SENATE BILL 8

IN THE SENATE

January 22, 1979	Introduced and referred to Committee on Labor and Employment Relations.
February 13, 1979	Committee recommend bill, as amended.
February 14, 1979	Printed and placed on members' desks.
February 15, 1979	Second reading, as amended.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, not passed.

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LC 0759/01

Jeseter BILL NO. 1 INTRODUCED BY 2 3

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STANDARD 4 5 PREVAILING RATE OF WAGES TO BE CONSISTENT WITH FEDERAL LAW: EXEMPTING STATE CONTRACTS UNDER \$50,000; AMENDING SECTIONS ъ 7 18-2-401 THROUGH 18-2-403. MCA."

а 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 18-2-401. MCA. is amended to read: 11 "18-2-401. Definitions. (1) "Labor" is hereby defined 12 to be all services performed in the construction, repair, or 13 maintenance of all state, county, municipal, and school work does not include engineering, superintendence, 14 and

management, or office or clerical work.

(2) A "bona fide resident of Hontana" is hereby 16 17 declared to be a person who, at the time of his employment 18 and immediately prior thereto, has lived in this state in 19 such a manner and for such time as is sufficient to clearly 20 justify the conclusion that his past habitation in this 21 state has been coupled with intention to make it his home. 22 Solourners or persons who come to Montana solely in 23 pursuance of any contract or agreement to perform such labor 24 shall under no circumstance be deemed to be bona fide 25 residents of Montana within the meaning and for the purpose

1 of this part.

2 [31_"Locality" means a county within the boundaries of 3 the state of Montana.

4 (3)(4) (a) "Standard prevailing rate of wages, 5 including fringe benefits for health and welfare and pension 6 contributions and travel allowance provisions applicable to 7 the--county--or a locality in which the work is being B performed", means those wages, including fringe benefits for health and welfare and pension contributions and travel 9 allowance provisions, which are paid in the county-or 10 11 locality by other contractors for work of a similar 12 character performed in that county-or locality by each craft, classification, or type of worker needed to complete 13 14 a contract under this part.

15 (b) When work of a similar character is not being 16 performed in the county-or locality, the standard prevailing 17 rate of wages, including fringe benefits for health and 18 welfare and pension contributions and travel allowance 19 provisions, shall be those rates established by collective 20 bargaining agreements in effect in the county-or locality 21 for each craft, classification, or type of worker needed to 22 complete the contract.*

Section 2. Section 18-2-402, MCA, is amended to read: 23 *18-2-402. Standard prevailing rate of wages. (1) The 24 Montona--commissioner--of--labor--may-determine-the-standard 25 56 8

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1 provailing-rate-of-wages-in-the-county-or-locality-in--which 2 the--contract--is--to--be--performedy-The-counissioner-shall undertake---to---keep--and--maintain--copies---af---collective 3 bardsining-sqreements-and-other-information-from-which-rates 4 5 and---- jurisdictional---areas--- applicable--te--public--works contracts-under-this-port-may-be-ascertained. The standard 6 7 provailing rate of wages and fringe benefits established for 8 a locality pursuant to the Davis-Bacon Act. 40 USC 276a. is 9 the standard prevailing rate for all contracts let for bid 10 by the state of Montana in that locality. 11 (2) The-provisions-of-this-part-do-not-apply-in-those 12 instances where the standard prevailing -- rate--- of -- wages -- is determined -- pursuant-to-federal-leve & state contract valued 13 14 at less than \$50,000 is exempt from the standard prevailing 15 rate of wages provisions of this parts

16 (3) In no instances where this part is applicable 17 shall the standard prevailing rate of wege wages be 18 determined to be greater than the applicable rate of wege 19 wages in the eres locality for the particular work in 20 question as negotiated under existing and current collective 21 bargaining agreements."

Section 3. Section 18-2-403, MCA, is amended to read:
*18-2-403. Preference of Kontana labor in public works
-- wages -- federal exception. (1) In all contracts
hereafter let for state, county, municipal, school, or heavy

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1 highway construction, services, repair, and maintenance work z under any of the laws of this state there shall be inserted з. in each of said contracts a provision by which the contractor must give preference to the employment of bona 4 fide Nontana residents in the performance of said work and 5 6 must further pay the standard prevailing rate of wages. 7 including fringe benefits for health and welfare and pension 8 contributions and travel allowance provisions in effect and a applicable to the county-or locality in which the work is 10 being performed.

11 (2) No contract shall be let to any person, firm, 12 association, or corporation refusing to execute an agreement 13 with the above-mentioned provisions in it, provided that in contracts involving the expenditure of federal-aid funds 14 15 this part shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes 15 17 prescribing a labor preference to honorably discharged 18 soldiers, sailors, and marines and prohibiting as unlawful 19 any other preference or discrimination among citizens of the United States." 20

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Approved by Committee on Labor & Employment Relations

1	SENATE BILL NO. 8
z	INTRODUCED BY DOVER, LOWE
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING-THESTANDARD
5	PREVAILINGRATEOF-WAGES-TB-BE-CONSISTENT-WITH-FEDERAL-LAW
6	IQ_CLARIEY_CEBIAINDEFINITIONSRELATINGTOTHESTANDARD
7	PREVAILING_BATE_OF_WAGES; EXEMPTING STATE CONTRACTS UNDER
8	\$50,000 FROM_PROVISIONS_OF_PART_4_OF_TITLE18:CHAPTER2;
9	AMENDING SECTIONS 18-2-401 THROUGH 18-2-403+ MCA.*
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 18-2-401, NCA, is amended to read:
13	<pre>#18-2-401. Definitions. (1) "Labor" is hereby defined</pre>
14	to be all services performed in the construction, repair, or
15	maintenance of all state, county, municipal, and school work
16	and does not include engineering, superintendence,
17	management, or office or clerical work.
18	{2} A "bona fide resident of Montana" is hereby
19	declared to be a person whom at the time of his employment
20	and immediately prior thereto, has lived in this state in
21	such a manner and for such time as is sufficient to clearly
22	justify the conclusion that his past habitation in this
23	state has been coupled with intention to make it his home.
24	Sojourners or persons who come to Montana solely in

pursuance of any contract or agreement to perform such labor

1 shall under no circumstance be deemed to be bona fide residents of Montana within the meaning and for the purpose 2 3 of this part.

(3) "Locality" means a county within the boundaries of 4 5 the state of Montana.

+3+(4) (a) "Standard prevailing rate of wages. Б including fringe benefits for health and welfare and pension 7 contributions and travel allowance provisions applicable to R the--county--or a locality in which the work is being 9 cerformed", means those wages, including fringe benefits for 10 health and welfare and pension contributions and travel 11 allowance provisions, which are paid in the county-or 12 locality by other contractors for work of a similar 13 character performed in that county--or locality by each 14 15 craft, classification, or type of worker needed to complete 16 a contract under this part.

(b) When work of a similar character is not being 17 performed in the county-or locality, the standard prevailing 18 19 rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance 20 provisions, shall be those rates established by collective 21 bargaining agreements in effect in the county-or locality 22 for each craft, classification, or type of worker needed to 23 24 complete the contract.*

25 Section 2. Section 18-2-402, MCA, is amended to read:

1	<pre>#18-2-402. Standard prevailing rate of wages. (1) #he</pre>
2	Montanacommissioneroflabormay-determine-the-standard
3	prevaiting-rate-of-wages-in-the-county-or-tocality-inwhich
4	thecontractistobeperformedu-ihe-commissioner-shnii
5	undertaketokeepandmaintaincopiesofcollective
6	bergaining-agreements-and-other-information-from-which-rotes
7	andjurisdictionalareasapplicabletopublic-works
8	contracts-under-this-part-may-beascertained+ <u>IHEMONIANA</u>
9	COMMISSIONER_OF_LABOR_MAY_DETERMINE_THE_STANDARD_PREVAILING
10	BAIE_DE_WAGES_IN_IHE_COUNTY_OR_LOCALITY_IN_WHICH_IHE
11	CONTRACTISIOBEPERFORMEDTHECOMMISSIONERSHALL
12	UNDERIAKE_IO_KEEP_AND_MAINTAIN_COPIESOECOLLECIIVE
13	BARGAINING_AGREEMENIS_AND_DINER_INFORMATION_EROM_WHICH_BATES
14	ANDJURISDICTIONALAREASAPPLICABLETOPUBLICWORKS
15	CONTRACTS_UNDER_THIS_PART_MAY_BE_ASCERTAINED. The==stondard
16	prevoiting_rate_of_wages_and_fringe_benefits_established_for
17	a==} ioc ality=pursuoot=to=tbe=Boyia=Bacoo=Acty=10=U5E=276ay=ia
18	the_atonderd_prevailing_rate_for_all_contracta_letforbid
19	<u>by=tbe=state=of=Uonteng=in=that=locality=</u>
20	{2} Theprovisions-of-this-part-do-not-apply-in-those
21	instances-where-the-standard-prevailingrateofwagesis
22	determinedpursuantto-federal-laww <u>THE_PROVISIONS_OF_IHIS</u>
23	PART_DO_NOI_APPLY_IN_IHOSE_INSTANCESWHERE_IHE_STANDARD
24	PREVAILINGRATEUE_WAGES_IS_DETERMINED_PURSUANT_TO_EEDERAL
25	LAM. A_state_contract_valued_at_less_than_\$50+000_isexempt
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1 from the standard prevailing rate of wages provisions of 2 this parts

(3) In no instances where this part is applicable 3 shall the standard prevailing rate of wage wages be 4 determined to be greater than the applicable rate of wase 5 wages in the area locality for the particular work in 6 7 question as negotiated under existing and current collective 8 bargaining agreements."

9 Section 3. Section 18-2-403. MCA. is amended to read: *18-2-403. Preference of Montana labor in public works 10 11 -- wages -- federal exception. (1) In all contracts hereafter let for state, county, municipal, school, or heavy 12 13 highway construction, services, repair, and maintenance work 14 under any of the laws of this state there shall be inserted 15 in each of said contracts a provision by which the 16 contractor must give preference to the employment of bona fide Montana residents in the performance of said work and 17 must further pay the standard prevailing rate of wage., 18 19 including fringe benefits for health and welfare and pension 20 contributions and travel allowance provisions in effect and 21 applicable to the county-or locality in which the work is 22 being performed.

(2) No contract shall be let to any person, firm, 23 24 association, or corporation refusing to execute an agreement 25 with the above-mentioned provisions in it, provided that in

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1 contracts involving the expenditure of federal-aid funds
2 this part shall not be enforced in such a manner as to
3 conflict with or be contrary to the federal statutes
4 prescribing a labor preference to honorably discharged
5 soldiers, sailors, and marines and prohibiting as unlawful
6 any other preference or discrimination among citizens of the
7 United States.**

-End-

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SB 0008/03

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7	PREVAILING_BAIE_DE_WAGES; EXEMPTING-STATE-EBNTRACTS-UNDER
8	\$50+000 <u>-ERON-PROVISIONS-0E-PART-4-0E-TITLE101EHAPTER21</u>
9	AMENDING SECTIONS 10-2-401 THROUGH 18-2-403+ MCA."
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11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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17	management, or office or clerical work.

18 (2) A "bona fide resident of Montana" is hereby 19 declared to be a person who, at the time of his employment and immediately prior thereto, has lived in this state in 20 21 such a manner and for such time as is sufficient to clearly 22 justify the conclusion that his past habitation in this 23 state has been coupled with intention to make it his home. 24 Sojourners or persons who come to Montana solely in 25 pursuance of any contract or agreement to perform such labor shall under no circumstance be deemed to be bona fide
 residents of Montana within the meaning and for the purpose
 of this part.

4 <u>131_"Locality" means a county within the boundaries of</u>
 5 <u>the state of Montana.</u>

6 (3) (a) "Standard prevailing rate of wages, 7 including fringe benefits for health and welfare and pension contributions and travel allowance provisions applicable to 8 9 the -- county--or a locality in which the work is being performed** means those wages* including fringe benefits for 10 11 health and welfare and pension contributions and travel 12 allowance provisions, which are paid in the county-or 13 locality by other contractors for work of a similar character performed in that county-or locality by each 14 craft, classification, or type of worker needed to complete 15 a contract under this part. 16

17 (b) When work of a similar character is not being performed in the county-or locality, the standard prevailing 18 rate of wages, including fringe benefits for health and 19 20 welfare and pension contributions and travel allowance 21 provisions, shall be those rates established by collective 22 bargaining agreements in effect in the county-or locality 23 for each craft, classification, or type of worker needed to 24 complete the contract."

25 Section 2. Section 18-2-402, MCA, is amended to read:

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THIRD READING

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17	<u>a==locality=purauont=to=the=Pavia=Bacon=Actx=40=VS6=236ax=i3</u>
18	the standard preveiting rate for att contracts tet for the
19	<u>hy-the-state-of-Nentana-in-thet-localitys</u>
20	(2) The-provisions-of-this -part-do-not-apply-in-those
21	ins tonc as-where-the-standard-prevailing rateofwegesis
22	deterainedpursuantto-federal-low+ IHE_PROVISIONS_OF_IHIS
23	PART_DO_NOT_APPLY_INIHOSEINSTANCESWHEREIHESIANDARD
24	PREVAILINGRATEDE_WAGES_IS_DETERMINED_PURSUANT_TO_EEDEBAL
25	LAMA A_atote_controct_voluad_ot_leas_thon_\$50v090_isaxempt

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2 this:parts

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1 contracts involving the expenditure of federal-aid funds 2 this part shall not be enforced in such a manner as to 3 conflict with or be contrary to the federal statutes 4 prescribing a labor preference to honorably discharged 5 soldiers, sailors, and marines and prohibiting as unlawful 6 any other preference or discrimination among citizens of the 7 United States."

-End-