

MINUTES OF THE MEETING  
LABOR AND EMPLOYMENT RELATIONS COMMITTEE  
MONTANA STATE SENATE

January 10, 1985

The first meeting of the Labor and Employment Relations Committee was called to order at 1:00 p.m. on January 10, 1985, by Chairman J. D. Lynch in Room 413/415 of the Capitol.

ROLL CALL: All members were present except Senator Blaylock, who was excused.

CONSIDERATION OF SENATE BILL 17:

Chairman Lynch called on Senator Goodover, sponsor of Senate Bill 17. Senate Bill 17 is an act to revise and clarify laws relating to business and labor.

Greg Petesch, a member of Legislative Council, was present to explain the bill and answer any questions. Greg Petesch stated that this is a six-section bill. Mostly what it does is to remove obsolete references in the code that refer to other things. He reviewed the sections of the bill.

PROPOSERS OF SENATE BILL 17: None were present.

OPPOSERS OF SENATE BILL 17: None were present.

QUESTIONS FROM THE COMMITTEE:

Senator Towe asked Greg Petesch to clarify, in section four, what the section states. Greg Petesch stated it was section 19 of Senate Bill 244 last session, which is now M.C.A. 30-19-404. It provides that if in a hearing the commissioner determined that an institution agent or support organization is engaged in conduct in violation of this act, the commissioner may issue an order requiring the institution agent or insurance organization to seek assistance when the contractor's practice is constituting the violation.

Senator Thayer asked Greg Petesch what section three means.

Greg Petesch replied that Title 15 is the taxation chapter title of the code.

The hearing was closed on Senate Bill 17.

CONSIDERATION OF SENATE BILL 29:

Chairman Lynch called on Senator Shaw, sponsor of Senate Bill 29, who introduced the bill to the committee.

PROPOSERS:

Alan Eck, representing the Farm Bureau Federation, spoke in favor of Senate Bill 29. (Exhibit "A")

OPPOSERS:

Gary Blewett, representing the Administration Workers' Compensation Division of the Department of Labor and Industry, rose in opposition to the bill. (Exhibit "B")

Don Judge, on behalf of the Montana State AFL-CIO, submitted testimony in opposition to the bill. (Exhibit "C")

Karl Englund, attorney from Missoula, was present representing Montana Trial Lawyers Association. He supported the testimony by the AFL-CIO. He stressed the fact that agricultural workers do get injured on the job and workers' compensation laws provide a swift and adequate remedy for their injury. Without that remedy, in addition, the farm producer will be faced with negligence lawsuits if the accident occurred at any cause of the negligence on the part of the producer or the producer's equipment, which would expose them to far greater liability than would the protections under that act right now. For those reasons, he said, both farmers and agricultural producers oppose this bill.

Norm Grosfield, an interested citizen, rose in opposition to Senate Bill 29.

QUESTIONS FROM THE COMMITTEE ON SENATE BILL 29:

Senator Aklestad asked Senator Shaw about the cost of what the alternative would be if agriculture took out private carriers.

Senator Shaw replied that, prior to this law, he could get an accident policy on his ranch policy that only cost \$18.00 a year. Along with that, he could carry a policy that if people came to help brand and something happened during the branding this would take care of the hospital bills. If someone gets hurt on the ranch, Senator Shaw would want to take care of that, but if the person hurts himself due to carelessness, that's his problem, not Senator Shaw's.

January 10, 1985

Senator Aklestad said that his main concern was whether the rancher-owner could get private coverage for this individual and how much that cost would be.

Senator Shaw said that he didn't know what the cost would be.

Senator Towe asked Senator Shaw whether it is \$18.00 per head per year for accident insurance.

Senator Shaw replied yes.

Senator Towe asked Gary Blewett whether he had some figures on what the comparable insurance to an individual farmer would be today.

Gary Blewett replied that he did not have figures that private carriers have for workers' compensation insurance.

Senator Keating asked whether, if someone is exempted from worker's compensation, there is any other statutory requirement that the employer must have accident or liability insurance for their employees.

Gary Blewett replied that there is no statutory requirement.

Senator Keating said that workers' compensation appears to be the only statutory requirement for employee's coverage by an employer. But there is a possibility that an employer may obtain private coverage for a waiver from workers' compensation.

Gary Blewett said that there is no waiver from coverage from workers' compensation for employers.

Senator Keating said he meant that if he had some employees and he was under workers' compensation, and he wanted to get private coverage rather than workers' compensation coverage, he could get private coverage and would have to carry workers' compensation at the same time.

Gary Blewett said that he and Senator Keating might be having a difference of terminology. The act requires workers' compensation coverage regardless of which insurer provided it. There are three kinds of insurers who may provide it: The Free Consolation Insurance Fund, private carriers, and also self insurance. It is all workers' compensation.

January 10, 1985

Senator Aklestad asked Gary Blewett whether there isn't also an uninsured fund different from what Blewett described for those employees in jobs where the employer doesn't carry workers' compensation.

Gary Blewett replied that there is a provision under the act for an uninsured employees fund. That is, employers who are supposed to have coverage and have failed to purchase the insurance, can be fined a certain amount of money if identified and found. That money is put into a fund and, provided there is enough money in that fund, the employee who was injured in that situation could have that injury paid for even though the employer did not have insurance.

Senator Haffey asked Gary Blewett whether he had given statistics on the number of persons employed either part or full time and the number hurt, on the average, each year. Mr. Blewett had used the figure of 2,900 persons employed in the agricultural section. Senator Haffey wanted to know whether that excluded people like Senator Shaw, who is the boss, and whether it only included the employees. Gary Blewett replied that it only included the employees.

Senator Haffey repeated that 2,000 or so are hurt each year and asked Mr. Blewett to give him an idea of some of the kinds of injury. Gary Blewett replied that they range from the very simple cuts, burns, broken legs to a horse falling on the individual and even more severe matters.

Senator Haffey asked whether most of them are more serious. Gary Blewett replied that most of them are minor injuries, but 10-12% of the accidents that yield some kind of permanent characteristics are the kinds that make it difficult for a person to stay employed.

Senator Thayer asked whether there are any classes of employers left in the state that are not under this act. Gary Blewett replied that the answer is stated in the bill under section 401.

Senator Shaw closed his remarks on Senate Bill 29. He stated that he wanted less state government and that this bill is a step in that direction.

Chairman Lynch closed the hearing on Senate Bill 29.

ACTION ON SENATE BILL 17:

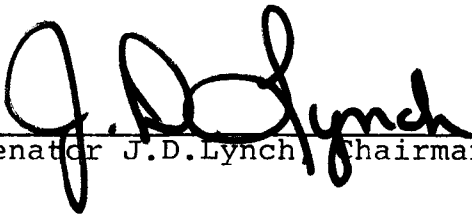
Senator Manning made a motion that Senate Bill 17 Do Pass.

Page 5

January 10, 1985

On a voice vote, the vote was unanimous that Senate Bill 17  
Do Pass.

ADJOURNMENT: There being no further business before the  
committee, the meeting was adjourned at 1:46 p.m.

  
\_\_\_\_\_  
Senator J.D. Lynch, Chairman

bd

# STANDING COMMITTEE REPORT

January 10 ..... 19 85 .....

MR. President .....

We, your committee on Labor and Employment .....

having had under consideration Senate ..... Bill No. 17 .....  
**Goodover**

Respectfully report as follows: That Senate ..... Bill No. 17 .....

DO PASS

Labor and Employment COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 1/10/85

SENATE SEAT #

NAME	PRESENT	ABSENT	EXCUSED
1 Senator Aklestad	X		
46 Senator Blaylock			X
9 Senator Haffey	X		
20 Senator Keating	X		
49 Senator Manning	X		
33 Senator Thayer	X		
Sentor Towe	X		
5 Chairman Lynch	X		

Each day attach to minutes.

DATE: Jan 10 1980

COMMITTEE ON

## LABOR & Employee Relations

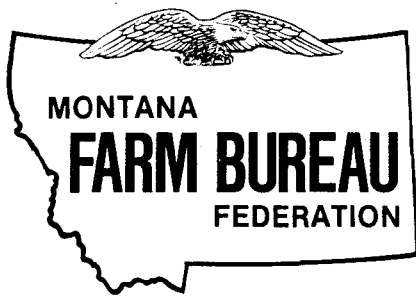
## VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)



EXHIBIT A  
DATE 1/16  
BILL NO. 329



502 South 19th

Bozeman, Montana 59715

Phone (406) 587-3153

TESTIMONY BY: Alan Eck

BILL # Senate Bill #29 DATE 1/16/55

SUPPORT I OPPOSE

Mr. Chairman and Members of the committee, my name is Alan Eck. I'm representing the Montana Farm Bureau Federation. We would like to go on record as supporting Senate Bill #29. Our organization has had policy on this subject for several years. Thank you.

Alan Eck  
SIGNED

Exhibit  
Date: 1/10  
Bill No. SB 29

TESTIMONY ON SB 29  
Before the Senate Labor and Employment Relations Committee

By

Gary Blewett, Administrator  
Workers' Compensation Division  
Department of Labor & Industry

The Department of Labor and Industry opposes exclusion of agricultural employments from coverage under the Montana Workers' Compensation Act as proposed in SB 29.

This bill would eliminate this class of employers' responsibility to buy workers' compensation insurance. This would leave agricultural employees without disability, medical, and rehabilitation benefits that would be needed to offset the results of work-related injuries.

There is nothing unique about this class of employment that warrants its exclusion from coverage. The number of people at risk is large; there are about 29,000 people employed at least part time in agriculture. The number of accidents each year is not insignificant; more than 2,000 are reported each year. These accidents cost the State Fund about \$4.5 million a year; \$3 million in wage-loss benefits and \$1.5 in medical benefits.

Admittedly, workers' compensation insurance is expensive. This is not unique to agriculture but affects all classes of employment. The costs vary with the intensity of accident experience. Agriculture has one of the relatively high cost classifications; for the farms and driver class the State Fund currently charges \$9.60 per \$100 of payroll. This is up from \$6.95 in fiscal year 1983, a 38% increase in the space of 2 1/2 years. Private carriers may have different rates, but they would undoubtedly list the agricultural classifications among their more expensive risks.

This expense, however, does not justify agriculture's exclusion from the Act. Agricultural employers should be responsible for the cost of injuries to their employees. In return, the Act protects agricultural employers as it does all covered employers from suits over the employers' possible negligence, which can be far more expensive than the costs experienced under the Montana Workers' Compensation Act.

In 1916 the Montana Supreme Court defined the fundamental precept that underlies our Workers' Compensation Act. This law is the product; it said, "of the development of the social and economic idea that industry which has always borne the burden of depreciation and destruction of the necessary machinery, shall also bear the burden of repairing the efficiency of the human machines without which the industry itself could not exist."

In 1973 the legislature expanded mandatory coverage to include almost all employments. Agriculture was included at that time as one of several industries that should mandatorily bear the burden of repairing the people without which it could not exist. Agriculture is not unique in its experience under the Workers' Compensation Act. To release this sector of employment from its responsibilities raises the question, "Why not all other employments as well?"

The answer is, it is in the public's interest that all industries must bear the burden of repairing both machinery and humans essential to their continued productivity.

AGRICULTURAL INFORMATION - SB 29  
State Fund Data Only Unless Noted

PAYROLL  
REPORTED

Fiscal Year

1983

1984

0005	Nurserymen & Drivers	\$ 923,410	\$ 869,712
0006	Farms & Drivers	58,344,765	58,606,547
0008	Gardening-Market & Driver	519,858	448,931
0034	Poultry or Egg Producer/Hatchery	1,943,239	1,925,760
0035	Florists Cultivating-Gardening	686,918	716,585
		<u>\$62,418,190</u>	<u>\$62,567,535</u>

PREMIUM

0005	Nurserymen & Drivers	\$ 27,702	\$ 26,961
0006	Farms & Drivers	4,053,605	4,512,708
0008	Gardening-Market & Driver	6,238	5,387
0034	Poultry or Egg Producer/Hatchery	84,530	94,362
0035	Florists Cultivating-Gardening	7,556	7,882
		<u>\$ 4,179,631</u>	<u>\$ 4,647,300</u>

BENEFIT  
LIABILITY

0005	Nurserymen & Drivers	\$ 7,377	\$ 80,533
0006	Farms & Drivers	4,785,219	4,180,095
0008	Gardening-Market & Driver	180	11,449
0034	Poultry or Egg Producer/Hatchery	87,722	139,073
0035	Florists Cultivating-Gardening	16,953	4,033
		<u>\$ 4,897,451</u>	<u>\$ 4,415,183</u>

WAGE LOSS  
BENEFITS

0005	Nurserymen & Drivers	\$ 3,213	\$ 57,948
0006	Farms & Drivers	3,393,450	2,855,376
0008	Gardening-Market & Driver	-0-	6,438
0034	Poultry or Egg Producer/Hatchery	47,477	113,792
0035	Florists Cultivating-Gardening	11,039	1,770
		<u>\$ 3,455,179</u>	<u>\$ 3,035,324</u>

MEDICAL  
BENEFITS

0005	Nurserymen & Drivers	\$ 4,164	\$ 22,585
0006	Farms & Drivers	1,391,769	1,324,719
0008	Gardening-Market & Driver	180	5,011
0034	Poultry or Egg Producer/Hatchery	40,245	25,281
0035	Florists Cultivating-Gardening	5,914	2,263
		<u>\$ 1,442,272</u>	<u>\$ 1,379,859</u>

<u>ACCIDENT INFORMATION</u> <u>ALL PLANS</u>	<u>Fiscal Year</u>	
	<u>1983</u>	<u>1984</u>
All accidents reported	29,717	31,343
Number of Agri. accidents reported	2,303	2,148
Agricultural Employment	29,900	28,500
Number of accidents per 100 employed	7.7	7.5

RATES

0006    Actual Charged	6.95	7.70
------------------------	------	------

Calculated Rate A/O 12/31/84

<u>4,785,219</u>	=	
58,344,765		8.20

<u>4,180,095</u>	=	
58,606,547	(still a green year*)	7.13

PREMIUM COLLECTED vs. BENEFIT LIABILITY - All Agriculture Codes

1983

<u>Premium</u>		<u>Benefit Liability</u>		
\$ 4,179,631	-	\$ 4,897,451	=	\$717,820 (shortfall)

1984\*

\$ 4,647,300	-	\$ 4,415,183	=	\$232,117 (excess)
--------------	---	--------------	---	--------------------

\*Green year; not all liability costs can be known for at least another year.

COVERAGE OF AGRICULTURE EMPLOYMENTSTATE FUND  
ENROLLMENTS

Employers Enrolled A/O 12/31/84  
Paying Premium

	\$ 0	2,154
Less Than	\$ 100	1,072
Less Than	\$ 1,000	2,437
Less Than	\$ 5,000	956
Less Than	\$10,000	42
OVER	\$10,000	12
		<u>6,673</u>

TOTAL

COVERAGE GENERALLYFiscal Year19831984

Employers Enrolled A/O 6/30  
Self Insurers  
Private Carriers  
State Fund

TOTAL

58	51
9,651	9,676
<u>22,732</u>	<u>23,610</u>
<u>32,441</u>	<u>33,337</u>



Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF DON JUDGE ON SENATE BILL 29, BEFORE THE SENATE LABOR AND EMPLOYMENT  
RELATIONS COMMITTEE, JANUARY 10, 1985

-----

Mr. Chairman and members of the committee, my name is Don Judge, and I'm here on behalf of the Montana State AFL-CIO to testify in opposition to Senate Bill 29.

Over the years this legislative body has debated the pros and cons of adequate funding measures, effective administration and maintenance of adequate and equitable workers' compensation protections for injured workers and for Montana employers. At the core of each debate was the recognition that work-related injuries and deaths do happen. Timely and adequate delivery of benefits assist both the worker and society; and employers benefit from a standardized system which protects them from unlimited liability.

Senate Bill 29 proposes to remove entire segments of the Montana economic community from the protections and responsibilities of the law. It cannot be argued that these employers are immune to on-the-job injuries. I grew up on a farm and can personally testify that the machinery, tools and the physical nature of the work expose this industry to the possibility of worker injury.

If there are injuries, there will be liability and who will pay the bills? The state of Montana has adopted the workers' compensation system as a remedy to assist injured workers to help limit the costs to society and to protect business. If excluded from coverage, what incentive will there be for agricultural employers to provide adequate insurance coverage? Our experience with inadequate funding for costs to the uninsured employers fund indicate there may be a real problem

when the legal mandate to provide coverage is removed, as proposed by this bill.

In previous legislative sessions, Montana legislators have rejected other proposals to exclude specific employers and groups of workers from workers' compensation coverage. To open the door of exemptions with this bill may lead to the introduction of shopping lists of exemptions in the future. At some point we will be asked to make judgment calls based on degrees of risk or industry reliability.

If this bill is passed, Montana agricultural employers will lose the protection providing remedy for work-related injuries. Montana taxpayers will be faced with picking up the costs of medical care and possible social assistance benefits while liability is accessed by the courts. And these costs may continue if the employer is found to be without adequate insurance coverage to pay costs incurred by job-related death or injury.

Finally, and most importantly to us, workers injured or disabled on the job would be left without the swift, sure remedy of compensation created by this important law.

We urge defeat of Senate Bill 29.

Thank you.