

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 10, 1987

The thirty-first meeting of the Business and Industry Committee was called to order by Chairman Allen C. Kolstad at 10 a.m. on Tuesday, March 10, 1987, in Room 410 of the Capitol.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL NO. 362: Rep. William Glaser, House District 98, Billings, chief sponsor of this bill stated that in the construction industry builders are getting payments on work done for material delivered as the work progresses. Generally these payments are monthly in nature and follow the actual expenditures on the part of the contractors, subcontractors and suppliers by about 30 to 45 days. Some of the contractors and subcontractors because of either bad management practices or devisive management don't forward to their subcontractors, or material suppliers their share of the progress payments in a timely manner. He explained that by "devisive management" he was referring to when contractors or subcontractors in their search for very narrow margins of competitiveness in construction projects, make a decision up front that they are going to hold the money for the subcontractors and materials suppliers for 90 days, etc., so that they can put that into a money market and gain a one or two percent advantage on a construction project. This is all it takes quite often to get a construction project. Rep. Glaser feels that there are two positive gains under HB 362. Number one is that it will give an incentive for people to pay their subcontractors and materials suppliers when they are paid and secondly, it will make good contractors who pay their bills promptly more competitive when bidding against poor contractors. He explained that the bill is patterned after a Louisiana law which says that if you haven't paid your subcontractors in 21 days the contractor or subcontractor (whichever didn't pay the bill) owes the contractor, or materials supplier under him an additional one-half of one percent per day up to 15 percent as a penalty for not paying. Under HB 362 the time limit is increased up to 30 days versus 21. Rep. Glaser stated that this is in regard to money that has already exchanged hands from the owner to a superior contractor in the line of things who should, with dispatch, pay those who are under him. Rep. Glaser told the committee that he had

visited with many other subcontractors who felt that this was a good bill because they see the abuses that are going on. However, because of the economic condition of the construction industry right now, many of them simply cannot leave what work they do have to come here to testify, or do not have the actual funds to do so.

PROPOSERS: There were no further proponents to HB 362.

OPPOSERS: Lloyd Lockrem, Jr., representing the Montana Contractors Association stated that basically he supports most of the concepts of the bill. He cited his own experience with the so-called "white or black hat" contractors. However, he felt that the problem could be dealt with in the private sector. Further, he felt that the problem has already been addressed in the STANDARD SUBCONTRACT AGREEMENT FOR BUILDING CONSTRUCTION under Article 2 titled, Payments. He noted that the stipulations in these agreements are even more stringent than those proposed in HB 362. Mr. Lockrem stated that he feels that a subcontract is basically an agreement between a willing buyer and a willing seller and is made between two consenting adults. On that basis, he felt that the terms and conditions of a contract should be handled in the private sector rather than being etched in stone in the revised codes of the State of Montana. He also felt that what Rep. Glaser wished to accomplish with HB 362 could be very simply added to the standard subcontract agreement. He stated that as drafted and as good intended and timely as it may be, this bill simply does not belong in the revised code. (EXHIBITS 1 & 2)

DISCUSSION OF HOUSE BILL NO. 362: Chairman Kolstad called for questions from the committee. Sen. Thayer asked Rep. Glaser if there was a reason why no one came to testify on this subject during the time an interim committee, on which Sen. Thayer served, spent a good deal of time on this very subject. Rep. Glaser answered that subcontractors, by their very nature, are disorganized, and he has been trying to help them get the problem addressed ever since Rep. Pistoria brought this bill in two years ago, but these people are just "little guys" and they do not understand how the process works up here even though they want something done to solve the problem. Sen. Thayer then wanted to know if under this bill a subcontractor would be getting a portion of the progress payments even though he may not have fully paid for those materials that he has used on the job, and would it be possible that someone would get progress payments and not

pay his contractor and then end up sticking the general contractor because he was forced to pay for this without getting a lien release. Rep. Glaser replied that lien releases generally follow payment. Sen. Thayer felt that, at the very least, the bill should be amended to reflect that they have to have a lien release on whatever portion of work or materials that have been paid for, otherwise, a guy could get stuck, in effect, with paying for the goods twice. Rep. Glaser did not agree because he felt that any reasonably knowledgeable contractor, as soon as he pays, will expect a lien release signed. Rep. Glaser explained that the bill does not have anything to do with the lien release, but with the fact that the general contractor has been paid, or the electrical contractor or mechanical contractor has been paid, and then doesn't pay those subcontracting under him. The only way to satisfy that situation presently is to go to court.

Sen. Neuman wanted to know what would happen if a person was working on a highway project, for instance, and had subcontracted out to put in some pipes, or electrical materials, and the general contractor didn't receive full payment for the job. Rep. Glaser answered that even if you had completed all of your work or fulfilled all of your obligations agreed upon, you would be paid pro rata, not in full. Sen. Neuman felt that if the subcontractor had completed his part of the job, then he should be paid in full. Rep. Glaser agreed, but stated that is not the way it works. Mr. Lockrem interjected that usually the owner of the project holds ten percent until a project is perhaps 50% completed, and then they stop holding. He explained that in his work, excavation, they are usually the first ones in on a building site, for instance, but they still have that earned retainage tied up.

Sen. Weeding wanted to know if the penalty wasn't almost userous at that rate, and doesn't the legal limit apply in this case? Rep. Glaser explained that that was not interest but a penalty.

Rep. Glaser noted that they are not attempting to make things tough for the "good guy" that pays his bills promptly, but are trying to do something about the "bad guys" who hold out on their subcontractors.

Sen. Meyer asked Mr. Lockrem what there was to assure the contractor that the subcontractor pays his bills for whatever materials that he needs for that particular job.

Mr. Lockrem replied that there is no assurance and that is a major problem.

Rep. Glaser closed by commenting that subcontractors in this day and age don't normally bond; they pass that cost to the general contractor, and the general contractor becomes non-competitive on the job. When a general contractor or an owner gets uncomfortable about whether he will be paid, then he starts issuing two-signature checks. This bill is just trying to make the system honest.

CONSIDERATION OF HOUSE BILL NO. 569: The chief sponsor of this bill Rep. Ed Grady, House District 47, Helena, stated that this bill amends the public contract preference laws to apply the residency definition of 18-1-103 to the provisions of 18-1-111 which requires that a preference be given to a resident bidder over a nonresident bidder if both bids and the quality of goods offered are the same. This bill rectifies the present situation that precludes the Montana firm qualified as a resident bidder from using its qualification under the tie bids section because its corporate headquarters is located out of state. Current ruling by the department of administration would preclude 65% of Montana dairy farmers from ever participating in a contract to furnish milk to state institutions.

PROPOSERS: Mr. K. M. Kelly, Helena, Montana Dairy Industry Processors, rose in support of HB 569 and presented written testimony. (EXHIBITS 3)

Mr. Edward McHugh, Helena, owner of Clover Leaf Dairy, stated that he would be one of the beneficiaries if the law were left the way it is, and his major competitor would not be able to compete for tie bids on state projects. He noted that many years ago he felt it would be a good idea if that were done and promoted legislation with that in mind. Since that time, he told the committee that he has realized that this is the way it should be now. He believes that this is the fair way for the dairy industry and that there are two laws that would be jeopardized if this bill were not passed. The first is the three percent preferential treatment for Montana manufactured products. Secondly, the milk-control pricing and milk control itself would be jeopardized. It would also cause a split in the industry. As an independent dairyman competing in the market place and in state bids, he urged the committee's support of the bill.

Mr. Ted Doney, representing the Montana Dairymen's Association clarified that Mr. Kelly represented the milk processors for the milk plants in Montana, while he himself represented the dairy farmers and milk producers. He stated that 65% of the milk producers in the state of Montana sell their milk to Meadow Gold and that precludes them from bidding on any state milk contracts at the present time. They feel it is a very unfair policy. Therefore, the dairymen's association supports this bill because it would bring back into the law that which has been in practice the last thirty years. The new interpretation of the law by the Department of Administration excludes any bids by Meadow Gold and is very unfair.

Mr. Don Ingels, Helena, with the Montana Chamber of Commerce stated that they would like to express their support of the bill.

OPPONENTS: There were no opponents to HB 569.

DISCUSSION OF HOUSE BILL NO. 569: Chairman Kolstad called for questions from the committee. Sen. Hager asked Rep. Grady if this bill would go broader than to just the milk industry and Rep. Grady felt that it would. He deferred to Mr. Kelly who stated that as far as he knew the milk industry was the only one in the state whereby another agency sets the price that they have to enumerate in the bid; however, if there are others with like circumstances, they would fall under this bill. On the other hand, if there isn't anyone, then they would fall under Section 111. Sen. Hager then asked if other milk products would be affected, and the answer was, "no", only milk.

Rep. Grady closed the hearing on HB 569 by stating that he feels the bill is spelled out quite well to protect the Montana dairy producers so that they can compete for the state bids. He pointed out that HB 569 had passed the House by a 96-2 vote.

CONSIDERATION OF HOUSE BILL NO. 411: Rep. John Harp, House District 7, Kalispell, chief sponsor of this bill opened the hearing by stating that currently line trucks that have "telescoping booms" that do not exceed more than 36 feet are exempt from the regulatory laws. However, within the last year one of the utility companies purchased a boom with a gib that went over the 36 feet and were concerned that they would not be able to meet the requirements to be exempt. He pointed out that all of the

people in the businesses such as Montana Power and MDU who operate such equipment have to go through extensive safety programs or apprentice programs and are constantly being updated on safety procedures. Rep. Harp felt that the bill is very specific in spelling out what type truck would be covered and noted that the length of the boom had been eliminated in the House so that this would not have to be changed everytime a utility bought a new truck with a few more inches or feet in length. He distributed pictures showing the type of equipment referred to in the bill. (EXHIBIT 4)

PROPONENTS: Mr. Bob Quinn, representing Montana Power Company, stated that this bill applies to a new type of line truck which they are planning to buy. He noted that they had been working with the operating engineers in amending the laws dealing with this. He felt that it would be a good idea to do away with the specific length and urged the committee's support of the bill.

Mr. Gene Pigeon, M.D.U., Resources, expressed their support of the bill and stated that they would probably have the same situation in Eastern Montana when they had to purchase new trucks. He told the committee that Mr. Gene Phillips from Pacific Power and Light had to be at another committee hearing and requested that he be recorded as being in support of HB 411.

OPPONENTS: There were no opponents to HB 411.

DISCUSSION OF HOUSE BILL NO. 411: Chairman Kolstad called for questions from the committee. Sen. Williams asked if this did not pass, then would everyone operating anything over 36 feet have to be an operating engineer, and Rep. Harp answered that they would have to go through all the licensing and tests, etc. It would not necessarily mean that he would have to be an operating engineer in the sense that he would have to belong to a specific union, but he would have to be a licensed hoisting engineer by the State of Montana which would require some things that are outside of the normal realm of the electrical work which would be very cumbersome. This bill would allow a journeyman, electrician or foreman to operate a line truck. There being no further discussion, the hearing was closed on HB 411.

EXECUTIVE ACTION ON HOUSE BILL 411: Sen. Mike Walker moved that HB 411 BE CONCURRED IN. The MOTION was Seconded by Sen. Harry McLane and CARRIED UNANIMOUSLY.

CONSIDERATION OF HOUSE BILL NO. 507: Rep. Bud Campbell, House District 48, Deer Lodge, chief sponsor of this bill stated that this bill allows the state or another governmental entity to waive the requirement that a contractor post a bond or pay bid security on a public contract if the building or construction project costs less than \$5,000.

PROPONENTS: Mr. Tom O'Connell, Administrator, Architecture and Engineering Division, Dept. of Administration stated that present state law already has special provisions for projects under \$5,000. This bill would eliminate some unnecessary paperwork with the risk being very small to the state. He felt that the benefit to small contractors by allowing them to participate in the construction process would be enhanced by the bill.

OPPONENTS: There were no opponents to HB 507.

DISCUSSION OF HOUSE BILL NO. 507: There were no questions from the committee.

EXECUTIVE ACTION ON HOUSE BILL NO. 507: Sen. Bob Williams MOVED that HB 507 BE CONCURRED IN. The MOTION was Seconded by Sen. Cecil Weeding and PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 654: Committee Researcher, Mary McCue explained that this was Rep. Addy's bill that had to do with the non-profit organization beer and wine license and that she had requested the committee hold the bill for one day so that she could check the statute on page 2, line 23. She stated that it is the incorrect number. The 16-4-201 is the all-beverages license quota statute, so that should be changed to 16-4-105 which is the beer and wine license quota.

Sen. Mike Walker MOVED that House Bill No. 654 BE AMENDED as suggested by Ms. McCue. The MOTION was Seconded by Sen. Cecil Meyer and PASSED UNANIMOUSLY.

Sen. Tom Hager made a MOTION that House Bill No. 654 BE CONCURRED IN AS AMENDED. Sen. Mike Walker Seconded the MOTION and it PASSED with Sen. Boylan voting "no".

RECONSIDERATION OF HOUSE BILL NO. 570: It was announced that the vote on HB 570 had resulted in a tie vote after members who were absent had turned in their votes. Sen. Bob Williams made a MOTION that HB 570 BE RECONSIDERED.

The MOTION was Seconded by Sen. Mike Walker. The MOTION PASSED with Sen. McLane voting "no".

Chairman Kolstad asked Ms. McCue to explain the proposed amendments. She explained that numbers one and two are the amendments requested by Mr. Howard Johnson of the UofM golf course, Missoula. It would include those people who have a publicly owned golf course license. The third amendment is merely a technical amendment to change "OF" to "OR" on page one, line 21. Sen. McLane wanted to know if this bill would prevent golfers from bringing their own drinks, and the general consensus of the group was that it would not. However, Sen. Weeding said he thought that he had heard someone say that might be the case and that they would have better control of the bring-ins. Chairman Kolstad agreed it was brought up in the testimony. Sen. Neuman stated that the bill doesn't say that you would be prevented from bringing your own, but he thought that would be the effect, because once the clubs start carting around their own portable supply, they will put up a sign that you can't bring in your own. Sen. Williams stated that it had been said that if the clubs take drinks around on a cart, they would be policing what is going on more closely, but would not stop individuals from bringing their own. Chairman Kolstad felt a valid point in favor of the bill would be that they would be able to police the drinking on the university golf course better, especially in light of the new legal drinking age of 21. Sen. Williams stated that 70% of the golfers on the university course were over twenty-five.

Sen. Williams made a MOTION that the amendments BE ADOPTED. The motion was Seconded by Sen. Walker and PASSED UNANIMOUSLY.

Sen. Bob Williams then made a MOTION that House Bill No. 570 BE CONCURRED IN AS AMENDED. The MOTION was Seconded by Sen. Mike Walker. The MOTION resulted in another TIE VOTE with Senators Thayer, Meyer, Walker, Kolstad and Williams voting in favor of the MOTION. Senators McLane, Hager, Weeding, Neuman, and Boylan voted against the MOTION.

Sen. Paul Boylan MOVED that HB 570 BE RECONSIDERED with Sen. Meyer Seconding the MOTION. The MOTION PASSED with Senators Walker and Williams voting "no".

A MOTION made by Sen. Paul Boylan that House Bill No. 570 BE TABLED AS AMENDED was seconded by Sen. Harry McLane.

The MOTION PASSED with Senators Walker and Williams voting "no".

CONSIDERATION OF HOUSE BILL NO. 401: Rep. Joe Quilici, House District 71, Butte, chief sponsor of the bill stated that the bill was introduced at the request of the State Electrical Board. It amends the electricians licensing laws and exempts certain maintenance electricians from licensing requirements, i.e., persons installing telephone wire in a customer's premises, public utility employees who are electricians working in buildings owned by the utility. The bill also makes some changes to the licensing requirements for electricians and allows the State Electrical Board to set continuing education requirements for master and journeyman electricians. Rep. Quilici feels that it will resolve a continuous problem that the SEB has had with employees doing the maintenance on their employer's premises.

PROPOSERS: Mr. Al Bersanti, Butte, Licensed Journeyman, State Electrical Board, stated that they submitted this mostly to clarify and license the persons who need to be licensed and eliminate the licensing of those they feel do not need licenses. The maintenance work will then be put in perspective and include only maintenance, not construction work.

Mr. Bob Quinn, representing Montana Power Company, pointed out that under this particular act on page one and two (the underlined language) they are actually agreeing to the removal of an exemption. They have historically been exempt from the licensing and inspection provisions of this particular law, and after a number of meetings with the board of electrical inspectors agreed to submit themselves, on certain cases having to do with those occupancies that are open for the use of the public or to do business with the public, to allow them to come under the permit and inspect the procedures. He urged a Do Pass on the bill.

Mr. Tom McGree, representing Mountain Bell Telephone Company, stated that they did work on the drafting of this bill. They support the bill and he urged a Do Pass recommendation.

Mr. Jim Kembel, Administrator of the Business Regulation Division, Department of Commerce testified that they are in agreement with the bill and were in attendance in support of it.

DISCUSSION OF HOUSE BILL NO. 401: There were no questions regarding the bill.

EXECUTIVE ACTION ON HOUSE BILL NO. 401:

Sen. Darryl Meyer moved that House Bill 401 BE CONCURRED IN. Sen. Walker Seconded the MOTION and it PASSED UNANIMOUSLY.

DISCUSSION OF HOUSE BILL NO. 240: Sen. Meyer presented proposed amendments to HB 240 at the request of Mr. Carl England. Ms. McCue explained that all of the amendments were on page five and have to do with which of those provisions of 33-18-201, if violated by the insurer, would cause you to have an independent cause of action. The amendments would add subsections seven and eight. Chairman Kolstad asked Mr. John Hoyt if he supported the proposed amendments and he answered affirmatively. Sen. Neuman stated that he was not in agreement with them and now felt that if subsections seven and eight were included everything would be back to its original form before the bill. Sen. Williams asked if Rep. Thomas was aware of the proposed amendments and Mr. Hoyt said he didn't know. Chairman Kolstad stated that the committee would hold the bill for further study. (EXHIBIT 5)

DISPOSITION OF HOUSE BILL NO. 806: Sen. Mike Walker MOVED that House Bill 806 BE AMENDED. The MOTION was Seconded by Sen. Darryl Meyer and PASSED UNANIMOUSLY.

A MOTION by Sen. Darryl Meyer that House Bill 806 BE CONCURRED IN AS AMENDED was Seconded by Sen. Mike Walker. It PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 803: Sen. Mike Walker MOVED that the STATEMENT OF INTENT BE ADOPTED. The MOTION was Seconded by Sen. Harry McLane. It PASSED UNANIMOUSLY.

A MOTION by Sen. McLane, Seconded by Sen. Walker that House Bill 803 BE CONCURRED IN PASSED with Sen. Neuman voting "no".

Chairman Kolstad announced that House Bill 417 would be held in the committee until further research and study was completed on the bill.

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The next meeting is scheduled for Wednesday, March 11, 1987.

There being no further business, Chairman Kolstad adjourned the meeting at 11:40 a.m.



CHAIRMAN ALLEN C. KOLSTAD, CHAIRMAN

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Business & Industry COMMITTEE
50th LEGISLATIVE SESSION -- 1987

Date 3/10/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

DATE:

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

THE ASSOCIATED GENERAL CONTRACTORS



OFFICE OF BUSINESS & INDUSTRY

NO. 1

DATE 3/10/87

BILL NO. HB362

STANDARD SUBCONTRACT AGREEMENT FOR BUILDING CONSTRUCTION

This Document has important legal and insurance consequences; consultation with an attorney and insurance consultants and carriers is encouraged with respect to its completion or modification.

THIS AGREEMENT made at

this _____ day of _____, 19____, by

and between _____,

hereinafter referred to as the Contractor, and _____,

hereinafter referred to as the Subcontractor, to perform part of the Work on the following Project:

PROJECT:

OWNER:

ARCHITECT/ENGINEER:

ARTICLE 1

Scope of Work

1.1 The Contractor employs the Subcontractor as an independent contractor, to perform the following part of the Work which the Contractor has contracted with the Owner to provide on the Project:

The Subcontractor agrees to perform such part of the Work (hereinafter called "Subcontractor's Work") under the general direction of the Contractor and subject to the final approval of the Architect/Engineer or other specified representative of the Owner, in accordance with the Contract Documents. Subcontractor will furnish all of the labor and materials, along with competent supervision, shop drawings and samples, tools, equipment, scaffolding, and permits which are necessary for such performance.

1.2 The Contract Documents are:

The Subcontractor binds himself to the Contractor for the performance of Subcontractor's Work in the same manner as the Contractor is bound to the Owner for such performance under Contractor's contract with the Owner. The pertinent parts of such contract will be made available upon Subcontractor's request.

1.3 Should any question arise with respect to the interpretation of the drawings and specifications, such questions shall be submitted to the Architect/Engineer and his decision shall be final and binding. If there is no Architect/Engineer for this Project, the Contractor's decision shall be followed by the Subcontractor.

ARTICLE 2

Payments

2.1 The Contractor agrees to pay to the Subcontractor for the satisfactory completion of Subcontractor's Work the sum of _____ (\$ _____) in monthly payments of _____ percent of the work performed in any preceding month, in accordance with estimates prepared by the Subcontractor and approved by the Contractor and _____. Payments made on account of materials not incorporated in the work, but delivered and suitably stored at the site, or at some other location agreed upon in writing, shall be in accordance with the terms and conditions of the Contract Documents. Subcontractor will provide monthly completed lien waivers and supplier affidavit forms, in a form satisfactory to the Owner and Contractor. Payment of the approved portion of the Subcontractor's monthly estimate shall be conditioned upon receipt by the Contractor of his payment from the Owner. Approval and payment of Subcontractor's monthly estimate is specifically agreed not to constitute or imply acceptance by the Contractor or Owner of any portion of the Subcontractor's Work.

2.2 In the event the Subcontractor does not submit to the Contractor such monthly estimates by _____ then the Contractor may at his option include in his monthly estimate to the Owner for Work performed during the preceding month such amount as he may deem proper for the Work of the Subcontractor for the preceding month and the Subcontractor agrees to accept such approved portion thereof in lieu of monthly payment based upon the Subcontractor's estimate.

2.3 In the event it appears to the Contractor that the labor, material and other bills incurred in the performance of Subcontractor's Work are not being currently paid, the Contractor may take such steps as he deems necessary to insure that the money paid with any progress payment will be utilized to pay such bills.

2.4 Final payment shall be paid to the Subcontractor upon approval by the Owner, Architect/Engineer and the Contractor of the Subcontractor's Work and, upon payment having been received by the Contractor for all of Subcontractor's Work and satisfactory evidence having been received by the Contractor that all labor, including customary fringe benefits and payments due under collective bargaining agreements, and all subcontractors and materialmen have been paid to date and are waiving their lien rights upon the final payment of a specific balance due.

2.5 The Contractor may deduct from any amounts due or to become due to the Subcontractor any sum or sums owing by the Subcontractor to the Contractor; and in the event of any breach by the Subcontractor of any provision or obligation of this Subcontract, or in the event of the assertion by other parties of any claim or lien against the Owner, the Contractor, Contractor's Surety, or the premises upon which the Work was performed, which claim or lien arises out of the Subcontractor's performance of this Agreement, the Contractor shall have the right, but is not required, to retain out of any payments due or to become due to the Subcontractor an amount sufficient to completely protect the Contractor from any and all loss, damage or expense therefrom, until the claim or lien has been adjusted by the Subcontractor to the satisfaction of the Contractor. This paragraph shall be applicable even though the Subcontractor has posted a full payment and performance bond.

ARTICLE 3

Prosecution of the Work

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 3-10-87

BILL NO. H.B. 362

3.1 Time is of the essence for both parties, and they mutually agree to see to the performance of their Work and the Work of their subcontractors so that the entire project may be completed in accordance with the Contract Documents. The Subcontractor shall provide the Contractor with scheduling information and Subcontractor's proposed schedule for the Subcontractor's Work. The Contractor shall then prepare the Schedule of the Work and, as may be necessary, revise such schedule as the Work progresses. Subcontractor acknowledges that revisions may be made in such schedule and agrees to make no claim for acceleration or delay by reason of such revisions so long as such revisions are of the type normally experienced in Work of is scope and complexity.

3.2 The Subcontractor shall prosecute Subcontractor's Work in a prompt and diligent manner in accordance with the Schedule of Work without hindering the Work of the Contractor or any other subcontractor. If work of others is damaged by Subcontractor, the Subcontractor will cause such damage to be corrected to the satisfaction of and without cost to the Contractor and Owner. In the event Subcontractor fails to maintain his part of the Schedule of the Work, he shall, without additional compensation, work such overtime as the Contractor may direct until Subcontractor's Work is in accordance with such schedule.

3.3 The Subcontractor shall be responsible for and will prepare for performance of Subcontractor's Work, including without limitation thereto, the submission of shop drawings, samples, tests, field dimensions, determination of labor requirements and ordering of materials as required to meet the Schedule of Work. Subcontractor shall notify Contractor when portions of his Work are ready for inspection.

3.4 The Subcontractor will furnish periodic progress reports of the Subcontractor's Work as mutually agreed including the progress of materials or equipment to be provided under this Agreement that may be in the course of preparation or manufacture.

3.5 The Subcontractor shall cooperate with the Contractor and subcontractors whose work may interfere with the Subcontractor's Work and participate in the preparation of coordinated drawings and work schedules in areas of congestion, specifically noting and advising the Contractor of any interference by other contractors or subcontractors.

3.6 The Subcontractor shall keep the building and premises reasonably clean of debris resulting from the performance of Subcontractor's Work. If the Subcontractor fails to comply with this paragraph within 48 hours after receipt of notice of non-compliance from the Contractor, the Contractor may perform such necessary clean-up and deduct the cost from any amounts due to the Subcontractor.

3.7 The Subcontractor shall give adequate notices pertaining to the Subcontractor's Work to proper authorities and secure and pay for all necessary licenses and permits to carry on Subcontractor's Work, the furnishing of which is required by the Contract Documents.

3.8 The Subcontractor shall comply with all Federal, State and local laws, Social Security Laws and Unemployment Compensation Laws, Workers' Compensation Laws and Safety Laws insofar as applicable to the performance of this Agreement. He shall pay all taxes applicable to the performance of Subcontractor's Work. He shall also maintain his own safety program for compliance with such laws.

3.9 The Subcontractor will not assign this subcontract nor subcontract the whole or any part of the Work to be performed hereunder without the prior written consent of the Contractor, with the exception of those subcontractors listed by the Subcontractor and furnished to the Contractor at the time this Agreement is executed.

ARTICLE 4

Changes in the Work

4.1 The Contractor and Subcontractor agree that the Contractor may add to or deduct from the amount of Work covered by this Agreement, and any changes so made in the amount of Work involved, or any other parts of this Agreement, shall be by a written amendment hereto setting forth in detail the changes involved and the value thereof which shall be mutually agreed upon between the Contractor and Subcontractor. The Subcontractor agrees to proceed with the Work as changed when so ordered in writing by the Contractor so as not to delay the progress of the Work, and pending any determination of the value thereof unless Contractor first requests a proposal of cost before the change is effected. If the Contractor requests a proposal of cost for a change, the Subcontractor shall promptly comply with such request.

4.2 Subcontractor shall be entitled to receive no extra compensation for extra Work or materials or changes of any kind regardless of whether the same was ordered by the Contractor or any of his representatives unless a Change Order therefor has been issued in writing by the Contractor. If extra work was ordered by the Contractor and the Subcontractor performed same but did not receive a written order therefor, the Subcontractor shall be deemed to have waived any claim for extra compensation therefor, regardless of any written or verbal protests or claims by the Subcontractor. The Subcontractor shall be responsible for any costs incurred by the Contractor for changes of any kind made by the Subcontractor that increase the cost of the work for either the Contractor or other subcontractors when the Subcontractor proceeds with such changes without a written order therefor.

4.3 The Subcontractor agrees that no claim for additional services rendered or materials furnished by the Subcontractor to the Contractor shall be valid unless notice is given to the Contractor prior to the furnishing of the services or material or unless written notice of the claim therefor is given by the Subcontractor to the Contractor not later than the last day of the calendar month following that in which the claim originated, with the amount of the claim to be given in writing by the Subcontractor as soon as practicable.

4.4 The Subcontractor will make all claims for extra compensation and for extension of time to the Contractor promptly in accordance with this Article and consistent with the Contract Documents.

4.5 Notwithstanding any other provision, if the Work for which the Subcontractor claims extra compensation is determined by the Owner or Architect/Engineer not to entitle the Contractor to a Change Order or extra compensation, then the Contractor shall not be liable to the Subcontractor for any extra compensation for such Work, unless Contractor agreed in writing to such extra compensation.

ARTICLE 5

Insurance and Indemnity

5.1 Prior to starting Work the Subcontractor shall procure and maintain in force, Workers' Compensation Insurance, Employers Liability Insurance, Comprehensive General Liability Insurance with contractual coverage and Automobile Liability Insurance and such other insurance, to the extent required by the Contract Documents for the Subcontractor's Work.

5.2 The Subcontractor's Comprehensive General and Automobile Liability Insurance, as required by Paragraph 5.1 shall be written for not less than limits of liability as follows:

a. Comprehensive General Liability

1. Bodily Injury \$ _____ Each Occurrence
(Completed Operations)

\$ _____ Aggregate

2. Property Damage \$ _____ Each Occurrence

\$ _____ Aggregate

SENATE BUSINESS & INDUST

EXHIBIT NO. 1

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BILL NO. H.B. 362

b. Comprehensive Automobile Liability

1. Bodily Injury \$ _____ Each Person

\$ _____ Each Occurrence

2. Property Damage \$ _____ Each Occurrence

5.3 Comprehensive General Liability Insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy.

5.4 The foregoing policies shall contain a provision that coverages afforded under the policies will not be cancelled or not renewed until at least thirty (30) days' prior written notice has been given to the Contractor. Certificates of Insurance acceptable to the Contractor shall be filed with the Contractor prior to the commencement of Work.

5.5 The Contractor and Subcontractor waive all rights against each other and against the Owner, the Architect/Engineer, separate contractors, and all other subcontractors for damages caused by fire or other perils to the extent covered by Builder's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance.

5.6 To the fullest extent permitted by law, the Subcontractor agrees to indemnify and hold harmless the Contractor, the Owner, the Architect/Engineer and all of their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance, or failure in performance, of the Subcontractor's Work under this Subcontract, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Subcontractor or anyone directly or indirectly employed by him or anyone for whose acts he may be liable regardless of whether it is caused in part by a party indemnified hereunder. Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 5.6.

5.6.1 In any and all claims against the Contractor or any of his agents or employees by any employee of the Subcontractor, anyone directly or indirectly employed by him or anyone for whose acts he may be liable, the indemnification obligation under this Paragraph 5.6 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under Workers' Compensation acts, disability benefit acts or other employee benefit acts.

5.6.2 The obligations of the Subcontractor under this Paragraph 5.6 shall not extend to the liability of the Architect/Engineer, his agents or employees, arising out of (a) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (b) the giving of or failure to give directions or instructions by the Architect/Engineer, his agents or employees, providing such giving or failure to give is the primary cause of the injury or damage.

ARTICLE 6

Performance Bond and Labor and Material Payment Bond

A Performance Bond and a Labor and Material Payment Bond in a form satisfactory to the Contractor shall be furnished in the full amount of this Agreement, if required by the Contractor. This obligation shall continue throughout the agreement and may be required at any time during the performance of Subcontractor's Work by a change under Article 4.

ARTICLE 7

Warranty

The Subcontractor agrees to promptly make good without cost to the Owner or Contractor any and all defects due to faulty workmanship and/or materials which may appear within the guarantee or warranty period so established in the Contract Documents; and if no such period be stipulated in the Contract Documents, then such guarantee shall be for a period of one year from date of completion and acceptance of the project by the Owner. The Subcontractor further agrees to execute any special guarantees as provided by the terms of the Contract Documents, prior to final payment.

ARTICLE 8

Contractor's Obligations

8.1 The Contractor agrees to be bound to the Subcontractor by all the obligations that the Owner assumes to the Contractor under the Contract Documents and by all provisions thereof affording remedies and redress to the Contractor from the Owner insofar as applicable to this Agreement.

8.2 Upon request, the Contractor will give the Subcontractor written authorization to obtain direct from the Architect/Engineer or Owner's authorized agent, evidence of amount and percentages of completion certified on his account.

8.3 The Contractor shall not issue or give any instruction, order or directions directly to employees or workmen of the Subcontractor other than to the persons designated as the authorized representative(s) of the Subcontractor.

8.4 The Contractor shall make no demand for liquidated damages in any sum in excess of the amount specifically named in this Agreement or the Contract Documents. Liquidated damages shall not be assessed for delays not caused by the Subcontractor. Liquidated damages, when assessed, shall not exceed the Subcontractor's proportionate share of the responsibility for such delay. This provision does not preclude any claim the Contractor may have for direct damages under law.

8.5 The Subcontractor will furnish those temporary facilities and services required by the Subcontractor except for those to be provided by the Contractor set forth in the Attachment A to this Agreement. Adequate storage areas, if available, will be allocated by the Contractor for the Subcontractor's materials and equipment during the course of the Work.

8.6 The Contractor agrees that no claim for services rendered or materials furnished by the Contractor to the Subcontractor shall be valid unless notice is given to the Subcontractor prior to furnishing of the services or material or unless written notice of the claim therefor is given by the Contractor to the Subcontractor not later than the last day of the calendar month following that in which the claim originated, with the amount of the claim to be given in writing by the Contractor as soon as practicable.

ARTICLE 9

Termination

9.1 Should the Subcontractor fail at any time to supply a sufficient number of properly skilled workmen or sufficient materials and equipment of the proper quality, or fail in any respect to prosecute the Work with promptness and diligence, or fail to promptly correct defective Work or fail in the performance of any of the agreements herein contained, the Contractor may, at his option, provide such labor, materials and equipment and to deduct the cost thereof, together with all loss or damage occasioned thereby, from any money then due or thereafter to become due to the Subcontractor under this Agreement.

9.2 If the Subcontractor at any time shall refuse or neglect to supply sufficient properly skilled workmen or materials or equipment of the proper quality and quantity, or fail in any respect to prosecute Subcontractor's Work with promptness and diligence, or cause by any action or omission the stoppage or interference with the work of the Contractor or other subcontractors, or fail in the performance of any of the covenants herein contained, or be unable to meet his debts as they mature, the Contractor may at his option at any time after serving written notice of such default with direction to cure in a specific period, but not less than two (2) working days, and the Subcontractor fails to cure the default, terminate this Subcontract by delivering written notice of termination to the Subcontractor. Thereafter, the Contractor may take possession of the plant and work, materials, tools, appliances and equipment of the Subcontractor at the building site, and through himself or others provide labor, equipment and materials to prosecute Subcontractor's Work on such terms and conditions as shall be deemed necessary, and shall deduct the cost thereof, including without restriction thereto all charges, expenses, losses, costs, damages, and attorney's fees, incurred as a result of the Subcontractor's failure to perform, from any money then due or thereafter to become due to the Subcontractor under this Agreement.

9.3 If the Contractor so terminates this Subcontract, the Subcontractor shall not be entitled to any further payments under this agreement until Subcontractor's Work has been completed and accepted by the Owner, and payment has been received by the Contractor from the Owner with respect thereto. In the event that the unpaid balance due exceeds the Contractor's cost of completion, the difference shall be paid to the Subcontractor, but if such expense exceeds the balance due, the Subcontractor agrees promptly to pay the difference to the Contractor.

ARTICLE 10

Claims

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 3-10-87

BILL NO. H.B. 362

10.1 All claims, disputes and other matters in question arising out of, or relating to, this Subcontract or the breach thereof shall be decided by Arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon in accordance with applicable law in any court having jurisdiction thereof.

10.2 In the event the Contractor and Owner or others arbitrate matters relating to this Subcontract, it shall be the responsibility of the Subcontractor to prepare and present the Contractor's case, to the extent the proceedings are related to this Subcontract.

10.3 Should the Contractor enter into arbitration with the Owner or others regarding matters relating to this Agreement, the Subcontractor shall be bound by the result of the arbitration to the same degree as the Contractor.

10.4 The Subcontractor shall carry on Subcontractor's Work and maintain his progress during any arbitration proceedings.

ARTICLE 11

Prevailing Law

This Agreement shall be governed by the law in effect in _____

IN WITNESS WHEREOF the parties hereto have executed this Agreement under seal, the day and year first above written.

Subcontractor

ATTEST:

By _____
(Title)

Contractor

ATTEST:

By _____
(Title)

SUBCONTRACT
PUBLIC WORKS

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3/10/87
BILL NO. 78,962

THIS AGREEMENT made this..... day of....., 19....., by and between
..... of....., hereinafter called the Subcontractor, and
..... of.....
hereinafter called the Contractor, WITNESSETH:

That the parties hereto agree as follows:

Section 1. The Subcontractor agrees to furnish all labor, materials, equipment and supplies, and to perform all work as described in "Section 2" hereof, embraced within.....
....., the contract for performance of which has heretofore been entered into between the Contractor and.....
....., hereinafter called the Government, in accordance with the general conditions of the contract between the Government and the Contractor and in accordance with the plans, specifications, bid and proposal on file with....., pertaining to said project, and which plans, specifications, bid and proposal are a part of the contract between the Government and the Contractor, and which plans, specifications, bid and proposal are hereby incorporated into and made a part of this contract, the same as if they were set out in full herein.

Section 2. It is agreed between the parties hereto that the work, labor, and/or materials to be done, performed or furnished by the Subcontractor are as follows:

Section 3. The Subcontractor agrees to start work when directed to do so by the Contractor and to prosecute such work to completion so as not to delay the Contractor in the performance of its contract with the Government.....

Section 4. The Contractor agrees to pay the Subcontractor for the performance of this contract as follows:

in current funds, subject to additions and deductions as may be agreed upon in writing and to make payments on account thereof, except as herein otherwise provided, at such times and in such proportion and extent as estimates are actually allowed and paid to the Contractor for the work performed by the Subcontractor. Before making any such payments the Contractor may deduct from any amount due or to become due to the Subcontractor, any sum or sums owing by the Subcontractor to the Contractor; and in the event of any breach by the Subcontractor of any part of this subcontract, or in the event of any claim against the Contractor or any liability on its part arising or asserted, which the Subcontractor has agreed to save it harmless from and indemnify it against, the Contractor shall have the right to retain out of any payment due or to become due to the Subcontractor an amount sufficient to completely protect the Contractor thereagainst, until the situation has been satisfactorily remedied or adjusted by the Subcontractor.

Section 5. The Subcontractor shall provide and maintain compensation insurance for the protection of his employees, as required by law of an employer and as will protect the Subcontractor from loss or damages because of personal injuries, including death, to his employees, or any of them; and the Subcontractor shall provide and maintain public liability insurance as will protect him from any claim for damages for personal injury, including death, suffered by persons other than employees, which may arise from the operations under this subcontract, which insurance shall be in the sum of not less than \$ _____ for one person injured and not less than \$ _____ for a single accident. Property damage insurance shall be in the amount of not less than \$ _____ for one occurrence and \$ _____ in the aggregate. The Subcontractor shall, before starting work and at any other time, at the request of the Contractor, furnish satisfactory evidence that such insurance is in full force and effect.

Section 6. It is expressly agreed between the parties hereto that the Contractor shall have the right, at its option, without prejudice to any other right or remedy it may have, to take over and complete the work covered by this subcontract, and to said extent to terminate this subcontract whenever a petition in bankruptcy is filed against the Subcontractor, whenever the Subcontractor is adjudged a bankrupt, whenever the Subcontractor makes a general assignment for the benefit of his creditors, or whenever a receiver is appointed on account of insolvency of the Subcontractor and in the event that the Contractor exercises such options, the Subcontractor, his representatives and successors in interest shall peacefully surrender possession to the Contractor. Should the Contractor take over said work under this provision the Contractor may thereupon finish the work by whatever method it may deem expedient and in that event, the Subcontractor shall not be entitled to any further payment. However, if at the time the Contractor takes over the work under this provision there is any earned and unpaid balance to which the Subcontractor would have become entitled had he completed the subcontract, and the amount provided to be paid to the Subcontractor for work called for by the subcontract and done by the Contractor after he has taken over the work exceeds the expense to the Contractor for doing such work plus the damages, if any, suffered by the Contractor because of taking over such work, then the Contractor shall pay to the Subcontractor such earned and unpaid balance out of such excess when the work required to be done under this subcontract has been fully completed and paid for by the Government, but only so far as there is an excess available to pay the same.

Section 7. It is further expressly agreed between the parties hereto that in the event that the work of the Subcontractor upon the project is not progressing as expeditiously as in the opinion of the Contractor it should progress, or in the event that the Subcontractor shall otherwise neglect said work or shall fail to perform any provisions of this subcontract, then the Contractor shall have the right, at its option, without prejudice to any other right or remedy it may have, to take over and complete the work covered by this subcontract and in the event that the Contractor exercises such option the Subcontractor, his representatives and his successors in interest shall peacefully surrender possession to the Contractor. Should the Contractor take over said work under this provision, the Contractor may thereupon finish the work by whatever method it may deem expedient and in that event, the Subcontractor shall not be entitled to any further payment. However, if the unpaid balance of provided by this subcontract shall exceed the expense of the Contractor of finishing the work, including damages, if any, suffered by the Contractor because of taking over said work, then the Subcontractor shall be paid such excess by the Contractor when such work has been paid for by the Government. But should the cost to the Contractor of completing such work, including damages, if any, suffered by the Contractor because of taking over such work, exceed the price provided herein for the same, the Subcontractor shall pay to the Contractor such excess cost and damages.

Section 8. The Subcontractor further obligates himself to the Contractor in the following respects, to-wit: (a) The Subcontractor shall indemnify the Contractor against and save it harmless from any and all claims, suits or liability for infringement or violation of any patent or patent right, arising in connection with this subcontract and anything done thereunder. (b) The Subcontractor shall indemnify the Contractor against and save it harmless from any and all claims, suits or liability for injuries to property, injuries to persons including death, and from any other claims, suits or liability on account of any act or omission of the Subcontractor, or any of his officers, agents, employees or servants. (c) The Subcontractor shall pay for all material, supplies, and equipment rental furnished and used and work and labor performed under this subcontract, and shall satisfy the Contractor thereupon whenever a demand is made, and shall indemnify the Contractor against and save him harmless from any and all claims, suits, or demands by others than the Subcontractor. (d) The Subcontractor agrees to be bound by the general conditions of the contract between the Government and the Contractor and by all of the terms and provisions of the plans, specifications, bid and proposal hereinabove referred to, insofar as applicable, generally or specifically, to that part of the contract with the Government which deals with the matter covered by this subcontract, and the subcontractor assumes toward the Contractor all the obligations and responsibilities that the Contractor assumes toward the Government as set forth therein.

And the Subcontractor shall also indemnify the Contractor against, and save it harmless from, any and all loss, damage, costs, expenses and attorneys' fees suffered or incurred on account of any of the aforesaid matters, or on account of any other violation by the Subcontractor of any of the terms of this subcontract.

Section 9. The Subcontractor must obtain and pay for all permits, licenses and official inspections made necessary by his work and shall comply with all laws, ordinances and regulations bearing on his work and the conduct thereof.

Section 10. The Subcontractor shall not assign this subcontract nor any money due or to become due thereunder, nor shall he sublet any of the work to be performed by him under this subcontract without the previous written consent of the Contractor.

It is agreed that in the execution of this contract the parties hereto expressly bind their executors, administrators and lawful assigns.

Additional Provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract by their proper officers duly authorized herein.

By _____ Subcontractor. By _____ Contractor.

NAME: J. M. Kelly DATE: 3/10/87
ADDRESS: 4605 Glass Drive Helena Mt. 59601 SENATE BUSINESS & INDUSTRY
PHONE: 458-5861 EXHIBIT NO. 3
DATE 3/10/87
BILL NO. HB 569

REPRESENTING WHOM? Montana Dairy Industry Processors

APPEARING ON WHICH PROPOSAL: HB 569

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: HB 569 is designed to preserve "resident status" for a bidder once they qualify under 18-1-103 by using Montana products, processed in a Montana facility, using Montana labor.

The Montana Board of milk control sets the prices state institutions must pay for milk and therefore bids to supply milk are always identical as far as price is concerned. Recently the Dairymen's Bur. has eliminated corporations whose headquarters is out-of-state as bidders even though they meet the criteria of sec 18-1-103(4). For the purposes of that rule section we have added 18-1-111 (the bid section) to sections 18-1-102 & 18-1-103 and 18-1-112.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

J. M. Kelly

H.B. 569 - SUMMARY

Scope. H.B. 569 amends 18-1-103, which defines "resident bidder" for public contract bid preference provisions. The amendments simply add 18-1-111 to the statutes listed in 18-1-103(1) and (4) which are covered by the existing "resident bidder" definition. The amendments will result in a uniform definition of "resident bidder", and correct a problem that now affects a significant segment of Montana's dairy industry.

Background. In December of last year, the Purchasing Division of the Department of Administration closed the state institution dairy product market to Montana's four Meadow Gold Dairies, and their 165 Montana milk producers. The Purchasing Division decided that since milk supply proposals for the School for the Deaf and Blind were equal, 18-1-111 was the proper preference statute to apply. The Purchasing Division then decided that since Meadow Gold Dairies are owned by Beatrice Dairy Products, Inc., an out-of-state corporation, they are

nonresidents under 18-1-111, and a different distributor's proposal would be preferred.

Effects Of H.B. 569. 18-1-111 was enacted in 1923, and has remained substantially unchanged since. This bill harmonizes 18-1-111 with the newer bid preference provisions in 18-1-102, 18-1-103, and 18-1-112. Meadow Gold dairies are, and long have been treated as "resident bidders" under the more recent statutes.

The four Meadow Gold dairies in Montana, which are located in Billings, Great Falls, Kalispell, and Missoula, account for nearly one-half of the state's total Grade A milk production. Approximately 165 Montana dairy producers, or roughly 65% of the state's total, sell their raw milk to Meadow Gold for processing.

These Montana producers will be penalized unfairly if the state institution market is not reopened to them. That market is substantial, and irreplaceable in these times of economic stagnation.

The producers suffer because the price they receive for their milk depends on its usage. Without access to the state institution market, more of the producers' milk will be allocated to a lower usage class, reducing the producers' income.

For example, Missoula's Meadow Gold Dairy is served by 36 dairy producers. For several years, their milk has been used to supply the University of Montana. These contracts have averaged about \$350,000 per year. If Meadow Gold is denied that market, the producers stand to lose, on average, about \$4,500 per year.

H.B. 569 does not change the definition of "resident bidder" in 18-1-103. The Meadow Gold Dairies have qualified as resident bidders under that definition for nearly 20 years, because their products originate on Montana dairy farms and are processed in Montana facilities by Montana labor.

H.B. 569 will not add a cent to the cost of milk supplied to state institutions. The price of milk is subject to rigid state control, and milk supply proposals are the same whether they are

submitted by Meadow Gold or someone else. The measure has no effect on milk supply contracts awarded by school districts or other governmental subdivisions. The statute in question, 18-1-111, applies only to state institution supply contracts.

H.B. 569 will not change how milk supply contracts have been awarded. For over 20 years, until December of 1986, Meadow Gold dairies had participated in the procurement process for state institution contracts on equal footing with other distributors. Since all the dairies' proposals were dictated by state price controls, they were placed in a hat and the contract was awarded to the one drawn out.

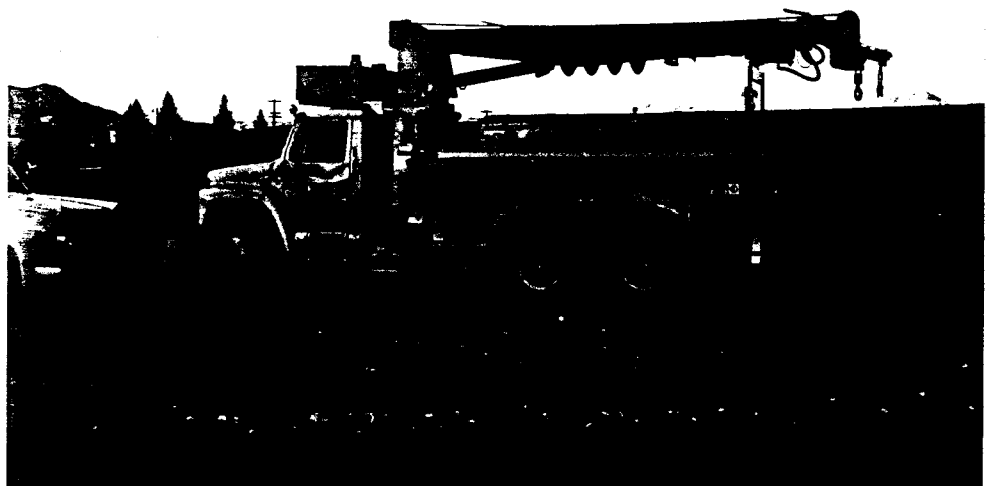
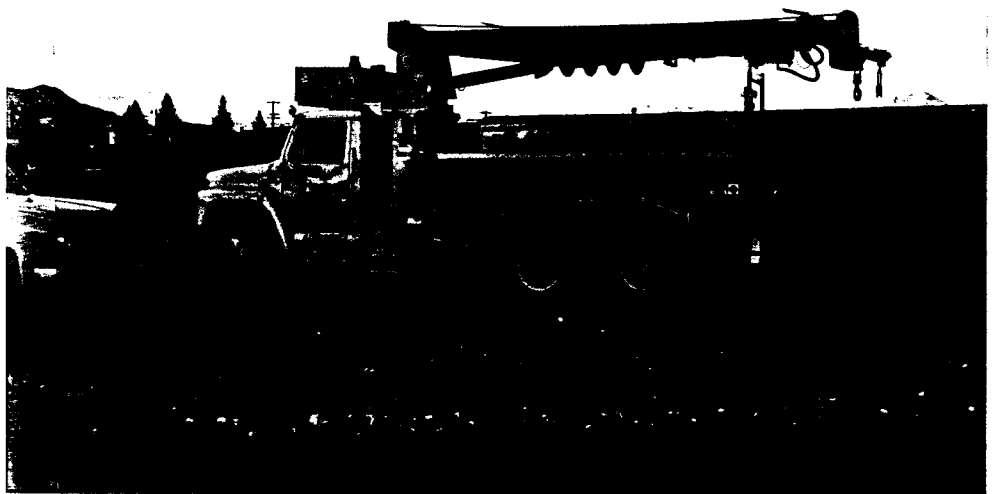
Conclusion. H.B. 569 removes an inconsistency in the application of bid preference provisions that is penalizing unfairly over one-half of Montana's dairy producers. Enactment of this measure will restore equal treatment for those producers, at no cost to any other taxpayer.

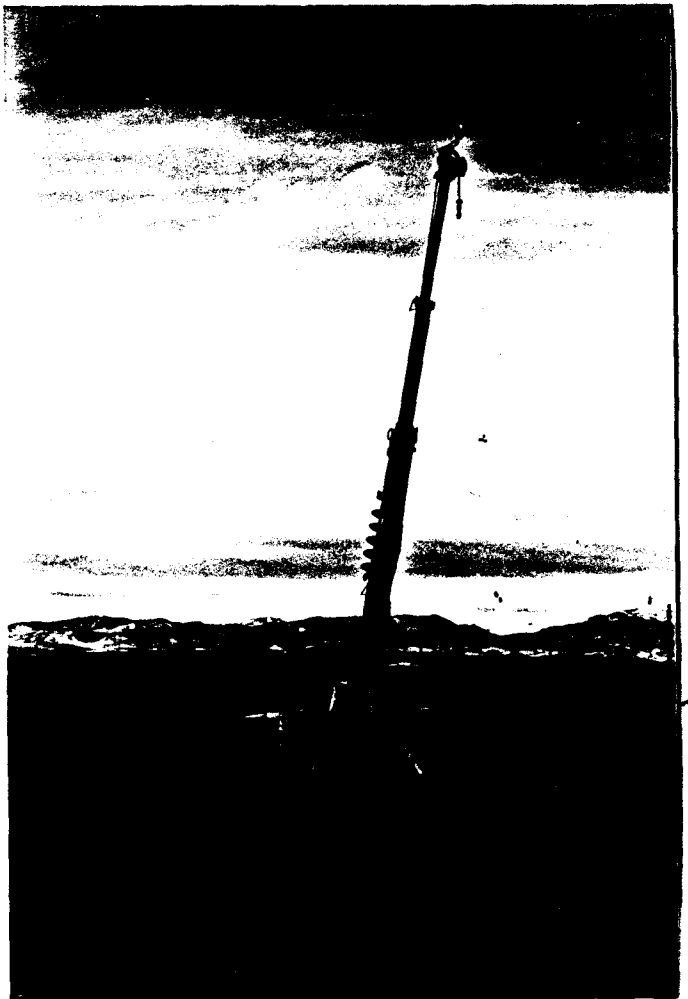
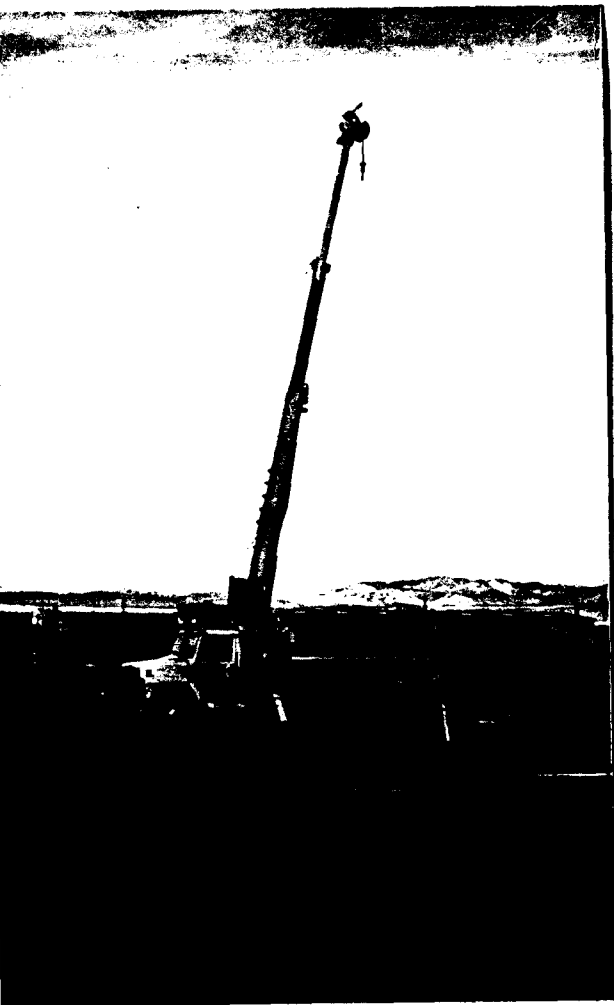
SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3/10/87

BILL NO. 48411





Amendments to HB 240

Third reading (blue) copy

1. Page 5, line 11.
Following: "(6),"
Insert: "(7), (8),"
2. Page 5, lines 15 and 16.
Following: "(3)" on line 15
Strike: remainder of line 15 through "claim" on line 16
Insert: "If an insurer has damaged or attempted to damage an insured in the process of handling an insurance claim the insured"
3. Page 5, line 18.
Following: "fraud,"
Insert: "for attempted fraud, for any other intentional tort,"
4. Page 5, line 25.
Following: "(6),"
Insert: "(7), (8),"

REPORT ON TABLED BILL WITH AMENDMENTS

SENATE BUSINESS AND INDUSTRY COMMITTEE

MARCH 10, 1987

HB570 ALLOW RETAIL GOLF COURSE ALL-BEVERAGE LICENSE FOR PRIVATE
AND PUBLIC COURSES

EXECUTIVE ACTION ON HB570:

- 3/6/87 -- Amendments ADOPTED on Motion of Senator Williams (See Below).
- 3/6/87 -- A motion by Senator Williams, seconded by Senator Meyer that HB570 BE CONCURRED IN AS AMENDED resulted in a failed motion due to a TIE VOTE. Senators Neuman, Hager, Williams, Walker and Kolstad voted in favor of the motion. Senators Thayer, Boylan, Weeding Meyer, and McLane voted against the motion.
- 3/10/87 - HB570 was reconsidered by the Committee on a motion by Senator Williams.
- 3/10/87 - A motion to ADOPT the Amendments to HB570 made by Senator Williams passed unanimously. (See Below.)
- 3/10/87 - The motion that HB570 BE CONCURRED IN AS AMENDED was made by Senator Williams and seconded by Senator Walker. The motion resulted in a tie. Senators Thayer, Meyer, Walker, Kolstad and Williams voted in favor of the motion. Senators McLane, Hager, Weeding and Boylan voted against the motion. /Neuman
- 3/10/76 - A motion by Senator Boylan to Reconsider HB570 passed. (Senators Walker and Williams Voted NO.)
- 3/10/87 - A motion made by Senator Boylan that HB570 be TABLED was seconded by Senator McLane. The motion carried with Senators Walker and Williams voting NO.

AMENDMENTS TO HB570 Third reading (blue) copy as adopted by the Business & Industry Committee on 3/6/87 & 3/10/87:

1. Title, line 5.
Following: "COURSE"
Insert: "OR A PUBLICLY OWNED GOLF COURSE BEER AND WINE LICENSE IS ISSUED"
2. Page 1, line 20.
Following: "beverages"
Insert: "and for a licensee who has a golf course beer and wine license issued under 16-4-109 to sell beer and wine"
3. Page 1, line 21.
Following: "BUILDING"
Strike: "OF"
Insert: "OR"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 3-10-87
BILL NO. H.B. 240

STANDING COMMITTEE REPORT

March 10

19 37

MR. PRESIDENT

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE BILL No. 401

Third reading copy (blue)
color

MAINTENANCE ELECTRICIANS EXEMPT FROM LICENSING

QUILICI (JACOBSON)

Respectfully report as follows: That HOUSE BILL No. 401

BE CONCURRED IN

~~STATE OF TEXAS~~

~~DO PASS~~

~~DO NOT PASS~~

ALLEN C. HOLSTAD,

Chairman.

STANDING COMMITTEE REPORT

March 18 1937

MR. PRESIDENT

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE BILL No. 411

Third reading copy (blue)
color

CHANGING THE DEFINITION OF LINE TRUCK

HARP (WALKER)

Respectfully report as follows: That HOUSE BILL No. 411

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

ALLEN C. KOLSTAD.

Chairman.

STANDING COMMITTEE REPORT

MARCH 10, 19. 87

MR. PRESIDENT

We, your committee on BUSINESS & INDUSTRY
having had under consideration HOUSE BILL No. 507
3rd reading copy (blue)
color

ALLOW WAIVER OF CERTAIN BONDS ON CONSTRUCTION CONTRACTS UNDER \$5,000
(CAMPBELL (BECK))

Respectfully report as follows: That HOUSE BILL No. 507

BE CONCURRED IN

XXXXXX
DO PASS

XXXXXXXXXX
DO NOT PASS

SENATOR ALLEN C. KOLSTAD, Chairman.

STANDING COMMITTEE REPORT

MARCH 10, 19 37

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 654

THIRD reading copy (BLUE color)

CREATE ALL-BEVERAGE LICENSE FOR NONPROFIT ARTS ORGANIZATIONS

ADDY (HAGER)

Respectfully report as follows: That HOUSE BILL No. 654
be amended as follows:

1. Page 2, line 23.
Strike: "16-4-201"
Insert: "16-4-105"

And as amended,
BE CONCURRED IN

XXXXXXX
DO PASS

XXXXXXXXX
DO NOT PASS

SENATOR ALLEN C. KOLSTAD,
Chairman.

STANDING COMMITTEE REPORT

March 10 1967

MR. PRESIDENT

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE BILL No. 303

Third reading copy (blue)
color

REVISE INSURANCE AGENTS LICENSING LAWS

CAMPBELL (THAYER)

Respectfully report as follows: That HOUSE BILL No. 303

BE CONCURRED IN

STATEMENT OF INTENT ADOPTED AND ATTACHED

DOXPASSX

DOXNETPASSX

.....
ALLEN C. KOLSTAD,

Chairman.

March 10, 1987

MR. PRESIDENT:

WE, YOUR COMMITTEE ON BUSINESS & INDUSTRY HAVING HAD
UNDER CONSIDERATION HOUSE BILL NO. 803, ATTACH THE
FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

HB No. 803

(1) A statement of intent is required for this bill because:

(a) section 17 authorizes the commissioner of insurance to determine by rule the instances in which a property and casualty insurance agent may place insurance coverage with an insurer as to which he is not then licensed or appointed as an agent;

(b) section 18 authorizes the commissioner to determine the instances in which a life or disability insurance agent may place excess or rejected risks in an insurer who has not appointed him as agent; and

(c) section 2 authorizes the commissioner to prescribe by rule and make available the forms required in connection with an application for an insurance agent license.

(2) The legislature intends that the rules that the commissioner adopts to implement this bill be designed to protect Montana insurance consumers.

(3) The legislature further intends that the commissioner adopt those rules in accordance with 33-1-313, which grants the commissioner general rulemaking authority and which permits the commissioner:

(a) to make only reasonable rules that do not extend, modify, or conflict with any law of this state or with any reasonable implication of those laws; and

(b) to make or amend those rules only after a hearing of which notice has been given as required by 33-1-703.

STANDING COMMITTEE REPORT

March 10

19. 27

MR. PRESIDENT

We, your committee on.....BUSINESS AND INDUSTRY.....

having had under consideration.....HOUSE BILL..... No. 806

Third reading copy (blue)
color

REVISING MONTANA LIFE AND HEALTH GUARANTY ACT

PAVLOVICH (Meyer)

Respectfully report as follows: That.....HOUSE BILL..... No. 806

be amended as follows:

1. Page 8, line 22.
Strike: "domestic"

AND AS AMENDED,
BE CONCURRED IN

~~XXXXXX~~
~~DO NOT PASS~~

~~XXXXXXXXXX~~
~~DO NOT PASS~~

.....
ALLEN C. ROLSTAD,

Chairman.