

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

February 11, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on February 11, 1987 at 7:30 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

EXECUTIVE ACTION - February 11, 1987 - 7:30 a.m.

ACTION ON HOUSE BILL NO. 389

Rep. Brandewie moved that House Bill No. 389 DO PASS.

Rep. Brandewie moved the amendment to limit the grace period to 45 days. The motion carried unanimously.

Rep. Simon moved that House Bill No. 389 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 476

Rep. Brandewie moved that House Bill No. 476 DO PASS.

Rep. Brandewie moved the amendments. The motion carried unanimously.

Rep. Brandewie moved that House Bill No. 476 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 487

Rep. Thomas moved that House Bill No. 487 DO PASS.

Rep. Glaser stated that he was concerned about the actuary needing to take an examination before being able to give information to legislators or any state official on Workers' Compensation insurance.

Rep. Thomas responded the bill does not affect the actuaries working for the state in the Workers' Compensation area. He said the actuarials are not insurance consultants and are not required to have an insurance consultant's license in Montana.

Rep. Brandewie moved an amendment to insert following line 12, "shall require membership in" and on line 16, "the

American Academy of Actuaries or require the applicant to pass". The motion failed.

Rep. Thomas moved that House Bill No. 487 DO PASS. The motion carried with Reps. Brandewie, Driscoll, Glaser, Jones, and Swysgood opposed.

ACTION ON HOUSE BILL 570

Rep. Pavlovich moved that House Bill No. 570 DO PASS.

Rep. Glaser commented that the problem was that the bill had a loophole, and if the bill stated that there had to be a single proprietor selling the liquor, there might not be a problem, but it could be conceivable that there could be six or seven proprietors on the golf course working within the bill under one license.

Rep. Pavlovich commented they were not being very realistic; that this was not a problem in Silver Bow County, but could be in other counties. Rep. Pavlovich withdrew his motion of Do Pass.

Rep. Nisbet moved that House Bill No. 570 be TABLED. The motion failed with 10 opposed.

Rep. Brandewie moved that House Bill No. 570 DO PASS.

Chairman Kitselman stated the terms contiguous and adjacent to have different definitions. He said there is a flaw in the bill because of the possibilities of using the license in different situations and away from the original building without much difficulty.

Rep. Glaser moved to amend on line 20 after "place" insert, "under a single proprietorship". He said that would prevent subleasing a space on the golf course and having someone else open a separate place, and if they did, it would have to belong to the golf course itself.

Rep. Brandewie moved a substitute motion that House Bill No. 570 be TABLED. The motion carried with 3 opposed.

REGULAR SESSION - February 11, 1987 - 8:00 a.m.

HOUSE BILL NO. 497 - Chemicals, Fertilizers, Petroleum Liens Against Crops and Livestock, sponsored by Rep. Ron Miller, House District No. 34, Great Falls. Rep. Miller stated the bill provides that liens for the people who sell fertilizer and petroleum are placed in front of liens of banks or lending institutions. He said, at present, liens from the people who sell seed, work on the farms, crop dusters and

hail insurance all come in front the liens of banks. He commented that selling fertilizer and petroleum is a large industry in the state, and for many ranchers and farmers, 40 to 50 percent of their operating budget is a major impact for farmers, and a major impact for the fertilizer and petroleum dealers who sell to basically farmers. He said these large industries in the state need this protection.

PROPONENTS

Pam Langley, representing Montana Agri-Business Association. Ms. Langley stated the association is comprised of members who supply fertilizer, chemicals and seed to farmers and ranchers. She said they are not seeking a secret or hidden lien, but protection under the law so they can continue to supply the products needed to farmers and ranchers. She commented that other suppliers of ir retrievable services and products now have priority liens, it is only fair that those providing fertilizer and petroleum products have this protection under the law. Exhibit No. 1.

Ken Kelly, representing Montana Grain Elevator Association. Mr. Kelly submitted written testimony.

Bill Terpstra, member of MABA and Gallatin Farmers, Belgrade. Mr. Terpstra stated that in the fertilizer business in 30 to 45 days there could be several hundred thousands dollars that is basic unsecured credit, and a lien law would give a little more assurance. He said as small independent dealers if they lose an account it could cause them to go out of business, and with the lien law it would help them have more control of their accounts.

Dan Place, co-owner, Broadwater Grain and Supply, Inc., Townsend. Mr. Place submitted written testimony. Exhibit No. 2.

Mike Allen, Director, Montana Petroleum Market Association, and independent wholesale distributor of oil products, Helena. Mr. Allen stated they can not recover the product they have sold to the farmer and rancher. He said this bill does not penalize the good farmer or rancher, but it would make him a better businessman, and forces the person to pay in a timely manner.

James Crowder, member of Montana Petroleum Market Association, and independent fuel distributor, Havre. Mr. Crowder stated at the present time they have no legal leverage to collect their overdue accounts.

Tommy Wood, Cargill Grain, Inc., Joplin. Mr. Wood submitted written testimony. Exhibit No. 3.

Doug Johnson, Board of Directors, Montana Agricultural Business Association, Fort Benton. Mr. Johnson submitted written testimony. Exhibit No. 4.

OPPONENTS

John Cadby, Montana Bankers Association. Mr. Cadby submitted written testimony. Exhibit No. 5.

Larry Moore, Stockman's Bank, Cascade. Mr. Moore stated the Stockman's Bank is not very large but it allows him to view things on a simplistic scale. He said three things are needed for credit: 1) intent to pay, sometimes it is difficult to know if the person intends to pay the loan, 2) ability for the person to pay the loan, and 3) security. He commented that as a lender if the security is further eroded, it becomes difficult to be an agricultural lender without security, and these lenders need primary security.

Elroy Letcher, Executive Secretary, Montana Council of Cooperatives. Mr. Letcher submitted written testimony. Exhibit No. 6.

Bob Pyfer, Vice President, Governmental Relations, Montana Credit Unions League. Mr. Pyfer stated there aren't many credit unions that are agricultural lenders in the state, but those that are are important lenders in their areas. He said, as a trade association, they caution credit unions when engaging in this type of business loan, and with this legislation, it would have a detrimental effect on the availability of credit from financial institutions dealing with agricultural lending, and would add confusion to the complex lien arrangements in Montana. He added that whenever credit unions incur a loss from a lien, that loss must be borne by all the member owners, and not just a select group of stockholders, and that they feel the everyone should take their place in line according to priority first for the liens.

Larry Akey, Chief Deputy, Secretary of State's Office. Mr. Akey stated he is not appearing as either an opponent or proponent, but to present a technical amendment to coordinate House Bill No. 497 with Senate Bill No. 114. He said SB No. 114 would require for a statutory lien such as the one proposed in this bill. He commented that currently there is no clear statutory direction as to whether or not a lien created under Title 71 applies against a grain terminal operator, livestock marketing auction yard, or other purchaser of that product, and SB No. 114 would correct that deficiency. He said if the legislature chooses to adopt an additional statutory lien as proposed by HB No. 497, he

urges that the additional lien be coordinated with SB No. 113. Exhibit No. 7.

QUESTIONS

Rep. Swysgood asked Rep. Miller to comment to the reference in the bill that liens against crops and livestock would take precedence over anything else. He said one of his biggest concerns was that the fertilizer and crop suppliers were placed above the livestock, and he did not see the connection that livestock has with crops. Rep. Miller responded that he recognized that problem, and had spoken with a representative of the petroleum industry, and would amend that, as that was not the intention of the bill.

CLOSING

Rep. Miller stated that the banks are using leverage when a farmer or rancher asks for these loans, banks would place the fertilizer and fuel supplier in second place, because when the fertilizer is in the ground and the fuel is used up there is no way to recover them. He said when a lien is placed on a tractor or other equipment and even if they are in second place, they will have something to recover. He commented that banks and lending institutions are businesses that want to make money just as the fertilizer and petroleum suppliers.

HOUSE BILL NO. 507 - Allow Waiver of Certain Bonds on Construction Contracts Under \$5,000, sponsored by Rep. Bud Campbell, House District No. 48, Deer Lodge. Rep. Campbell stated that this bill would allow the state or other governmental entities to waive requirements for bonds or bid security on construction contracts under \$5,000.

PROPOSERS

Tom O'Connell, Administrator, Architecture and Engineering Division, Department of Administration. Mr. O'Connell submitted written testimony. Exhibit No. 8.

OPPOSERS

None.

QUESTIONS

None.

CLOSING

Rep. Campbell stated that occasionally bidders make honest mistakes and this bill addresses that situation.

HOUSE BILL NO. 508 - Allow Waiver of Bid Security Forfeiture, sponsored by Rep. Bud Campbell, House District No. 48, Deer Lodge. Rep. Campbell stated this bill would allow the Department of Administration to waive the requirement to forfeit security when a successful bidder refuses to execute proposed contracts for bids for construction of public buildings or facilities under Title 18, Chapter 2.

PROPOSERS

Tom O'Connell, Administrator, Architecture and Engineering Division, Department of Administration. Mr. O'Connell submitted written testimony. Exhibit No. 9.

OPPOSERS

None.

QUESTIONS

None.

CLOSING

Rep. Campbell made no further comments.

EXECUTIVE ACTION

ACTION ON HOUSE BILL 507

Rep. Simon moved that House Bill No. 507 DO PASS. The motion carried unanimously.

ACTION ON HOUSE BILL 508

Rep. Brandewie moved that House Bill No. 508 DO PASS. The motion carried unanimously.

HOUSE BILL NO. 488 - Extend Termination of Medical Liability Joint Underwriting Association, sponsored by Rep. Jack Ramirez, House District No. 87, Billings. Rep. Ramirez stated that there was a joint underwriting association mechanism on the books in 1977 or 1979 which expired because of the possibility that all medical liability insurance carriers could leave the state and there would not be any provision for coverage for the medical profession. He said another bill was adopted with a 1987 termination date, and House Bill No. 488 would simply extend the termination date.

PROPOSERS

Jerry Loendorf, representing the Montana Medical Association. Mr. Loendorf stated that this bill would extend the existence of the joint underwriting association. He said that the association would only come into existence if the Insurance Commissioner determines that either medical malpractice insurance for doctors or hospitals would become unavailable in the state. He added that in that event, the association would go into operation on a nonprofit basis, and if it made any money it would be refunded to the policy holders; or if it lost any money, an assessment could be made on the policy holders.

OPPOSERS

None.

QUESTIONS

Rep. Thomas asked if there was a problem with extending the termination date to 1991. Rep. Ramirez responded there was none.

CLOSING

Rep. Ramirez made no further comments.

EXECUTIVE ACTION

ACTION ON HOUSE BILL NO. 488

Rep. Brandewie moved that House Bill No. 488 DO PASS.

Rep. Simon moved an amendment to extend the termination date to 1991. The motion carried unanimously.

Rep. Brandewie moved that House Bill No. 488 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 373

Rep. Glaser moved that House Bill No. 373 DO PASS.

Rep. Glaser moved the amendments as proposed by the Governor's Office and amended by the subcommittee. The motion carried unanimously.

Rep. Glaser moved that House Bill No. 373 DO PASS AS AMENDED. The motion carried unanimously.

HOUSE BILL NO. 505 - Revising Acupuncturist Licensing Requirements, sponsored by Rep. William Menahan, House District No. 57, Anaconda. Rep. Menahan stated that this bill revises the training and requirements for acupuncturists.

PROPONENTS

Maurice Hamill, Montana Board of Medical Examiners. Mr. Hamill stated that this bill gives the board the discretion of accepting the national certification for licensing acupuncturists, and would assure quality and competent acupuncturists be licensed in Montana. He said if there should be a breach of security with the national examination, it leaves the discretion of the board to still administer a state examination.

Dr. Bridgette Mazurek, licensed acupuncturist, Helena. Dr. Mazurek stated that the law would benefit the practice, as well as the securities of the patients involved.

Dr. Thomas Bump, licensed acupuncturist, Helena. Dr. Bump stated this bill would make Montana on the same level with the national licensing requirements.

Jerry Loendorf, representing the Montana Medical Association. Mr. Loendorf stated the Association supported the bill.

OPPONENTS

None.

QUESTIONS

None.

CLOSING

Rep. Menahan made no further comments.

HOUSE BILL NO. 557 - Computation of Workers' Compensation Premium for Construction Industry, sponsored by Rep. Jerry Driscoll, House District No. 92, Billings. Rep. Driscoll stated there was a drafting error on page 13, line 12, and the applicability date should be July 1, 1989 instead of October 1, 1985. He said that this bill refers to premiums paid for worker's compensation insurance for construction companies only. He commented that presently all employers pay the workers' compensation payments based on a percentage of their payroll, and this bill provides that they would pay their premiums based on the hours worked. He added the

system for the construction industry is not working well because of the rates based on the percentage of the payroll drive the rates too high and make competition between contractors unfair because of the difference in the amount of worker's compensation payments.

PROPONENTS

Gene Vuckovich, representing Montana Ironworkers' Apprenticeship and Journeyman Training Trust. Mr. Vuckovich submitted written testimony. Exhibit No. 10.

Gene Fenderson, representing State Building and Construction Trades Council. Mr. Fenderson stated that at present if a contractor wanted to pay his employees a fair living wage, the state is penalizing him, because the rates for the contractor that pays lower wages pays less premium than those who pay higher wages. He said this bill should cure some of the inequities that are present.

Vic Jungers, Business Agent, Ironworkers Local 708. Mr. Jungers stated he had two reasons for testifying in support of this bill, the employment of Montanans and employment of ironworkers. He commented the ironworker industry has along with construction been a depressed industry, but when the workers' compensation insurance contributes to depressing the industry, some changes need to be made. He said that this bill does not change the rate, but how the rate is determined, which makes it a more equitable situation for all the contractors.

OPPONENTS

Glen Drake, attorney, representing, American Insurance Association. Mr. Drake submitted written testimony. Exhibit No. 11.

Stan Sparks, Regional Director, National Council of Compensation Insurers, Oregon. Mr. Sparks stated they were talking about the basis of the premium. He said there is no perfect way of pricing workers' compensation insurance, and premiums based on the payroll has been shown as an equitable and reliable method of computing the cost. He commented that everyone keeps payroll records and not everyone keeps records on hours worked which are not readily available or verifiable. He said the auditing problems of records on hours worked are monumental, and there are practical implications regarding the proposal to shift from one basis of premium to another, and would mean that every employer in the state would have to maintain two sets of records. He said there is a 5-year transition period because 5 years of sound data is needed to set the rates, and in Oregon it was

estimated that it would cost \$15 million to convert from one system to the other. He added that there also is a substantial shifting of costs; if a certain group is singled out and charged lesser rates, then someone else has to make up the initial premium.

Riley Johnson, Montana Home Builders Association. Mr. Johnson stated that the issues of fairness of the system, wages, and codes are all irrelevant, as other bills address these issues. He said the issue is strictly a matter of record keeping and a form of how it is paid, and the most important thing is that a five year record keeping system, a dual system, would place a burden on the small contractors. Also, he added, the workload increase is not needed at this time on the Workers' Compensation system.

Bonnie Tippy, representing Alliance of American Insurers. Ms. Tippy stated that the bill seems to be an attempt to restore equity to an inequitable system which will not be the result. She said the inequity could fall on the union employer, the high paying, good employer, that pays benefits based on hours worked and are easy to audit, and the non-union employer who doesn't necessarily pay these benefits is difficult to audit based on audits worked and could underpay their fair share. The bill's intent to establish more equity will have the opposite effect and further devastate an already troubled state fund.

Jim Murphy, Bureau Chief, State Workers' Compensation Insurance Fund. Mr. Murphy stated that if the bill passed they would have to maintain two systems to calculate the rates. He said they would have to require the employers paying on the hourly basis to submit on a payroll basis also, because they need that information for experience rating purposes for instate rating and for experience rating purposes when the state employers work in other states.

QUESTIONS

Rep. Glaser asked Mr. Murphy if the \$102,785 in the fiscal note would be for the software changes in the computer. Mr. Murphy responded that was correct. He said this would include the cost for modification of the present computer system, costs of postage and mailing, changing the reporting form, and additional annual cost in tracking both payroll and hourly basis data. He added they estimate that the actuaries would increase cost which is included, and also operating expenses for the audits.

Rep. Simon commented that the whole concept could get into a protectionism situation where there could be barriers between the states and would be restrictive to trade.

Rep. Hansen stated that liquor was controlled by the state, and this was a unique situation.

Rep. Driscoll moved that House Bill No. 574 DO PASS. The motion carried with Reps. Glaser, Grinde, Kitselman, Simon, Thomas, and Wallin opposed.

ACTION ON HOUSE BILL NO. 499

Rep. Glaser moved that House Bill No. 499 DO PASS. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 497

Rep. Brandewie moved that House Bill No. 497 DO NOT PASS.

Rep. Swysgood moved the amendment to strike "and livestock" where it appears in the bill. The motion carried unanimously.

Rep. Cohen moved the amendments proposed by the Secretary of State's Office.

Mr. Verdon commented that the amendments proposed by the Secretary of State's Office referred to Senate Bill No. 114, and those provisions were not known if that bill passed. He felt that the committee should wait until Senate Bill No. 114 was heard.

Rep. Cohen withdrew his motion to adopt the amendments proposed by the Secretary of State's Office.

Rep. Simon moved that House Bill No. 497 be TABLED. The motion failed.

Rep. Brandewie commented on his motion of Do Not Pass. He stated it appeared that the fertilizer and fuel suppliers wanted to sell their products and then jump ahead of everyone else in order to collect their money. He said everyone dealing with farm credit has to consider a person's financial situation and these people shouldn't be allowed to be in first position in getting paid as a result of a law.

Rep. Simon commented he was in favor of the Do Not Pass motion for the same reasons as Rep. Brandewie. He said the bill was not the way to solve the problems with liens.

CLOSING

Rep. Driscoll stated that regarding the auditing problems, in the union the fringe benefits are paid by the hour, and they have an auditor and he audits over 500 contractors by himself. He said in the construction industry and working on any kind of government payroll, the hours worked have to be kept because of the certified payroll. He commented that the larger employers in the state are self insured and this wouldn't affect them. He said the union has actuaries on their pension plan and on health and welfare, the actuaries base everything on the hours worked, the pension has no unfunded liabilities and health insurance is as good as the state's insurance plan, and their actuary tells them how to keep it that way based on the hours worked system.

EXECUTIVE ACTION - February 11, 1987 - 10:15 a.m.

ACTION ON HOUSE BILL NO. 618

Chairman Kitselman stated that Rep. Rapp-Svrcek had requested that the bill be tabled.

Rep. Jones moved that House Bill No. 618 be TABLED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 52

Rep. Brandewie moved that House Bill No. 52 be TABLED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 119

Rep. Brandewie moved that House Bill No. 119 be TABLED. The motion carried with Rep. Pavlovich and Rep. Wallin opposed.

ACTION ON HOUSE BILL NO. 426

Rep. Glaser moved that House Bill No. 426 DO PASS. The motion carried with Reps. Bachini, Driscoll, Hansen, McCormick, Nisbet and Pavlovich opposed.

ACTION ON HOUSE BILL NO. 574

Rep. Driscoll moved that House Bill No. 574 DO PASS.

Rep. Pavlovich commented that this bill would help stabilize Montana economy if the liquor representative was a resident in the state rather than from out of state and sells liquor in Montana.

Rep. Cohen moved an amendment on page 2, line 7, strike "90 days" and insert "30 days". The motion carried unanimously.

Rep. Brandewie moved that House Bill No. 497 DO NOT PASS AS AMENDED. The motion carried with Reps. Bachini, Cohen, Driscoll, Nisbet and Pavlovich opposed.

ACTION ON HOUSE BILL NO. 505

Rep. Hansen moved that House Bill No. 505 DO PASS. The motion carried with Rep. Driscoll opposed.

ADJOURNMENT

The meeting adjourned at 10:40 a.m.



REP. LES KITSELMAN, Chairman

DAILY ROLL CALL

BUSINESS & LABOR

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date February 11, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

STANDING COMMITTEE REPORT

February 11

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 426

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

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STANDING COMMITTEE REPORT

February 11

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 476

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1) Title, line 5

Strike: "INCOME AND"

2) Title, line 6

Strike: "SECTIONS" through "AND" on line 7

Insert: "SECTION"

3) Page 1, line 10

Strike: "15-30-303" through "Section 2. Section" on line 19
of page 4

Renumber: subsequent section


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STANDING COMMITTEE REPORT

February 11

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 373

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1. Page 1, line 23, through page 2, line 3
Following: "workload," on page 1, line 23,
Strike: the remainder of line 23 and lines 24 and 25 on
page 1 in their entirety, and page 2, lines 1 through 3
in their entirety.
Insert: "The open file is the workload indicator for claims
processing, and the number of open claims per claims
examiner may not be less than 300. The claims support
staff including the file, medical pay, and new claims
units may not exceed two FTE's per claims examiner.
The administrative and underwriting staffing must be
based on the number of premium paying policyholders and
may not exceed 1.4 FTE's per 1,000 policyholders."
2. Page 2, line 6
Following: "committee"
Insert: "for review and approval"
3. Page 3, line 4
Following: "The"
Insert: "goal of the"
Following: "division"
Strike: "shall"
Insert: "is to"


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STANDING COMMITTEE REPORT

February 11

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 389

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSelman

Chairman

AMENDMENTS AS FOLLOWS:

1) Page 1, line 15

Strike: "FEBRUARY 15"

Insert: "January 1"

2) Page 1, lines 23 and 24

Strike: "FEBRUARY 15"

Insert: "January 1"

3) Page 1, line 25

Following: "(a)"

Insert: "within 45 days after January 1"

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STANDING COMMITTEE REPORT

February 11

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 499


☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSelman

Chairman


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STANDING COMMITTEE REPORT

February 11

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 438

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in


☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENT AS FOLLOWS:

1) Page 1, line 14
Strike: "1989"
Insert: "1991"


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STANDING COMMITTEE REPORT

February 11

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report House Bill No. 497

☐ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1. Page 1, line 6
Following: "CROPS"
Strike: "AND LIVESTOCK"

2. Page 1, line 24
Following: "crops"
Strike: "and livestock"


3. Page 2, line 1
Following: "crops"
Strike: "or livestock"

4. Page 2, lines 6 and 7
Following: "planted" on line 6
Strike: the remainder of line 6 and line 7 through
"located"

5. Page 2, line 7
Strike: "90"
Insert: "30"

6. Page 2, lines 19 and 20
Following: "planted"
Strike: the remainder of line 19 and line 20 through
"located"

7. Page 2, line 25, and page 3, line 1
Strike: "and" on line 25 and "livestock" on line 1.


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STANDING COMMITTEE REPORT

February 11

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 437

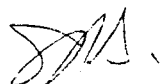
☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman



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STANDING COMMITTEE REPORT

February 11

19 87

Mr. Speaker: We, the committee on **BUSINESS AND LABOR**

report **HOUSE BILL NO. 507**

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

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STANDING COMMITTEE REPORT

February 11

19 87

Mr. Speaker: We, the committee on **BUSINESS AND LABOR**

report **HOUSE BILL NO. 508**


☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSelman

Chairman


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STANDING COMMITTEE REPORT

February 11

19 07

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 505

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSelman

Chairman


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STANDING COMMITTEE REPORT

February 11

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 574

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman


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HB 497

HB497

MONTANA GRAIN ELEVATOR ASSOCIATION

Mr. Chairman and Members of the Committee:

On behalf of the M.G.E.A. I would like to offer the following testimony supporting HB497:

Most of our membership is involved in the business of selling fertilizer, chemicals or petroleum to producers in Montana.

These products are usually the first expenses incurred by farmers prior to planting and are necessary to the crop year.

In many cases, financing is not longer available through lending institutions and we have few of the methods to secure this debt which are available to the banking community.

With this limited security and in light of the agricultural economic situation this bill would provide a means for us to serve the farmers' needs as well as responsibly protect our outstanding liability to him.

We respectfully urge a DO PASS for HB497.

K. M. Kelly

Representing M.G.E.A.



BROADWATER
GRAIN &
SUPPLY, INC.

DRAWER E • TOWNSEND, MONTANA 59644

EXHIBIT 2
DATE 2/11/87
HB 497

(406) 266-3411

IN SUPPORT OF H.B. 497

Mr. Chairman, Members of the Committee,

My name is Dan Place. I am co-owner of Broadwater Grain and Supply Inc. and Townsend Seeds, Inc. in Townsend, Montana.

Broadwater Grain and Townsend Seeds is a proponent of H.B. 497. Credit in the agricultural community is in a transition at this time. Last year a house bill very similar to this passed the house and was killed in the senate. The agricultural industry was told the reason was if leins on fertilizer, chemicals and ag related products were to be moved into a higher place or first place if you will, then the lending institutions would no longer have credit available for people in the agricultural areas. I wonder how many senators are also board members for some of these lending institutions.

I believe that things have changed for lending institutions as well as ag related product sellers in 1987. With the introduction of Chapter 12 bankruptcy on Thanksgiving Day this past year, I wonder how available credit is for people in the agricultural areas such as farming and ranching. Probably not so available. With the privacy laws we have in effect at this time, lending institutions will not reveal to ag suppliers if their accounts have operating lines of credit or not.



**BROADWATER
GRAIN &
SUPPLY, INC.**

DRAWER E • TOWNSEND, MONTANA 59644

EXHIBIT 2 17
DATE 2/11/87
HB 497

(406) 266-3411

H.B. 497

Page 2

At our operations in Townsend, with the big ticket or big dollar items going out in the spring of the year; chemical, fertilizer and related products, our accounts receivable can and has reached \$500,000.00. This money is on our books totally unsecured. We are in the process at this time of selling our accounts receivables off at a cost to us of 3% of the value of the receivable. Without being in a better secured position, we do not feel we can stand this kind of exposure in the ag area at this time. For these reasons we support House Bill 497.

Thank you.

Dan Place
Broadwater Grain and Supply, Inc.
Townsend Seeds, Inc.
Townsend, Montana 59644

3
2/11/87
497

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Comments:
 1.0. are not the business of supplying
 products to farmers and don't want
 to be a credit business
 However must products quickly the
 money is being in chemical business
 to a farmer's wallet is. Some have
 been a little more than
 to be a supplier all the time, I would
 a farmer's needs and a good
 place to be. I don't think
 they are only for selling products

WITNESS STATEMENT

NAME Doug Johnson BILL NO. HB 497
ADDRESS Box 307 Fort Benton, Mt. DATE 2-11-87
WHOM DO YOU REPRESENT? MABA
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We are in the chemical & Fert. business, we now have considerable risk with many dollars outstanding that have no protection. We do not feel we can continue this type of risk. This does not mean numerous liens will be filed. Liens will be filed only as a last resort. Without ~~the~~ lien protection, this source of credit for farmers and ranchers could, in the near future, dry up.

TESTIMONY OF JOHN T. CADBY OF THE MONTANA BANKERS ASSOCIATION
IN OPPOSITION TO HOUSE BILL 497

This bill, which would create a lien for those furnishing fertilizer, soil conditioner, herbicide, pesticide, or other agricultural chemical or supplies fuel or petroleum products, as against the crops and livestock produced within one year from the land "where the product was applied" and also upon "the proceeds from the sale of such crops or livestock," is opposed by the Montana banking industry.

Bankers have consistently urged the Legislature, and particularly its Interim Lien Committee, to pursue a policy of centralized lien filing with lien priorities based strictly upon time of filing.

Such a centralized filing system, with priorities based on time of filing, puts all lienholders and creditors on an equal basis and allows for an orderly and fair extension of credit. Under such a system, before any creditor extends credit based upon a lien, that creditor can ascertain, preferably through an electronic means, the nature and extent of all liens filed and affecting the person seeking credit.

For example, the legislative Interim Lien Committee recently proposed extensive modifications to the mechanic's lien law so that it would no longer operate to create "secret liens" or liens that are unfiled but can be filed subsequently and relate back. This bill, like the mechanic's lien, can be filed 90 days after the last product is furnished and the lien will relate back with

no indication of record to other creditors that credit has been extended.

The second objectionable aspect of this bill is that it sets up a new priority of lien, giving the liens covered thereunder a priority over other liens, presumably federal tax liens, 71-3-201; salary and wages, 71-3-301; agister's liens, 71-3-1201. The argument seems to be that those who provide chemicals or petroleum products ought to have priority since the products furnished are essential to a farming operation. The same can be said of any product, including credit furnished to one engaged in agriculture. The best prioritizing comes from a system where first in time is first in right so that everyone knows what is of record before they extend their credit. Additionally, many of the companies that provide chemicals and petroleum products are large, well financed companies in a good position to ascertain the credit worthiness of their customers and do not need to be placed in a favored class. Arguments can be made for any supplier for a higher order of priority which will engage the Legislature in an endless process of listening to claims by various suppliers seeking a higher order of priority. Also this bill gives a lien to those who supply petroleum products which are used in equipment. This equipment may be used in various ways which do not relate to any particular crop or to any particular livestock. Additionally, there is no reason why a supplier of fertilizer used on crops should also have a lien upon livestock. In summary, this is just another bill by a special interest group seeking a higher priority over other suppliers, and asking the

Legislature to grant them a secret or unrecorded lien for 90 days to the disadvantage of all other suppliers or lenders.

This bill can only serve to further aggravate a difficult agricultural credit situation at a time when Montana's agricultural industry needs every source of capital or credit available.



February 11, 1987

Montana Council of Cooperatives

Phone 442-2120

Area Code 406

P.O. Box 367

HELENA, MONTANA 59624

EXHIBIT

DATE

2/11/87

HB

497

For the record I am Elroy Letcher, Executive Secretary of the Montana Council of Cooperatives.

Our organization represents the Farmer owned Supply Cooperatives, as well as the Grain Marketing Cooperatives, many of whom also sell farm supplies, we also represent the farmer owned Cooperative Farm Credit System.

We appear this morning as Opponents to HB 497 on the general basis of Equity and the Restraint of Commerce. We note Section 4 provides for a Lien priority superior to previously perfected crop liens.

It is our opinion that this type of lien will work to the disadvantage of the majority of producers and tend to restrict the availability of credit.

Also that non-noticed statutory priority liens increase the business risk to production lenders and to other agribusiness that make use of crop liens.

Our membership made up of farmer producer owners of farm supply businesses, as well as the farm credit system in meeting this past fall and winter have agreed that

1. An adequate supply of trade credit and production credit is essential to the effective functioning of a health agricultural industry.
2. That non-noticed statutory priority liens increase the business risk to production lenders and other agribusinesses.
3. That it is in the best interest of all parties, Producers, Production Input Vendors, and Lenders, that agricultural lien interests be readily discoverable.
4. That the equitability of relative priority position of the various parties be generally supported in principal by all parties.

In other words our members have said, all lenders and providers of credit are entitled to a lien position, but that it should be open and recorded at the time the credit is extended or shortly thereafter, but not as this bill provides with the lien being filed 90 days after the final delivery of product, which in effect makes it a secret lien for a time period greater than 90 days.

We feel the provider of credit should take his or her place in line based on date of filing.

SECRETARY OF STATE

AMENDMENT TO HB497

1. Page 2, line 23.
Following: subsection (3)
Insert:

"(4) Notice of Agricultural Lien must also be filed in the office of the secretary of state as required by [section 1 of SB114]."

2. Page 3, line 11.
Following: "penalty."
Insert: "(1)"

3. Page 3, line 21.
Following: "with costs of suit."
Insert:

"(2) Termination statement as described in 30-9-404 must be filed with the secretary of state with the same obligations and penalties described in (1)."

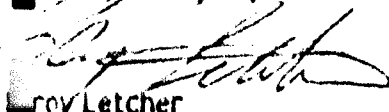
4. Page 5, line 5.
Following: "Title 71, chapter 3."
Insert:

"NEW SECTION. Section 10. Coordination instruction. If Senate Bill No. 114 is passed and approved, the following amendments shall be included in this Bill and not otherwise: subsection (4) of Section 2, inserting numeral "(1)" in Section 5, and subsection (2) of Section 5."

5. Page 5, line 6.
Strike: "10"
Insert: "11"

Our resolution goes on to ask that the subject be studied by a joint task force or interim committee, which we had hoped would have been done, and assumed was done during the interim since the 1985 legislative session.

In closing we would ask that you give this bill HB 497 a do not pass recommendation, or at best amend it to remove the 90 day secret, as well as the priority aspect of the bill.



Gary Letcher
Executive Secretary
Montana Council of Cooperatives
Box 367
Helena, Montana 59624
42-2120

SECRETARY OF STATE

AMENDMENT TO HB497

1. Page 2, line 23.
Following: subsection (3)
Insert:

"(4) Notice of Agricultural Lien must also be filed in the office of the secretary of state as required by [section 1 of SB114]."

2. Page 3, line 11.
Following: "penalty."
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"(2) Termination statement as described in 30-9-404 must be filed with the secretary of state with the same obligations and penalties described in (1)."

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"NEW SECTION. Section 10. Coordination instruction. If Senate Bill No. 114 is passed and approved, the following amendments shall be included in this Bill and not otherwise: subsection (4) of Section 2, inserting numeral "(1)" in Section 5, and subsection (2) of Section 5."

5. Page 5, line 6.
Strike: "10"
Insert: "11"

EXHIBIT

8

DATE

2/11/87

HD

507

BILL NO.

BILL ANALYSIS

NAME:

"AN ACT TO ALLOW THE STATE OR OTHER GOVERNMENTAL ENTITY TO WAIVE THE REQUIREMENT FOR PERFORMANCE, LABOR, AND MATERIALS BOND OR BID SECURITY ON CONSTRUCTION CONTRACTS UNDER \$5,000; AMENDING SECTIONS 18-2-201, 18-2-202, AND 18-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE".

PURPOSE:

The purpose of this bill is to allow the State or other governmental entity to waive the requirement for performance, labor, and materials bonds or bid security on construction contracts under \$5,000. The performance bond guarantees that the contractor will complete the contract and the labor and material bond guarantees that the contractor will pay all bills for labor, materials, equipment and services necessary to construct a project. The present law requires performance, labor and material bonds in the amount of 100% of the contract to be provided by the contractor for construction contracts of any size financed with public funds. Bid security on construction contracts under \$5,000 is already waived by Section 18-2-103(5), MCA and amending Section 18-2-302 is intended to clarify this issue.

PROS AND CONS:

Pros:

Surety companies do not want to issue bonds for contracts of this size making it difficult for contractors to obtain bonds.

Contracts under \$5,000 are single payment contracts, i.e., the work is not paid for until the project has been satisfactorily completed. There is, therefore, a minimum of risk since the State or other governmental entity could withhold payment if any problems arose. In effect, it is redundant to require a performance bond while at the same time using single payment contracts since each insures that the work will be completed.

The bond requirements discourages small contractors who lack the services of a CPA to prepare the financial information required by the surety companies or the time and personnel to obtain the necessary bonds.

During the last 19 years, the Architecture and Engineering Division has not needed to go against a contractor's bond for any contract under \$5,000. In the event that a contractor should default, the claims for labor and materials would be small.

In the long term, the cost to the State or other governmental entity of requiring the contracts to be bonded would outweigh the cost of paying claims for labor and materials as the result of an occasional contractor defaulting in paying his bills. The minimum premium for a \$5,000 bond is \$50.00.

It is standard practice by the State or other governmental entities to require the contractor to certify that all bills are paid before releasing final payment to the contractor.

Approximately one third of the contracts under \$5,000 are delayed an additional 2 to 3 weeks while bonding is being obtained. An example of the problem bonding small projects is the Unit Heaters for Vocational/Industrial Building, Montana State Prison, Project No. Mont A/E 86-12-04. This is a rush project to add supplemental heat to the building before winter sets in. The contract amount is \$6,250., a bit over \$5,000., but serves as a good illustration. The project was bid October 7, 1986; awarded October 17 and contracts and bond forms mailed to the successful bidder on October 22, 1986. As of December 11, 1986 (date of writing bill analysis), the signed contract and executed bonds have not been returned to the offices of the Architecture and Engineering Division. The bidder has been contacted 6 times and, when contacted, informs this office that he will have the bonds next week. This project illustrates the problem of a small specialty contractor who normally acts as a subcontractor to a general contractor on larger contracts. In that instance, the general contractor bonds his subcontractors. On a small project like the example, the specialty contractor is acting as the general contractor but does not have the experience or track record to obtain his own bonding easily. He first has to be turned down thru the normal bonding channels before he can apply for a Small Business Administration (SBA) guaranteed bond. This takes time. To further complicate matters, SBA has had trouble funding their bonding program during the last half of the 1986 calendar year.

Cons:

If the labor and material bonds are not required, the State or other governmental entity may be obligated to pay claims for labor and materials even if the contractor has been paid in full. If a State agency or other governmental entity had to pay claims for a defaulting contractor, it may impose financial hardship on that agency or entity.

ALTERNATIVES TO LEGISLATION:

Leave the law as it is presently written.

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FINANCIAL IMPACT:

There would be a small savings (a minimum of 1% of the cost of the contract) to the State or governmental entity if the waiver of bonds was used with discretion.

PRIOR LEGISLATIVE HISTORY:

A similar bill (Senate Bill 228) waiving bonds on construction projects costing less than \$25,000 was considered and rejected by the 49th Legislative Session.

NEW FULL TIME EQUIVALENCIES (FTEs) REQUIRED:

None.

EXAMPLES OF HARM IF NOT PASSED:

Contracts under \$5,000 will continue to be delayed an additional 2 to 3 weeks or longer while bonding is being obtained. In some cases the State will lose the low bid of an otherwise qualified bidder and award the contract to a higher bid.

INTERESTED PERSONS AND THEIR POSITIONS:

Not known.

SUGGESTED SPONSORS:

PROBLEMS WITH OCTOBER 1 EFFECTIVE DATE:

This bill should be effective on passage so as to become applicable to the Capital Building Program authorized by the 50th Legislative Session.

CRHBILL4/C:

BILL NO. _____

BILL ANALYSIS

TITLE:

"AN ACT TO ALLOW THE DEPARTMENT OF ADMINISTRATION TO WAIVE THE REQUIREMENT THAT ALL BID SECURITY BE FORFEITED IF THE SUCCESSFUL BIDDER REFUSES TO ENTER INTO AND EXECUTE THE PROPOSED CONTRACTS FOR BIDS ACCEPTED UNDER TITLE 18, CHAPTER 2; AMENDING SECTION 18-1-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE".

PURPOSE:

Bid security in the minimum amount of 10% of the bid is required by law to insure that the successful bidder will enter into a contract. The present law requires that bid security be forfeited if the successful bidder refuses to enter into a contract. The Department of Administration and the State Board of Examiners have, in the past, returned the bid security to those successful bidders who have documented that they have committed a substantial "honest error" in their bid and that to enter into a contract would cause them serious harm. Courts have upheld the rights of successful bidders to the return of their bid security and the release of their bid under certain circumstances such as a substantial mistake in the bid. Further, it is the Department of Administration's policy not to force the unwilling bidder into a contract that will likely result in an unsatisfactory project for the State of Montana and could result in serious harm to the successful bidder. The purpose of this bill is to amend the law relating to the forfeiture of bid security to be compatible with the Department of Administration's bidding policies, accepted construction industry bidding practices and past court decisions.

PROS AND CONS:PROS:

It is not in the State's best interests to force a successful bidder who has committed a sizeable error in their bid to enter into a contract with the State. Doing so increases the likelihood of poor workmanship, late completion schedules, unsafe worksite conditions, claims for extra cost, and arbitration or litigation which will result in less satisfactory projects for the State of Montana and also may, in extreme cases, result in the bankruptcy of the successful bidder.

In a number of circumstances the present law is not enforceable in court. The Department of Administration and the State Board of Examiners do presently return the bid security under those circumstances.

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The Department of Administration and the State Board of Examiners would not be put in an awkward position when bid security was returned to a successful bidder who had committed a significant "honest error" in their bid.

CONS:

None.

ALTERNATIVES:

Leave the law as presently written and continue to ignore the law on those occasions when waiving the forfeiture of bid security is in the best interests of the State and is probably unenforceable in court.

FISCAL IMPACT:

None. Amending the law will not change the Department of Administration's policy relative to the forfeiture of bid bonds.

PRIOR LEGISLATIVE HISTORY:

No legislative history in recent years.

NEW FULL TIME EQUIVALENCIES (FTEs) REQUIRED:

None required.

EXAMPLES OF HARM IF NOT PASSED:

The Department of Administration and the State Board of Examiners will continue being in the position of ignoring the law when circumstances require the return of bid security.

INTERESTED PERSONS AND THEIR POSITIONS:

Does not effect any other governmental entity other than the Department of Administration and the State Board of Examiners as the law is proposed to be amended. The Montana Contractors' Association, Inc., and their Secretary-Manager, Mr. William Olson, would support this legislation.

SUGGESTED SPONSORS:

PROBLEMS WITH OCTOBER 1 EFFECTIVE DATE:

This bill should be effective on passage so as to become applicable to the Capital Building Program authorized by the 50th Legislative Session.

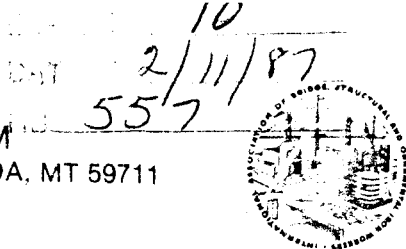
C:CRHBILL2



MANAGEMENT:
BILL OLSON
DICK DE VRIES
JAMES LECHNER
MERRILL MORAN
RALPH L. BELTRONE
BOB ROGERS

LABOR:
FRED SIDES
RON JAMES
CHARLES FERGUSON
CHARLES FISHER
FRANCIS FITZPATRICK
VICTOR JUNGERS

MONTANA IRONWORKERS
APPRENTICESHIP AND TRAINING PROGRAM
106 E. COMMERCIAL AVE. P.O. BOX 818 ANACONDA, MT 59711
PHONE (406) 563-5349



GENE VUCKOVICH
Director

TESTIMONY OF GENE VUCKOVICH

HOUSE BILL #557 BUSINESS AND LABOR COMMITTEE

Mr. Chairman and Committee Members, for the record, my name is Gene Vuckovich and I am representing the Montana Ironworkers' Apprenticeship and Journeyman Training Trust, which is jointly administered by representatives of both Labor and Management.

The construction industry, with which our Trust is affiliated, is concerned about three (3) separate issues dealing with Workers' Compensation.

They are:

#1. Under the present system, whereby Workers' Compensation (W.C.) premium is based on \$100 units of payroll, the employer paying higher wages pays more in premiums, in many cases double, than a lower wage paying employer whose employees perform identical work and receive equivalent Workers' Compensation benefits. It is difficult to imagine anything more unfair than the present system which severely handicaps certain contractors as they compete for business in the free marketplace. If this same discriminatory practice were extended into the purchase of steel, welding rods or hoisting equipment; the "restraint of Trade" violations would be immediately obvious and antitrust proceedings against the perpetrators would be virtually automatic. We have an obligation to bring fairness and equity into the Workers' Compensation System by changing the premium base from "payroll" to "hours worked". H.B. #557 would achieve this goal.

#2. The present procedure whereby "Reserves" are set aside for possible future claim costs in Workers' Compensation cases is a routine practice by the carriers and we do not challenge the practice. We do feel that the income from reserve investment should be credited to the payers of reserve.

Actually, reserves are funds appropriated by a second party without the consent of the charged party. Certainly it is only fair that the proceeds from the investing of this money placed in escrow should accrue to the party from whom it has been taken when it was placed in escrow.

The escrow accounts of "Reserves" are in the same category as a trust fund and strict accountability with all details being shared with the contributors is not only desirable for a mutual trust relationship; it should be a requirement.

When state law authorizes a reserve fund arrangement for unilaterally determined amounts, as Montana does, it is incumbent for the State to require fair accounting and full disclosure of the investment income of these funds. H.B. #557 would do this.

#3. The third issue that concerns our Trust is the overabundance of occupational classifications presently available for use by construction employers that has provided a system which begs for misclassifications by employers to gain a competitive edge. The opportunities available to gain a competitive edge has made dishonest people out of otherwise decent, fair employers in the construction industry. This is done through a self defense rationale by contractors, but the root cause can be easily resolved. Construction workers of all trades are always working elbow to elbow and exposed to the same hazards at the jobsite and the overabundance of classifications within the construction industry is a carryover from an antiquated system. The time is long overdue for a change to a comprehensive classification of "Construction Worker" which can then be sensibly refined by hazard exposure to either "Residential", "Commercial" or "Industrial Construction Worker" for a clearer distinction of the underwriting risk involved. Anyone familiar with the present Workers' Compensation System would confirm that widespread cheating through misclassification is rampant within the industry. A change to a simpler, more fair classification system would bring more employers into a law abiding posture while strengthening the financial resources of the insurance carriers through increased premium collections for the industry. We hope that this Committee would consider amending this proposed legislation to include changing the classification system to one that is simpler and more fair.

Our Trust realizes that the Worker Compensation problem in Montana is a serious one and that many hard decisions will have to be made.

On behalf of the Montana Ironworkers Apprenticeship and Journeyman Training Trust and myself, I wish to thank this Committee for your indulgents and we sincerely hope you have time to review the issues presented here. We are sure that upon close study of the problems presented here today, you will conclude that there is an inequity in the present Workers' Compensation premium rate structure for the construction industry.

We urge you to give a 'DO PASS' consideration to House Bill #557.

STATEMENT OF AMERICAN INSURANCE ASSOCIATION
IN OPPOSITION TO HOUSE BILL 557

By: Glen L. Drake

House Bill 557 changes the basis of premium charges for workers' compensation coverage from percent of payroll to hours worked in the construction industry.

Such changes are fraught with problems.

Example, ~~all that~~ many construction jobs are not paid by the hour, such as roofers - paid by square feet; drywall people - paid by square feet; office personnel (managing) salaried. Thus, there is no basis for by-the-hour computation.

Workers' compensation premiums are estimated and are subject to audit to make certain proper rates are being paid.

As can be seen from the above, there would be no basis for an audit. The bill should shift the burden to the heavy labor market.

A change like the one suggested in HB 557 would shift the premium load from the employer hiring high-paid employees to the employer that is labor intensive with low paid employees.

It, in effect, would cause the low-paid employer to pay and inordinate share of the workers' compensation premium.

Example - average weekly wage - \$450.00
maximum benefit paid
under workers' compensation \$300.00

Under the present practice the premium is based on total payroll.

Under the proposal, it would be based on hours worked. Thus, the workers' compensation premium would be shifted from the employer hiring highly skilled and highly paid workers to the employer hiring low skilled and low paid workers making less than the \$450.00 average weekly wage.

We recommend that HB 557 receive a DO NOT PASS recommendation.

Ultimately it would lead to the elimination of jobs in the lower paying areas as employers would be forced to mechanize in order to compete.

HC 85 BOX 970
CLINTON, MT 59825



TELEPHONE
(406) 825-6151

EXHIBIT

DATE 2/11/87
HB 557

TO WHOM IT MAY CONCERN:

I am writing this letter to show my concern on the new Workmans Compensation rates that were issued January 1, 1987, and the anticipated rates that will be issued in July of 1987. At the present time our firms rate on Structural Steel is, \$71.82 per hundred, times our modification factor of 1.95 makes our total rate (\$140.03 PER HUNDRED) Deb-Wall Steel's average hourly wage rate per hour for a Union Ironworker is \$18.18 per hour, working on Structural Steel our premium for that employee would be \$25.46 per hour. Compared to a Non-Union employees earning \$8.00 per hour, with a premium of \$5.74 per hour. That makes a disadvantage of \$19.72 per hour for a Union Contractor. Ninty-Five Percent (95%) of all work done by our firm is done on a bid bases, as you can see we can not stay competitive in our field, with the method being used at the present time. We would like to see the Workmans Compensation changed to a hourly rate rather than a percentage of gross payroll, so that we the Union Contractor can stay competitive with the Non-Union Contractor. We do hope that HOUSE BILL NO. 234 will be greatly considered and passed. If we as Contractors as well as concerned Montana resident can be of any help, please do not hesitate to call or write. Thank you.

Sincerely,

Debra E. Galahan
Sec.-Tres.

cc;file

*Int
2-4-87*

HC 85 BOX 970
CLINTON, MT 59825



DATE 2/11/87
TELEPHONE 557
(406) 825 6151

November 20, 1986


TO WHOM IT MAY CONCERN:

I am writing this letter to show my concern on the rates that will be issued January 1, 1987, by the State of Montana Workmans Compensation Fund. At the present time it is extremely high, after the new rates become effective it will put alot of Montana Company's out of businesses, ours may be one of them.

Our rates at this time on the erection of structural steel is \$47.31 per hundred, plus our Experience Modification Factor which is 1.95 making our current rate \$92.25 per hundred. After calling the Workmans Compensation Fund today and getting our new rate effective January 1, 1987, the base rate on structural steel erection will be \$71.81 plus our Experience Modification Factor which is 1.95 making our new rate (\$140.03 PER HUNDRED).

Deb-Wall Steel Erectors, Inc., incorporated May 17, 1977 in the state, 99% of all work is done on a bid bases, 95% of all our work is bridges on Montana State Highways and County Bridges in Montana. We are a Montana owned corporation and hire employees from Montana. If the state does not get the rates down, I feel it will force alot of Montana businesses to relocate, to a state which has resonable rates or completely shut down there business altogether. Our prices on State and Federal work have to be much higher now than they should be, because of our Workmans Compensation Rates. With the new raise in January and the expected raise in July of 1987, the additional costs in the construction field alone will greatly effect the State of Montana's economy. We do hope something can be done, so that all Montana businesses can survive.

Sincerely,


Debra E. Galahan
Sec.-Tres.

COMMITTEE

DATE February 11, 1987

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Stan Spinks	NCCF		✓
James Murphy	State Comptroller, Hard		✓
John J. [unclear]	State F. E. L. C. 10	✓	
Vic [unclear]	Ironworkers Bldg	✓	
STEVE SEIFERT	CFAC		
Alan [unclear]	Ironworkers Union		✓
Roger [unclear]	IRONWORKERS' ASSOC. of ME		✓
Bonnie [unclear]	Ironworkers Union		✓
Paul H. [unclear]	IRONWORKERS' Union, Helena	✓	
William J. [unclear]	Deb - Wall St	✓	
Robert E. [unclear]	McMillan Steel	✓	
Gene [unclear]	Ironworkers Union	✓	
Johnny [unclear]	Ironworkers	✓	
Don [unclear]	Orion Group		X
Harold [unclear]	Flathead Co.		
George [unclear]	MTS. R. [unclear]		✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill No. 497DATE February 11, 1987SPONSOR Rep. Ron Miller

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
James Crowder	Petroleum Distributor	✓	
K.M. Kelly	Mont. Grain Elevator Assn	✓	
E LUX LETCHER	MT COUNCILY ROOMS		✓
Wm. D. H. B. E.	MT BANKERS		✓
Dan Pease	Broadwater Grain	✓	
Tommy Wood	Cargill	✓	
Don Johnson	Cargill	✓	
Mike Allen	W P M A	✓	
Kurt Krueger	mont Pet Dist	✓	
PAM LANGLEY	Montana Agri-Business Assn	✓	
LARRY ALLEY	SEC OF STATE		
Roger M. Glenn	INDEPENDENT BUS. AGENTS Assoc. of MT		✓
Mr. T. J. T.	M. A. H. H.	✓	
Bob Pyser	Mont. Constitutional League		✓

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 No. 507DATE February 11, 1987SPONSOR Rep. Bud Campbell

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Tom Donnell	State of Maryland	✓	
US Marine	Mt. Tech Council	✓	
Green Industries	M.B.M.C.	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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COMMITTEE

DATE February 11, 1987

SPONSOR

[illegible]

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 No. 488

DATE February 11, 1987

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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COMMITTEE

DATE February 11, 1987

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.