

Senate Bill 250

In The Senate

January 23, 1981	Introduced and referred to Committee on Business and Industry.
	Fiscal note requested.
February 2, 1981	Fiscal note returned.
February 20, 1981	Committee recommend bill do not pass.
February 21, 1981	On motion Senate reconsider its action taken on Adverse Committee Report and order printed and placed on second reading. Motion failed.

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Assembly BILL NO. 250

INTRODUCED BY Norman Haffey
Ed Stewart Jackson, Halligan Blaglock
Berg

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROTECT EMPLOYEES AND COMMUNITIES FROM THE EFFECTS OF PLANT CLOSINGS OR LARGE-SCALE LAYOFFS UNDER CERTAIN CONDITIONS; AND CREATING A BOARD OF ECONOMIC READJUSTMENT."

WHEREAS, unemployment that results from layoffs, shutdowns, relocations, or closures is clearly a social as well as an individual problem and requires a societal response; and

WHEREAS, economic and social disruptions resulting from the loss of jobs adversely affect communities as well as individuals; and

WHEREAS, public and private employers who create job losses through layoffs and closures should be legally required to engage in planning that will prevent unemployment from occurring as a fundamental social responsibility of the employment relationship; and

WHEREAS, employees and the communities in which they reside should have legal rights to expect public services and necessary assistance that will avert or minimize the economic and social disruption resulting from job losses.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 Section 1. Short title. [This act] may be cited as the "Montana Plant-Closure Act".

Section 2. Definitions. As used in [this act] the following definitions apply:

(1) "Closing" means the permanent shutting down of operations at a workplace for any reason other than because the employer has filed for bankruptcy in accordance with federal bankruptcy laws.

(2) "Department" means the department of labor and industry, as provided for in 2-15-1701.

(3) "Employee organization" means a union, any other collective bargaining organization, or, if no such organization exists at the time of retrenchment or closing, an ad hoc group elected by employees affected by retrenchment or closure.

(4) "Employer" means a person, firm, partnership, corporation, trust, association, or other form of business organization, private or public, which employs at least 250 individuals at a single workplace. The term does not include a form of business operating on a temporary or seasonal basis.

(5) "Retrenchment" means reducing the number of employees at the workplace by at least 250 employees over any 2-year period. However, the term does not include a

1 reduction in the number of employees resulting solely from
2 a labor dispute.

3 (6) "Workplace" means a factory, plant, office, or
4 other facility that has been in operation in the state for 5
5 or more consecutive years. The term does not include a
6 construction site or other facility or place that was never
7 intended as other than a temporary or seasonal place of
8 employment.

9 Section 3. Requirements for a closure or a
10 retrenchment. (1) Upon making a decision to close or
11 retrench, an employer shall:

12 (a) immediately notify the department, the employees,
13 the affected employee organizations, the affected local
14 governments, and a newspaper of general circulation in the
15 county where the workplace subject to closure or
16 retrenchment is situated. Notification must be according to
17 the method and form prescribed by department rule.

18 (b) within 90 days, provide the department, the
19 employees, the affected employee organizations, and the
20 affected local governments with a written impact statement
21 that includes information concerning:

22 (i) the number of employees affected;

23 (ii) the payroll;

24 (iii) the potential tax losses to the local government
25 and the state;

1 (iv) the effect on other businesses;

2 (v) the reasons for closure; and

3 (vi) any other pertinent information that the
4 department requires;

5 (c) pay 25% of the annual payroll of the affected
6 employees into the community readjustment account provided
7 for in [section 5];

8 (d) make a lump sum payment to each employee who loses
9 his employment as a result of the closing or retrenchment.
10 The payment must be at least equal to the average monthly
11 wage of the employee times the number of years he has been
12 employed by the employer, or \$25,000, whichever is less. The
13 payment must be made at the time of the employee's
14 separation from employment.

15 (e) continue any health insurance benefits, on the
16 same basis as before separation, for 6 months following
17 separation or until the employee finds full-time work,
18 whichever occurs first.

19 (2) If an employer operates or owns more than 50% of
20 another workplace and is taking applications for employment
21 at the facility, the employer must offer comparable
22 reemployment to as many employees as possible who lost their
23 jobs as a result of a closing or retrenchment at a workplace
24 of the employer. Whenever an employee accepts an offer of
25 reemployment, the employer shall pay to that employee

1 reasonable relocation expenses incurred by the employee in
2 moving his family and possessions to the location of the new
3 employment.

4 Section 4. Collective bargaining agreements -- when
5 controlling. Provisions of collective bargaining agreements
6 that require severance pay, rights of reemployment with the
7 employer, accrued benefits, or other employee rights, at a
8 level greater than those provided for in [section 3],
9 supersede the provisions of [section 3] relating to those
10 rights.

11 Section 5. Community readjustment account. (1) There
12 is a community readjustment account within the earmarked
13 revenue fund provided for in 17-2-102.

14 (2) All money designated under [section 3(1)(c)] shall
15 be deposited in the account.

16 (3) The state treasurer shall draw warrants from this
17 account upon order of the department.

18 Section 6. Department of labor and industry -- general
19 powers. The department may:

20 (1) award grants from the community readjustment
21 account, subject to [sections 7(b) and 8];

22 (2) conduct investigations into the alternatives to
23 plant closing and retrenchment;

24 (3) hold public hearings;

25 (4) summon and compel attendance of witnesses to

1 testify and require production of any book, paper, or
2 document; and

3 (5) develop plans for alleviating the effects of
4 present and future closings or retrenchments.

5 Section 7. Adoption of rules. (1) The department shall
6 adopt rules to:

7 (a) provide procedures for employers to meet their
8 obligations under [this act];

9 (b) provide for a grant application procedure; and

10 (c) provide for involvement of affected employees,
11 employee organizations, local elected officials, and other
12 residents of affected communities in executing the
13 department's responsibilities under [this act].

14 (2) The department shall adopt any other rules
15 necessary to implement [this act].

16 (3) All rules adopted by the department must be in
17 accordance with the Montana Administrative Procedure Act
18 (Title 2, chapter 4).

19 Section 8. Grants. The department may authorize grants
20 from the community readjustment account for the following
21 purposes:

22 (1) to assist local governmental units affected by a
23 closing or retrenchment in dealing with impacts caused by
24 the closing or retrenchment. The department shall encourage
25 local government units to work together in a manner that

1 involves a broad representation of the communities affected
2 by the closing or retrenchment to adequately plan for
3 resolving problems caused by the closing or retrenchment.

4 (2) to assist groups of affected employees seeking to
5 form an employee-owned business that would employ 10 or more
6 affected employees. This assistance may include but is not
7 limited to equity capital, evaluating the feasibility and
8 economic viability of such businesses, securing loans for
9 their creation, providing training and counseling in
10 management, and coordinating the efforts of local, state,
11 federal, and private agencies in assisting in the
12 organization of such businesses.

13 (3) to retrain affected employees; and

14 (4) to provide matching funds to a political
15 subdivision to secure federal job-creating assistance.

16 Section 9. Civil penalties and enforcement. (1) Upon
17 failure of an employer to comply with [this act] or rules
18 adopted under it, any affected employee, employee
19 organization, or resident of the affected community may
20 bring a civil action. Administrative procedures need not be
21 exhausted before such action may be brought.

22 (2) Any employer who violates any of the provisions of
23 [this act] or rules adopted under it is subject, at the
24 discretion of the court, to civil damages of not more than
25 three times the amount of compensation to be paid under

1 [section 3(1)(d)].

2 (3) If the court finds intentional violation of the
3 notification requirements, the court may enjoin the closing
4 or retrenchment until such time as the notification
5 provisions have been fulfilled.

6 Section 10. Severability. If a part of this act is
7 invalid, all valid parts that are severable from the invalid
8 part remain in effect. If a part of this act is invalid in
9 one or more of its applications, the part remains in effect
10 in all valid applications that are severable from the
11 invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 212-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 29, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 250 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

An act to protect employees and communities from the effects of plant closings or large-scale layoffs under certain conditions; and creating a board of economic readjustment.

Assumptions

1. The Department of Labor and Industry will be required to adopt procedural rules. This would be done using present staff and General Fund. The cost of adopting these rules will be about \$339.00 per year.
2. In the event of a shutdown or retrenchment meeting the specifications of Senate Bill 250, the department would implement the procedures outlined in Section 6 using contracted services. The source of funding for these activities would be the Community Readjustment Account.

<u>Fiscal Impact</u>	<u>FY 1982</u>	<u>FY 1983</u>
Revenue:		
Community Readjustment Account (Estimated per case)	\$105,000	\$105,000
Expenditures:	<u>105,339</u>	<u>105,339</u>
Net Effect to General Fund	\$ (339)	\$ (339)

David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-2-81