

EXHIBIT 13  
DATE 2-17-05  
HB 640

**House Bill 640**  
**Opposition Testimony of Jeff Brandt**  
**Before the House State Administration Committee**

Mr. Chairman, members of the committee, for the record my name is Jeff Brandt, Acting State Chief Information Office (CIO) and Acting Administrator of the Information Technology Services Division (ITSD), within the Department of Administration.

I am providing testimony in opposition to HB640 on behalf of the Schweitzer Administration.

Although the Schweitzer Administration certainly supports the concepts of economic development and growth within the information technology sector of the Montana economy, we have a number of concerns with this bill:

1. We are concerned this bill may be attempting to address a problem that doesn't exist. The stated purpose of the legislation is to encourage IT companies to locate in Montana and encourage the use of Montana IT businesses. However, in FY04, approximately 90% of the expenditures on IT term contracts were awarded to Montana IT companies.
2. We are concerned about retaliation by other states against our existing Montana IT companies. Thirty-four states have what are called "reciprocal preferences." This means that these states hold any preferences we would give to Montana companies against them when they bid on contracts in their states. It is unclear whether other states would determine if the provisions of this bill will be considered a preference and used against Montana IT companies.
3. This bill is contrary to "free market" trends in government procurement. The trend in government procurement is to repeal "protectionist" statutes and provide for open competition in procurements. In fact, the Montana Procurement Act that guides all state procurement requires that we "foster effective, broad based competition within the free enterprise system."
4. This bill would create an obstacle to an agency getting access to a vendor(s) that has the best solution for their computer system needs. This bill requires that an IT contractor be an existing Montana IT business or that 25% of the contractor hours is performed by bona fide Montana residents. There are many IT companies whose IT staffs would not be Montana residents. There is a great deal of good software and/or technical expertise that is not marketed by existing Montana companies and whose staff experience could not be directly substituted by Montana contractor staff.
5. We have concerns this bill would foster a litigious IT procurement environment. In many cases, the State's ability to allow the most qualified vendors to submit a proposal will require the State to grant a waiver as provided for in the bill. In other situations, there will be disagreements regarding bona fide employees, Title 35 status of companies, actual percent of

## **Governor Brian Schweitzer supports:**

- Developing and implementing a strategy to promote and encourage Montana businesses and employees to compete successfully for state contracts within current state law to:
  - Ensure procurement specifications do not unduly impede on Montana firms and small businesses;
  - Urge an in-state presence by successful bidders when supported by a legitimate business need;
  - Require reasonable bonding and security requirements on vendors to strike a fair balance between the state's and vendor's risks;
  - Provide greater training opportunities to Montana firms and small businesses to increase their ability to participate in state projects; and,
  - Provide electronic notifications of solicitations to interested potential vendors.
- Studying and developing a state policy for procurement of public goods and services.
- Creating an interim task force to study and make recommendations related to procurement to:
  - Enhance Montana businesses;
  - Promote hiring Montana businesses and employees; and,
  - Identify barriers in the state procurement process that prevent more contracts to Montana firms.