

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on February 17, 1989, at 10:00 a.m. through 12:30 p.m., with an Executive Action Session at 1:30 p.m.

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer, Senator Boylan, Senator Noble, Senator Williams, Senator Hager, Senator McLane, Senator Weeding, Senator Lynch

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: Chairman Thayer said we'll be 30 minutes on the first 2 bills, and the room is small, so those who are here for the last bills could leave and return in 1/2 hour if they wished.

HEARING ON SENATE BILL 443

Presentation and Opening Statement by Sponsor: Senator Stimatz, Senate District 35, stated that the original lottery legislation said regional. According to the Attorney General's opinion, we were not eligible to do multi-state lotteries. Senate Bill 443 will change that to multi-state, so that we can do across the U.S. On page 2, lines 4 and 5 is the only new language in the bill, and it deletes the word "regional". That gives us the authority to study and enter into agreements with other lottery states to offer lottery games. The technology has improved greatly, through the use of computers, that you don't have to just have a relationship with an adjacent state. This authority allows the lottery to study and pick the best group of states in which to promote lottery tickets.

List of Testifying Proponents and What Group They Represent:

Diana Dowling, Director of the Montana Lottery

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Diana Dowling stated they strongly support SB 443. She agrees with everything Senator Stimatz has said and is available for questions. This is a very important bill.

Questions From Committee Members: None

Closing by Sponsor: Senator Stimatz said HB 207, was a general lottery bill, and included the subject matter of SB 443. He asked the committee to pass this bill, and get it sent to the House so there would be a vehicle available, in the House, for getting the multi-state lottery, in case HB 207 had a problem. If HB 207 was accepted, and this bill wasn't needed, they could kill this bill in the House. He said this was necessary insurance.

DISPOSITION OF SENATE BILL 443

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Noble made a motion SB 443 DO PASS. Senator McLane seconded the motion. The motion Carried, with Senator Hager opposing.

HEARING ON SENATE BILL 406

Presentation and Opening Statement by Sponsor: Senator Gage, Senate District 5, passed out amendments, with a gray bill attached, which had the amendments worked into it. SB 406 dealt with allowing simulcast racing in the state of Montana. He said many people were not aware of the impact and degree in which Montana was involved both in racing and in breeding of animals in our state. He said this year was a celebration of 100 years, and part of that celebration was going to be centered around a horse named Spokane, a Montana bred horse that won the Kentucky Derby nearly 100 years ago. Several years ago we had Tom Chapman Day in the state of Montana. Tom was a jockey who was born and raised in Cut Bank, Montana, rode in the Kentucky Derby, and

the governor declared Kentucky Derby Day, Tom Chapman Day. He said there were Montana people speaking today who had competed, this year, in the richest day of racing in the world. He said they were Montanans, who owned a horse which ran in that race. The front page of the Thoroughbred Times was of Ala Sheba's picture, because his victory in 1988 made him racing's richest performer. He stated a part owner of that horse, was a lady who lived in Missoula. He said we had strong ties with racing, and SB 406 was an attempt to strengthen those ties, and strengthen the industry for both thoroughbred and quarter horse people and people involved in racing.

He said it was not an expansion of gambling, but was an expansion of an opportunity for additional funding to go into this industry. He said there was decent racing in the state but, it could grow and attract people to the state. Some of the races that did provide purses that were large enough to lure people into racing, and keep them in racing, were supported by a sale in Billings, Montana. The purchaser and the seller of the horse put money into a purse structure, for stake races that are run by horses that have gone through the sale. He termed the purse as horsemen's money. He said, this bill would allow for those, who participate in the parimutuel system, to contribute some to the purse structure. He said SB 406 was a good bill.

List of Testifying Proponents and What Group They Represent:

Ted Neuman - Great Falls Jockey Club
Al Bell - Great Falls Businessman, horse owner and breeder
Sid Erickson - President, Montana Thoroughbred Breeders Association
Al Goke - Vice President, Horsemen's Benevolent Protective Association
Tom Tucker - Director of Metra Park, Billings, Montana
Jay Belden - Track Manger, Great Falls, Montana
Gary Amundson - United Tote, Billings, Montana
Gary Koeplin - Department of Commerce, Board of Horse Racing

List of Testifying Opponents and What Group They Represent:

None

Testimony: Ted Neuman said we've heard much about increasing economic development and adding value to Montana's natural resources and production. In Montana

we seem to develop industries that are environmentally sound. The horse racing industry fits the bill in all those criteria. We add value by using oats, hay, barley and create employment with grooms, jockeys, gallop boys, veterinarians and farm suppliers. Just as advances in technology, and larger marketing areas are being promoted in agriculture, mining, the same thing is true in the horse racing industry.

If racing is to flourish we need to take advantage of new technology and ways to expand our market. This bill will promote the industry by encouraging more people to become part of the racing industry. Hopefully more people will become breeders and continue the racing programs we have.

The bill also gives some money to the local fair boards to help improve their racing facility. All the counties are strapped for revenue. One of the areas that fall to the budget ax rapidly is the fair grounds. This bill provides that 1% of the handle that comes from simulcasting will be used at the fair grounds to up-grade the grounds, and particularly the racing facility for the areas that do simulcasting. He urged support of SB 406, because it does support a home grown industry of horse breeding and racing that has a long tradition in Montana.

He handed Chairman Thayer a letter from Great Falls City Manager, Robert Stockwell, supporting SB 406. (Exhibit 2) He said Mr. Dale Mallum, Chairman of the Fair Board in Missoula County, wanted to testify today, but the inclement weather kept him home. He supports this legislation. He gave Chairman Thayer a letter from the Great Falls Jockey that supported this legislation. (Exhibit 3) He submitted for the record a fact sheet entitled "Why Montana needs simulcast racing and wagering". (Exhibit 4)

Al Bell said he and his wife Joyce were business people in Great Falls, and in addition to their trucking business, they bred and raced thoroughbred horses. He said they were here in support of SB 406 for the following reasons:

He said the thoroughbred and quarter horse industry was very important in Montana's economy. Using accepted impact factors, the 1988 racing season in Great Falls had an impact to the community, in excess of \$9,000,000. The industry employed many people, both on the track and at the breeding farms. He stated further impact upon the state was felt

through the consumption of hundreds of tons of hay, oats and other feeds.

He stated 1988 saw a major change in the industry through the implementation of inter track parimutuel. He said Montana must change with the industry. He said they could, and must, grow for the owners and breeders to continue to race in Montana. He said they currently raced out-of-state for the most part, and had mares foaled out-of-state because of better owners and breeders elsewhere. He said they had been fortunate enough this year, to have a two year old colt win the champion two year old of the year award in Washington. He said the colt was also eligible for the breeders cup, which had a million dollar purse and a 10 million dollar race card. He said the horse could have been a Montana bred horse, had the breeders and owners awards in this state been better. Simulcasting could and would improve Montana purses, and owners and breeders awards. He said, that as purses went up or down, sooner or later every other aspect of the industry would react in the same way. He said horse racing was the last sport to take advantage of television. He stated simulcasting would create a new source of revenue for an industry that desperately needed revitalized, and would allow more efficient use of the existing race track facilities and contribute to the overall economy in Montana. He said the revitalization should encourage the racing and breeding industry, and put it in a position for growth. He urged support of SB 406. (Exhibit 5)

Sid Erickson said he had been involved with horse breeding and racing for over 30 years, was a veterinarian, and had standing stallions commercially. He said it was apparent the revenue that could be generated by this bill, could become part of the breeding industry and was a much needed stimulus. His organization strongly supported this measure and he urged favorable consideration.

Al Goke said he was a horse owner, breeder, horse race participant, and was the First Vice President of the Horsemen's Benevolent Protective Assn. He served in a benevolent capacity and beyond that in negotiations between horsemen and track stewards to establish purse structure. He said the racing industry was hurting in the state, and even though his organization lacked unanimity, the majority supported simulcast as the only opportunity they were likely to have for increasing horse racing in the state.

Tom Tucker said the horse industry had come out with figures which showed Montana fifth in the number of horses registered in the United States, and second in the number of horses per capita in the United States. He said horses were a major industry in this state. He said the racing impact to the Billings economy last year was \$12,000,000, and that didn't reflect the trickle down effect to surrounding communities. He stated the racing industry needed some incentives to promote economic growth. (Exhibit 6)

Mr. Tucker submitted two letters supporting SB 406. One was from the Yellowstone County Commissioners, (Exhibit 7) and the second was from the Midland Horse Racing Association (Exhibit 8)

Jay Belden said, that before he had gone to Great Falls to manage their track, he had managed the track in Denver, Colorado last year. He said Colorado went through some of the same problems last year, and stated he had experience with simulcast wagering between tracks in that state, plus experience of bringing in races from out of state. The thing that impressed him most with SB 406 was that it protected what they had at the present time. Racing is a tough business and market place, specifically in Great Falls where their daily income had decreased 9% from the year before. He said that like all industries, the needed to diversify and look at the possibility within the industry for expansion. He said he thought a very important part of that expansion was contained in SB 406.

He said another specific problem they had across the United States, was the horse population. He said that as the cost of production had gone up, they hadn't met it with the purse structure and consequently, there was a shortage of horses. Stimulating the breeding industry, which this bill should do when it's carried out, will have a very positive impact on the industry in the state, thus the tracks will benefit and the fair grounds will benefit.

Gary Amundson said his company was a publicly held company, headquartered in Billings, and they were totally involved with the parimutuel industry of the United States and Canada. He said they provided wagering equipment for tracks. He said the business started in Montana, and employed over 500 full time employees in the United States and Canada. He said they supported the bill and thought it was good for the breeders and the tracks.

He said the states surrounding Montana, and two provinces in Canada had all installed a form of off track simulcast or it was presently in legislation. He said the industry's people in Montana needed to be in a competitive situation with other states. He stated this was not an unusual piece of legislation, as simulcasting was readily being accepted across the United States and Canada. He asked them to please support SB 406.

Questions From Committee Members: Senator Williams asked Al Goke if he testified that some people in the horse racing industry are against this legislation? Mr. Goke said that as he talked to many owners and breeders across the state they were not aware of the intricacies of simulcast. He said he had never seen overwhelming enthusiasm until people saw it operating and regulated, because they won't be certain if it's good or not. He said he thought they all realized that they must join the other states and get into simulcasting.

Senator Hager asked Mr. Amundson if simulcasting will prevent smaller tracks from having racing. He answered that the simulcasting situation the way it's set up in this bill may have the ability to perhaps help smaller meets more, percentage wise, than the larger meets of Great Falls and Billings? He gave the example of Miles City, who race 8 or 10 days over 4 weeks the entire year. They have the ability of being tied into a state network through the dark season, which is October through April. If they can contribute \$100 per race day on simulcasting, 2 per scheduled to go to their live meet when they race in April or May. He said that would give them the ability to receive \$15,000 to \$25,000. Which is probably more than the total amount of purse money they offer presently. He said stake racing is supported by subscriptions and nominations by owners. This will give the ability to have purses 2 to 3 times more than what they were the previous year.

Senator Williams asked, if the gambling bill is having so much opposition, why isn't this bill? He stated that in Dwight McKay's letter it said racing in Metra Park generates \$4,000,000. That four million comes from somewhere. If I vote for this, am I voting for gambling?

Mr. Neuman answered that this was a promotion of a Montana industry. He said he had visited with opponents to the gambling bill, before he came to the hearing, and he asked them if they were going to testify against this bill. He stated they had said no they wouldn't,

because Montana had a long tradition of supporting the horse racing industry.

Senator Noble asked what position the Board of Horse Racing had taken on this legislation? Gary Koeplin said the Board, at their last monthly meeting, went on record in support of simulcasting in Montana.

Chairman Thayer said that the gray bill was the bill being addressed, and it had the first sheet of amendments. He said there were some further clarifications that needed to be talked about when the bill was amended.

Mary McCue said that when she read the bill she realized that the word "satellite" was used in only one place and she wondered why that wasn't a part of the definition of a simulcast facility. She asked what a satellite facility was?

Gary Koeplin said your satellite facilities would be in the various towns around the state. If you look at the beginning of the bill, it talks about the satellite facilities at that point, and satellite simulcast is tied back into that.

Mary McCue asked for a definition of satellite facility in the definitions. Mr. Koeplin said he would add one in the definitions, and he stated the present amendments were just clarifying language. The intent of the bill was the same.

Closing by Sponsor: The sponsor had stated he was not reserving the right to close, so Chairman Thayer closed the hearing on Senate Bill 406.

DISPOSITION OF SENATE BILL 406

Discussion: Chairman Thayer asked Mary McCue to go over the amendments prepared by Greg Petesch. (Exhibit 21) She said the problem was on page 6, line 13 strike the word "satellite" and insert the word "simulcast" because the term satellite was a term never defined anywhere. She said we do not need the word "satellite" in this bill. That is just a technical amendment. Then there are several substantive amendments that she asked Mr. Koeplin to explain.

Mr. Koeplin explained that there were two very important amendments. On page 12, lines 14 and 15 following "distribute" strike the remainder of line 14 through "race" on line 15. The other important amendment is on

page 12, line 24 following the word "handle" strike "for the race meet" then insert "of the simulcast" following the word "the" strike the remainder of line 24 through "fund" on page 13 line 1 insert "local fair board" and following "operate" insert "or enhance". Then on to page 13, line 2 following "fairgrounds" insert "facility".

Mr. Koeplin also suggested, on page 11, line 14 strike "interstate" and insert "intrastate".

Amendments and Votes: Senator Meyer moved the Amendments to SB 406. Senator Weeding seconded the motion. Mary McCue asked for permission to eliminate the word "satellite" if it appeared elsewhere in the bill, and the committee authorized her discretion. The motion Carried Unanimously.

Recommendation and Vote: Senator Weeding made a motion SB 406 DO PASS AS AMENDED. Senator McLane seconded the motion. The motion Carried, with Senator Williams opposing.

HEARING ON SENATE BILL 449

Presentation and Opening Statement by Sponsor: Senator Tom Beck, Senate District 24, said SB 449 was an act to allow the Department of Justice to issue motor vehicle titles when an applicant could not prove vehicle ownership, if the applicant furnished the required bond and affidavit.

He said SB 449 would provide a method by which a person could obtain a title of a motor vehicle, even if they were unable to obtain the previous owner's title to effect the proper transfer of ownership.

Senator Beck stated that in 1988 the Department received 433 requests for titles for vehicles when the previous owner could not be located to obtain the title. In many cases there was no record of the vehicle in the state or in any other bureau. He said approximately 150 of the applicants had no proof of purchase and were required to obtain a court order before a title could be issued. He said the Department had issued 4/2 titles, either by a order of the court or, administratively, if the applicant had some sort of proof of ownership, such as a bill of sale or a cancelled check. He stated there were presently 361 applications still pending from 1988, 337 from 1987 and 202 from 1986.

He said issuing titles through an administrative decision created a potential liability for the state, because of possible losses of prior owners, lien holders, or financial institutions. Requiring court orders added to the heavy burden already placed on the court.

Senator Beck cited SB 449 as a bill that would provide for financial protection of innocent parties in a questionable ownership of a vehicle and reduce the work load experienced by our courts.

List of Testifying Proponents and What Group They Represent:

Bob Robinson - Administrator, Montana Motor Vehicle Division

List of Testifying Opponents and What Group They Represent:

None

Testimony: Bob Robinson said this was one of the most obnoxious processes in government to obtain a title if you have a break in title. He stated that if somebody had willed or given a vehicle to someone, and there was no record of the transaction, those people had to write a letter to the executor of the estate, or to the dead person to make certain they received the letter back, from the postal service, stating that person was gone.

He said the administrator had to make certain there was no other title out there, no other owner, and that there were no liens against this vehicle. He said this bill would allow this whole process to be speeded up and allow the lien holders, if there were any, to be protected by a surety bond.

Questions From Committee Members: Senator Meyer asked, why can't you just have a sheriff's sale? Mr. Robinson said they could, but the owner didn't want the cost of putting the sheriff's sale together, waiting for the notice time, and spend time for the sale on the courthouse steps.

Senator Weeding asked, as a collector of old cars, how do you value the vehicle? Mr. Robinson said that would be between you and the bonding company, to reach a decision on how much you want to say it's worth. Mr.

Robinson said the bonding company would be the ones to determine the value, since they were on the hook for the exposure.

Senator Weeding asked if he could take the bonding company's statement to the County Treasurer and buy a license based on their value? Mr. Robinson said that was the recommendation in this bill.

Senator Meyer asked if this eliminated having a sheriff's sale? Mr. Robinson said people can still go through that process.

Senator Hager asked if the surety companies would want to bother with these items? Mr. Robinson responded that several surety companies have already said they would be willing to insure the title. He thought the cost would be a small percent of the value of the vehicle.

Senator Boylan asked what he would have to do to get a title to a vehicle he had restored from the dump. Mr. Robinson said he could go through a sheriff's sale, or go to the registrar and prove, beyond a reasonable doubt, that you there were no other owners, and that you have built that thing from scraps. You have to get the Highway Patrol to verify the vehicle was made from pieces. The Division's concern was the state's exposure of liability, once they issued an administrative title.

Chairman Thayer asked if vehicles that had been stolen and then sold, were the ones Senator Beck mentioned in his statistics? Mr. Robinson said that is where those things are caught.

Senator Weeding asked if there was a method of getting an antique license? Mr. Robinson said there was a difference between the license and the certificate of title. The title registers you as the owner of the vehicle. On old cars you can get a regular license or an antique or collector's vintage license.

Senator Boylan asked about the effective date. Chairman Thayer said it would be October 1, 1989.

Closing by Sponsor: Senator Beck said this bill offered one more tool for a person who wanted to get a title, and couldn't come up with the present title. He said he appreciated their consideration on the bill.

DISPOSITION OF SENATE BILL 449

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Weeding made a motion SB 449 DO PASS. It was seconded by Senator McLane. The motion Carried, with Senator Hager opposed.

Announcement: Chairman Thayer asked Vice Chairman Meyer to preside while he presented SB 428.

HEARING ON SENATE BILL 428

Presentation and Opening Statement by Sponsor: Senator Thayer, Senate District 19, stated SB 428 would set up the state Workers' Compensation Insurance Plan, as a domestic mutual insurer. He said "The governor's advisory council of 1985-87, which established the foundation of the 1987 reforms, submitted a proposal to remove the state fund from the administrative control of the division of workers' compensation. At that time the council members had not come to a consensus on the separation issue, and the department did not support the idea because they felt the problems were more perceived than real. However, it now becomes more apparent, that as the deficit continues to grow, bold steps must be taken to establish an entity which will guarantee continuous, well managed coverage through a mechanism that is established along the lines of a private insurance company. Montana is probably the only state where both the workers' compensation and regulatory function of the state fund are responsible to the same authority. Most states separate this authority to avoid the appearance of conflict of interest. This is a step toward a new fiscal policy, and better service and management for all parties involved. The current administration is asking your favorable consideration of this bill."

Senator Thayer said that last night a group of interested parties spent several hours making technical amendments, which he offered for consideration. (Exhibit 12) He stated the people from the industry had drafted the meat of the bill, and he felt it was basically a good bill.

List of Testifying Proponents and What Group They Represent:

Mike Micone - Commissioner, Department of Labor and Industry
 Bill Palmer - Interim Director, Workers' Compensation Division
 Jack Salmond - Western Environmental Trade Association
 Tom Harrison - Montana Workers' Compensation Council, ad hoc committee
 Bob Bailey - Manager, EBI Orin in Montana
 James Tutwiler - Montana Chamber of Commerce
 Don Allen - Executive Director, Montana Wood Products Association
 George Wood - Executive Vice President, Montana Self Insurers Association
 Jacqueline Terrell - American Insurance Association
 Lorie Shadoan - Bozeman Chamber of Commerce
 Charles Brooks - Executive Vice President, Montana Retailers Association
 Bonnie Tippy - Alliance of American Insurers Montana Manufactured Housing, and R. V. Dealers Montana Innkeepers Association
 Cathy Anderson - Independent Insurance Agents Association of Montana
 Don Judge - AFL-CIO
 Peter Funk - Assistant Attorney General
 Norm Grosfield - Attorney, Workers' Compensation Division
 Rob Morway - Missoula Chamber of Commerce

List of Testifying Opponents and What Group They Represent:

None

Testimony: Mike Micone said they supported SB 428, which separated the Workers' Compensation State Fund from the Workers' Compensation Division. He read his testimony into the record. (Exhibit 13)

Bill Palmer read his testimony into the record, and stated they strongly supported SB 428. (Exhibit 14)

Jack Salmond said, " WETA is the only organization in the state that joins labor, industry, agriculture, recreation, and business, together to promote economic development and job opportunities. In the past we have worked closely with the legislature to improve the workers' compensation system. There is no question that the injured worker is entitled to timely compensation when the circumstances determine him to be deserving. We further believe that employers deserve to be assessed reasonable rates if we expect them to

continue to provide jobs and economic growth. That is why we support SB 428."

Mr. Salmond said. "We believe that creation of a separate state insurance fund run by a board of directors will significantly improve the states ability to meet both the above goals. The most significant benefits of this legislation are as follows:"

"1. Rather than be mired in bureaucracy and red tape the new state fund will have the incentive to seek the most efficient, cost effective means to run a successful insurance business. For employers, the costs will translate into reduced rates in the long run. For workers it will mean more timely claims review and processing."

"2. We have long argued for the need to reward employers, who demonstrate effective safety programs. Passage of this will mean reduced rates for those employers who do demonstrate effective safety programs. Passage of this bill will mean reduced rates for those employers who demonstrate they are a good risk while penalizing those who don't perform at an acceptable level."

"3. By establishing an efficient, self-supporting insurance fund, we will allow our existing business community to become more competitive in the market place and further we will allow Montana to attract new business."

Tom Harrison said, "One of the strong points of this bill, is that it will eliminate the conflict of interest and the appearance of a conflict of interest within the fund and the administration of all funds or insurance companies...I can represent, to you, a broad range of the people that are hands on within expertise in the workers' compensation field." He said any of his members would answer questions as to the practical accomplishments of this bill, and stated they were strongly in favor of SB 428.

He said, "One concern we ask the committee to review is the concern of the change that this bill contemplates, by going from the State of Montana being the effective assigned risk pool, which is the position they've had, to a completely independent insurance status and just a participant in a separate assigned risk pool. Our feeling is that it might be better to retain the state as the effective assigned risk pool. If you wanted to get insurance from the state, the

state could not deny the coverage. If you don't retain that,...then you've just put another insurance company, and this one a state company, into competition with other independent insurance companies..."

He said, "The fund was solvent for many years and became heir to the unfunded liability when the decision was made to not implement the advise of actuarial people that said that the rates had to be raised."

Bob Bailey said he represented the largest private compensation carrier doing business in Montana. He believed SB 428 was a good bill with the exception of the assigned risk plan in section 13. He stated he was requesting an amendment to the bill deleting this section in it's entirety.

He said he wanted to explain the problems of an assigned risk plan as set forth in this bill. The purpose of the bill is to facilitate a plan to retire the current state fund's deficit. There are dedicated taxes to facilitate this plan. The bill will also assure that the new fund will operate without incurring future deficits. It will operate to be neither more nor less than self-supporting. Another purpose of the bill will be to create a business environment to encourage private carriers to do business in the state. Creating an efficient workers' compensation system at a minimum cost to Montana employers. This is a competitive system that does not artificially support interest of one industry over the interests of another industry.

We would like to see this plan on track to retire the deficit. We would like to see many private carriers competing in the state. We would like to see this new state fund operating in competition with private carriers, probably with a lower market share than presently. They would also like to see the new state fund provide a guaranteed market for those employers who cannot secure coverage through the private sector. This is a much preferred alternative than creating an additional mechanism of an assigned risk pool. In the first place, it is the state that requires all employers to provide workers' compensation coverage for their employees. Because the state can't require private carriers to do business in Montana, and provide this coverage, the state is obligated to set-up some mechanism to assure the availability of workers' compensation coverage. This is accomplished by the state fund.

In section 1 of the bill it says in the interest of keeping the fund solvent, it must implement various pricing levels within the rate classifications to reward employers for good safety records and penalize employers with poor safety records. This means the new state fund will have the flexibility to establish several rate levels within each occupational classification. A good risk will be offered the lowest rate. The highest rate will be reserved for the poorest risk who can't obtain coverage elsewhere.

He said he believed that if you install an assigned risk pool, insurance carriers that are looking to come into Montana will not come. It would force existing carriers in the state to reevaluate their presence here. An assigned risk pool restricts free enterprise for private carriers to make their own business decisions. He passed out exhibit #16 which showed the losses in 1987 for private insurance companies who operate in Montana. He said Section 13 had no provision to restrict the size of the assigned risk pool, and that is why he was asking to delete section 13 entirely.

James Tutwiler said the Chamber of Commerce was one of the leading advocates of business in the state. He said what he saw happening with workers' compensation was encouraging. He surveyed over 1,000 businesses regarding workers' compensation, and their response was a concern about how workers' compensation operated today. He said that how we conduct our workers' compensation was a major factor in any risk assessment that a corporation would do if they contemplated doing business in the state.

He said SB 428 was a good bill, and was a positive step which offered hope of improving management, and deserved the support of all business. He said he was concerned about doing away with the state fund as an insurer of last resort, and cutting out the assigned risk pool. He said the Montana Chamber endorsed this particular legislation.

Don Allen said there were three words that really addressed the reason why this bill should pass. They were incompetence, competence and creditability.

The forest products industry represented a large segment of the state's economy. It employed over 10,000 people, with an annual payroll of \$260,000,000 directly. Indirectly, add another 20,000 people with

another \$400,000,000, plus payroll. They thought this bill would go a long way in accomplishing goals that all business needed to look at, to have confidence in the future of doing business in Montana. He said they strongly endorsed SB 428.

George Wood stated he was one of the people who spent more than a year researching this problem, and his association strongly supported this legislation. The one point in the bill that needed to be amended was the assigned risk pool and the insurer of last resort. Their objection to the assigned risk pool was, the philosophy of the Montana Self Insurers, that state operated businesses not be in opposition to private enterprise. He said this bill was well written, long needed, and they would support it strongly.

Jacqueline Terrell said this legislation had been well drafted and they supported the bill, with the request that the assigned risk plan be deleted from the bill.

Lorie Shadoan said the Bozeman Chamber of Commerce supported SB 428, and asked that the section on the assigned risk plan be taken out of this bill.

Charles Brooks said he represented about 1,000 retailers throughout the state, who supported SB 428, and joined the other groups in their objection to the assigned risk pool clause. He urged support of SB 428, with that out of the bill.

Bonnie Tippy stated that she represented the strong support of three groups of employers and employees. She said they were also objecting to the assigned risk pool section of the bill.

Cathy Anderson said their group also served on the advisory committee for the Montana Workers' Compensation Council, and they supported the bill with the assigned risk pool eliminated.

Don Judge, AFL-CIO, read testimony into the record in support of SB 428. (Exhibit 17) He suggested an amendment to adopt a tripartite system with mandated representation by the business community, labor, and the public. That way, none of the parties with legitimate direct interest in the issue would be left out. All in all, they believed SB 428 was a good bill that aimed to put the state workers' compensation system back on sound footing, which they supported.

Peter Funk said the Attorney General's Office urged the committee to adopt the proposed amendment that dealt with section 17. He said that was the section that addressed the issue of legal representation of both the Workers' Compensation Division and the Fund. As the bill was drafted on page 19, subsection 2 of the existing statute was stricken there. He stated it was important to realize that much of the workers' compensation defense work was contracted out. The Fund did a portion of it, the Attorney General's Office did a portion of it, and private firms around the state did a portion. By striking subsection 2, you have limited the ability for the Attorney General's Office or the Fund to contract with private attorneys. He urged the proposed amendment for section 17 be adopted, to keep the present flexibility built into the bill.

Norm Grosfield said he was involved in the group that drafted the bill, and he supported the statement of Mr. Harrison, who was the spokesman for that group. He concurred in the concern regarding the assigned risk pool. One other concern he had was the provision in Section 40, which provided for unlimited discretion for the Fund to hire all employees of the State Fund, and that existing employees wouldn't have any protection. He thought consideration should be given to current employees of the State Fund, as many of them were career employees and had years of service with the state, and they should be protected. It was the intent of their group, that those employees would simply transfer over to the new state fund department. If the legislature wanted to provide flexibility for the top management level, that was fine, but the current state fund employees should be grandfathered in. He said they should have protection and their current union contract should apply. He said they generally supported SB 428.

Rob Morway stated they supported the concept of this legislation and supported SB 428, with the assigned risk pool deleted.

Questions From Committee Members: Senator Lynch asked Don Judge to explain the tripartite system. Mr. Judge explained that the makeup of the governing board was representation from people who were subjects themselves, or from labor, or the business community.

Senator Boylan asked who was going to have the power in regulating safety with the assigned risk pool? Mike Micone answered that after the fund was separated, the balance of the division would be a lined agency of the

Department of Labor and Industry. Compliance would ultimately rest with the Department of Labor and Industry.

Senator Boylan said he thought the present problem with workers' compensation was that it couldn't enforce safety. Bill Palmer stated that currently a great deal of safety enforcement was done by OSHA, and in those cases, the state was pre-empted. In cases where an organization was a school district, town, city, or county, the Division had the authority. That authority would remain with the Department of Labor for enforcement. There was also a certain number of state people that would go with the State Fund, and that would assist employers in developing safety programs. The enforcement of public safety and public corporations would stay with the Department of Labor. OSHA would still have their requirements, and the State Fund would have laws control officers.

Senator Williams asked Mr. Palmer if the Fund could refuse coverage? Bill Palmer answered that, yes, that the state would be able to refuse coverage for whatever reason. It would operate very similar to a private carrier.

Senator Weeding asked if there was a plan for the assigned risk out of the pool? Mr. Grosfield answered that the committee fully discussed the assigned risk plan, and one of the primary reasons for creating the State Fund was for the purpose of assigned risk, so there was easy access to insurance to people that private industry won't insure. By taking on those bad risks, the state fund was in a position to take on the good risks.

First, the operating costs of state funds were substantially below private carriers. Secondly, there was no need for profit in the state fund. Third, they were easily accessible, and they were out front, so the insurance could be easily obtained. Fourth, under this proposal the state fund would be getting some support for its unfunded liability through the tax assessment and the 3% which was already in existence. The State Fund was in a unique position and could operate on a competitive basis.

He said that before 1983, there was truly a fair competition between the State Fund and about 200 private carriers writing workers' compensation insurance. The state fund wrote about 1/2 the business and private carriers wrote about 1/2 the business. The system worked well and, it worked as a check and

balance on each other, and we would like to reinstate that. We would encourage private carriers to come back and sell insurance, and by putting the assigned risk pool in, they would be concerned that private carriers would not come operate in Montana.

Senator Williams asked, if the state assumed liability for outstanding claims and indebtedness, of the previously existing State Fund, and the Supreme Court ruled that we had dealt wrongly with previous claims, how would their decision affect this?

Mr. Grosfield said they figured it was going to take fifteen or sixteen million dollars every year, on a cash in and cash out basis, to take care of that. He said that was about the amount the new Fund would need to take care of the unfunded liability. He stated there was a mechanism built in, for the cash in and cash out, to protect the new State Fund and make it a viable operation.

He said the legislation passed in 1987 substantially reduced benefit costs, which in turn should be a substantial savings to the employers of the state. Combined with the differential that is now being used by the state, it would address the unfunded liability.

Senator Williams asked how the sixteen million dollars related to the .3 of 1% payroll tax and proposed .3 of 1% employee tax? Mr. Grosfield answered that the current employer tax generated about \$12,000,000 per year. The premium taxes that are collected by the State Fund, and the premium taxes put into this fund by private carriers generated another \$4,000,000 to \$5,000,000. He said that was how they came up with \$16 million.

Senator Williams asked, if we pass this bill and we find a buyer for the whole operation, what would the affect be? He asked, if we get this working well, would we want to see it? Mr. Grosfield said that if the State Fund went along as they hoped it would, it very well could be saleable in the future. He said they might, at some point, consider that option of a sale.

Closing by Sponsor: Senator Thayer thanked everyone for a good hearing on this bill. He stated he wanted to go over some of the points that were made today. SB 315

SENATE COMMITTEE ON BUSINESS AND INDUSTRY

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was a good bill. It didn't produce immediate results, because of the effects of the outdated law. The unfunded liability grew in the last few years to \$149,000,000, while they had taken in \$22,000,000 in payroll tax. We may be at a point where the unfunded liability was peaking or had peaked and was starting down. This bill was necessary and was discussed at great lengths during advisory council. He said SB 428 was a compliment to SB 315, and we would have to keep reforming the process.

He stressed the important things the bill did, as:

1. It mandated strong safety measures. We're sending a message to all employers in Montana that they had better practice good safety regulations for their employees. We want to reward good employers, that maintain a good safety program and have a good safety record, with reduced rates and penalize those employers who haven't instigated a safe work place.

2. It mandated that the new board would have to set rates on actuary figures. That was going to raise rates in Montana. We have to pay a fair price for a product.

Senator Thayer said that the amendments he proposed were not substantive in nature. He said the amendment proposed by Mr. Funk of the Attorney General's Office was already included in his amendment. The major problem was the assigned risk pool. He said the ad hoc committee had not made that suggestion, but he had put it in himself because it was an important policy situation that needed to be addressed. He said we needed to realize, understand, and be able to analyze from both sides, and accept whatever the legislature decided. Senator Thayer said he felt it should be included in the draft of the bill, because if you set the rates on an actuarial sound basis, the assigned risk pool should disappear. He said his fear was, what business could survive on the basis of being the one who had to survive on writing all the bad risks? It was in there to help the plan work, and not to detract from getting private carriers. He said he was in favor of private enterprise, and saw the possibility that the state would write less business, and private carriers would write more. He said that if everyone shared in the assigned risk pool, it put everybody on the same plane. He said SB 428 was a good bill, and asked for their support.

DISPOSITION OF SENATE BILL 428

Discussion: Chairman Thayer passed out amendments, (Exhibit 22) and reminded the committee there were amendments suggested during testimony. (Exhibit 12)

Mary McCue called attention to the fact that they were repealing section 2-15-1702. That was the section that gave the Governor the authority to name the administrator of the division. She said she would have to delete the related language throughout the bill.

Senator Williams asked if the manager who was to be hired, would be hired by the board which was appointed by the governor, or would it be an exempt position?

Chairman Thayer said the present language made them all exempt. Chairman Thayer said he expected there may be an effort to amend the bill on the Senate floor, and he planned to point out, when he presented the bill, the areas that were questioned during the hearing. Some people didn't want everybody taken out of the pay plan. Transversely, we must ascertain that the language was in the bill to protect those employees, to keep their present benefits. He said the assigned risk pool had to be decided on, and Don Judge had brought up the make-up of the board, and that was open to discussion. Chairman Thayer stated the most prevalent discussion had been over the request to delete the assigned risk pool.

Senator Weeding said he thought they should leave that in the bill.

Chairman Thayer said, that would be a huge policy change if that section was deleted, and it should have a chance to be debated on the floor, and I have assured the industry we will work with them.

Amendments and Votes: Senator Noble made a motion to adopt the amendments to SB 428, (Exhibit 22) and give Mary McCue the authority to make the needed language changes. Senator Meyer second the motion. The motion Carried Unanimously.

Recommendation and Vote: Senator Noble made a motion SB 428 DO PASS AS AMENDED. Senator McLane second the motion. The motion carried, with Senator Boylan opposed.

DISPOSITION OF SENATE BILL 418

Discussion: None

Recommendation and Vote: Senator Noble made a motion to TABLE SB 418. The motion was seconded by Senator Williams. The motion Carried Unanimously.

DISPOSITION OF SENATE BILL 335

Discussion: Chairman Thayer said that since the Chair could not make a motion, the Chair would advise the committee: that the people who asked him to sponsor the bill, had requested the committee table the bill.

Recommendation and Vote: Senator Williams made a motion to TABLE SB 335. The motion was seconded by Senator McLane. The motion Carried Unanimously.

DISPOSITION OF SENATE BILL 248

Discussion: Chairman Thayer said that when he agreed to carry the bill he was told it would have no fiscal impact, then he found the fiscal note would be for around \$400,000 for the biennium. So, he moved SB 248 back to the committee and had been trying to get information from the Auditor's Office about what the real fiscal impact would be. He said his information was, that there was a big fiscal impact.

He said that they could do one of two things; 1. The bill could be tabled, or 2. The bill could be amended so that the captive insurance would have to pay the same premium tax as anyone else, and that would eliminate any fiscal impact. (Exhibit 19) He said he was not interested in carrying a bill in this session that had a \$400,000 impact. He said the impact came from taking companies currently buying their insurance through normal channels, and when they quit buying insurance in order to form their own insurance group, the payroll tax was passed through the consumer. They would be passing through .8 of 1% instead of 2.75%, and that was where the fiscal impact came in.

Amendments and Votes: None

Recommendation and Vote: Senator Williams made a motion to TABLE SB 248. The motion was seconded by Senator Noble. The motion Carried, with Senator Hager and Senator Thayer opposing the motion.

DISPOSITION OF SENATE BILL 303

Discussion; Mary McCue said she had collected the suggested amendments, prepared them, and handed them out to the committee. (Exhibit 18) She said, in the statement of intent, at the bottom of page 1, lines 24 and 25 strike "only after hearing for which notice has been given".

Mary McCue said Mr. Phillips had suggested that we amend on page 4, lines 8 and 9 because for the title companies this language was too restrictive and he suggested this new language. The effect of that, was a title company, who wasn't in the escrow business and was already regulated by the commission will be exempt.

Chairman Thayer said that in regard to amendment #6, S & L's were audited every year and banks were audited every 30 months. He thought they should have annual audits. Chairman Thayer said the guy that raised that question was buying escrows from somebody else, and was a third party escrow dealer. The scope of the audit must be limited to a sample check of closed escrow transactions. The committee decided not to use amendment #6.

Mary McCue said that in amendment #7 she had used the term regulated lender, and asked Mr. Bennett if that was a definition? Mr. Bennett said that regulated lender meant more than banks, savings and loans and credit unions. Mary McCue said perhaps that wasn't the language they wanted. The committee decided to use the language "with a financial institution, as defined in 32-6-103,".

Mary McCue went through the other suggested amendments, which were simple language changes on pages 10 and 12, and on page 15, line 5 strike the word "touching" and insert "relating to".

Amendments and Votes: Senator Noble made a motion to adopt the amendments to SB 303, as presented on Exhibit 20. Senator McLane seconded the motion. The motion Carried Unanimously.

Recommendation and Vote: Senator Noble made a motion SB 303 DO PASS AS AMENDED. Senator McLane seconded the motion. The motion Carried Unanimously.

DISPOSITION OF SENATE BILL 275

Discussion: None

Recommendation and Vote: Senator Meyer made a motion to TABLE SB 275. Senator Noble seconded the motion. The motion carried Unanimously.

DISPOSITION OF SENATE BILL 349

Discussion: Senator Williams said he thought they were tabling the wrong bill, but expected to be out voted. Further discussion by the committee affirmed that to be true.

Recommendation and Vote: Senator Meyer made a motion to TABLE SB 349. Senator Noble seconded the motion. The motion Carried, with Senator Williams opposed.

DISPOSITION OF SENATE BILL 313

Discussion: Chairman Thayer said Senator Mazurek stated it very well when he said this was an important policy decision of the legislature.

Recommendation and Votes: Senator Williams made a motion SB 313 DO PASS. Senator Noble seconded the motion.

Discussion: Chairman Thayer acknowledged Mr. McKee because he had some proposed amendments to present to the committee. (Exhibit 23) Mr. McKee said pages 2 and 3 would replace sections 2 and 3. He said the amendment will allow an exemption to residential property, and defines residential property. It means a house that would be occupied by the owner of the property. "Therefore, once the deed of trust was executed, the owner of the property who sold and moved out, and the new owner assumed it and moved in and lived in it, lived there and signed a default up to within 30 days of the foreclosure sale, the property would be exempt from deficiency judgment. We could live with that. It

would satisfy the need. It would not be taking owner occupants and subjecting them to deficiency judgments. It would not exempt an investor or non-owner occupant from acquiring the proceeds of the rental and walking away from it, simply because it was residential property."

Chairman Thayer asked if the waste language gave banks additional protection that they never had before? The waste language was something new.

Mr. McKee said, before, if waste occurred the lender could foreclose judicially and get his deficiency judgment. If you had a situation where you were allowing a borrower to let the property be trashed out, or allowing a significant amount of real property tax to accumulate on property, that created a worse situation. That was not the piece of property on which the lender made the loan. Borrowers should not be allowed to do that.

Chairman Thayer said he thought there should be distinction between large commercial property transactions, and smaller residential transactions. He said there was an issue of fairness to consider.

Mr. McKee said banks understand the economics of the declining market and that was out of everyone's control. "Whether we foreclose that property judicially or non-judicially isn't going to change the fact that we may have a property, because of the economy, that is going to sell for less...The situations where deficiency judgments or foreclosures have happened, is where there has been a willful and wanton wasting of property." He said the problem occurred with the Chunkapura Decision. "This proposed amendment would exempt that owner occupant from having a deficiency judgement on his property. It won't protect the investor, who has the capability from walking away from his obligation and his debt. A lot of these landlords have simply milked the property for the rent, they have not put money back into the improvements. They haven't paid real estate taxes."

Chairman Thayer asked what his distinction between the owner and the investor was? Mr. McKee said the owner was the investor, but there was a difference if you lived in the house you own, versus you owning a piece of rental property and being judgment proof. He said the amendment was needed because occupancy by the owner, up to the trustees sale, would solve that problem.

SENATE COMMITTEE ON BUSINESS AND INDUSTRY

February 17, 1989

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Mr. McKee said banks needed the flexibility of taking the paper and selling it in the secondary market. He said they required the use of Trust Indentures to purchase that paper. He stated they had to go back to using mortgages for residential property.

Senator Meyer said with Trust Indentures you could grab the property a lot quicker and you didn't have a year's right of redemption, that was the trade off. Mr. McKee said, that is correct. If you don't foreclose judicially, you can get the property sooner. He said another advantage to the borrower in trust, was when a loan went into default secured by a trust indenture, and you were required to give written notice of default and a time period, usually 30 days to cure. Upon completion of the 30 days, if the loan hadn't been brought to a current status, you had the trustee set a date of sale. He said that was a mandatory 120 days down the road, so a person had 5 months from the time the loan was in default, and in most cases they got 7, 8 or 9 months because most lenders were trying to work with the borrower. Also, under the trust indenture you could reinstate your loan right up to the date of the trustee sale, simply by making the back payments.

Under a mortgage, when the loan went into default, banks still had to give notice of default, and provide a period to bring the loan current. In a mortgage it could be as little as 15 days, but usually it was 30 days. At the expiration of the 30 days the lender could accelerate the debt. He said the borrower could still repay his note, prior to the date of the sheriff's sale, but it had to be in full, so he had to pay the full mortgage debt off.

Mr. McKee said the Supreme Court fixed something that wasn't broken. Lenders, borrowers, attorneys and the court system had very well handled mortgages for 25 years. What we're attempting, is to present legislation to correct the problems the court ruling has created.

Senator Williams asked if the interest would be the same on a Trust Indenture as a Mortgage? Mr. McKee answered that all the terms of agreement would be the same. Most loans on residential property were done, using Deeds of Trust. He said secondary market investors had always understood, if the property was trashed out, they had the right to foreclose judicially and pursue a deficiency judgment. Everyone had their rights within that section of the law.

Mary McCue asked Mr. McKee if he had shown his proposed amendments to Senator Mazurek, sponsor of the bill? Mr. McKee said he had been talking with Senator Mazurek about the amendments to sections 2 and 3, but he had drafted the language after their conversation.

Chairman Thayer said he would prefer that Mr. McKee's amendment would come through Senator Mazurek on the Senate floor. He suggested passing the technical amendment requested by Senator Mazurek, which coincided with the bill. (Exhibit #24)

Chairman Thayer said it was not a problem to amend on the floor, they did it all the time, but he wanted to know what the committee preferred to do?

Amendments and Votes: Senator McLane made a motion to Amend SB 313 with the technical amendment proposed by Senator Mazurek. Senator Noble seconded the motion. The motion Carried Unanimously.

Chairman Thayer stated he would get together with Senator Mazurek and discuss the proposed changes.

Recommendation and Vote: Senator McLane made a motion SB 313 DO PASS AS AMENDED. Senator Noble seconded the motion. The motion Carried Unanimously.

ADJOURNMENT

Adjournment At: 3:00 p.m.


SENATOR GENE THAYER, Chairman

GT/ct

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 2/17

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DARRYL MEYER	✓		
SENATOR PAUL BOYLAN	✓		
SENATOR JERRY NOBLE	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM HAGER	✓		
SENATOR HARRY MC LANE	✓		
SENATOR CECIL WEEDING	✓		
SENATOR JOHN "J.D." LYNCH	✓		
SENATOR GENE THAYER	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 443 (first reading copy -- white), respectfully report that SB 443 do pass.

DO PASS

Signed: 
Gene Thayer, Chairman

2-15
SCRSB443.217

SENATE STANDING COMMITTEE REPORT

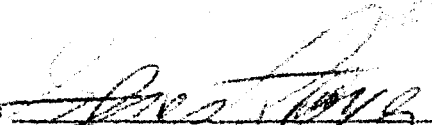
February 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 406 (first reading copy -- white), respectfully report that SB 406 be amended and as so amended do pass:

(See attached)

AND AS AMENDED DO PASS

Signed: 

Gene Thayer, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 406 (first reading copy -- white), respectfully report that SB 406 be amended and as so amended do pass:

1. Title, line 11.

Following: "AND AT"

Strike: "SATELLITE"

Insert: "SIMULCAST"

2. Page 6, line 13.

Strike: "satellite"

Insert: "simulcast"

3. Page 11, line 3.

Following: "of"

Strike: "local or"

4. Page 11, line 14.

Strike: "interstate"

Insert: "intrastate"

5. Page 12, lines 14 and 15.

Following: "distribute"

Strike: remainder of line 14 through "race" on line 15

6. Page 12, line 24.

Following: "handle"

Strike: "for the race meet"

Insert: "of the simulcast"

Following: second "the"

Strike: remainder of line 24 through "fund" on page 13, line 1

Insert: "local fair board"

7. Page 13, line 1.

Following: "operate"

Insert: "or enhance"

8. Page 13, line 2.

Following: "fairgrounds"

Insert: "facility"

AND AS AMENDED DO PASS

Signed: Gene Thayer
Gene Thayer, Chairman

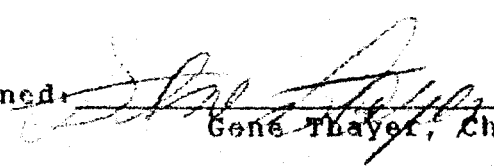
SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 449 (first reading copy -- white), respectfully report that SB 449 do pass.

DO PASS

Signed: 

Gene Thayer, Chairman

2-15-89
48
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SCRSB449.217 2

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 428 (first reading copy -- white), respectfully report that SB 428 be amended and as so amended do pass:

(See attached)

AND AS AMENDED DO PASS

Signed: 

Gene Thayer, Chairman

SENATE STANDING COMMITTEE REPORT

page 1 of 7
February 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 428 (first reading copy -- white), respectfully report that SB 428 be amended and as so amended do pass:

1. Title, line 12.
Following: "LABOR"
Insert: "AND INDUSTRY"
Strike: "2-15-1702,"
Following: "2-18-103,"
Insert: "33-2-119,"
2. Title, line 13.
Following: "33-18-212,"
Insert: "37-72-101,"
3. Title, line 18.
Strike: "AND"
Following: "39-72-310,"
Insert: "50-71-102, AND 50-73-102,"
4. Title, line 19.
Following: "SECTIONS"
Insert: "2-15-1702,"
5. Page 2, lines 24 and 25.
Strike: "It" on line 24 through end of line 25
6. Page 3, following line 10.
Insert: "The legislature intends that the governor shall implement staggered terms in naming the initial members of the board."
7. Page 3, lines 20 and 21.
Following: "agency"
Strike: remainder of line 20 through "risk" on line 21
8. Page 4, line 1.
Strike: "safety programs"
Insert: "variable pricing levels within individual rate classifications"
9. Page 5, line 19.
Following: "The"
Strike: "board is designated as"
Insert: "members must be appointed and compensated in the same manner as members of"

continued

SCRSB428.217

10. Page 5, line 20.

Strike: "for the purposes of"

Insert: "as provided in"

11. Page 8, line 4.

Following: "council"

Insert: "and corresponding rates as a basis for setting its own rates"

12. Page 8, line 10.

Following: "eliminated"

Insert: "and adequate actuarially determined reserves are determined"

13. Page 9, line 13.

Following: "33-2-705"

Insert: "based on earned premium and paid on revenue from the previous fiscal year"

14. Page 11, line 3.

Strike: "coverage contracts"

Insert: "insurance policies"

15. Page 12, line 23.

Strike: "provided for in 2-15-1702"

16. Page 18, line 18.

Strike: "adviser"

Insert: "advisers"

17. Page 18, following line 22.

Insert: "The division and state fund may employ other attorneys or legal advisers as they consider necessary."

18. Page 19, line 6.

Strike: "duplicate receipts"

Insert: "summary reports of benefits"

19. Page 19, line 12.

Strike: "duplicate receipts"

Insert: "summary reports of benefits"

20. Page 20, line 7.

Strike: "employee"

Insert: "employer"

21. Page 22, line 21.

Strike: "Private insurers, plan No. 2,"

Insert: "Insurers"

22. Page 24, line 21.

Strike: "workers' compensation"

23. Page 25, lines 2 and 3.

Strike: "compensation insurance"

24. Page 25, line 4.

Following: "schedule."

Insert: "The state fund shall report fees billed in the form and at the times required by the division."

25. Page 29, line 13.

Strike: "mutual insurance"

26. Page 29, lines 16 and 17.

Strike: "under plan for default"

27. Page 29, line 21.

Following: "due"

Insert: "or because of a significant change in liability exposure"

28. Page 29, line 22.

Strike: "right for failure to pay premiums"

Insert: "coverage"

29. Page 30, lines 20 and 21.

Strike: "industrial insurance expendable trust"

Insert: "state"

30. Page 38, line 23 through page 39, line 9.

Strike: section 43 in its entirety

Re-number: subsequent sections

31. Page 39, line 15.

Following: "labor"

Insert: "and industry"

32. Page 40, line 22.

Following: "compensation"

Insert: "mutual"

33. Page 41, following line 3.

Insert: "NEW SECTION. Section 45. State fund to submit notice of coverage within thirty days -- penalty for failure. (1) The state fund shall, within 30 days after the issuance of an insurance policy, submit to the division the notice of coverage stating the effective date of the policy insuring the employer and other information the division requires.

(2) The division may assess a penalty of no more than \$200 against the state fund if, as a general business practice, the state fund does not comply with the 30-day notice requirement.

NEW SECTION. Section 46. Policy remains in effect until canceled or replaced -- twenty-day notification of cancellation required. The insurance policy remains in effect until canceled. Cancellation may take effect only by written notice to the named insured and to the division at least 20 days prior to the date of cancellation. However, the policy terminates on the effective date of a replacement or succeeding insurance policy issued to the insured. Nothing in this section prevents the state fund from canceling an insurance policy before a replacement policy is issued to the insured.

Section 47. Section 33-2-119, HCA, is amended to read:

"33-2-119. Suspension or revocation for violations and special grounds. (1) The commissioner may, in his discretion, suspend or revoke an insurer's certificate of authority if, after a hearing thereon, he finds that the insurer has:

(a) violated any lawful order of the commissioner or any provision of this code other than those for which suspension or revocation is mandatory;

(b) reinsured more than 90% of its risks resident, located, or to be performed in Montana, in another insurer. In considering suspension or revocation, the commissioner shall consider all relevant factors, including whether:

(i) after the reinsurance transaction all parties will be in compliance with Montana law; and

(ii) the transaction will substantially reduce protection and service to Montana policyholders;

(c) failed to accept an equitable apportionment of assigned coverage as required by [section 13].

(2) The commissioner shall, after a hearing thereon, suspend or revoke an insurer's certificate of authority if he finds that the insurer:

(a) is in unsound condition or in such condition or using such methods or practices in the conduct of its business as to render its further transaction of insurance in Montana injurious or hazardous to its policyholders or to the public;

(b) has refused to be examined or to produce its accounts, records, and files for examination or if any of its officers have refused to give information with respect to its affairs, when required by the commissioner;

(c) has failed to pay any final judgment rendered against it in Montana within 30 days after the judgment became final;

(d) with such frequency as to indicate its general business practice in Montana, has without just cause refused to pay proper claims arising under its policies, whether any such claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person, or without just cause compels such insured or claimant to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims;

(e) is affiliated with and under the same general management or interlocking directorate or ownership as another insurer which transacts direct insurance in Montana without having a certificate of authority therefor, except as permitted as to a surplus lines insurer under part 3 of this chapter.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings have been commenced in any state."

Section 48. Section 37-72-101, HCA, is amended to read:

"37-72-101. Construction blasting restrictions -- license required -- definitions -- exemptions. (1) No person may engage in the practice of construction blasting unless licensed or under the supervision of a person licensed as a construction blaster by the workers' compensation division.

(2) For the purposes of this chapter:

(a) "construction blaster" means a person who engages in construction blasting;

(b) "construction blasting" means the use of explosives to:

(i) reduce, destroy, or weaken any residential, commercial, or other building; or

(ii) excavate any ditch, trench, cut, or hole or reduce, destroy, weaken, or cause a change in grade of any land formation in the construction of any building, highway, road, pipeline, sewerline, or electric or other utility line;

(c) "division" means the division of workers' compensation insurance compliance division of the department of labor and industry ~~provided for in 2-15-1702;~~

(d) "explosive" has the meaning given in 50-38-101;

(e) "magazine" has the meaning given in 50-38-101.

(3) Nothing in this chapter applies to the private or commercial use of explosives by persons engaged in farming, ranching, logging, geophysical work, drilling or development of water, oil, or gas wells, or mining of any kind or to the private use of explosives in the removal of stumps and rocks from land owned by the person using the explosives, except that the persons exempted from this chapter by this subsection must comply with rules adopted under 37-72-201(1)(c) and the provisions of 37-72-102 apply to a violation of those rules by an exempted person.

(4) This chapter does not apply to persons conducting blasting operations when the persons and operations are subject to rules adopted under and implementing 82-4-231(10)(e)."

Section 49. Section 50-71-102, MCA, is amended to read:

"50-71-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Amendment" means such modification or change in a code as shall be intended to be of universal or general application.

(2) "Code" means a standard body of rules for safety formulated, adopted, and issued by the division under the provisions of this chapter.

(3) "Division" means the division of workers' compensation insurance compliance of the department of labor and industry ~~provided for in 2-15-1702.~~

(4) "Employee" and "worker" are defined as in 39-71-118.

(5) "Employer" is defined as in 39-71-117.

(6) "Variation" means a special, limited modification or change in the code which is applicable only to the particular place of employment of the employer or person petitioning for such modification or change."

Section 50. Section 50-73-102, MCA, is amended to read:

"50-73-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Division" means the division of workers' compensation insurance compliance of the department of labor and industry ~~provided for in 2-15-1702~~ and the state coal mine inspectors employed by the division.

(2) "Excavations" and "workings" mean all parts of a mine excavated or being excavated, including shafts, slopes, tunnels, entries, rooms, and working places, whether abandoned or in use.

(3) "Gassy mine" means a mine is considered to be potentially gassy. The division may further define this term in its rules.

(4) "Mine" and "coal mine" mean all parts of the property of a mining plant under one management which contribute, directly or indirectly, to the mining or handling of coal.

(5) "Mine examiner" means a person charged with the examination of the condition of the mine before the miners are permitted to enter it and who is commonly known as the "fire boss".

(6) "Mine foreman" means a person who is charged with the general direction of the underground work or both the underground work and the outside work of a coal mine and who is commonly known and designated as "mine boss".

(7) "Operator", as applied to the party in control of a mine under this chapter, means the person, firm, or body corporate which is the immediate proprietor as owner or lessee of the plant and, as such, is responsible for the condition and management thereof.

(8) "Shaft" means any vertical opening through the strata which is or may be used for the purpose of ventilation or escape or for hoisting or lowering of men or material in connection with the mining of coal.

(9) "Slope" and "drift" mean respectively an incline or horizontal way, opening, or tunnel to a seam of coal to be used for the same purpose as a shaft."

Renumber: subsequent sections

34. Page 41, following line 4.
Insert: "2-15-1702,"

35. Page 42, line 2.
Strike: "workers"
Following: "compensation"
Insert: "insurance"

36. Page 42, line 14.
Strike: "50"
Insert: "54, 55"

37. Page 42, line 16.
Strike: "49"
Insert: "53"

38. Page 42, line 18.
Strike: "50"
Insert: "55"

AND AS AMENDED DO PASS

Signed: 
Gene Thayer, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 303 (first reading copy -- white), respectfully report that SB 303 be amended and as so amended do pass:

(See attached)

AND AS AMENDED DO PASS

Signed: 
Gene Thayer, Chairman

SENATE STANDING COMMITTEE REPORT

page 1 of 2
February 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 303 (first reading copy -- white), respectfully report that SB 303 be amended and as so amended do pass:

1. Page 1, lines 24 and 25.

Strike: "only after hearing for which notice has been given"

2. Page 4, line 9.

Strike: "90"

Insert: "120"

Following: "days"

Insert: "and the person is regulated by the commissioner of insurance"

3. Page 4, following line 9.

Insert: "(d) a financial institution, as defined in 32-6-103, that has its escrow accounts regularly audited or examined. The financial institution must supply a copy of the most recently prepared audit or examination to the director upon his request."

Renumber: subsequent subsections

4. Page 4, line 19

Strike: "90"

Insert: "120"

5. Page 9, lines 21 and 22.

Strike: "in" on line 21 through "association" on line 22

Insert: "with a financial institution, as defined in 32-6-103,"

6. Page 10, lines 4 and 5.

Strike: "in" on line 4 through "association" on line 5

Insert: "with a financial institution, as defined in 32-6-103,"

7. Page 10, line 18.

Strike: "and subsequent"

8. Page 12, line 8.

Strike: "all persons"

Insert: "the affected party"

9. Page 12, line 13.
Strike: "of all parties"

10. Page 15, line 5.
Strike: "touching"
Insert: "relating to"

AND AS AMENDED DO PASS

Signed: 
Gene Thayer, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 313 (first reading copy -- white), respectfully report that SB 313 be amended and as so amended do pass:

(See attached)

AND AS AMENDED DO PASS

Signed: 

Gene Thayer, Chairman

2.17.89
3:25 PM
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SENATE STANDING COMMITTEE REPORT

February 17, 1989

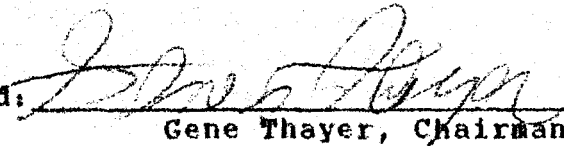
MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 313 (first reading copy -- white), respectfully report that SB 313 be amended and as so amended do pass:

1. Page 1, line 21.
Following: "term"
Strike: "includes but"
Following: "is"
Strike: "not"

2. Page 1, line 22.
Following: "or a"
Insert: "single unit of a"

AND AS AMENDED DO PASS

Signed: 

Gene Thayer, Chairman

AMENDMENTS FOR SB 406

Page

Insert material, Page 8, line 19-20.
Following: "racetrack or"
Insert: "satellite"

Insert material, Page 9, Line 23.
Following: "meet or operate a"
Insert: "satellite"

Insert material, Page 10, Line 16.
Following: "or enclosure"
Insert: "satellite"

Strike material, Page 11, Line 3.
Following: "intrastate races and races of"
Strike: "local or"

Strike and replace material, Page 11, Line 13-14.
Following: "system for an"
Strike: "interstate"
Insert: "intrastate"

Insert material, Page 11, Line 15.
Following: "pools at a"
Insert: "satellite"

Strike material, Page 12, Line 14-15.
Following: "to the winner"
Strike: "of the race"

Strike and replace material, Page 12, Line 24.
Following: "handle"
Strike: "for the race meet"
Insert: "of the satellite simulcast"

Insert material, Page 12, Line 24.
Following: "give it to the"
Insert: "local"

Strike and replace material, Page 12, Line 24.
Following: "give it to the local"
Strike: remainder of line 24 through page 13, line 2
Insert: "fairboard, to be used, in addition to budgeted funds,
for operation or enhancement of fairgrounds facility."

Insert material, Page 13, Line 18.
Following: "(b) Each licensed"
Insert: "satellite".

Section 1. Section 23-4-101, MCA, is amended to read:

"23-4-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of horseracing provided for in 2-15-1881.

(2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(3) "Immediate family" means the spouse, parent, children, grandchildren, brothers, or sisters of an official or licensee regulated by this chapter and all other persons who have a permanent or continuous residence in the household of the official or licensee.

(4) "Minor" means a person under 18 years of age.

(5) "Persons" means individuals, firms, corporations, fair boards, and associations.

(6) "Race meet" means racing of registered horses where the parimutuel system of wagering is used, and includes simulcast races.

(7) "Simulcast" means a live broadcast of an actual horse race at the time it is actually run, and includes races of local and national prominence.

(8) "Simulcast Facility" means a facility at which horse races are simulcast and wagering on the outcome is permitted under the parimutuel system. "

+7+ (9) "Steward" means an official hired by the department

Ex. #1
2/17/89

and by persons sponsoring a race meet to regulate and control the day-to-day conduct and operation of a sanctioned meet.

+8+ (10) "Board of stewards" means a board composed of three stewards who supervise racing meets.

Section 2. Section 23-4-104, MCA, is amended to read:

"23-4-104. Duties of Board. The board shall adopt rules to govern horserace meets and the parimutuel system. These rules shall include the following:

- (1) definitions;
- (2) auditing;
- (3) supervision of the parimutuel system;
- (4) corrupt practices;
- (5) supervision, duties, and responsibilities of the executive secretary, presiding steward, racing secretary, and other racing officials;
- (6) licensing of all personnel who have anything to do with the substantive operation of racing;
- (7) the establishment of dates for race meets and meetings in the best interests of breeding and racing in this state; and
- (8) the veterinary practices and standards which must be observed in connection with race meets;
- (9) absolute responsibility of trainers for the condition of horses, regardless of the acts of third parties;
- (10) licensing or renewal of a license of a person whose

Ex. #1

2/17/89

license has been suspended by the board or another horseracing jurisdiction; and

(11) setting license fees commensurate with the cost of issuing a license;

(12) the time, conduct and supervision of simulcast races and parimutuel betting on simulcast races; and

(13) licensing, approving and regulation of simulcast facilities. "

Section 3. Section 23-4-105, MCA, is amended to read:

"23-4-105. Authority of board. The board shall, subject to 37-1-101 and 37-1-121, license and regulate horseracing and review race meets held in this state under this chapter. If the board decides to authorize new forms of racing, including new forms of simulcast racing, not currently engaged in in Montana, it shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board should consider both economic and safety impacts on the existing racing and breeding industry."

Section 4. Section 23-4-201, MCA, is amended to read:

"23-4-201. License. (1) It is unlawful for a person to hold a race meet, including simulcast race meets under the parimutuel system, in this state without a valid license issued by the

2/17/89

department under this chapter. A person applying for a license to hold a race meet under this chapter shall file an application with the department which shall set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet shall be licensed and charged an annual fee set by the board, which shall be paid to the department and used for expenses of administering this chapter, subject to 37-1-101 (6). Each person holding a license under this chapter shall comply with this chapter and with the rules adopted and orders issued by the board.

(3) No A license may not be issued to a person who has failed to pay the fees, taxes, or moneys money required under this chapter.

(4) Application to hold race meets shall be submitted to the department, and the board shall act on the applications within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board and an independent racing association conducting race meets meet the requirements of the rules adopted by the board before granting a license.

(6) A racing association consisting of a local fair board or an association approved by that local fair board may apply for a license to hold a simulcast race meet in a satellite facility.

~~(6)~~ (7) An unexpired license held by a person who violates this chapter or who fails to pay to the department the sums

Zx. #1
2/17/87

required under this chapter is subject to cancellation and revocation by the board."

Section 5. Section 23-4-202, MCA, is amended to read:

"23-4-202. Penalty for violation of law - authority of board - judicial review. (1) A person holding a race meet, or an owner, trainer, or jockey participating in a race meet, without first being licensed under this chapter, and a person violating this chapter is guilty of a misdemeanor.

(2) The board or, upon the board's authorization, the board of stewards of a race meet at which they officiate may exclude from racecourses in this state a person whom the board considers detrimental to the best interest of racing as defined by rules of the board.

(3) As its own formal act or through an act of a board of stewards of a race meet, the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$1,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may forbid application for relicensure for a 2-year period.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed herein. The rules may include provisions for the following:

(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;

(b) stay of summary imposition of penalty by either the board or board of stewards;

(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

(d) setting aside of up to 2% of exotic wagering on races, including simulcast races, to be used as a bonus for owners pursuant to 23-4-304 (2), and up to 30% of the amount set aside may be used to defray administrative costs which shall be in addition to the 20% already withheld under 23-4-302;

(e) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated; and

(f) definition of exotic forms of wagering on races to be allowed; ;

(g) standards for simulcast facilities; and

(h) conduct and supervision of simulcast races and parimutuel betting or wagering on simulcast races. "

Section 6. Section 23-4-203, MCA, is amended to read:

"23-4-203. Race meets - when lawful. It is lawful to conduct live or simulcast race meets at a racetrack or SATFLLITE simulcast facility or otherwise at any time during the week."

Ex. #1

2/17/89

Section 7. Section 23-4-204, MCA, is amended to read:

"23-4-204. Race exclusively for Montana-bred horses - bonus for winner. (1) For the purpose of encouraging the breeding in this state of valuable registered horses, at least one race each day at each race meet shall be limited to horses bred in this state unless, in the board's judgement, there is an insufficient number of Montana-bred horses for such a race. If in the opinion of the board sufficient competition cannot be had among this class of horses, the race may be eliminated for the day and a substitute race provided instead.

(2) A sum equal to 10% of the first money of every purse won by a horse bred in this state shall be paid by the licensee conducting the race meet to the breeder of the horse. Only the money contributed by the licensee conducting the race meet may be considered in computing the bonus.

(3) 2% of exotic wagering on a simulcast race shall be placed in a fund to be distributed by the board, in addition to existing Montana breeders' awards, on a percentage basis of actual Montana breeders' awards earned.

(4) Up to 15% of the amount set aside for Montana breeder's awards may be used to defray administrative costs which shall be in addition to the 20% withheld under 23-4-302. "

Section 8. Section 23-4-205, MCA, is amended to read:

Ex. #1
2/17/89

"23-4-205. Public liability insurance. For the protection of the public exhibitors, and visitors, a person licensed to conduct a race meet or operate a SATELLITE simulcast facility under this chapter shall carry public liability insurance in an amount and form of contract approved by the board."

Section 9. Section 23-4-301, MCA, is amended to read:

"23-4-301. Parimutuel betting - other betting illegal. (1) It is unlawful to make, report, record, or register a bet or wager on the results of a contest of speed, skill, or endurance of an animal, whether the contest is held within or outside of this state, except under this chapter.

(2) a licensee conducting a race meet under this chapter may provide a place in the race meet grounds or enclosure where the licensee may conduct or supervise the use of the parimutuel system by patrons on the result of the races conducted under this chapter and the rules of the board.

(3) A person licensed under this chapter to hold a race meet may, on the day a race meet is conducted, also provide a place in the race meet grounds or enclosure SATELLITE simulcast facility, where the licensee may conduct or supervise the use of the parimutuel system by patrons on the results of the-following simulcast ~~or-televised~~ races:

(a)--the-Kentucky-derby;

(b)--the-Preakness;

- (c)--the-Belmont;
- (d)--the-Travers;
- (e)--the-all-American-futurity;
- (f)--the-Arlington-million;-and
- (g)--the-Marlboro-cup;

approved by the board. The board shall approve only intrastate races and races of local or national prominence to the Montana racing season. However, the board has the authority to approve races from other states during the off-season.

(4) It is unlawful to conduct pool selling, bookmaking, or to circulate handbooks or to bet or wager on a race of a licensed race meet, other than by parimutuel system and in the race meet grounds or enclosure where the race is held, or to permit a minor to use the parimutuel system.

(5) Each licensee conducting the parimutuel system for an interstate INTRASTATE simulcast race meet shall combine the parimutuel pools at a SATELLITE simulcast facility with those at the actual racing facility for the purpose of determining the odds and computing payoffs. The amount of the handle at the simulcast race meet shall be combined with the amount of parimutuel handle at the live racing facility for the purposes of applying take out formulas and distribution of money derived from parimutuel betting under 23-4-302 and 23-4-304.

(6) Negotiated purse money from intrastate and interstate simulcast parimutuel handles at racing associations that do not conduct live racing will be pooled and distributed to all tracks conducting live racing, all moneys to be distributed on

Ex. #1
2/17/85

a percent, based on each tracks percent of total annual on-track parimutuel handle. "

Section 10. Section 23-4-302, MCA, is amended to read:

"23-4-302. Distribution of deposits - breakage. (1) Each licensee conducting the parimutuel system shall distribute all sums deposited in any pool to the winner thereof, less an amount which, in the case of exotic wagering on races, shall not exceed 22%, and in all other races, shall not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(2) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute to the winner of the race all sums deposited with the licensee in any pool for such simulcast race meet, less an amount which, in the case of exotic wagering on such races, shall not exceed 24%, and in all other such races, shall not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(3) Each licensee conducting the parimutuel system for a simulcast race meet shall deduct 1% of its total parimutuel handle for-the-race-meet OF THE SATELLITE SIMULCAST facility and give it to the LOCAL county-treasurer-or-financial-officer, who

Ex #1
2/17/89

shall-deposit-it-in-the-county-general-fund.-The-money-must-be
used-to-operate-the-county-fairgrounds. FAIRBOARD, TO BE USED, IN
ADDITION TO BUDGETED FUNDS, FOR OPERATION OR ENHANCEMENT OF
FAIRGROUNDS FACILITIES."

Section 11. Section 23-4-304, MCA, is amended to read:

"23-4-304. Gross receipts - department's percentage - collection and allocation. (1) (a) The licensee shall pay to the department 1% of the gross receipts of each day's parimutuel betting at each race meet, which sums shall be paid to the department within 5 days after receipt by the licensee. At the end of each race meet the licensee shall prepare a report to the department showing the amount of the overpayments and underpayments, the balance shows the underpayments to be in excess of the overpayments, the balance shall be paid to the department. Money paid to the department may be used for the expenses incurred in carrying out this chapter. The licensee shall, at the same time, pay to the department all sums collected under 23-4-202 (4) (d) on exotic wagering on races.

(1) (b) Each licensed SATELLITE simulcast facility shall pay to the department 1% of the gross receipts of each day's parimutuel betting at each race meet, or the actual cost to the board of regulating the simulcast race meet, whichever is higher, which sums shall be paid to the department within 5 days after receipt by the licensee. At the end of each race meet the licensed

2/17/89

simulcast facility shall prepare a report to the department showing the amount of the overpayments and underpayments. If the balance shows the underpayments to be in excess of the overpayments, the balance shall be paid to the department. Money paid to the department may be used for the expenses incurred in carrying out this chapter. The licensed simulcast facility shall, at the same time, pay to the department all sums collected under 23-4-202 (4) (d) on exotic wagering on races.

(2) At the end of the racing season, sums collected under 23-4-202(4)(d) must be distributed by the department,, after first passing through the board's agency fund account, to the licensed owners of those Montana-bred horses finishing in the money at the meet from which the sums derived. the Owner's award must be calculated as follows:

(a) divide the total amount collected under 23-4-202(4)(d) by the total amount won by Montana-bred horses;

(b) multiply the quotient derived under subsection (2)(a) by the total amount of money won by each owner's Montana-bred horses.

(3) For purposes of the owner's award under subsection (2), "owner" means the individual, partnership, corporation, person, or other entity that owns the horse at the time of entry.

(4) Licensees may not consider the sums available under 23-4-202(4)(d) when establishing purses."

Section 12. Extension of authority. Any existing authority

Ex. #1

2/17/89

to make rules on the subject of the provisions of this act is extended to the provisions of this act.

Section 13. Effective date. This act is effective on passage and approval.

-End-



SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 2/17/89
BILL NO. SB406

P.O. Box 5021, 59403-5021

Telephone 406 / 727-5881

February 16, 1989

Montana State Senate
State Capitol
Helena MT 59601

RE: Senate Bill 406

Dear Senators:

This letter is written in support of Senate Bill 406 expanding the scope and number of allowable simulcast horse races and simulcast race meets in Montana.

In Great Falls, the sport of horse racing is very popular and has a very significant impact on the economy. This impact covers the wide spectrum of services, especially in the areas of employment and agriculture.

Senate Bill 406 offers an opportunity for growth in the sport of horse racing. A number of states have already implemented these changes which resulted in significant financial boosts to their economy. Montana must keep abreast with the changes and developments in this industry in order to remain competitive and keep the revenues within the State of Montana. Failure to allow the horse racing industry to improve and expand at this time would be a serious mistake.

We urge your support of Senate Bill 406.

Sincerely,

Robert Stockwell
City Manager

gb



Great Falls Jockey Club

P.O. Box 932
Great Falls, Montana 59403

JAN 1989
EXHIBIT NO. 3
DATE 2/17/89
BILL NO. SB 406

January 31, 1989

Mr. John McKenna
Office of the Lt. Governor
State Capitol Building
Helena, MT 59620

Dear Mr. McKenna,

The Great Falls Jockey Club is a support group for thoroughbred horse racing at State Fair. We are interested in supporting all aspects of the sport and industry, including, but not limited to the breeding of the horse, its training, an appreciation of its beauty in motion, handicapping the races, and to provide wholesome entertainment that pays its way, returns a profit to those involved, and further expands the tax base for city, county, and state government.

One way to meet the challenge of the above is to support the Simulcasting legislation now before the State Legislature. The success of this tested approach to increasing the handle at race tracks in other states provides optimism for Montana. The best horses competing in the best races attracts the betting dollar as quality matters in horse racing just as it does in other endeavors.

The Great Falls Jockey Club supports passage of the proposed legislation and your support, in turn, may assist in a favorable conclusion. In 1987, horse racing had a conservatively based 9 million dollar impact on the Great Falls economy and its total impact could well have been greater. Breeding farms, training centers, feed and tack stores, motels, restaurants, taverns, gas stations, retail clothing stores, and many other sectors of our economy all reap benefits from thoroughbred horse racing and we feel that passage of a simulcasting alternative will further stimulate and improve an appreciation for the exciting sport and industry already in our midst.

We certainly appreciate your consideration and support.

Sincerely,

Robert K. Doerk, Jr.
President

February 15, 1989

WHY MONTANA NEEDS SIMULCAST RACING AND WAGERING

Most pari-mutuel states are either inaugurating or expanding simulcast racing and wagering.

Simulcasting has proven to be highly effective in:

- expanding the racing fan base
- building wagering handle
- increasing purses to horsemen
- generating revenue for states and tracks.

California has a very extensive and successful simulcast wagering network based almost entirely on fairgrounds. A percentage of the gross handle stays with each fairgrounds satellite for fairgrounds capital improvements.

Other Western states presently simulcasting are: Washington, Oregon, Wyoming, South Dakota, Nebraska, Arizona, Colorado and the neighboring Canadian provinces of Alberta and Saskatchewan.

Kentucky and Louisiana implemented simulcasting in 1988.

Simulcast legislation is presently under consideration in Idaho, North Dakota, New Mexico, Minnesota and Michigan.

In late January, the Arkansas legislature enacted a simulcast bill.

Improved purses and facilities are the keys to revitalizing the Montana racing industry.

The Montana racing season lasts only five-plus months - from late April through early October. No industry revenues are generated during the six-plus dark months.

Simulcasting offers Montana racing a vehicle for year-round operation and a way to compete for the state's entertainment dollar with the lottery, casino and bingo industries.

Assume that simulcasting operations are established in Great Falls, Billings, Butte, Bozeman, Helena, Missoula, Miles City, Hamilton, Shelby and Kalispell and that the average daily handle statewide is \$80,000, or \$400,000 per week.

The statewide handle would total \$9,600,000 over a 24-week season. Historically, 75% of Montana's racing handle is in exotic pools and 25% straight.

The takeout as outlined in Senate Bill 406 would generate \$2,208,000 in revenue, based on \$7,200,000 of handle in exotic (two and three horse) bets and \$2,400,000 in win, place and show wagering, or straights.

It is estimated that 5 to 7 percent of the handle, or some \$500,000 would be retained by the Montana racing industry for purse and facilities improvements.

(This sheet to be used by those testifying on a bill.)

EXHIBIT NO. 5

DATE 2/17/89

BILL NO. SB 406

DATE: 2-17-89

NAME: AL BELL

ADDRESS: RR 5048 GREAT FALLS

PHONE: 727-3055

REPRESENTING WHOM? SELF AS OWNER + BREEDER

APPEARING ON WHICH PROPOSAL: SB 406

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill)

EXHIBIT NO. 6

DATE 2/17/89

NAME: Tom Tucker

DATE: 2/11/89 SB406

ADDRESS: Box 2514, Metra Park, Billings, MT 59103

PHONE: 406-259-2610

REPRESENTING WHOM? Metra Park Race Track

APPEARING ON WHICH PROPOSAL: # 406 (SENATE)

DO YOU: SUPPORT? AMEND? OPPOSE?

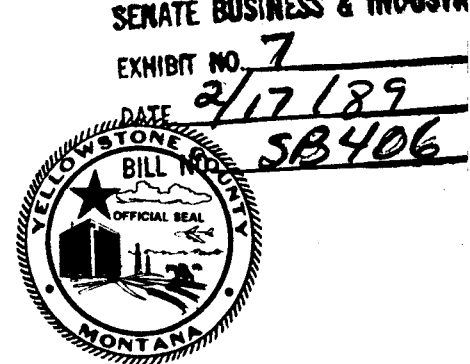
COMMENT:

Multiple horizontal lines for writing comments.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

County of Yellowstone

COMMISSIONERS



(406) 256-2701

Box 35000
Billings, MT 59107

February 16, 1989

Chairman Gene Thayer
Business and Industry Committee
Capitol Station
Helena, MT 59620

RE: Senate Bill 406

Dear Chairman Thayer:

Historically, horse racing in the State of Montana has been a multi-million dollar industry. But in the past three years, the racing and breedings industries have seen hard times. Combined with the economic problems that face many Montanas as well as the added competition from expanded legalized gambling, race tracks and horsemen alike find it more difficult each year to participate in the horse racing industry.

Racing at the MetraPark facility, here in Billings, generates over \$4,000,000 for the local economy not to mention the millions of dollars invested in the breeding and raising of the racing animals. Simulcasting, which has added new life to many of the racing jurisdictions across the country, may be the answer to some of the financial problems facing this important industry.

The Yellowstone County Commissioners would like to go on record as supporting Senate Bill 406 in an effort to regenerate the racing and breeding industries in this State and continue this much needed business.

Sincerely yours,

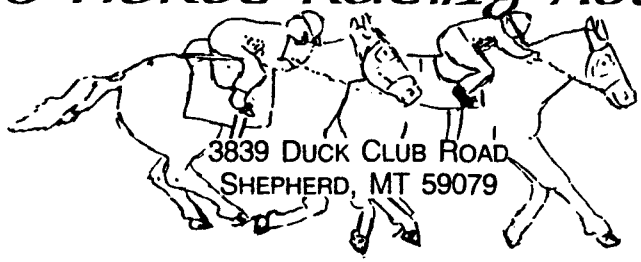
Dwight MacKay - by GMB
Dwight MacKay, Chairman
Board of County Commissioners
Yellowstone County, Montana

TT/pw

cc: Tom Tucker

(SB406)

Midland Horse Racing Association *SB 406*



February 16, 1989

Mr. Gene Thayer, Chairman
 Montana State Senator
 Business and Industry Committee
 Helena, Montana

Dear Chairman Thayer,

Senate Bill Number 406, an act to expand the scope and numbers of allowable simulcast horse races, etc., is now before your committee and our organization urges a do pass recommendation.

Simulcast wagering is successful in most states with Pari-Mutuel wagering and will be implemented in Wyoming during 1989.

This bill has been implemented carefully by the horse racing industry, has its unanimous support, and will make a positive impact upon the Montana economy.

Thank you for consideration.

Sincerely ,
 Midland Horse Racing Assn.

Lee Anderson, President

Lee Anderson

Bonnie DeWitt, Secretary

Bonnie DeWitt

SB Bill 449 will provide a method by which a person SB449 can obtain a title to a motor vehicle if they are unable to obtain the previous owner's title to effect a proper transfer of ownership.

In 1988 the department received 833 requests for titles to vehicles when the previous owner could not be located to obtain a title. In many cases, there was no record of the vehicle in this state or any other jurisdiction. Approximately 150 of the applicants had no proof of purchase and were required to obtain a court order before a title would be issued. The department did issue 472 titles either by an order of the court or administratively if the applicant had some form of proof of ownership, such as a bill-of-sale or a cancelled check. There are 361 applications still pending from 1988, 337 from 1987 and 202 from 1986.

Issuing titles through an administrative decision creates a potential liability for the state, provides for possible losses to prior owners, lienholders, subsequent purchasers or financing institutions. Requiring court orders adds to the heavy burden already placed on our courts.

This bill will provide for the financial protection of innocent parties involved in the questionable ownership of a vehicle and reduce the workload experienced by our courts.

Amendments to Senate Bill No. 428
First Reading Copy

Requested by Sen. Gene Thayer
For the Committee on Business and Industry

Prepared by Mary McCue
February 16, 1989

1. Title, line 12.
Strike: "2-15-1702,"
2. Title, line 19.
Following: "SECTIONS"
Insert: "2-15-1702,"
3. Page 2, lines 24 and 25.
Strike: "It" on line 24 through end of line 25
4. Page 3, following line 10.
Insert: "The legislature intends that the governor shall implement staggered terms in naming the initial members of the board."
5. Page 3, lines 20 and 21.
Following: "agency"
Strike: remainder of line 20 through "risk" on line 21
6. Page 4, line 1.
Strike: "safety programs"
Insert: "variable pricing levels within individual rate classifications"
7. Page 5, line 19.
Following: "The"
Strike: "board is designated as"
Insert: "members must be appointed and compensated in the same manner as members of"
8. Page 5, line 20.
Strike: "for the purposes of"
Insert: "as provided in"
9. Page 8, line 10.
Following: "eliminated"
Insert: "and adequate actuarially determined reserves are determined"
10. Page 9, line 13.
Following: "33-2-705"
Insert: "based on earned premium and paid on revenue from the previous fiscal year"

Renumber: subsequent sections

26. Page 39, line 15.
Following: "labor"
Insert: "and industry"

27. Page 40, line 22.
Following: "compensation"
Insert: "mutual"

28. Page 41, following line 3.
Insert: "NEW SECTION. Section 46. State fund to submit notice of coverage within thirty days -- penalty for failure. (1) The state fund shall, within 30 days after the issuance an insurance policy, submit to the division the notice of coverage stating the effective date of the policy insuring the employer and other information the division requires.
(2) The division may assess a penalty of no more than \$200 against the state fund if, as a general business practice, it does not comply with the 30-day notice requirement.

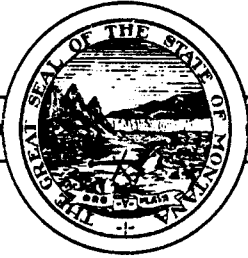
NEW SECTION. Section 47. Policy remains in effect until canceled or replaced -- twenty-day notification of cancellation required. The insurance policy remains in effect until canceled. Cancellation may take effect only by written notice to the named insured and to the division at least 20 days prior to the date of cancellation. However, the policy terminates on the effective date of a replacement or succeeding insurance policy issued to the insured. Nothing in this section prevents the state fund from canceling an insurance policy before a replacement policy is issued to the insured."

29. Page 41, following line 4.
Insert: "2-15-1702,"

30. Page 42, line 2.
Strike: "worker's"
Following: "compensation"
Insert: "insurance"

31. Page 42, line 14.
Strike: "50"
Insert: "51"

32. Page 42, line 16.
Strike: "49"
Insert: "50"



STAN STEPHENS, GOVERNOR

P.O. BOX 1728

STATE OF MONTANA

(406) 444-3555

HELENA, MONTANA 59624

February 17, 1989

TESTIMONY BEFORE THE SENATE BUSINESS COMMITTEE ON SENATE BILL 428

BY MIKE MICONE, COMMISSIONER OF LABOR AND INDUSTRY

Mr. Chairman and members of the Committee, my name is Mike Micone, Commissioner of Labor and Industry. I'm here to support Senate Bill 428 to separate the workers' compensation state fund from the Workers' Compensation Division.

Senate Bill 428 calls for a general reorganization of the Workers' Compensation Division. It would move the state insurance fund to the Department of Administration, while maintaining the regulatory functions in a separate division of the Department of Labor and Industry.

The workers' compensation vocational rehabilitation program would be transferred to the Employment Policy Division in the Department of Labor and Industry.

The state fund, as a workers' compensation insurer, would become a mutual insurer with its administration function attached to the Department of Administration. It would be managed by a board appointed by the governor. The board would pick an executive director to manage the day-to-day functions of the fund. The executive director and certain other management employees would be exempt from the state pay plan, with the management staff serving at the pleasure of the executive director.

The board would have the authority to contract out to private industry certain claims-servicing functions of the state compensation insurance fund.

The board would be bound by law to set the fund's insurance rates on an actuarially sound basis.

This is not a new idea; it was discussed during the last session, but not adopted as part of the Workers' Compensation reform legislation.

ex, # 13
2/17/89

The 1987 Legislature did make considerable changes in the workers' compensation law. This bill, like many others being heard this session, continues the reform started two years ago.

The workers' compensation system has been subject to criticism from all quarters. Some say the law is the problem, some say the courts are the problem and some maintain that poor management of the system is the problem.

This bill won't solve all the problems, but it will address what many see as an inherent problem with having the same state agency acting as an insurer as well as regulating the system.

We feel the workers' compensation should be operated more like a privately-run insurance company, and should have its insuring functions separated from its regulatory functions. It's a further refinement of the reform started two years ago.

I ask that you support Senate Bill 428.

DEPARTMENT TESTIMONY

SB 428
State Mutual Insurance Fund

A. Purpose:

- 1.) To remove any conflict of interest that may currently exist between the State Compensation Insurance Fund and the workers' compensation regulatory authority of the Division.
- 2.) To establish an organizational structure which will ensure the solvency of the newly created state mutual insurer.

B. Rationale:

- 1.) The administration recognizes that sound management requires an organization to be financially solvent. Even though the current State Compensation Insurance Fund is a state agency and is supported by the strength of Montana state government, it is necessary for the organization to generate sufficient revenues to cover expected liabilities. Failure to do so puts an unreasonable burden on injured workers who are entitled to the statutory benefits and creates a false sense of financial security for employers who expect premiums to cover costs.
- 2.) The administration is convinced that the proposed structure will continue to provide employers with an alternative to obtaining the required coverage in a competitive market. Employers should continue

to have a choice. Not only price but service and dependability are important factors in making a decision of who will become a firm's insurer.

C. Overview:

- 1.) Establishes a five-member board of directors who are vested with the management and control of the Fund..
- 2.) Establishes the Fund as a mutual nonprofit independent public corporation.
- 3.) Allows the Board to appoint an executive director who has the responsibility for the Fund's operating management.
- 4.) Allows the Board to set all personnel salaries.
- 5.) Essentially operates in the same manner as a private carrier.
- 6.) Property of the Fund, including all monies, property, securities, etc., belong to the Fund and not the state.
- 7.) Controlled by current laws regulating domestic mutual insurers.
- 8.) Establishes an assigned risk ~~pool~~ ^{plan} so that those employers with poor experience may obtain coverage from either a private carrier or the State Fund. *Currently the state fund take all applicants*
- 9.) Allows the State Fund to refuse coverage.
- 10.) Continues the Fund as the exclusive carrier for state agencies.

Ex. #14
2/17/89

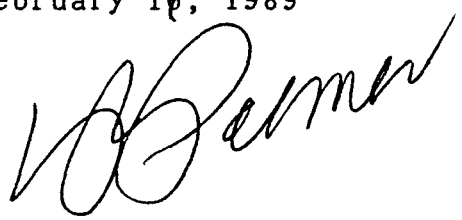
- 11.) Allows for the payment of dividends once the unfunded liability is wiped out.
- 12.) Maintains the current payroll classification system established by the National Rating Organization.
- 13.) Allows the Governor to implement the provisions of the reorganization by executive order but no later than October 1, 1989.

CONCLUSION:

Although the concept may be new to Montana, many other states, (eg., Arizona, Oregon, Minnesota, Idaho) follow this organizational format.

~~This Division has identified some technical problems that should be worked out as soon as possible. For that reason, I would support the Senator's request to put the bill in a subcommittee very briefly so that details can be addressed.~~

William R. Palmer
Interim Administrator
February 17, 1989



2/17/89

EXHIBITS WERE MISNUMBERED. THERE IS NO EXHIBIT NO. 15 FOR THIS DAY.

1987 Results: (000's omitted)

<u>INSURANCE COMPANY</u>	<u>PREMIUM WRITTEN</u>	<u>PREMIUM EARNED</u>	<u>LOSSES</u>	<u>LOSS RATIO</u>
Aetna Cas & Sur Co.	\$ 1,103	\$ 1,150	\$ 845	73%
AM Motorists	353	538	591	110
Associated Indemnity	580	523	283	54
City Ins. Co.	584	498	229	46
Connecticut Indemnity Ins.	124	1	41	4100
E. B. I.	6,347	6,553	20,752	317
Employers of Wausau	1,601	1,616	1,951	121
Federated Insurance Company	567	571	624	109
Fidelity & Casualty	511	484	290	60
Fire & Casualty Co of Conn.	1,346	1,301	2,173	167
Highlands Ins Co.	710	708	843	119
Home Indemnity	521	463	1,072	232
Industrial Indemnity	854	712	3,220	452
INA	899	821	586	71
Liberty Mutual	3,689	4,497	4,195	93
L. U. A.	765	767	788	103
National Union Fire	6,920	5,579	3,837	69
Nationwide Mutual Fire	702	592	551	93
Old Republic	953	1,095	5	1
Pacific Employers	2,743	3,441	2,477	72
Royal Ins Co.	1,531	1,694	1,021	60
Standard Fire Ins.	1,356	1,161	1,634	141
Transportation Ins. Co.	4,153	4,384	4,356	99
Travelers Indemnity	556	566	4,132	
Travelers Indemnity of America	58	56	50	72
Travelers Indemnity of Illinois	6,573	7,532	1,663	
Twin City Fire	4,049	3,631	957	26
New Hampshire Ins. Co.	25	32	24	75
TOTALS:(All Co's):	57,206	57,679	69,356	120%

Statistical figures compiled by the Montana Insurance Department



JAMES W. MURRY
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 17
DATE 2/17/89
BILL NO. SB 428

Testimony of Don Judge on Senate Bill 428 before the Senate Business and Industry Committee, February 17, 1989

Mr. Chairman, members of the committee, my name is Don Judge and I'm representing the Montana State AFL-CIO in support of Senate Bill 428.

I am unable to respond to the bill with inclusion of the amendments offered by Senator Thayer, but with those reservations, I can say that we recognize and endorse the goal of this bill, which is to eliminate the existing conflict in the Workers' Compensation Division, which by law must represent the interests of the insured and the insurer.

We have maintained for some time now that one of the chief causes of the existing fund's deficit was a political decision some years ago to hold down rates despite actuarial indications to the contrary. Had the state fund not been under those competing pressures at the time, that ill-fated decision would not have been likely. Under the system proposed by Senate Bill 428, no such political shenanigans would be likely.

We heartily support the bill's emphasis on the importance of safety to reduce workplace accidents. Such a healthy focus on the most serious problem facing the workers' compensation fund today will benefit not only the workers who suffer the injuries and sickness, but also the employers who must pay the costs. We also believe that creation of an assigned risk pool is a long overdue change and one that will curb the current practice of creaming the best risks while assigning the poor ones to the state fund.

We do have one concern. Many other states have systems similar to that being proposed here. Those successful systems often have precise mandates on the makeup of their governing boards. The proposal here is for three of the five members to represent state fund policyholders and three to represent private companies. It allows the appointment of employees of state fund policyholders. We urge you to consider amending the bill to adopt a tripartite system similar to that used in other states, with mandated representation by the business community, labor and the public. That way, none of the parties with legitimate direct interests in this issue will be left out.

All in all, we believe this is a good bill that aims to put the state workers' compensation system back on a sound footing, which we support. We urge you to consider our suggestion and to ultimately give Senate Bill 428 a "do pass" recommendation. Thank you.

Amendments to Senate Bill No. ~~248~~ ³⁰³
Third Reading Copy

Requested by Sen. Gene Thayer
For the Committee on Business and Industry

Prepared by Mary McCue
February 16, 1989

1. Page 1, lines 24 and 25.

Strike: "only after hearing for which notice has been given"

2. Page 4, lines 8 and 9.

Strike: "if" on line 8 through "days" on line 9

Insert: ", who is not actively engaged in the escrow business and, who is regulated by the commissioner of insurance" *ok 90 to 120 da.*

3. Page 4, following line 9.

Insert: "(d) a regulated lender as defined in 31-1-111 as long as any escrow account of the lender is audited by ;

strike ~~(e) a person who files proof of financial responsibility with the department. The filing of a bond or a liability insurance policy in the amount of at least \$75,000 per occurrence is prima facie evidence of the person's financial responsibility;"~~

Renumber: subsequent subsections

4. Page 4, line 15.

Strike: "and"

5. Page 4, line 19.

Strike: "90"

Insert: _____

6. Page 8, line 21 through line 4, page 9.

Following: "(a)" on line 21, line 8

Strike: remainder of subsection (5)

Insert: "The director may require, at least once within a 3 year period, an audit by an independent public accountant of an escrow agent's escrow account. It the independent public accountant discovers any discrepancy in the audited account, the director may require annual audits of the escrow account until he believes the problems have been resolved. The scope of the audit must be limited to a sample check of closed escrow transactions, a verification of open escrows, and a determination of whether the escrow agent's records are maintained in a manner as to permit the audit."

(b) The audit sheet report must contain:

(i) a balance sheet of the close of the audit period;

(ii) a statement of receipts and disbursements of escrow funds showing reconciliation between the beginning and ending balances;

(iii) a list of all bank accounts of the escrow agent containing escrow funds showing the name, address, and account

number;

(iv) a list of any closing accounts that have been open for more than 1 year at the end of the audit period, showing the name, number, and amount of the escrow liability;

(v) an explanation of the method used to verify the escrow account liabilities together with the number of escrows;

(iv) the number of confirmations requested;

(vii) the number of discrepancies and approximate percentage of escrow accounts checked; and

(viii) a statement that the escrow agent has complied with any exceptions as disclosed by the sampling, statements, and lists."

7. Page 9, lines 21 and 22.

Strike: "in" on line 21 through "association" on line 22

Insert: "with a regulated lender"

8. Page 10, lines 4 and 5.

Strike: "in" on line 4 through " association" on line 5

Insert: "with a regulated lender"

9. Page 10, line 18.

Strike: "and subsequent"

10. Page 12, line 8.

Strike: "all persons"

Insert: "the affected party"

11. Page 12, line 13.

Strike: "of all parties"

12. Page 15, line 5.

Strike: "touching"

Insert: "relating to"

EXHIBIT NO. 19
DATE 2/17/89
BILL NO. SB 248

Amendments to Senate Bill No. 248
First Reading Copy

For the Committee on Business and Industry

Prepared by Mary McCue
February 17, 1989

1. Page 14, line 15.
Strike: "(3)"
Insert: "(2)"

2. Page 14, lines 18 and 19.
Strike: "8/10" on line 18 through "dollar" on line 19
Insert: "2 3/4%"

3. Page 14, line 19.
Strike: "direct"
Insert: "net"

4. Page 15, lines 2 through 17.
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

5. Page 15, line 19.
Strike: "subsections"
Insert: "subsection"
Strike: "and (2)"

6. Page 15, line 25.
Strike: "(4)"
Insert: "(3)"

Amendments to Senate Bill No. 303
Third Reading Copy

Requested by Sen. Gene Thayer
For the Committee on Business and Industry

Prepared by Mary McCue
February 16, 1989

1. Page 1, lines 24 and 25.
Strike: "only after hearing for which notice has been given"
2. Page 4, line 9.
Strike: "90"
Insert: "120"
Following: "days"
Insert: "and the person is regulated by the commissioner of insurance"
3. Page 4, following line 9.
Insert: "(d) a financial institution, as defined in 32-6-103, that has its escrow accounts regularly audited or examined. The financial institution must supply a copy of the most recently prepared audit or examination to the director upon his request."
Re-number: subsequent subsections
4. Page 4, line 19
Strike: "90"
Insert: "120"
5. Page 9, lines 21 and 22.
Strike: "in" on line 21 through "association" on line 22
Insert: "with a financial institution, as defined in 32-6-103,"
6. Page 10, lines 4 and 5.
Strike: "in" on line 4 through "association" on line 5
Insert: "with a financial institution, as defined in 32-6-103,"
7. Page 10, line 18.
Strike: "and subsequent"
8. Page 12, line 8.
Strike: "all persons"
Insert: "the affected party"
9. Page 12, line 13.
Strike: "of all parties"
10. Page 15, line 5.
Strike: "touching"
Insert: "relating to"

Amendments to Senate Bill No. 406
First Reading Copy

For the Committee on

Prepared by Greg Petesch
February 18, 1989

1. Title, line 11.
Following: "AND AT"
Strike: "SATELLITE"
Insert: "SIMULCAST"

2. Page 6, line 13.
Strike: "satellite"
Insert: "simulcast"

3. Page 11, line 3.
Following: "of"
Strike: "local or"

4. Page 11, line 14.
Strike: "interstate"
Insert: "intrastate"

5. Page 12, lines 14 and 15.
Following: "distribute"
Strike: remainder of line 14 through "race" on line 15

6. Page 12, line 24.
Following: "handle"
Strike: "for the race meet"
Insert: "of the simulcast"
Following: "the"
Strike: remainder of line 24 through "fund" on page 13 line 1
Insert: "local fair board"
Following: "operate"
Insert: "or enhance"

7. Page 13, line 2.
Following: "fairgrounds"
Insert: "facility"

Amendments to Senate Bill No. 428
First Reading Copy

Requested by Sen. Gene Thayer
For the Committee on Business and Industry

Prepared by Mary McCue
February 16, 1989

1. Title, line 12.
Following: "LABOR"
Insert: "AND INDUSTRY"
Strike: "2-15-1702,"
Following: "2-18-103,"
Insert: "33-2-119,"
2. Title, line 13.
Following: "33-18-212,"
Insert: "37-72-101,"
3. Title, line 18.
Strike: "AND"
Following: "39-72-310,"
Insert: "50-71-102, AND 50-73-102,"
4. Title, line 19.
Following: "SECTIONS"
Insert: "2-15-1702,"
5. Page 2, lines 24 and 25.
Strike: "It" on line 24 through end of line 25
6. Page 3, following line 10.
Insert: "The legislature intends that the governor shall implement staggered terms in naming the initial members of the board."
7. Page 3, lines 20 and 21.
Following: "agency"
Strike: remainder of line 20 through "risk" on line 21
8. Page 4, line 1.
Strike: "safety programs"
Insert: "variable pricing levels within individual rate classifications"
9. Page 5, line 19.
Following: "The"
Strike: "board is designated as"
Insert: "members must be appointed and compensated in the same manner as members of"
10. Page 5, line 20.
Strike: "for the purposes of"
Insert: "as provided in"

2/17/87

11. Page 8, line 4.
Following: "council"
Insert: "and corresponding rates as a basis for setting its own rates"

12. Page 8, line 10.
Following: "eliminated"
Insert: "and adequate actuarially determined reserves are determined"

13. Page 9, line 13.
Following: "33-2-705"
Insert: "based on earned premium and paid on revenue from the previous fiscal year"

14. Page 11, line 3.
Strike: "coverage contracts"
Insert: "insurance policies"

15. Page 12, line 23.
Strike: "provided for in 2-15-1702"

16. Page 18, line 18.
Strike: "adviser"
Insert: "advisers"

17. Page 18, following line 22.
Insert: "The division and state fund may employ other attorneys or legal advisers as they consider necessary."

18. Page 19, line 6.
Strike: "duplicate receipts"
Insert: "summary reports of benefits"

19. Page 19, line 12.
Strike: "duplicate receipts"
Insert: "summary reports of benefits"

20. Page 20, line 7.
Strike: "employee"
Insert: "employer"

21. Page 22, line 21.
Strike: "Private insurers, plan No. 2,"
Insert: "Insurers"

22. Page 24, line 21.
Strike: "workers' compensation"

23. Page 25, lines 2 and 3.
Strike: "compensation insurance"

24. Page 25, line 4.
Following: "schedule."

Insert: "The state fund shall report fees billed in the form and at times required by the division."

25. Page 29, line 13.
Strike: "mutual insurance"

26. Page 29, lines 16 and 17.
Strike: "under plan for default"

27. Page 29, line 21.
Following: "due"
Insert: "or because of a significant change in liability exposure"

28. Page 29, line 22.
Strike: "right for failure to pay premiums"
Insert: "coverage"

29. Page 30, lines 20 and 21.
Strike: "industrial insurance expendable trust"
Insert: "state"

30. Page 38, line 23 through line 9, page 39.
Strike: section 43 in its entirety
Renumber: subsequent sections

31. Page 39, line 15.
Following: "labor"
Insert: "and industry"

32. Page 40, line 22.
Following: "compensation"
Insert: "mutual"

33. Page 41, following line 3.
Insert: "NEW SECTION. Section 45. State fund to submit notice of coverage within thirty days -- penalty for failure. (1) The state fund shall, within 30 days after the issuance of an insurance policy, submit to the division the notice of coverage stating the effective date of the policy insuring the employer and other information the division requires.
(2) The division may assess a penalty of no more than \$200 against the state fund if, as a general business practice, the state fund does not comply with the 30-day notice requirement.

NEW SECTION. Section 46. Policy remains in effect until canceled or replaced -- twenty-day notification of cancellation required. The insurance policy remains in effect until canceled. Cancellation may take effect only by written notice to the named insured and to the division at least 20 days prior to the date of cancellation. However, the policy terminates on the effective date of a replacement or succeeding insurance policy issued to the insured. Nothing in this section prevents the state fund from canceling an insurance policy before a replacement policy is issued to the insured.

2/17/89

Section 47. Section 33-2-119, MCA, is amended to read:
"33-2-119. Suspension or revocation for violations and special grounds. (1) The commissioner may, in his discretion, suspend or revoke an insurer's certificate of authority if, after a hearing thereon, he finds that the insurer has:

(a) violated any lawful order of the commissioner or any provision of this code other than those for which suspension or revocation is mandatory;

(b) reinsured more than 90% of its risks resident, located, or to be performed in Montana, in another insurer. In considering suspension or revocation, the commissioner shall consider all relevant factors, including whether:

(i) after the reinsurance transaction all parties will be in compliance with Montana law; and

(ii) the transaction will substantially reduce protection and service to Montana policyholders;

(c) failed to accept an equitable apportionment of assigned coverage as required by [section 13].

(2) The commissioner shall, after a hearing thereon, suspend or revoke an insurer's certificate of authority if he finds that the insurer:

(a) is in unsound condition or in such condition or using such methods or practices in the conduct of its business as to render its further transaction of insurance in Montana injurious or hazardous to its policyholders or to the public;

(b) has refused to be examined or to produce its accounts, records, and files for examination or if any of its officers have refused to give information with respect to its affairs, when required by the commissioner;

(c) has failed to pay any final judgment rendered against it in Montana within 30 days after the judgment became final;

(d) with such frequency as to indicate its general business practice in Montana, has without just cause refused to pay proper claims arising under its policies, whether any such claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person, or without just cause compels such insured or claimant to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims;

(e) is affiliated with and under the same general management or interlocking directorate or ownership as another insurer which transacts direct insurance in Montana without having a certificate of authority therefor, except as permitted as to a surplus lines insurer under part 3 of this chapter.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings have been commenced in any state."

Section 48. Section 37-72-101, MCA, is amended to read:
"37-72-101. Construction blasting restrictions -- license

required -- definitions -- exemptions. (1) No person may engage in the practice of construction blasting unless licensed or under the supervision of a person licensed as a construction blaster by the workers' compensation division.

(2) For the purposes of this chapter:

(a) "construction blaster" means a person who engages in construction blasting;

(b) "construction blasting" means the use of explosives to:

(i) reduce, destroy, or weaken any residential, commercial, or other building; or

(ii) excavate any ditch, trench, cut, or hole or reduce, destroy, weaken, or cause a change in grade of any land formation in the construction of any building, highway, road, pipeline, sewerline, or electric or other utility line;

(c) "division" means the division of workers' compensation insurance compliance division of the department of labor and industry ~~provided for in 2-15-1702;~~

(d) "explosive" has the meaning given in 50-38-101;

(e) "magazine" has the meaning given in 50-38-101.

(3) Nothing in this chapter applies to the private or commercial use of explosives by persons engaged in farming, ranching, logging, geophysical work, drilling or development of water, oil, or gas wells, or mining of any kind or to the private use of explosives in the removal of stumps and rocks from land owned by the person using the explosives, except that the persons exempted from this chapter by this subsection must comply with rules adopted under 37-72-201(1)(c) and the provisions of 37-72-102 apply to a violation of those rules by an exempted person.

(4) This chapter does not apply to persons conducting blasting operations when the persons and operations are subject to rules adopted under and implementing 82-4-231(10)(e)."

Section 49. Section 50-71-102, MCA, is amended to read:

"50-71-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Amendment" means such modification or change in a code as shall be intended to be of universal or general application.

(2) "Code" means a standard body of rules for safety formulated, adopted, and issued by the division under the provisions of this chapter.

(3) "Division" means the division of workers' compensation insurance compliance of the department of labor and industry ~~provided for in 2-15-1702.~~

(4) "Employee" and "worker" are defined as in 39-71-118.

(5) "Employer" is defined as in 39-71-117.

(6) "Variation" means a special, limited modification or change in the code which is applicable only to the particular place of employment of the employer or person petitioning for such modification or change."

Section 50. Section 50-73-102, MCA, is amended to read:

"50-73-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Division" means the division of workers' compensation

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insurance compliance of the department of labor and industry provided for in 2-15-1702 and the state coal mine inspectors employed by the division.

(2) "Excavations" and "workings" mean all parts of a mine excavated or being excavated, including shafts, slopes, tunnels, entries, rooms, and working places, whether abandoned or in use.

(3) "Gassy mine" means a mine is considered to be potentially gassy. The division may further define this term in its rules.

(4) "Mine" and "coal mine" mean all parts of the property of a mining plant under one management which contribute, directly or indirectly, to the mining or handling of coal.

(5) "Mine examiner" means a person charged with the examination of the condition of the mine before the miners are permitted to enter it and who is commonly known as the "fire boss".

(6) "Mine foreman" means a person who is charged with the general direction of the underground work or both the underground work and the outside work of a coal mine and who is commonly known and designated as "mine boss".

(7) "Operator", as applied to the party in control of a mine under this chapter, means the person, firm, or body corporate which is the immediate proprietor as owner or lessee of the plant and, as such, is responsible for the condition and management thereof.

(8) "Shaft" means any vertical opening through the strata which is or may be used for the purpose of ventilation or escape or for hoisting or lowering of men or material in connection with the mining of coal.

(9) "Slope" and "drift" mean respectively an incline or horizontal way, opening, or tunnel to a seam of coal to be used for the same purpose as a shaft."

Renumber: subsequent sections

34. Page 41, following line 4.
Insert: "2-15-1702,"

35. Page 42, line 2.
Strike: "workers'"
Following: "compensation"
Insert: "insurance"

36. Page 42, line 14.
Strike: "50"
Insert: "54, 55"

37. Page 42, line 16.
Strike: "49"
Insert: "53"

38. Page 42, line 18.
Strike: "50"
Insert: "55"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 23
DATE 2/17/89
BILL NO. SB 313

AMENDMENT TO SB 313
Introduced Copy

Page 1, line 18, strike the comma following "that" through "thereafter," on line 20.

Page 1, line 21, following "grantor" insert: or his successors

Page 2, line 4, folloiwng line 4, insert:

- (d) The property must be continuously occupied by the grantor or his successors from the time the trust indenture is executed, or within 60 days thereafter, through the date of default and within 30 days of the date of the trustee sale to be considered as residential property.

Ex. #23

2/17/89

Section 71-1-106. Waste Prohibited. -- Additional Remedy. SB 313

(1) No A person whose interest is subject to the lien of a mortgage or a trust indenture may not do any act - which that will substantially impair the security interest of the mortgagee, trustee or beneficiary or their successor in interest.

(2) For the purposes of this section, "an act which substantially impairs" includes but is not limited to:

(a) Actions or omissions causing waste or significant deterioration in the physical condition of the property;

(b) failure to promptly pay taxes or assessments as the same become due; or

(c) failure to abide by any other covenant or obligation of the mortgage or trust indenture if such a failure poses an immediate threat to the value of the security interest of the mortgagee, trustee, beneficiary or their successor in interest.

(3) In addition to any remedy or remedies provided in Section 71-1-222 or 71-1-317, MCA, the mortgagee, trustee, beneficiary or their successor in interest may maintain an independent action to recover damages for any violation of this section. An action under this section may be filed at the same time as or subsequent to a judicial or any non-judicial foreclosure proceeding brought by a mortgagee, trustee, beneficiary or their successors in interest. The action may be brought against the mortgagor, grantor or successor in interest. The mortgagee, trustee, beneficiary or their successor in interest shall also be entitled to recover a reasonable attorney's fee plus costs expended as a part of such action.

Ex. #23
2/17/89

Section 71-1-222. Proceedings in foreclosure suits.

SB 313

(1) There is but one action for the recovery of debt or the enforcement of any right secured by mortgage upon real estate, which action must be in accordance with the provisions of this part. Action means a judicial proceeding and does not include any transaction or activity by a mortgagee, trustee, beneficiary, secured party, as defined in 30-9-105(m), MCA, or any other person holding any form of consensual or non-consensual security interest or lien of any type or any such party's successor in interest which is conducted non-judicially and concluded prior to the filing of any action. In such action the court may, by its judgment, direct:

- (a) a sale of the encumbered property (or so much thereof as may be necessary);
- (b) the application of the proceeds of the sale; and
- (c) the payment of the costs of the court, the expenses of the sale, and the amount due the plaintiff.

(2) If it appears from the sheriff's return that the proceeds are insufficient and a balance still remains due, judgment can then be docketed for such balance against the defendant or defendants personally liable for the debt, and it becomes a lien upon the real estate of such judgment debtor, as in other cases on which execution may be issued.

(3) No person holding a conveyance from or under the mortgagor of the property mortgaged or having a lien thereon, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action, need be made a party to such action. The judgment therein rendered and the proceedings therein had are as conclusive against the party holding such unrecorded conveyance or lien as if he had been made a party to the action.

Amendments to Senate Bill No. 313
First Reading Copy (WHITE)

Requested by Senator Mazurek
For the Committee on Business and Industry

Prepared by Valencia Lane
February 13, 1989

1. Page 1, line 21.
Following: "term"
Strike: "includes but"
Following: "is"
Strike: "not"

2. Page 1, line 22.
Following: "or a"
Insert: "single unit of a"

DATE

2/17/89

COMMITTEE ON

Business & Industry

VISITORS' REGISTER

1982

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Justini M Farmer	Horse Owner	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Stephens		406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Stephens Jr	Bretter	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Barbara Cashman	Portage Meadow Stables	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
George Hall	" "	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alexia Shadon	Bozeman Chamber	428	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Nary Palmer	Citizen interest	428	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MIKE MICOSE	DEPT. LABOR & INDUSTRY	428	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Morawic	Missoula Chamber	428	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Diana Dowling	Lottery at request of Sen. Starnatz	443	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Korman	With Vt. Dir	449	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ted NEUMAN	W. GREAT FALLS STOCKY CLUB	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
AL G. Ke	Helena	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SID ERICKSON	Mt Thoroughbred Breeders Assn	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GARY Koepplin	Board of Horse Racing	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Spear	OLA	4113	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jay Belden	State Fair	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Palmer	Albion Park - Billings	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Bailey	EPI Orion	428	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jacqueline Orrell	American Ins Assoc.	428	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Bell	Self as owner + breeder	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Joyce Bell	Self as owner + breeder	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Francis Nelson	Mt. Thoroughbred Breeders	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gary Amundson	United Tote	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
STEVE CHRISTIAN	SELF	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>
James Middle	Horse owner	406	<input checked="" type="checkbox"/>	<input type="checkbox"/>

