

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 13, 1985

The meeting of the House Business and Labor Committee was called to order by Chairman Bob Pavlovich at 7:30 a.m. in Room 312-2 of the Capitol Building.

ROLL CALL: All members of the committee were present.

Chairman Pavlovich asked for motions on bills pending in committee.

HOUSE BILL 309: Rep. Brandewie moved DO PASS on HB 309, and a brief discussion of on-site inspections followed. Rep. Jones made a substitute motion of DO NOT PASS. Chairman Pavlovich suggested that the committee table HB 309 until the Senate acts on SB 189, a related bill. Rep. Jones' motion to table HB 309 carried unanimously.

HOUSE BILL 527: Rep. Simon moved DO PASS on the proposed amendments to HB 527. Rep. Jones made a substitute motion DO NOT PASS on the amendments to HB 527. That motion carried, 11-9. Rep. Jones then moved DO NOT PASS on HB 527. That motion carried 15-5.

HOUSE BILL 485: Rep. Driscoll moved DO PASS On HB 485. Rep. Ellerd made a substitute motion of DO NOT PASS. The bill was killed 11-9.

HOUSE BILL 234: Rep. Driscoll moved DO PASS on HB 234. Rep. Thomas offered a substitute motion of DO NOT PASS, which carried 12-8.

HOUSE BILL 718: Rep. Kitselman asked Tom Schneider, executive director of the Montana Public Employees Association, to explain that organization's stance on HB 718. Mr. Schneider told the committee that MPEA supports HB 718 as a means of obtaining a uniform grievance process for non-union state employees.

Rep. Brandewie moved DO PASS on HB 718. Rep. Driscoll made a substitute DO NOT PASS motion. The bill was killed with a 12-8 vote.

The committee then went out of executive session and proceeded with a discussion of HB 85.

HOUSE BILL 85: Rep. Earl Lory, District 59, introduced HB 85, which he sponsored. He explained that the bill would amend the statute allowing only private and local government-owned golf courses to operate beer and wine concessions.

Michael Easton, vice president of the University of Montana, spoke in support of HB 85. He said that any profits from beer and wine sales would be put back into a fund for improvements to the golf course.

There being no further proponents, Donald Larson, representing the Montana Tavern Association, rose as an opponent of HB 85. He said he has a long record of opposition to taverns on golf courses. He cautioned the committee against any action that would encourage youthful drinking, such as allowing the sale of beer and wine on a university-owned facility frequented by students.

There were no further opponents. Rep. Lory closed by saying the University of Montana golf course is not greatly used by students, and attracts many older residents of Missoula. He said allowing beer and wine sales would be a service to the citizens who play golf, not a harm to students.

Rep. Bachini asked if the snack bar serving beer and wine would be open year round, and Rep. Lory assured the committee that beer and wine would only be served there when the golf course was open.

The hearing on HB 85 was closed.

HOUSE BILL 759: Rep. Earl Lory, sponsor of HB 759, introduced the bill to committee. He said HB 759 is a bookkeeping measure that would allow the state auditor to set up a special revenue fund to cover the operation of the insurance division of that office. The fund would be generated from fees collected by the insurance department in the form of taxes, fines and penalties. Any monies remaining in that fund at the end of each fiscal year would revert to the general fund, he said.

Andrea Hemstad Bennett, state auditor, rose in support of HB 759. She said that a general philosophy of state government is that when fees are collected, they should be allocated to the operation of the collecting office. HB 759 would put that philosophy into action by allowing the insurance industry to "actually pay for its own regulation" through fees collected by the insurance department.

Rep. Lory gave a brief closing, in which he asked for committee support of HB 759.

In questions from committee, Rep. Simon asked Mrs. Bennett if the measure would give the auditor's office a license to increase its staff, since more funding would be under the control of that office. Mrs. Bennett said the only difference would be where a dollar amount was placed on a budget line, and that no staff change would result from passage of HB 759.

The committee closed discussion on HB 759.

HOUSE BILL 707: Rep. Loren Jenkins, District 13, introduced HB 707, which he sponsored. He also presented a proposed amendment to the bill. He explained that he introduced the legislation at the request of the state's rural water users, who felt burdened by state restrictions on plumbing practices.

Ray Wadsworth, program manager of Montana Rural Water Systems, Inc., testified in support of HB 707. A copy of his testimony is attached hereto as Exhibit 1.

Bill Olsen, secretary/manager of the Montana Contractors' Association, also spoke in support of HB 707. He said the impact of having to rely on licensed plumbers is difficult for rural people to bear, and is not cost-effective.

There being no further proponents, David Emerson, a member of Plumber and Pipefitters Union Local 139 in Great Falls rose in opposition to HB 707. A copy of his statement is attached hereto as Exhibit 2.

Monty F. Patterson, a member of the State Board of Plumbers, spoke against HB 707. He said that the Board has proposed alternative legislation that would come before the committee soon, and urged that no action be taken until that bill is introduced in committee. He said that relaxing the regulation of plumbing procedures would jeopardize the health and safety of both rural and urban Montanans. He stated that HB 707 is contrary to the language and intent of the Uniform Plumbing Code of Montana. He recommended that the committee postpone action, or act on a Do Not Pass Motion.

There being no further opponents nor proponents, the floor was opened to questions from committee.

Rep. Kadas asked Mr. Wadsworth if the "plumbers' bill" he referred to was the same mentioned by Mr. Patterson, and was informed that it was the same legislation.

Rep. Jenkins closed by saying that HB 707 was drafted with the intention of protecting both plumbers and the rural public.

Hearing on HB 707 was closed.

HOUSE BILL 662: Rep. Kerry Keyser, District 74, introduced this measure, which he sponsored. He said that HB 662 is basically a clarification of the Securities Act, defining when a securities transaction takes place in Montana, and when the Montana securities department has jurisdiction over such a transaction.

Kim Schulke, staff attorney for the securities department of the state auditor's office, spoke in support of the legislation. A copy of her testimony is attached hereto as Exhibit 3.

There were no further proponents, and no opponents. Rep. Keyser waived a closing statement. There were no questions from committee.

HOUSE BILL 618: Rep. Jack Sands, District 90, introduced HB 618, which he sponsored. He said that he was not requested to introduce the measure, but did so because he thought it was a good idea to change the legal interest rate from 6% to 10%, which would more accurately reflect "economic reality." He explained that the interest rate would apply when interest on an obligation is not specifically expressed in the terms of that obligation.

There were no further proponents nor opponents. Rep. Driscoll asked Rep. Sands for an example of when the proposed interest rate would apply. Rep. Sands said an example would be when an award, with interest, is granted as a result of a lawsuit. He further explained that although 10% was not a figure he would refuse to change, he did not want the committee to recommend a sliding interest rate because that would invite continuing lawsuits to determine interest.

Hearing was closed on HB 618.

HOUSE BILL 658: House Bill 658 was introduced in committee by sponsor Jack Ramirez, District 87. He explained that the same legislation was on the books in 1977, and was extended for two years in 1979. The purpose of HB 658, he explained, is to allow health care providers to get liability insurance if insurance companies in the state quit writing policies. He said that HB 658 would be temporary and self-sustaining, with fees generated covering the costs.

Speaking as a proponent of HB 658, Jerry Leondorf of the Montana Medical Association said that the fear of medical liability insurance becoming unavailable may not be realized, but HB 658 is a wise measure to protect medical providers if that unavailability does occur. He stressed the fact that HB 658 would expire in two years, and would only come into operation in the event medical liability insurance is not routinely available.

Don Allen, speaking in support of HB 658 on behalf of the Montana Hospital Association, said that previous speakers had explained the critical reasons for passage of the bill, and added his support to theirs.

Glenn Drake, representing the American Insurance Association, urged passage of HB 658. He said that group has historically been opposed to legislation like this because it never before believed predictions of the unavailability of insurance. He says that such unavailability is now a distinct local concern, and cited recent trends in awarding damages by the Supreme Court.

No opponents rose against HB 658, and Rep. Ramirez closed by reiterating Mr. Drake's concern about trends in punitive and liability awards in the courts, which have put Montana into a "difficult situation with respect to obtaining liability insurance."

The floor was opened to questions from committee, and Rep. Ellerd asked if HB 658 would require cooperative action among the state's insurance carriers. Rep. Ramirez said yes, carriers would be required to participate, involuntarily, but only on a temporary basis, until a permanent solution to the problem could be determined.

The hearing on HB 658 was closed.

HOUSE BILL 606: Rep. Bud Campbell, District 48, introduced HB 606, which would revise and clarify three areas of the state's motor vehicle sales and distribution laws.

Larry Majerus, representing the Dept. of Administration Motor Vehicle Division explained the major points of HB 606, which the department supports. He said the bill would require dealerships to prominently post a sign indicating that an auto sales business was in operation. It would also give the motor vehicle division the authority to inspect records that are required by law to be kept by auto dealerships. He noted that the only way for the division to gain access to those records now is by subpoena.

Mr. Majerus also said the proposed legislation would provide an appropriate penalty for violation of motor vehicle sales and distribution laws. He noted that the only penalty the division can now impose is revocation of the dealer's license, which is "too severe a penalty" in most cases.

Tom Harrison, representing the Montana Auto Dealers Association, spoke in support of the bill. He said it would provide "a level playing field" for everyone in the auto sales business, and said the industry is not afraid of record audits.

No opponents spoke against HB 606.

Rep. Campbell closed, saying the legislation would topple those people who use a dealer's license as a means to cheaply license a lot of vehicles intended for their own use.

Hearing was closed on HB 606.

HOUSE BILL 567: Rep. James Schultz, District 30, introduced HB 567, which he sponsored. He said the bill addresses a problem faced by several senior citizens in his district, that of cancellation of insurance benefits without the clear knowledge of the policy-holder. He said that notices received in the mail may not get due attention, especially from older people. He said that to these people, a policy cancellation can be especially devastating. The bill would simply require a reasonable, uniform process for cancellation of insurance coverage, he said. Rep. Schultz said the representatives of the insurance industry have asked him that action on the bill be postponed until they have had a chance to thoroughly examine the proposal. He said he would be open to ideas on how to provide adequate notice to older policy holders. A copy of his statement is attached hereto as Exhibit 4.

No other proponents spoke in support of HB 567.

Lester Loble, representing the American Council of Life Insurance, spoke against HB 567. He said the policy holder should bear the responsibility of keeping track of cancellation notices issued. He said that notice as required under HB 567 would be "administratively difficult" and create additional expense. He said that it is in the interest of both the company and the agent to make sure that notification

is received and the policy is paid. A copy of his testimony is attached hereto as Exhibit 5.

There being no further opponents, Rep. Schultz closed. He said he has no vested interest in the issue, but feels that the state should consider and adopt a uniform standard for insurance companies to follow in cancelling policies.

Hearing was closed on HB 567, and the committee went into executive session to act on bills heard.

EXECUTIVE SESSION

HOUSE BILL 85: Rep. Thomas moved DO PASS on HB 85. The motion carried, with Reps. Pavlovich, Hart and Nesbit voting no.

HOUSE BILL 606: Rep. Wallin moved DO PASS on HB 606, which carried unanimously.

HOUSE BILL 618: Rep. Brandewie moved DO PASS on HB 618, which carried unanimously.

HOUSE BILL 658: Rep. Kitselman moved DO PASS on HB 658, which carried unanimously.

HOUSE BILL 662: Rep. Kitselman moved DO PASS on the proposed amendments to HB 662, which carried unanimously. He then moved DO PASS on HB 662 as amended, which also carried unanimously.

HOUSE BILL 707: The committee agreed to hold HB 707 until it received the anticipated "plumbers' bill."

HOUSE BILL 759: Rep. Thomas moved DO PASS on HB 759, which passed unanimously.

HOUSE BILL 718: Rep. Kitselman made a MOTION TO RECONSIDER the committee's earlier action on HB 718. That motion was carried 11-9 on a roll call vote. (See attached record.) Rep. Kitselman then proposed a DO PASS motion on the amendments proposed for HB 718 by the Dept. of Administration. The motion on amendments was approved in a voice vote, with Reps. Bachini, Driscoll, Nisbet and Pavlovich opposed.

Rep. Kadas moved to amend HB 718 by striking the new language that had been inserted on page 3, lines 8-11. That motion carried unanimously.

HOUSE BILL 718 (Continued): Rep. Kitselman then moved DO PASS AS AMENDED on HB 718, which carried 12-8 on a roll call vote. (See attached record.)

HOUSE BILL 474: Rep. Pavlovich moved DO PASS on HB 474. Rep. Kitselman moved to amend HB 474 by re-inserting the stricken language on page 2, lines 5-6. That motion was carried on a voice vote, with 5 committee members opposed. Rep. Kadas moved to delete a reference to "2 full academic years" and replace it with "90 quarter credit hours or the equivalent." That motion carried unanimously.

Rep. Pavlovich then made a DO PASS AS AMENDED motion, which carried unanimously.

HOUSE BILL 477: Rep. Brown moved DO NOT PASS on HB 477, which carried, with Reps. Driscoll, McCormick, Nisbet, Pavlovich and Hansen opposed.

HOUSE BILL 593: Rep. Kitselman moved DO NOT PASS on HB 593, saying the bill is unnecessary. Rep. Brown commented that it was unfortunate that the State Board of Morticians did not consult with industry before asking for the legislation. The DO NOT PASS motion carried, with Reps. Nisbet, Driscoll, Pavlovich and McCormick voting no.

The committee then discussed the issue of whether a representative should be able to change his or her vote, and decided that once a vote had been cast in committee, it could not be changed.

There being no further business before the committee, the hearing was adjourned at 11:10 a.m.


ROBERT PAVLOVICH, Chairman

DAILY ROLL CALL
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/13/85

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich			
Les Kitselman	X		
Bob Bachini	X		
Ray Brandewie	X		
Jan Brown	X		
Jerry Driscoll	X		
Robert Ellerd	X		
William Glaser	X		
Stella Jean Hansen	X		
Marjorie Hart	X		
Ramona Howe	X		
Tom Jones	X		
Mike Kadas	X		
Vernon Keller	X		
Lloyd McCormich	X		
Jerry Nisbet	X		
James Schultz	X		
Bruce Simon	X		
Fred Thomas	X		
Norm Wallin	X		

STANDING COMMITTEE REPORT

February 13

19 85

MR. SPEAKER:

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE BILL Bill No. 85

FIRST reading copy (WHITE)
color

AN ACT TO MAKE STATE-OWNED GOLF COURSES ELIGIBLE FOR
PUBLICLY OWNED GOLF COURSE BEER AND WINE LICENSES; AMENDING
SECTION 16-4-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE.

Respectfully report as follows: That HOUSE Bill No. 85

DO PASS

STANDING COMMITTEE REPORT

February 13

85

..... 19

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE

Bill No. 234

FIRST reading copy (WHITE)
color

AN ACT REQUIRING WORKERS' COMPENSATION INSURANCE
PREMIUM RATES TO BE BASED ON HOURS WORKED FOR THE
CONSTRUCTION INDUSTRY

Respectfully report as follows: That HOUSE

Bill No. 234

DO PASS

DO NOT PASS

STANDING COMMITTEE REPORT

Page 1 of 2

February 13

25

19.....

MR. SPEAKER:

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 474

FIRST reading copy (WHITE)
color

AN ACT CLARIFYING THE REQUIREMENTS TO QUALIFY FOR A
MORTICIAN'S OR INTERN MORTICIAN'S LICENSE;

Respectfully report as follows: That HOUSE Bill No. 474

BE AMENDED AS FOLLOWS:

- 1) Title, line 7
Following: "LICENSE;"
Strike: the remainder of line 7, line 8 in its entirety,
and line 9 through "RECIPROCITY;"
- 2) Title, line 13
Following: "37-19-304,"
Strike: "37-19-305,"
- 3) Page 2, line 4
Following: "completed"
Strike: "2 full academic years"
Insert: "90 quarter credits or the equivalent"

~~DO:PASS:~~

February 13,

85

..... 19

- 4) Page 2, line 6
Following: "board"
Insert: "or have experience considered equivalent by
the board"
- 5) Page 3, line 3
Strike: Section 3 in its entirety
Renumber: subsequent sections

AND AS AMENDED,

DO PASS

STANDING COMMITTEE REPORT

February 13

1935

MR. SPEAKER:

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 477

FIRST reading copy (WHITE)
color

LICENSING THE OPERATION OF CREMATORIUMS

Respectfully report as follows: That HOUSE Bill No. 477

~~XXXXX~~ DO NOT PASS
~~DO PASS~~

STANDING COMMITTEE REPORT

February 13 19 95

MR. SPEAKER:

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 435

WHITE FIRST reading copy (WHITE
color)

NO CHANGE IN CLASSIFICATION PLAN WITHOUT APPROVAL OF
BARGAINING UNIT REPRESENTATIVE

Respectfully report as follows: That HOUSE Bill No. 435

~~DO PASS~~

DO NOT PASS

STATE PUB. CO.
Helena, Mont.

~~DOB PAVLOVICH~~ Chairman.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

February 13

19 95

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 527

FIRST reading copy (WHITE)
color

**AN ACT TO WITHDRAW THE STATE FROM LIQUOR STORE
BUSINESS AND REVISE LIQUOR LAWS**

Respectfully report as follows: That HOUSE Bill No. 527

**DO PASS
DO NOT PASS**

STANDING COMMITTEE REPORT

February 13 19 25

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 593

FIRST reading copy (WHITE)
color

PROMPT REFRIGERATION OR EMBALMING OF HUMAN REMAINS

Respectfully report as follows: That HOUSE Bill No. 593

~~DO PASS~~

DO NOT PASS

STANDING COMMITTEE REPORT

February 13

19 35

MR. SPEAKER:

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 606

FIRST reading copy (WHITE)
color

AN ACT REVISING AND CLARIFYING THE LAWS PERTAINING TO THE
SALE AND DISTRIBUTION OF MOTOR VEHICLES: ESTABLISHING
ADMINISTRATIVE PENALTIES; AMENDING SECTIONS 61-4-101
AND 61-4-103 THROUGH 61-4-105, MCA.

Respectfully report as follows: That HOUSE Bill No. 606

DO PASS

STANDING COMMITTEE REPORT

February 13

19 35

MR. SPEAKER:

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 613

FIRST reading copy (WHITE)
color

AN ACT TO RAISE THE LEGAL INTEREST RATE FROM 6 PERCENT
TO 10 PERCENT A YEAR; AMENDING SECTION 31-1-106, MCA.

Respectfully report as follows: That HOUSE Bill No. 613

DO PASS

STANDING COMMITTEE REPORT

February 13 19 95

MR.**SPEAKER**.....

We, your committee on**BUSINESS AND LABOR**.....

having had under consideration**HOUSE**..... Bill No. **659**.....

FIRST reading copy (**WHITE**)
color

**AN ACT TO ESTABLISH A JOINT UNDERWRITING ASSOCIATION FOR
MEDICAL LIABILITY INSURANCE; AND PROVIDING A TERMINATION
DATE.**

Respectfully report as follows: That.....**HOUSE**..... Bill No. **659**.....

DO PASS

STANDING COMMITTEE REPORT

February 13

19 85

MR. SPEAKER:

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 662

FIRST reading copy (WHITE)
color

AN ACT DEFINING THE SCOPE OF THE SECURITIES ACT OF
MONTANA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Respectfully report as follows: That HOUSE Bill No. 662

BE AMENDED AS FOLLOWS:

- 1) Page 1, line 25
Following: "offer"
Insert: ", but for the purpose of 30-10-202, an
offer to sell which is not directed to or
received by the offeree in this state is
not made in this state"

AND AS AMENDED,

DO PASS

STANDING COMMITTEE REPORT

February 13

MR. SPEAKER:

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 759

FIRST reading copy (WHITE)
color

AN ACT PROVIDING AN INSURANCE REGULATORY TRUST ACCOUNT
WITHIN THE STATE SPECIAL REVENUE FUND TO PROVIDE FUNDING
FOR THE OPERATIONS OF THE INSURANCE DEPARTMENT OF THE
STATE AUDITOR'S OFFICE ON THE BASIS OF FEES AND EXAMINATION
AND MISCELLANEOUS CHARGES COLLECTED BY THE DEPARTMENT;
PROVIDING THAT TAXES, FINES, AND PENALTIES COLLECTED BY
THE DEPARTMENT MUST BE DEPOSITED INTO THE GENERAL FUND

Respectfully report as follows: That HOUSE Bill No. 749

DO PASS

STANDING COMMITTEE REPORT

Page 1 of 2

February 13

19 35

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 718

FIRST reading copy (WHITE)
color

AN ACT TO ESTABLISH A UNIFORM GRIEVANCE PROCESS FOR CERTAIN
STATE EMPLOYEES; TO DISCONTINUE THE MERIT SYSTEM COUNCIL;
AMENDING SECTIONS 2-18-1001 THROUGH 2-18-1003 AND 87-1-403,
MCA; REPEALING SECTIONS 2-15-1006, 2-18-105, AND 87-1-205,
MCA; AND PROVIDING AN EFFECTIVE DATE.

Respectfully report as follows: That HOUSE BILL Bill No. 718

BE AMENDED AS FOLLOWS:

- 1) Title, line 8
Following: "MCA;"
Strike: the remainder of line 8 and line 9 through
"DATE"
- 2) Page 1, line 15
Following: "An"
Strike: "Unless otherwise provided by law, an"
Insert: "an"
- 3) Page 2, line 15
Following: line 14
Insert: "(5) A complaint pursuant to 2-18-1001 through
2-18-1003 must be filed with the board within
180 days after the grievance arises."

DO MASSA

February 13

19 85

- 4) Page 3, line 6
Following: "requiring"
Strike: "such action of the department agency"
Insert: "partial or full back pay, with benefits,
reinstatement in the same or in a similar
position, removal of disputed material from
the employee's personnel file or any such action
of the department"
- 5) Page 3, line 8
Following: "grievance"
Strike: The remainder of line 8 and lines 9, 10 and 11
in their entirety.
- 6) Page 3, line 14
Following: line 13
Insert: "(4) The board shall issue a final order
within 5 months after any hearing held
pursuant to this section."
- 7) Page 3, line 18
Following: "order"
Strike: the remainder of line 18; lines 19 through 25
on page 3 and lines 1 through 5 on page 4 in
their entireties and line 6 on page 4 through
"conclusive"
- 8) Page 4, line 17
Following: "other"
Insert: "These two procedures are an employee's sole
and exclusive remedy for personnel actions
under 2-18-1002."
- 9) Page 5, line 3
Strike: Section 10 in its entirety.

AND AS AMENDED,

DO PASS

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/13/05 BILL NO. HB 527 TIME 7:48

NAME	AYE	NAY
Bob Pavlovich		
Les Kitzelman	X	
Bob Bachini	X	
Ray Brandewie	X	
Jan Brown	X	
Jerry Driscoll	X	
Robert Ellerd	X	
William Glaser		X
Stella Jean Hansen	X	
Marjorie Hart	X	
Ramona Howe	X	
Tom Jones	X	
Mike Kadas	X	
Vernon Keller	X	
Lloyd McCormick	X	
Jerry Nisbet	X	
James Schultz	X	
Bruce Simon		X
Fred Thomas		X
Norm Wallin		X
		X

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: Rep. Jones' DO NOT PASS MOTION ON HB527
Carried 15-5

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/13/85 BILL NO. HB 485 TIME 7:50

NAME	AYE	NAY
Bob Pavlovich		
Les Kitseiman	X	X
Bob Bachini		X
Ray Brandewie	X	
Jan Brown	X	
Jerry Driscoll		
Robert Ellerd	X	X
William Glaser	X	
Stella Jean Hansen		X
Marjorie Hart		X
Ramona Howe		X
Tom Jones	X	
Mike Kadas		X
Vernon Keller	X	
Lloyd McCormick		X
Jerry Nisbet		X
James Schultz	X	
Bruce Simon	X	
Fred Thomas	X	
Norm Wallin	X	

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: By Ellerd's Do NOT PASS motion
Carried 11-9

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/13/85 BILL NO. HB 234 TIME 7:55 a.m.

NAME	AYE	NAY
Bob Pavlovich		X
Les Kitzelman	X	
Bob Bachini	X	X
Ray Brandewie	X	
Jan Brown	X	
Jerry Driscoll		X
Robert Ellerd	X	
William Glaser	X	
Stella Jean Hansen		X
Marjorie Hart		X
Ramona Howe		X
Tom Jones	X	
Mike Kadas	X	
Vernon Keller	X	
Lloyd McCormick		X
Jerry Nisbet		X
James Schultz	X	
Bruce Simon	X	
Fred Thomas	X	
Norm Wallin	X	

Secretary Debbie Aqui

Chairman Bob Pavlovich

Motion: Rep. Thomas: DO NOT PASS

Passes 12-8

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/13/85 BILL NO. HB 718 TIME 8:00 a.m.

NAME	AYE	NAY
Bob Pavlovich	X	
Les Kitselman		X
Bob Bachini	X	
Ray Brandewie		X
Jan Brown		X
Jerry Driscoll	X	
Robert Ellerd		X
William Glaser		X
Stella Jean Hansen	X	
Marjorie Hart	X	
Ramona Howe	X	
Tom Jones	X	
Mike Kadas	X	
Vernon Keller	X	
Lloyd McCormick	X	
Jerry Nisbet	X	
James Schultz		X
Bruce Simon	X	
Fred Thomas		X
Norm Wallin		X

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: Rep. Driscoll's DO NOT PASS on HB 718

Motion passes 12-8

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/13/85 BILL NO. HB 718 TIME 10:15

NAME	AYE	NAY
Bob Pavlovich		X
Les Kitselman	X	
Bob Bachini		X
Ray Brandewie	X	
Jan Brown	X	
Jerry Driscoll		X
Robert Ellerd	X	
William Glaser	X	
Stella Jean Hansen		X
Marjorie Hart		X
Ramona Howe		X
Tom Jones	X	
Mike Kadas		X
Vernon Keller	X	
Lloyd McCormick		X
Jerry Nisbet		X
James Schultz	X	
Bruce Simon	X	
Fred Thomas	X	
Norm Wallin	X	

Linda Robbin/Pr P.A.
Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: Rep. Kitselman's Motion to Reconsider Committee's
earlier action on HB 718

Passed 11-9

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/13/85

BILL NO. HB 718

TIME 10:20

NAME	AYE	NAY
Bob Pavlovich		X
Les Kitselman	X	
Bob Bachini		X
Ray Brandewie	X	
Jan Brown	X	
Jerry Driscoll		X
Robert Ellerd	X	
William Glaser	X	
Stella Jean Hansen		X
Marjorie Hart	X	
Ramona Howe		X
Tom Jones	X	
Mike Kadas		X
Vernon Keller	X	
Lloyd McCormick		X
Jerry Nisbet		X
James Schultz	X	
Bruce Simon	X	
Fred Thomas	X	
Norm Wallin	X	

Linda Robbins / for DA.
Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: DO PASS HB 718 as amended
Passes 12-8

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/13/85 BILL NO. HB 527 TIME 7:45

NAME	AYE	NAY
Bob Pavlovich	X	
Les Kitzelman		X
Bob Bachini	X	
Ray Brandewie	X	
Jan Brown		X
Jerry Driscoll	X	
Robert Ellerd		X
William Glaser		X
Stella Jean Hansen		X
Marjorie Hart	X	
Ramona Howe	X	
Tom Jones	X	
Mike Kadas	X	
Vernon Keller	X	
Lloyd McCormick	X	
Jerry Nisbet	X	
James Schultz		X
Bruce Simon		X
Fred Thomas		X
Norm Wallin		X

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: Rep. Jones' DO NOT PASS on AMENDMENTS
to 527

Carried 11-9

MONTANA RURAL WATER SYSTEMS, INC.

1824 10th Ave. So., Suite 4B

Great Falls, MT 59405

Phone 454-1151

Exhibit 1
2/13/85

AN KEIL, President
DAVE JONES, Vice President
GEORGE WELLOCK, Secretary Treasurer

RON SMITH, Executive Secretary
RAY WADSWORTH, Program Manager

February 12, 1985

TESTIMONY IN SUPPORT OF CHANGES IN THE PLUMBING LAWS
BY LEGISLATIVE COMMITTEE OF MRWS

In the late spring of 1983, the State Plumbing Board sent a letter to several water systems stating that a licensed plumber was required to remove and replace meters. This created a hardship on some rural developments far remote from a licensed plumber. Costs as high as over \$200.00 to make a 5 minute meter installation were reported. These systems are required to meter in order to satisfy requirements for FmHA loans.

When MRWS was called in and we began to look more closely at the plumbing laws, we discovered some conflicts with the Federal Safe Drinking Water Act of 1974. This Act makes the purveyor of water responsible and liable for their water from the point of source to the point of use. Administrators of water systems under this act can be sued.

A committee was formed to go through the states plumbing laws to attempt to clarify some definitions and terms and to eliminate items that conflicted with Federal Law. This bill is meant to amend the plumbing laws to clarify them, to make them conform to the Federal SDWA, and to allow the administrators of water systems in the rural settings to utilize trained personnel to take care of installation and maintenance where plumbers are not available.

The requirement of a licensed plumber to put in service connections from mains to the home in rural areas creates an unnecessary expense, especially when these service lines reach the magnitude of a mile or more.

The bill will also provide for allowing administrators of water systems to choose the qualified individual of their choice to install and maintain their own meters which is their sole source of revenue.

Exhibit 2
2/13/85

NAME DAVID M. EMERSON HOUSE BILL NO. 707
59404
ADDRESS 317 22ND AVENUE N. W., GREAT FALLS, MONTANA DATE 2-13-85
WHOM DO YOU REPRESENT PLUMBER AND PIPEFITTER LOCAL 139-GREAT FALLS
SUPPORT _____ OPPOSE XXXXXXXX AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: I strongly oppose House Bill 707 on the following grounds:

Under Section 1 Paragraph (7) on page 2 of the Bill I want to call your attention to what the proponents are asking you to approve.

As it now stands Qualified Licensesed Plumbers who install Plumbing Systems, extend the water service line into the building at least from the Property Line to a valve inside of the building, and in Many Cities the Service Line is installed by these Qualified Plumbers from the Water Main in the Street to the Valve inside of the building or residence. This water service line is strictly the property of the owner of the property and the owner must maintain this line and repair it if it leaks or needs to be replaced. A community water system, or city or town water system will take no responsibility toward the repair of this private line.

Now in this bill the proponents are asking that the Qualified licensed Plumbers stop their water line 2' outside of the building or residence, and that other often unskilled people continue the water line from that point to the point of tie in on the city or community water main.

This really presents a problem to the unsuspecting Home Owner or Building Owner, and also could lead to disaster to the building. At the point 2' outside of the building there would have to be a joint made in this water service line, and at this point so close to the building there is much stress and strain, such as the building settling or the dirt pulling on the line as it settles back in the ditch and etc. Right now the line is made of uninterrupted coils of copper tubing or plastic in some cases where allowed, and there is no pipe joint by the footings of the structure. The chance for a leak at this point is great, and many times before the owner would become aware of a leak the chance for damage would be tremendous. A leak such as this could undermine the footings or foundation, cause pressure on the basement wall and do all kinds of damage to the building or home. I have seen some of these lines, that were installed by Unqualified people that have had a very bad leak within three to six months after installation

Why should you as a House committee be asked to subject unwary owners to this extra hazard? A normal 3/4" or 1" water service takes approximately 1 hour to be installed properly by Qualified licensed Plumbers, certainly expense to install isn't the reason. Why not give the owner of the Building the satisfaction of being assured of a good, long lasting job, and help protect the Public Health in doing so by leaving the language in the present law as is.

In Section 2 Paragraph (c) under Exceptions: I believe the change that exempts farms or ranches not connected to public water supply and sewage Disposal Systems is O.K. although the present Language covers it pretty thouroughly as it is now written.

(Over)

The Section 2 (d) that has been changed to (c) should remain as is. It appears that the intent of the change is to allow water districts, and water line User Associations to extend their own water and sewer mains. ~~This is wrong~~

Potable water is a precious Commodity and when improperly installed could result in possible cross connections between sewer and water mains occurring, and the char to affect the health of many People depending on using a Community water and Sewer System. There are many rules and regulations regarding the proper installation of these systems, and they need to be installed by Qualified Licensed Plumbers.

Since the property owner has to take care of the water service from his building to the water main, with the revisions of Section 2 and also Section 1 he would have the possibility of unskilled workers installing this line as an extension of the water main. If this line breaks or needs to be repaired it is the Property owners responsibility to pay for the repairs, therefore the owner should have the right to have skilled craftsmen install his water service as it is now, from his building to the Water Main without any unnecessary pipe joints, and with proper permits, inspections, and assurance of a long life for this water service.

Section 3 Should be left as is- The board should have the power to designate possible substitutes for licensed Plumbers, after an investigation by them. To turn this task over to each individual community would lend to the possibility of unsafe, health hazards to unsuspecting citizens of that community. Right now the Board goes thru a thorough inspection of the possible candidates for this type of work and could get the best possible person to fill the temporary position. This item was brought up to make it possible for any city or town to designate a temporary man for a plumber in the community without any language added to the bill to assure that a properly qualified man was selected.

With this selection procedure left to these cities and towns, with no guidelines or restrictions, possible poor judgement on the part of these communities could result in picking the wrong man. There is much knowledge needed to pick the proper man, the important task of being called a plumber in a situation like this. I would be remiss in not calling to your attention that many of the health problems related to plumbing could occur because of unskilled people doing plumbing work in a community where no Qualified Licensed Plumbers are available. If the board had an input they may be able to find a Qualified Licensed Plumber who would take the job.

I also take exception to the New Section Called Section 4-Extension of Authority. Every board needs to have the flexibility to make such rules as are deemed necessary. If a health hazard shows up, the Plumbing Board needs the Power to make such rules as are needed to protect the public immediately, and not wait until some one gets ill or dies from an unsafe condition. Many times they cannot wait until the next Legislature to take care of these problems, because of the Public Health involved.

Please heed the opponents of this Bill 707, recommend a DO NOT PASS when you vote. The vote will be for the uninformed citizens of Montana, your family, your friends and for yourself. The People of Montana should not be deprived of their rightful Heritage to get a good, safe, sanitary Plumbing system, including the Water Service, installed in their homes or business buildings without the fear of contamination, unnecessary leaks or other problems that are now minimal because of present checks and balances, permits and inspections. Please help the Plumbing Board protect the Public Health, Please DO NOT PASS this House Bill 707.

Respectfully Submitted


David Emerson

317 22nd Avenue N. W.
Great Falls, Montana 59404

Phone 452-2546

Exhibit 3
2/13/85

TO: Business & Labor Committee

FROM: Kim Schulke, Staff Attorney
State Auditor's Office - Securities Department

RE: HB 662, an act defining the scope of the Securities Act of Montana.

The Securities Act of Montana is based on three public policies:

1. to protect the investor, persons engaged in securities transactions, and the public interest;
2. to promote uniformity among the states; and
3. to encourage, promote and facilitate capital investment in Montana.

The scope of the securities act should further these public policies. The scope of the Act is not currently set forth by statute although the Montana Securities Department has construed the Act in accordance with the language from the Uniform Securities Act as set forth in HB 662. In order to inform those involved in securities transactions within Montana, as to the scope of our act, the Department is seeking to have this scope language enacted into law.

Based upon the previously cited public policies, the drafters of the Uniform Securities Act elected to limit the scope of that Act to those transactions which took place at least partially within the state. Citizenship or residence within a particular state was rejected as a policy basis for the application of the securities act in favor of a territorial base requiring that the transaction have some physical nexus with the state. Thus, the offer, sale or purchase of the security must originate from the state or be directed into the state.

HB 662 defines when a transaction takes place "in this state."

Subsections 1 and 2 contain the two major provisions of the bill. The remaining subsections are merely explanatory provisions supporting and creating certain exceptions from the main provisions..

The difference between subsections 1 and 2 lies in the side of the transaction they control. Subsection 1 deals with persons involved in the offering for sale and sale of securities. Subsection 2, on the other hand, controls persons involved in the offering to buy or the purchase of securities. Thus, subsections 1 and 2 are complementary sections. In a normal transaction which takes place entirely within a state, subsection 1 will control the seller and all his agents, and subsection 2 will control the purchaser and all his agents.

The major substantive difference between the two subsections is the breadth of coverage under the Act to which the parties are subject. Under subsection 1 the offeror, the seller, or their agents are subjected to the full coverage of the Act. Thus, they must comply with the antifraud, the broker-dealer and agent registration, and securities registration provisions, as well as the provisions prohibiting statements that review by the Securities Department constitutes a recommendation of the securities, or that the Department has passed on the merits or qualifications of the securities. Furthermore, the seller or his agents are subjected to the civil liability provision under the Act.

On the other hand, under subsection 2, a person offering to purchase, a purchaser, or their agents are subjected only to the antifraud, broker-dealer registration, and antirecommendation provisions of the Act.

The reason for the distinction in treatment between subsections 1 and 2 lies in the policy and organization of the Act. Under the Act, compliance with the registration provisions always falls upon the seller of the securities, never the purchaser. Obviously then, the purchaser can never be liable for failing to register the securities. Thus, there is no need to subject purchasers under subsection 2 to the coverage of the registration sections. This still leaves the possibility of liability for material omissions or misrepresentations.

The most obvious situation where an offer to sell is made in the state is when both parties to the transaction are physically present within the state and the entire negotiation and transfer of the security takes place there. The Act does not apply in the converse situation where neither party is physically in the state and none of the negotiations nor the transfer of the securities takes place within the state, even though one or more of the parties is a resident of the state.

The applicability of the securities act becomes much more complicated when one of the parties is not physically within the state and either uses a local agent or directs written or oral communications to or from the state, or where a part of the transaction takes place elsewhere. Subsection 3 applies to this situation.

The simplest transaction under subsection 3 is where the person offering the securities for sale directs a written offer into Montana or calls into Montana. The state has an interest in protecting its residents from such uncontrolled transactions and therefore the Securities Act of Montana applies.

Subsection 3 also provides that an offer or sale shall be governed by our securities act if the offer or sale originates in this state. The amendment proposed by the securities department is consistent with this idea but it excepts the securities registration statute from the operation of the act when offers originate in Montana but are accepted outside the state.

The rationale for subsection 3 is that a state has an interest in seeing that its territory is not used as a base of operations to conduct illegal sales in other states.

Subsection 4 outlines when an acceptance is considered to have been "made in this state." There are two conditions which must be met before an acceptance will be considered "made in this state." First, the acceptance must be communicated to the offerer within the state. Second, there must not have been an earlier acceptance communicated to the offerer outside the state.

The most clear-cut application of subsection 4 arises when both the buyer and seller are physically present in Montana and the entire transaction takes place here. The acceptance is considered to have been made here because the seller is located here, he makes his acceptance here and communicates his acceptance from here to the buyer who is here.

Thus, before the seller can accept the offer to buy, even though it may have been totally unsolicited, he will have to register the securities in question or will have to qualify them for an exemption.

Subsection 5 applies to the use of various means of mass communications such as magazines, newspapers, and radio and television broadcasts as a vehicle for the dissemination of offers to buy or sell securities. The placing of an ad in one of these publications or broadcast constitutes the making of an offer through the agency of the publication or broadcaster.

Without subsection 5, an out-of-state promoter would become subject to the securities registration requirements of our act by placing an ad in a Montana newspaper or arranging for an ad to be broadcast by a local radio or television station.

An ad in a truly local newspaper is an offer in the state in which the paper is published if one-third of the circulation is also made within that state.

Subsection 5 also solves the problem of the unintended circulation of essentially local papers beyond the state of their original publication by simply providing that the ads contained in such papers do not constitute offers in states in which the paper is not published. Again, this is in keeping with the idea that an advertiser ought not, at his peril, to be required to determine beforehand every state into which the paper might circulate a copy. The unintended circulation by others, is covered by the last clause of subsection 5, making unknown and unintended additional circulation not an offer in the second state. ~~using the securities ad~~

Subsection 6 provides that the Montana Securities Act applies to investment advisers when any act instrumental in the furtherance of prohibited conduct is done in this state.

HB 567

Exhibit 4
2/13/85

Mr. Chairman and Members of the Committee

For the record, my name is James Schultz, Rep.-Dist. 30-Lewistown.

Members of the committee.

House Bill 567 addresses a problem of several senior citizens in my district. That problem is having insurance policies cancelled on brief notice or short notice.

I realize that as we age we may not be as sharp as we were at a younger age and notices may go unnoticed or not paid promptly.

I have no vested interest in the manner that I have placed in this bill regarding proper notice to policy holders. But I can tell you of the devastating effect a policy cancellation has on someone over 60 years of age.

In many cases they have health conditions that developed in later years. Diabetes, high blood pressure and various and sundry other health problems.

In order for these people to be reinsured they must pass a physical examination - this they cannot do - or they can purchase insurance with either a 1 or 2 year preexisting condition clause, which does them very little good.

This is a Good Guy Bad Guy bill. I believe that most insurance companies are honorable, responsible businesses and I am not casting any aspersions on the good guys but lets look at the facts - when you consider the age of the policy holder the insurance company is actuarially better off without the older policy holder.

All we are asking for is a reasonable process before the insurance is cancelled.

STATEMENT IN OPPOSITION TO HB 567
REGARDING CANCELLATION NOTICES FOR INSURANCE POLICIES

The American Council of Life Insurance is opposed to HB 567 because there is adequate statutory safe guard for policyholders at the present time. A policyholder, as in any other commercial transaction, must undertake some responsibility for payment of the charge. Requiring three notices, one of them being a certified letter or a telephone call, is not a reasonable requirement.

The present law requires:

For life insurance:

A 30-day grace period for payment of premium--33-20-104

A policy loan provision at the option of the policyholder to provide for an automatic premium loan in the event of non-payment. 33-20-109

Mandatory reinstatement within 3 years upon proof of insurability, payment of all premiums in arrears, payment of other indebtednesses plus interest -- 33-20-112

Nonforfeiture benefits whereby a policy held for more than a year has a paid up benefit which cannot be forfeited by lapse of the policy -- 33-20-117 and 33-20-202.

For Annuities:

30-day grace period -- 33-20-302

Reinstatement within 1 year after default -- 33-20-307

Nonforfeiture provisions which specify a paid up annuity benefit. 33-20-503.

For Group Life:

A 31-day grace period -- 33-20-1202

A conversion privilege -- 33-20-1210

As to Disability Insurance:

A grace period ranging from 7 to 30 days depending upon the insurance -- 33-22-206

Reinstatement if the premium is accepted by the insurer or reinstatement upon application for reinstatement -- 33-22-207

An optional provision whereby upon payment of a claim the amount of unpaid premiums can be set off against the amount of payment of the claim -- 33-22-228.

With regard to Group Health there is a provision for conversion in the event that coverage is terminated on account of termination of the business, termination of employment, etc. 33-22-508.

BUSINESS AND LABOR

BILL NO. House Bill 85

DATE February 13, 1985

SPONSOR Representative Lory

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill 759DATE February 13, 1985SPONSOR Representative Lory

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Eckley</i>	<i>Ref #59 Mauds</i>	✓	
<i>Chip Eermann</i>	<i>Helena</i>	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill 707DATE February 13, 1985SPONSOR Representative Jenkins

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
MONTY E. PATTERSON	1202 BENCH BLVD, BILLING		X
CHARLES M. EMERSON	317 22 ND AVE N.W. G.T. FALLS		X
Ray Wadsworth	1824-10 TH Ave So	X	
Gerald Smith	Galata Water Dist	X	
William Olson	Helena, Mt.	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABORCOMMITTEEBILL NO. House Bill 662DATE February 13, 1985SPONSOR Representative Keyser

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
<i>J. Kim Schalke</i>	<i>State Auditor - Securities Dept</i>	<input checked="" type="checkbox"/>	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER
BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill 618

DATE February 13, 1985

SPONSOR Representative Sands

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
David R. McMillen	Richland Co.	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

BUSINESS AND LABOR

BILL NO. House Bill 606

DATE February 13, 1985

SPONSOR Representative Campbell

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABORCOMMITTEEBILL NO. House Bill 567DATE February 13, 1985SPONSOR Representative SCHULTZ

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
LES LOBLE	Am Councilor Life Ins		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.