently, the board of directors is made up of five individuals which are all from insurance companies and have no consumer participation. The decisions made by this board dramatically affect the consumers who operate in the event of an insolvency. The increase would be from 5-7 members and it would require the two new members be appointed from the public at large.

Roger McGlenn, Executive Director, Independent Agents Association said he supports this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. COCCHIARELLA asked for clarification of the two new members appointed and if they will be appointed by the commissioner. The other members are chosen by the members of the board themselves which has been approved by the commissioner. **Mr. Coty** indicated yes. **REP. COCCHIARELLA** asked if this were then a weighted vote. **Mr. City** said each insurance company has a vote. The current board has a nominating committee which nominates an insurance company for election. The elections occur. Essentially, the top persons are then voted upon. The top fifteen companies usually stay in the positions most of the time.

REP. EWER asked if the losses in the guaranteed fund are pro rated and to what extent the losses are incurred by the company. Are these losses allowed to be written off in taxes. **Mr. Coty** said this was correct.

Closing by Sponsor:

Sponsor closes.

EXECUTIVE ACTION ON HB 193

Motion: REP. LARSON MOVED DO PASS ON HB 193.

Vote: Motion carried 18-0 with REP. TUSS requesting placement on the Consent Calendar.

EXECUTIVE ACTION ON HB 152

Motion: REP. COCCHIARELLA MOVED DO PASS ON HB 152.

Vote: Motion carried 18-0 with REP. TUSS requesting placement on the Consent Calendar.

EXECUTIVE ACTION ON HB 163

Motion: REP. MILLS MOVED DO PASS ON HB 163.

Vote: Motion carried 18-0 with REP. EWER requesting placement on the Consent Calendar.

HEARING ON HB 168Opening Statement by Sponsor:

REP. SCOTT J. ORR, HD 82, Lincoln County said this bill has a long history and goes back more than 2 years. The volunteer firefighters have been working with Workers' Compensation to work on the language of this bill. This bill is initially an act requiring that Workers' Compensation insurance premiums for volunteer firefighters be based on the minimum annual premium, the number of training hours, and the number of runs made in the previous year and providing an immediate effective date and applicability date. The intent of the bill is volunteer firefighters may belong to a county department, a city department or city/county department. In 1991 a law was passed which stated city departments would be covered under Workers' Compensation now under the city's plan and that rate is only \$.25 based on a salary of \$25.00 per month which accumulates to \$1.25 per month. In the same year the counties were offered that coverage but the base salary was set at \$900.00 per month and the rate of \$7.89 as opposed to 5 cents. The rate therefore is \$71.00 per month. This is unaffordable. The rural fire departments cannot afford the coverage. The additional trouble with the county coverage is it is available through the county but only if the department covers the entire county.

Proponents' Testimony:

Bob Gilbert, Montana State Volunteer Firefighter Association said there were several people in the state of Montana volunteering their time and effort to protect our homes and businesses from fires. In rural Montana there must be volunteers and unfortunately those people go out on the job and if they are injured they are not covered by anything. This bill tends to deal with medical coverage only not with loss of wages. It is a special circumstance with a very special group of people that needs to be addressed. Those volunteers need to be taken care of

because they are saving our property in the event there are fires.

James Loftis, Montana Fire Districts Association stated there were only approximately 3 or 4 fire districts in the state even covering their volunteers. An informal survey was made with several fire districts throughout the state. The response received from districts shows the volunteers have not had an accident in 5 years.

Scott Waldron, Fire Chief, Frenchtown Fire District said the cost of the present insurance is unworkable. Frenchtown, which is one of the largest volunteer fire districts in the state, had 384 calls which totaled a mere 2,379 man hours. The hours worked for one person averaged out to 45 hours per week. The cost to cover that one employee with Workers' Compensation under the present program is \$52,299 for 2,379 hours of work. He then discussed a report which was compiled on firefighting services. If volunteers would ever need to be replaced with paid personnel it would cost the state \$208 million. There is not a bigger group that gives more and gets less than the volunteer firefighters.

Nancy Butler, General Counsel, State Compensation Insurance Fund said the State Fund understands the volunteer firefighter problem in being able to afford the benefits the act provides. However, as an insurance which also is required by law to be solvent, they are sensitive to the fact that adequate premiums for the risk covered could be achieved. The balance of both needs - the collection of adequate premiums and have some coverage.

REP. LARSON supports this legislation.

Opponents' Testimony:

Jacquelyne Lenmark, American Insurance Association said she was a reluctant opponent to this bill because she is aware and familiar with the problems the firefighters are trying to correct. Based upon the new amendments, AIA may change its testimony. There should be no deviation from the normal method of classification in any profession. There is a painful history in Montana of having made exceptions for particular industries because there appeared to be a legitimate need and the state is now paying the bill for that.

Questions From Committee Members and Responses:

REP. EWER said the League of Cities is self insured and is subsidizing their volunteer fire people. Rural fire people don't have access for whatever reason to self insurance plans. Is the League of Cities choosing to subsidize volunteer firefighters?

Ms. Lenmarck said this bill accepts those who are self insured from its action. The bill only impacts private carriers. She then said her comments were general and based upon the principal of the mod factor, the classification codes, the premiums

assessed for covering this particular occupation needing to be calculated and substantiated in the same way as any other industry. **Alec Hanson, League of Cities/General Manager, Montana Municipal Insurance Authority** said under state law, and the policy of their program, full coverage is provided for volunteers. The premium is based upon a salary of 25 hours per month multiplied by \$6.00 per hundred. The premium therefore is \$18.00 per year. If Workers' Compensation cannot be supplied to firefighters, Montana is not going to have those people.

CHAIRMAN SIMON questioned some amendments which would change this bill so that medical coverage only would be the sole issue. He then asked if there were any other places in Workers' Compensation which has medical coverage only. **Nancy Butler** said there were cases in the county where medical coverage was only provided.

CHAIRMAN SIMON then said firefighters were seeking medical coverage. Perhaps an association might be established to purchase medical coverage. **REP. ORR** said Workers' Compensation is available now but the base salary is set at \$900 and both the city's coverage and League of Cities both offer that coverage at a base salary of \$25. The base salary is the huge difference.

Closing by Sponsor:

Sponsor closes.

HEARING ON SB 100

Opening Statement by Sponsor:

SEN THOMAS BECK, SD 28, Powell County said Montana is in the offering for maybe getting a major company into the state. To help that incentive, a proposal has been written to locate in Montana. There could be a possibility of 3500 employees, building a facility that could cost as high as \$1.3 billion. The employees being employed by Micron could possibly have a spin off of approximately 8,000-10,000 employees. This would be a tremendous asset to the state and is being endorsed by many newspapers across the state. This bill would offer a loan of \$16 million dollars to Silver Bow County to build an infrastructure connected with Micron. The bill would be used for a solid waste plant or roads to help with the incentive to persuade Micron to Montana. The loan will come from the Board of Investments off of the investments from the Coal Tax Trust Fund. The repayment of this loan will be made by Micron. Giving them a credit of the first corporate income tax which they file is the incentive Montana is offering. The average income tax per year will be \$10-\$23 million in income tax.

Proponents' Testimony:

SEN. J.D. LYNCH said this bill was in the very best interest of bipartisan support of economic development in Montana. Many senators from northwestern Montana have endorsed this bill. One of the specifications of the transaction would be the necessity of an engineering school within 60 miles of their plant.

REP. JOE QUILICI supports this bill. He asked how many times do the residents in the state have the chance to develop 3500 jobs? This legislation will give the state the chance to create these jobs to bring Micron to Montana.

TAPE 1, SIDE B

REP. RED MENEHAN said he had been asked if the state was capable of taking on this number of people in the area of Butte. Since the last ten years there have been over 500 state jobs and 1000 jobs were lost because of the closure of the smelter.

REP. DANIEL HARRINGTON said this was a wonderful move on the part of this legislature to help southwestern Montana in their plight to bring this group to the state.

REP. DEBBIE SHEA stated that not only will this industry create many welcome jobs in the community, but it will also broadly diversify the economy of what was once a single industry town. It will establish a tax base that will not only benefit Butte/Silver Bow but all of Montana. By allowing this loan, this body will be making good use of funds available for such purposes.

Jack Lynch, Chief Executive, Butte/Silver Bow presented a fact sheet with various attributes of this legislation. **EXHIBIT 3**

SEN. CHARLES SWYSGOOD stated his support of this bill.

Alec Hansen, League of Cities and Towns supports this bill. There are also letters of endorsement from cities across the state. This project would be good for Butte, it would be good for southwestern Montana and good for the entire state.

Linda Reed, Governor's Office said that on behalf of the Governor, they encouraged the favorable consideration of this bill. **EXHIBIT 4**

Jim Camich, Montana Technologies Company said he supports this bill.

David Owen, Montana Chamber of Commerce supports this bill.

Gloria Paladichek, Richland Development said that while western Montana has benefited from the oil, gas and coal revenue from the East Richland Development they look forward from benefiting from

the Micron revenue from the west. The best thing to do for eastern Montana is to fill up western Montana.

Evan Barrett, Executive Director, Butte Local Development Corporation submitted a chart published by Micron indicating the communities under further consideration for the Micron manufacturing complex. **EXHIBIT 5**

Jerry Williams, Butte/Silver Bow Law Enforcement Agency said they are confident that the law enforcement needs of Butte/Silver Bow will be met if Micron moves to Butte.

REPS. PAVLOVICH, BARNETT, MARSHALL, SLITER and ELLINGSON wished to be placed on record as supporting this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. LARSON questioned the situation of the adequate amount of school room space in Butte. **Mr. Lynch** said he had met with the school boards of Butte. The estimated number of students was 3000. These students would be spread among Deer Lodge, Anaconda, Dillon, Whitehall and Butte. The school board feels comfortable that they can adequately absorb the number of students which would be incurred by the location of Micron. Butte has neither asked the taxpayers or the school district to mortgage their future in the efforts to secure this facility.

REP. EWER questioned the role of the Board of Investments in this merger. He said he had heard this was to be a loan. The board is going to need to be in the hot seat in order to make this loan. It has been said that this will be a loan to the community of Butte/Silver Bow. Butte/Silver Bow will be responsible for making the payments back to the Board of Investments. **Mr. Barrett** said yes to the question.

REP. EWER asked if this would be under the consolidated local government water supply and sewer district statute? **Mr. Barrett** said the methodology of how this will be used is the city will accept the loan and will use either that vehicle or the existing water company vehicle or possibly a 63/20 corporation to construct the concept.

REP. EWER then asked if the relationship of the city and the loan was going to pass through from revenues from Micron or is the city's intention to put its credit on the line. **Mr. Barrett** said he believed the city, in signing the loan would put its credit on the line. Nevertheless, the city would, in the process of developing the loan package with the Board of Investments and Micron who is paying the fees with the tax credit, would be negotiated with them to support documentation to provide the

assurances. There would be security from Micron commensurate with the requirements of the law.

REP. EWER said it was very important to state that local government has very specific abilities to borrow and pledge credit and that the Board of Investments are not empowered to local governments for more authority. **Mr. Barrett** said they did have the authority under the self governing powers to be able to facilitate the direct relationship. There is a fee structure for use of the facility. Any other user in the area would pay a commensurate fee for use of the facilities. There will be a contractual relationship for a payment above the use fees which would go specifically for the debt service payment.

REP. EWER asked if it was anticipated that Micron will be paying for these infrastructures. **Mr. Barrett** said the users which would be predominately Micron, and potentially there would be other users in the future, would pay for the use of that infrastructure. There will be a payment above the use fee that would be specifically targeted for repayment of the debt for the loan.

REP. EWER said there was a need to follow the prudent expert rule; they be legally empowered and therefore Butte/Silver Bow must be sure, by the end of the session, there is sufficient authority. He said he did not want to "beat up on the Board of Investments by saying the board was going to do something because the legislature said they were to do this". The committee is willing to fast track this issue. **Mr. Barrett** said they were very pleased that the Budget Office, Revenue Department and Board of Investments have participated in the drafting of this bill. If there are some shortcomings in the bill they will be rectified.

REP. EWER said the board is under the Montana Environmental Protection Act for any loan that may have an impact on environmental issues. It is required to have environmental assessment. Anytime there is dealings with public water, they piggyback on other states. **Mr. Barrett** said this project will not move forward without all of the necessary permits.

REP. MILLS questioned page 2 which requires certain commitments on the type of loan that will be made. **Mr. Barrett** said that condition was in the bill. The Board needs to be satisfied that the 2000 job threshold is going to be met before they proceed with the loan. The sections will be renumbered.

CHAIRMAN SIMON said the bill in section 2 changes the numbering of the statute.

REP. ELLINGSON said he was supporting this bill. If there were 10,000 new jobs being created there will be approximately 7,000 families in need of housing. This is an enormity upon Silver Bow County. These will also need new sewer systems, roads, etc.,

Mr. Lynch said \$45 million was spent in the upgrading of the sewer system, water and landfill capacities. Because of the closure of the mines there are more people in Silver Bow County and more infrastructure available to serve these people in the '60's and '70's than at the present time. For the first time in 68 years Butte is experiencing an increase in population. The proposal will contain a number of commitments from firms already financed to construct new houses. There have also been some internal reviews of locations in Butte and sites in Butte. There are building lots available which once supported 6500 people in Butte. There is also 4 years to scale up to production.

REP. LARSON asked how the other counties were going to be impacted. **Mr. Lynch** said these counties had been contacted while developing this proposal. **REP. LARSON** then said according to the bill the board shall allow the Board of Science and Technology to administer \$15.5 million in coal tax trust funds for capital loans and \$8.1 million for research and development. Will this be exempted? **Mr. South** said the \$16 million is not a part of the 25%.

REP. EWER asked if the Board of Investments contemplated what type of security arrangement and statute to Title 7 was needed. **Mr. South** said relative to security there is a section in the bill to provide the infrastructure itself to be collateral. The Board would look at the revenue stream, changes against Micron and that would need to be a guaranteed contract. There is a statutory prohibition against lending to individuals.

REP. KEENAN said the third assumption on the fiscal note states the rate of interest and other terms charged on the loan will be equal to the expected return. **Mr. South** said a list of interest rates is published every week of financial institutions who wish to participate in in-state investment programs. No interest would be lost if the loan were made because the interest rate would be set at a comparable interest rate to any other loan made in the program.

CHAIRMAN SIMON said the bill says in the new section the infrastructure may serve as collateral for the loan. That appears to be a pretty hollow statement because that kind of collateral is not very much in the name of collateral. How would the Board view that kind of collateral? **Mr. South** said that under the in-state investment program the same position is taken that most banks do in making a loan. They do not make a loan without some kind of hard collateral. In this instance the Board would still take the infrastructure as collateral because there may be other possibilities. It is not a real liquid collateral. The focus would be on the contract itself. Silver Bow County is also placing its credit on the line.

CHAIRMAN SIMON referred to sewage treatment or water treatment facilities that might be built and those facilities would not only serve Micron but probably would be part of a package. If a

default were to occur would the Board step in and take over the revenue stream of at least a portion of the fees coming into that kind of facility. **Mr. South** said he would envision the Board looking at the entire structure constructed with the \$16 million.

CHAIRMAN SIMON said the Board is going to need to follow the prudent man rule in looking at these investments to make sure that the taxpayers of the state will not suffer undue risk.

CHAIRMAN SIMON said testimony provided this loan could be paid back in perhaps 3 years. Charging \$5 million a year for water and sewer is a pretty high charge. How will the structure of those fees be set so Micron would be paying at a fair level. **Mr. Lynch** said the expenditure of the state fund is based upon the company's selecting Butte as the area for construction. The intent is the state monies are not expended until such time as construction is actually taking place. With the development of infrastructure there would be negotiations with Micron as a development fee. The development fee would be above and beyond the regular user fees or access fees which they would be required to pay. That money would be used to repay the loan from the state. They can then lay claim to the dollar to dollar tax credit up to the limit of the loan. This will be a developmental fee.

CHAIRMAN SIMON then said the bill did not say developmental fee and should this language be inserted to indicate that part of the repayment would be through developmental fees that might be charged. There is not enough language in the bill for these development fees. **Mr. Lynch** said that obviously they were trying to package something. As the proposed legislation is written the Governor's Office has had the opportunity to review, the Board of Investments, the Budget Office, Department of Revenue and Butte/Silver Bow. This is the proposal that is a package and combination of all of those efforts to review. He then said he would not have objection to the developmental language and regular user fees.

REP. EWER said there is nothing in Title 7 that contemplates this kind of development fee. How can one contemplate having these fees. People don't know the answer. When this issue is crossed it should be done early. **Mr. Lynch** said there is no objection.

CHAIRMAN SIMON said developmental fees go beyond that scope. They go to the issue of needing to provide for fire and police protection which are beyond the scope for normal fees for infrastructure. **Mr. Barrett** said there would be some breaks on the property taxes during the first five years. Relative to the language of the statute, it is not restrictive. This does not say you can't do it. It is very acceptable for Butte/Silver Bow to have a contractual relationship with Micron to make sure the security of payment is there. Micron is free to sign the contract. There is nothing in the statute that restricts that. The reference to fees is that it is a conceptual framework. It

would not be a fee related to use. It may just be a contract to assist in the payment for the infrastructure. There is not a direct linkage between the use of the word fee and repayment other than the fact it says the entity that is charging the fees would be the entity that would be making the repayment. There is not a legal connection to this statute as it is drawn between the fees and repayment.

CHAIRMAN SIMON then said he wanted to make sure the proper links were in line so Butte/Silver Bow can make the necessary contractual arrangements and link that to the repayment of the loan of Butte/Silver Bow back to the state of Montana. It is not that anybody in the committee is objecting to trying to attract Micron but we're trying to be very deliberate and careful in looking at this legislation. **Mr. Lynch** said this was indeed appropriate. As the person putting together this package, he requested the bill be moved through and if through further research in the next several weeks discover there is some change needing to be done, it can be done. There is a time frame on this issue. If we could make this bill come through and then take some real serious looks.

CHAIRMAN SIMON stated he was concerned about the time frame. He said he was concerned about things being in line and was not certain that executive action could be taken on the bill today. He encouraged they get together with everyone and make sure what is contained in the bill regarding the concerns of Rep. Ewer and working with Mr. South.

REP. COCCHIARELLA questioned the fees. **Mr. South** said under current law, self government powers say they have the authority to charge system development fees. They do this across the state.

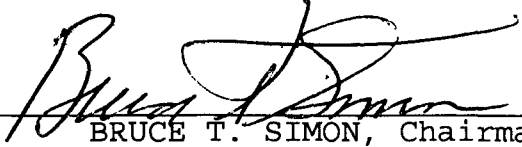
REP. DEVANEY asked if a developmental fee would be charged solely to Micron. **Mr. South** said Butte/Silver Bow could set this area up as a special system that would include only Micron and the affiliated businesses that would come in there. There would be no effect on the water rates charged to the rest of the people. There is a system which requires the utility districts for consolidated governments which charge appropriate fees to cover both direct and indirect costs. There is a good reason to get all of these questions answered.

Closing by Sponsor:

Sponsor closes.

ADJOURNMENT

Adjournment: 11:00 AM



BRUCE T. SIMON, Chairman



ALBERTA STRACHAN, Secretary

BTS/ajs

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL

DATE 1-18-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority	X		
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.		X	
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		



HOUSE STANDING COMMITTEE REPORT

January 18, 1995

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Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 152** (first reading copy -- white) **do pass**.

Signed: _____


Bruce Simon, Chair

Committee Vote:
Yes 18, No 0

151207SC.Hdh



HOUSE STANDING COMMITTEE REPORT

January 18, 1995

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Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 163** (first reading copy -- white) do pass.

Signed:

A handwritten signature in cursive script, appearing to read "Bruce Simon".

Bruce Simon, Chair

Committee Vote:
Yes 18, No 0.

151208SC.Hdh



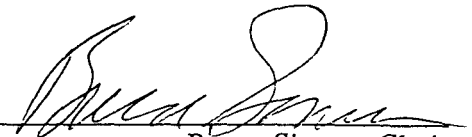
HOUSE STANDING COMMITTEE REPORT

January 18, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 193** (first reading copy -- white) **do pass**.

Signed:


Bruce Simon, Chair

Committee Vote:
Yes 8, No 0.

151204SC.Hdh

EXHIBIT 1
DATE 1-18-95
HB 163

HB 163 INFORMATION SHEET

"AMENDING BID SECURITY AND CONTRACT SECURITY REQUIREMENTS"

Sponsored by Rep. Kasten

At the request of the Department of Administration

◆ **Purpose.** This bill makes three basic changes to Montana's purchasing laws. First, it changes the requirements for bid and contract performance security to make it easier for businesses to bid on state contracts. Second, it permits state contracts to be issued for a period up to seven years. Third, it permits businesses to obtain bid or contract performance security from financial institutions outside of Montana.

◆ **Bid and contract performance security.** Under the current law, the state is excessively protected in the event that a vendor does not honor a bid or a contract. This bill would give the department the option of requiring bid security only when deemed necessary to protect the state and would reduce the amount of contract performance security required from 25% to a minimum of 10%. The result is that vendors would find it easier to bid on state jobs and costs to the state would be lower.

◆ **Extend contract periods.** This part of the bill gives agencies the option of issuing contracts for up to seven years, including any renewals or extensions. Currently, contracts can only be issued for up to three years. As major state purchases become more complex and costly, it becomes more cost-effective to enter into contracts for longer periods. The longer contract period permits the cost of capital investment on the part of the vendor to be spread out, resulting in lower costs to the state.

The current three-year contract limit was set in 1983, but includes exemptions for three state programs to enter into contracts for up to ten years (DOA purchase of telecommunications and data processing systems, DOR's liquor agencies, and SRS's medicaid management information system).

◆ **Change Montana financial institution requirement.** This amendment allows the state to accept financial security instruments used for bid and contract performance security from any properly insured federally or state chartered bank, savings and loan association, or credit union -- not just a bank or savings and loan in Montana. This will assist vendors who conduct their banking in locations other than Montana.

◆ **Minor amendments.** This bill includes several minor amendments:

- ◆ Changes the word "bond" to the more correct term "security."
- ◆ Adds insured credit unions as a source of bid and contract

performance securities.

◆ Removes the requirement that the determination by an agency to use the "request for proposal" method of procurement instead of the "competitive sealed bid" method *must be in writing*.

◆ Removes the requirement that the determination by an agency to renew a contract *must be in writing*.

◆ **Definitions.** "Bid security" is used as a tool to ensure that vendors submitting bids to the state will actually enter into a contract if awarded to them. By statute, the state must require 10% of the bid price for bid security for service contracts over \$10,000. This bill would make requiring bid security an option for the state instead of mandatory. "Contract performance security" is used to ensure that the contract holder will actually perform the contracted service. By statute, the state must require 25% of the total contract price for contract performance security for service contracts over \$10,000. This bill would reduce that amount to a minimum of 10% and clarify how to calculate that amount.

◆ **Impact on construction contracts and political subdivisions.** The bid security and contract performance security amendments in this bill will not impact state construction contracts or procurement contracts issued by political subdivisions in any way. See Section 18-2-315, 18-4-124, and 18-4-132, MCA.

◆ **Impact on future legislatures.** Permitting the option of extending state contracts up to seven years does not restrain future legislatures because, by statute, every state contract must contain a "non-appropriation" clause. See section 18-4-313, (3), MCA.

For more information on this bill contact: Marvin Eicholtz, Administrator, Procurement and Printing Division, Department of Administration, 444-3053.

MONTANA SELF-INSURERS ASSOCIATION

GEORGE WOOD, Executive Secretary

EXHIBIT 2
DATE 1-18-95
HB 152

DIRECTORS

President Jerry Woods, Montana Power Company
Vice-President Colleen Dunlop, Stone Container Corp.
Directors Marilyn Dauber, Golden Sunlight Mines
..... James Connelly, Champion International
..... Dan Walker, US WEST Communications

MONTANA SELF-INSURED EMPLOYERS

1/1/95

No.	Organization	No.	Organization
2	ASARCO	37	Union Oil
3	AT&T	38	US WEST
4	Albertson's	39	Western Fruit Express
5	American Drug	40	Town Pump, Inc.
6	Ash Grove Cement	42	Plum Creek
7	Borden's, Inc.	43	Ryder Systems
8	Browning Ferris	44	Federal Express Corp.
9	Champion International	45	Columbus Hospital
11	Cominco American	46	St. Patrick Hospital
12	Con Agra	47	St. Joseph Hospital
13	Conoco Pipeline	49	Northwest Health Care Corp.
14	Conoco, Inc.	50	St. Thomas Child & Family Center
15	Consolidated Freightways	51	Montana Hospital Association
16	Continental Baking	52	J. C. Penney
18	Entech	53	Dayton Hudson Corp. (Target)
19	F. H. Stoltze Land & Lumber	54	Horizon Health Care Corp.
20	Georgia Pacific	55	Holy Rosary Hospital
21	Golden Sunlight	56	J.H. Kelly, Inc.
22	Holly Sugar	57	Harvest States Cooperatives
23	K-Mart	58	International Paper
24	Louisiana-Pacific	59	Stillwater Mining Co.
25	Montana Deaconess Medical Center	60	Montana Contractors
26	Montana Health Network	61	Plum Creek Management Co.
27	Montana Power	62	MT Electric & Telephone Systems
28	Peabody Coal		WC Pool
29	Rosauer's	63	Montana Resources (Partnership)
30	Shell Pipeline	64	Holnam, Inc.
31	Shell Western E & P		
34	Stan Watkins Trucking		
36	Stone Container		

Public Entity - Self-Insured

- * 1. Montana School Group
- * 2. Montana Association of Counties
- * 3. Montana League of Cities & Towns
- * 4. Missoula County

1993 Payroll	\$1,412,068,026
Compensation Paid	\$13,819,230
Employees	72,521

FACT SHEET

EXHIBIT 3
DATE 1-18-95
SB 100

S.B. 100 -- MICRON Legislation

What does S.B. 100 ask the State to do?

S.B. 100 asks the State to participate with the government of Butte-Silver Bow, the Federal Government, and certain private sector entities in providing infrastructure that would support the MICRON project should it come to Montana. The infrastructure would be provided free of charge to MICRON as an incentive for MICRON to locate in Montana.

How would the State help?

The State would help by loaning Butte-Silver Bow \$16 million to help secure the MICRON project.

Where would the money come from?

It would be a loan to Butte-Silver Bow from the Coal Tax Trust Fund.

What would the money be used for?

It would be used for public infrastructure which would support the MICRON project, including water and sewer lines, water and waste-water treatment facilities, and roads.

How would it be repaid?

Butte-Silver Bow would repay the loan from fees paid by MICRON to Butte-Silver Bow for use of the infrastructure. Butte-Silver Bow would use a portion of those fees to pay off the loan.

How would MICRON get the infrastructure free if it is making payments for it through Butte-Silver Bow?

MICRON would get an offsetting state corporate income tax credit for each dollar they pay to cover the principal and interest of the coal tax loan.

What would be the rate and term of the loan?

That would be set by the Board of Investments following discussions with Butte-Silver Bow. An effort would be made to have the loan repaid in a relatively short period.

Is the State at risk?

The loan would only be made once MICRON decided to come to Montana and had moved forward with their construction. Infrastructure paid for by the Coal Tax Loan would provide collateral for the loan, and Butte-Silver Bow would put into place agreements with MICRON that would insure repayment.

FACT SHEET

MICRON Technologies Expansion

Who is MICRON?

MICRON Technology, Inc. was founded in 1978 as a design consulting company operating from the basement of a dentist's office in Boise, Idaho. MICRON became a publicly traded company in 1984. Today it is one of the top four semi-conductor manufacturers in the world. Last year, an exceptionally good year in the industry, brought MICRON, still headquartered in Boise, a net income of over \$400 million.

What are MICRON's expansion plans?

MICRON intends to double its production capability following the construction of a \$1.3 billion facility. MICRON received applications from over 300 communities, including some in foreign countries, before developing a short-list of 13 communities to further consider for its expansion. Those communities include Butte-Silver Bow, Montana. Others on the short list are Twin Falls, Boise, Nampa, and Coeur d' Alene (all in Idaho); the Tri-Cities and Lacey (both in Washington); Payson Utah; Omaha, Nebraska; Oklahoma City, Oklahoma; Waterloo and the Quad Cities (both in Iowa); and South Bend, Indiana.

What are the economic benefits to Montana of the MICRON expansion?

MICRON will hire 3,500 employees at the facility. Payroll -- salaries and benefits -- will total approximately \$200 million per year. Another 6,500 to 7,000 support jobs will result from the MICRON expansion. The total jobs resulting from MICRON's expansion will increase Montana's total job base by 2-2.5 percent. The location of MICRON in Montana will help Montana enter the 21st Century with a 21st Century economy.

What are the tax benefits of the MICRON expansion?

Conservative estimates of the income tax benefits to the State of Montana (both individual and corporate for both the direct and spin-off jobs associated with MICRON) should be at least \$23 million each year.

Property taxes (prior to any tax breaks) would be approximately \$35 million per year, although some existing property tax incentives will have to be put into place by Butte-Silver Bow in order to attract MICRON to the Big Sky Country.

Senate Bill 100
An Act Authorizing Loans to Businesses Estimated to Employ at
Least 2000 (MICRON)
Testimony
January 18, 1995
House Labor and Industry Committee

Mr. Chairman and members of the Committee, I am Linda Reed and I represent the Governor's Office where I am the Senior Economic Development Advisor. I am here to request you favorable consideration of Senate Bill 100. As you know, passage of this bill will provide financing for the construction and installation of water, sewer, and road systems necessary to support the needs of Micron Technology, an Idaho company seeking a second operating location. This financing will take the form of a loan from the permanent coal tax trust fund to Butte-Silverbow which will construct and own these infrastructure improvements and in turn charge Micron for their use. These charges will create the cash flow necessary to repay the trust fund.

Even though the State's loan will be to Butte-Silverbow, cash for repayment will be generated by the profitable operations of Micron. It is therefore important to understand who and what this company is.

Micron is primarily engaged in the manufacture of memory devices used in personal computers. Operations began in 1978 in the basement of a dentist's office and its first memory chip was sold in 1981. The company is now the eighth largest computer memory company in the world, competing in the \$14.3 billion market for 4 megabit chips and the estimated \$30.3 billion market for 16 megabit chips.

The early days of the company's growth, were financed by J.R. Simplot, perhaps an unusual investment for one of the nation's largest agricultural magnates. The company is now publicly owned and its stock traded in the New York Stock Market. The fifty two week high and low in 1994 were \$45 and \$15 respectively. The 9/1/94 fiscal year end book value of stock was \$10.30 per share compared to a trading price of \$45.00 per share.

In 1994 the Company generated \$400.5 million in after tax income on sales of \$1.6 billion. This represented nearly twice the sales and nearly four times the net income generated in 1993. The reason for the improvement - stable prices, strong demand in the personal computer market, specifically home use, (its largest customer is Compact Computer) and reduced production costs.

At 9/1/94 the company had \$433 million in cash and liquid investments and was conservatively financed with a long term debt to equity ratio of 0.15:1.

Memory is nothing more than a high tech commodity. To remain profitable, companies must continually invest in new product

development and upgrade manufacturing capability to stay current with the technology and competitive with pricing. Micron has a reputation as a low cost producer and this proposed expansion will allow the Company to engage in more efficient manufacturing.

Are there risks associated with this loan? Yes. The only loans I know of that are risk free are those collateralized by cash and even then you better make sure your security documents are in order. But, is this risk worth the potential reward? I think definitely so. The company's financial statement indicates the ability to support additional debt and cash flow to service it over a brief period of time, even without increasing capacity which is the point of this new plant.

In return for this investment we can look forward to 3500 more people at work in Montana at Micron at jobs that pay an above average wage, who will be able to support families and pay taxes to broaden the base for us all.

These are not familiar numbers to Montana businesses nor is this familiar technology. But this unfamiliarity need not persist.

To those Montanans who have perhaps had a skeptical thought about why Montana, I respond why Idaho? and share the only thing I know with certainty. If we do not collectively, as a State and its people, put our best offer on the table we will definitely not get this opportunity.

For all the reasons that Micron headquartered in Boise, it will find itself at home in Southwest Montana. Abundant water and land, a strong work ethic, friendly and open communities in which employees can live, and recreational opportunities that take a backseat to none. But I think we have something Boise doesn't have. . . perhaps the most important requirement of Micron, access to local higher education for training of technicians and engineers and for research facilities. We have the spectrum of educational forums needed by Micron in Butte, from a vocational school to offer training at the technician level to our world class technology school, Montana Tech. Enhancing Montana Tech's curriculum is a tradition of cooperative program offerings from Montana State University's engineering school.

Having a Montana community selected from over 300 applications should make us all proud. It should be a strong signal, that Montana and technology companies are compatible and that if we continue to take care of our natural resources for both their economic value and aesthetic enjoyment, maintain our work ethic by strengthening families, and keep our centers of technological development and learning vibrant, we will have other opportunities.

I would like to thank the economic development and community leaders of Southwest Montana and my associates in the Department of Commerce who are working to provide this opportunity for all for all of us. It is also important to acknowledge the statewide

EXHIBIT 4
DATE 1-18-95
SB 100

support provided from both the private and public sectors to the development of this proposal. I know that with the support of the legislature for the passage of Senate Bill 100, Montana will be able to present a competitive offer to Micron. One that will be taken seriously because it will make economic sense.

On behalf of the Governor, I encourage your favorable consideration of Senate Bill 100. It is an important piece of our invitation to Micron to join us in Montana, which if accepted will provide economic benefit to us all, but more importantly create the jobs to keep and bring our children home.

Thank you.

Communities Under Further Consideration Micron Manufacturing Complex

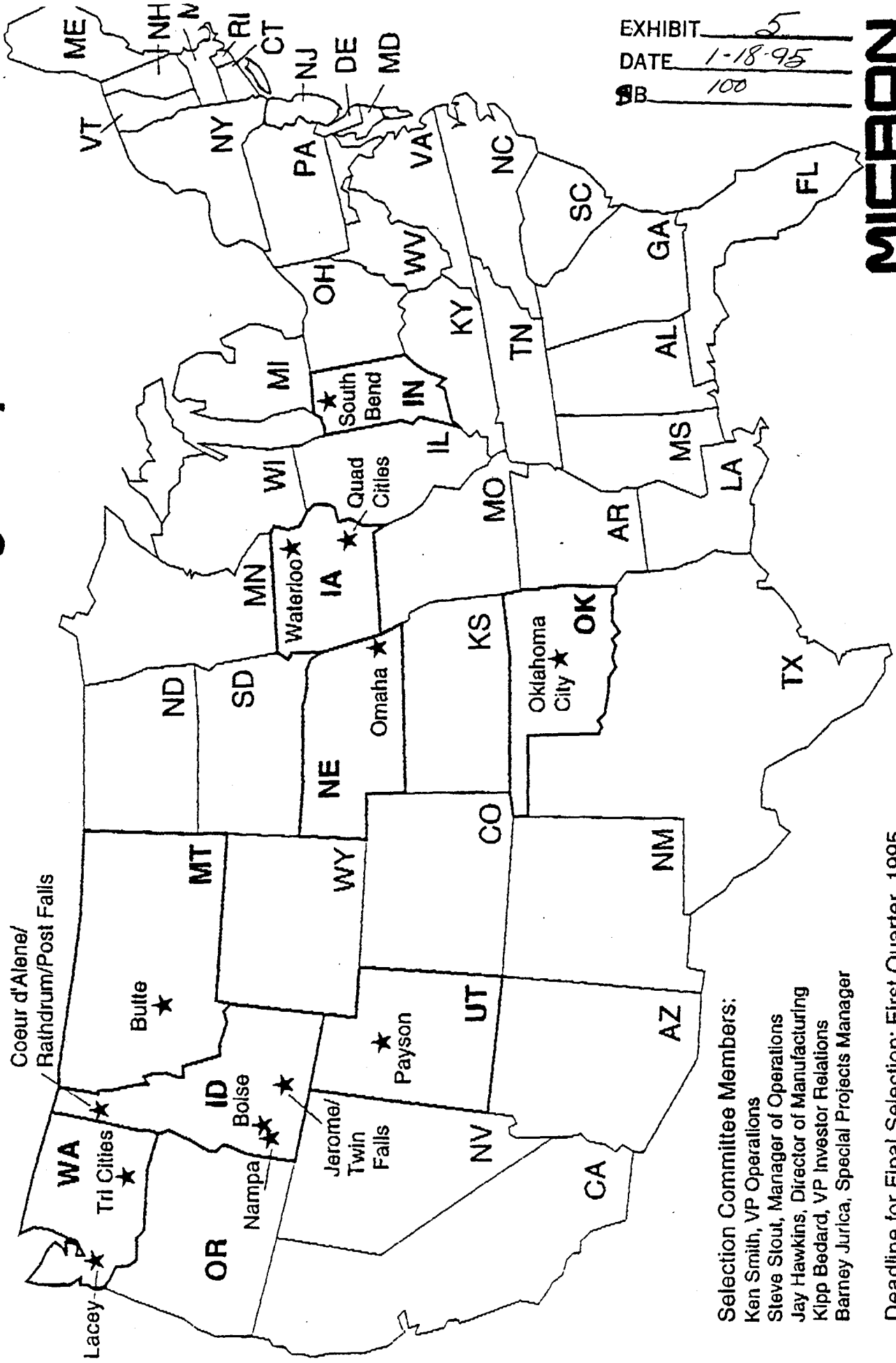


EXHIBIT 5
 DATE 1-18-95
 SB 100

Selection Committee Members:
 Ken Smith, VP Operations
 Steve Stout, Manager of Operations
 Jay Hawkins, Director of Manufacturing
 Kipp Bedard, VP Investor Relations
 Barney Jurica, Special Projects Manager

Deadline for Final Selection: First Quarter, 1995

MICRON
 TECHNOLOGY, INC.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

SUB-COMMITTEE

DATE 1/18/95

BILL NO. SB 152 SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
George Wood	MT. St. James Ave	✓	
CHUCK HUNTER	DEPT OF LABOR	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

SUB-COMMITTEE

DATE 1-18-93

BILL NO. HB-193 SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
<u>ROGER McBLENN</u>	<u>IND. INS. AGENTS ASSOC. OF MT</u>	<u>HB-193 X</u>	
<u>FRANK COPE</u>	<u>ST. AUDITOR</u>	<u>X</u>	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

SUB-COMMITTEE

DATE 1/18/95

BILL NO. 163

SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
MARVIN EICHOLTZ	DOA	✓	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor SUB-COMMITTEE DATE 1/18/95
BILL NO. SB 100 SPONSOR(S) Beck, Quilici

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
<u>Ervyn Burnett</u>	<u>BLDC</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Jack Lynch</u>	<u>Butte Silver Bow</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Jerry Williams</u>	<u>Butte Silver Bow Sheriff's Dept</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Gloria Paladichuk</u>	<u>Richland Development</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>David Owen</u>	<u>mt chamber of ^{commerce}</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>SCOTT WALDRON</u>	<u>VOLUNTEER FIREFIGHTER</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Robert White</u>	<u>Bozeman Chamber</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Alec Hansen</u>	<u>MLCT</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>FRANK COTE</u>	<u>Self</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>JOE BARNETT</u>	<u>Rep. HD 32</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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