

1 Senate BILL NO. 86
 2 INTRODUCED BY LOCKREM LEE

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
 5 SECTION 41-701, R.C.M. 1947, REQUIRING THE COMMISSIONER OF
 6 LABOR TO DETERMINE THE STANDARD PREVAILING RATE OF WAGES AND
 7 CONTRACTORS TO SUBMIT WEEKLY REPORTS OF WAGES PAID."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 41-701, R.C.M. 1947, is amended to
 11 read as follows:

12 "41-701. Preference of Montana labor in public works
 13 -- wage scale -- not to conflict with federal statutes. (1)
 14 ~~in--all--contracts--hereafter~~ contracts let for state, county,
 15 municipal, school, heavy highway or municipal construction,
 16 services, repairs, or and maintenance work under any of the
 17 laws of this state ~~there shall be inserted in each--of--said~~
 18 contracts include:

19 (a) a provision ~~by which that~~ the contractor must give
 20 preference to the employment of bona fide Montana residents
 21 in the performance of ~~said the work;~~ and

22 (b) a provision that the ~~said~~ contractor must further
 23 pay the standard prevailing rate of wages including fringe
 24 benefits ~~for--health--and--welfare--and--pension--contributions;~~
 25 ~~and--travel--allowance--provisions~~ in effect and applicable to

1 in the county or locality in which the work is being
 2 performed.

3 (2) "Standard prevailing rate of wages including
 4 fringe benefits ~~for--health--and--welfare--and--pension~~
 5 ~~contributions;~~ ~~and--travel--allowance--provisions;~~ applicable
 6 to in effect in the county or locality in which the work is
 7 being performed" ~~--means are~~ those wages including fringe
 8 benefits for health and welfare and pension contributions
 9 and travel allowance provisions ~~which that~~ are paid ~~in--the~~
 10 ~~county--or--locality~~ by other contractors for work of a
 11 similar character performed in that county or locality by
 12 each craft, classification, or type of worker needed to
 13 complete a contract under this act. When work of a similar
 14 character is not being performed in the county or locality,
 15 the standard prevailing rate of wages including fringe
 16 benefits ~~for--health--and--welfare--and--pension--contributions;~~
 17 ~~and--travel--allowance--provisions~~ shall be those rates
 18 established by collective bargaining agreements in effect in
 19 the county or locality for each craft, classification, or
 20 type of worker needed to complete the contract.

21 (3) No contract ~~shall may~~ be let to any person, firm,
 22 association, or corporation refusing to execute an agreement
 23 with the above-mentioned provisions in ~~it--provided--that;~~
 24 However, in contracts involving the expenditure of federal
 25 aid funds, this act ~~shall may~~ not be enforced ~~when it is~~

SB 86

1 ~~such--a--manner-as-to-conflict~~ conflicts with or be contrary
 2 ~~to-the~~ federal statutes prescribing a labor preference to
 3 honorably discharged soldiers, sailors, and marines, ~~and or~~
 4 prohibiting ~~as--unlawful~~ any other preference or
 5 discrimination among citizens of the United States.

6 (4) All public works contracts under this act shall be
 7 approved in writing by the legal adviser of the contracting
 8 state, county, municipal corporation, school district,
 9 assessment district, or special improvement district body or
 10 officer prior to execution by the contracting public officer
 11 or officers.

12 (5) Whenever the employer is not signatory party to a
 13 collective bargaining agreement, those moneys designated as
 14 negotiated fringe benefits shall be paid to the employee as
 15 wages.

16 ~~(1)(6)~~ The Montana commissioner of labor ~~may~~ shall
 17 determine the standard prevailing rate of wages in the
 18 county or locality in which the contract is to be performed.
 19 The commissioner shall undertake to keep and maintain copies
 20 of collective bargaining agreements and other information
 21 from which rates and jurisdictional areas applicable to
 22 public works contracts under this act may be ascertained.

23 ~~(2)(7)~~ Contractors, subcontractors, and employers who
 24 are performing work or providing services under public works
 25 contracts as provided in this act shall:

1 (a) post in a prominent and accessible site on the
 2 project or work area, not later than the first day of work,
 3 a legible statement of all wages to be paid to the employees
 4 employed on such ~~the~~ site or work area; and

5 (b) send weekly to the contracting public officer a
 6 signed report of the wages paid to employees on the site or
 7 work area during the preceding week.

8 ~~(3)(8)~~ Any contractor, subcontractor, or employer who
 9 ~~shall-pay~~ pays workers or employees at less than the
 10 standard prevailing wage ~~as--established-under-the-public~~
 11 ~~works-contract~~ shall forfeit to the contracting agency the
 12 sum of ~~twenty-five--dollars--(\$25)~~ a day for each worker so
 13 underpaid. Whenever it ~~shall--appear~~ appears to the
 14 contracting agency or to the Montana commissioner of labor
 15 that there are insufficient monies due to the contractor or
 16 the employer under the terms of the contract to cover such
 17 penalties, the Montana commissioner of labor may, within
 18 ~~ninety--(90)~~ days after the filing of notice of completion of
 19 the project and its acceptance by the contracting agency,
 20 maintain an action in district court to recover all such
 21 ~~penalties--and the~~ forfeitures due. Nothing in this section
 22 ~~shall-prevent-the~~ prevents an individual worker who has been
 23 underpaid from maintaining an action for recovery of the
 24 wages due under the contract as provided in chapter 13 of
 25 this title.

1 ~~(4)(9)~~ The provisions of this act do not apply in
2 those instances where the standard prevailing rate of wages
3 is determined pursuant to federal law.

4 ~~(5)(10)~~ In no instances where this act is applicable
5 shall ~~may~~ the standard prevailing rate of wage be determined
6 to be greater than the ~~applicable~~ rate of wage in the area
7 for the particular work in question as negotiated under
8 ~~existing-and~~ current collective bargaining agreements."

-End-

STATE OF MONTANA

REQUEST NO. 459-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 9, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 86 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Requires the Commissioner of Labor to determine the standard prevailing rate of wages, and contractors to submit weekly reports of wages paid.

ASSUMPTIONS:

1. 3.00 FTE would be added to current staff to administer the act.
2. Operating expenses for the additional FTE would be absorbed in the requested FY 78 and FY 79 budgets.
3. There would be 1,283 contractors entering into public works contracts.
4. 10% of the total contractors covered would violate the act.

FINANCIAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
Personal services	\$37,743	\$38,618	\$76,821
Operating expenses	0	0	0
Equipment	<u>460</u>	<u>0</u>	<u>0</u>
Additional cost of proposed legislation	<u>\$38,203</u>	<u>\$38,618</u>	<u>\$76,821</u>

Richard A. Traugott
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-77