

SENATE BUSINESS & INDUSTRY  
EXHIBIT NO. 3  
DATE 2/18/05  
BILL NO. SB 424, 425

February 16, 2005

Senate Business, Labor and Economic Affairs Committee  
State Capitol  
Helena, MT 59601

RE: SB 424 and SB 425  
Transfer of Financial Institutions to State Auditor

Dear Madame Chair Cocchiarella:

As a way introduction, I am the Chairman of the State Banking Board, which is composed of six members appointed by the governor. The Board's basic function is to approve new bank charters. By law, three of the members are active officers in Montana banks and three are public members. The members of the Board include Max Agather, Wayne Edwards, Mark Huber, Russell Ritter, Mark Staples and myself.

Thank you for the opportunity to allow me to express the Board's view on the proposed legislation (Senate Bill 424) that would transfer the regulation of banking and other financial institutions from the Department of Administration to the Office of the State Auditor. A companion bill (Senate Bill 425) would change the name of the State Auditor to the Commissioner of Financial Services.

The federal Gramm-Leach Bliley Act (signed into law in November 1999) created the financial holding company, which can engage in a statutorily provided list of financial activities, including insurance and securities. To date, there are only four financial holding companies in Montana that are engaged in activities related to securities and insurance. We also note the recent announcement from Citigroup Inc., the nation's largest financial institution, to sell its insurance division (Traveler's Life and Annuity Co.) to MetLife Inc. for \$11.5 billion. This transaction appears to signal a reversal of any combination of the banking and insurance industries.

There is little similarity between the regulation of financial institutions (banks, credit unions, etc.) and the supervision of the insurance and securities industries, which are now regulated by the State Auditor. Each of these industries needs examining staff and supervisors well-versed in their respective area of expertise. As such, we believe that there is little opportunity for cost savings through cross-training and consolidation.

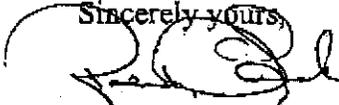
Under current law, the Commissioner of Financial Institutions is appointed by the Director of the Department of Administration. The Director may consult with the State Banking Board in hiring or terminating the Commissioner. Under the proposed legislation, financial institutions would be under the auspices of the State Auditor, who is elected by the citizens of Montana. No other state in the nation has an elected official directly responsible for the regulation of state-chartered financial institutions. We believe that such a structure would weaken financial institution regulation in Montana. The public's interest is of utmost importance in the regulation of banks. The chartering and,

if necessary, closure of banks must be determined by economic conditions rather than political influences. Furthermore, experience in banking and/or bank regulation is seen as a requisite for the Commissioner's position. Under the proposed legislation, future commissioners would rise through the political ranks rather than the banking or financial services industry.

The Division of Banking and Financial Institutions was accredited by the Conference of State Bank Supervisors (CSBS) in October 2004. CSBS is the professional association of state officials who charter, regulate and supervise the nation's 6,300-plus state-chartered banks. The accreditation was a goal established by the current Commissioner when she took over in 2001 and is the culmination of the Division's efforts since that time. These efforts include a compensatory pay plan supported by a professional career ladder and extensive educational opportunities. Changes in the Division's management structure may hurt the steps taken in examiner recruitment, promotion and retention.

In conclusion, the State Banking Board does not support the proposed legislation to transfer the Division of Banking and Financial Institutions to the Office of the State Auditor. We respectfully ask the Committee concur with our opinion.

Sincerely yours,



Robert J. Gersack, Chairman  
State Banking Board