

MINUTES

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

Call to Order: By Chairman Gene Thayer, on March 17, 1989
at 10:00 a.m.

ROLL CALL

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

Members Excused: Senator Meyer, Senator McLane

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 220

Presentation and Opening Statement by Sponsor: Representative John Vincent, House District 80, stated he had just spoken with Wayne Phillips from the Governor's Office. He said he felt it only fair to relate to committee members, generally what Mr. Phillips had told him, so the bill was considered in that particular context. Representative Vincent said he had learned the Governor's Office was opposed to this piece of legislation. He wasn't sure he agreed with their specific arguments, but Mr. Phillips had that information for the committee to consider.

He said House Bill 220 was an act to establish the Montana value added commission. As currently written in the bill; Page 2, Line 3, Section 9, the commission was to be made up of major industry representatives from throughout Montana. The commission's purpose was strategy formulation for improvement of Montana economy, by added value to natural resources. He termed the system as a very sophisticated approach, even though the bill may not indicate that, because the bill was admittedly a first step.

Representative Vincent said, "David Birch, who is one of the foremost authorities in economic development in the United States today, came to Montana and said: Look, if you really want to get serious about economic development in Montana, you should do two things. First and foremost, above all changes in tax policy, above any and everything else, he said do two things. One, strengthen your university system...Two, put every ounce of energy and investment you can, into trying to find out how Montana can add value to its natural resource based products, before those products are shipped out of state. To make a long story short, instead of just shipping logs out of Montana, make every effort that you can to process those logs, and then after you have processed them, make every effort you can to refine that process...Do everything that you possibly can to develop the furniture industry or components of it, paneling, whatever. Because every step that you add, everything that you add, adds value to a natural resource product, is jobs and profits and a better economy for the State of Montana. He was very, very emphatic in that."

Representative Vincent said, the value added process was going to take some concerted effort to find, develop, and research ways in which the program would effectively happen. He said HB 220 essentially did just that.

He said, there was a fiscal note because the legislation did involve an appropriation. He stated, he disagreed slightly with the Department of Commerce, relative to exactly how much money the first step would take, but did not feel the differences posed any problem.

Representative Vincent said he thought differing testimony would primarily reveal disagreement, as to the method of procedure. He said, "The Governor believes that we can proceed given work that has already been done, without this legislation. If that is the judgement of this Committee, then so be it. But, I think this legislature should go on record, and the Governor's Office ought to go on record, as being committed to really starting a concerted, serious effort in this regard. Not just another study, but beginning to look at the hard tangible realities, of how value added can benefit the state of Montana. Whether it is through this bill or not, we need to begin that effort."

List of Testifying Proponents and What Group They Represent:

Rob Morawick - Missoula Chamber of Commerce
Laurie Shadoan - Bozeman Chamber of Commerce
John Asay - Montana Cattle Feeders Association

List of Testifying Opponents and What Group They Represent:

Carolyn Doering - Administrator of Management Services
for Lake County Department of Commerce.

Wayne Phillips - Legislative Liaison for the Governor

Testimony: Rob Morawick said the Missoula Chamber of Commerce was supporting the bill because they felt the value added concept was a good one, and they would like to see the ball get rolling.

Laurie Shadoan said the Bozeman Chamber of Commerce had recently heard a speaker from the State Chamber, whose comments had only reiterated the need to add value to our products. She said they urged passage of House Bill 220.

John Asay said his group supported the bill because they felt it was time to do something to benefit the state. (See Exhibit #6)

Carolyn Doering said she rose over a concern for the differences between the fiscal notes prepared by the Department, and the one prepared by Representative Vincent. She said, they felt the fiscal note before the Committee was inadequate if the bill passed. She said the legislation would require the Department of Commerce to supply some staff support, and do research in the first fiscal, and was lacking in the cost for supplies, which they felt would cost an additional \$2,000. She cited the fiscal note as proposing a published report in the second year, and the department estimated that would cost \$2,500. She said the department did not have adequate funding to provide the staff support, supplies, and communications the bill would require in the fiscal year 1989. She said they would need supplemental funding.

Wayne Phillips stated the Governor's Office was in perfect agreement with Representative Vincent's goals within the proposed legislation. He said, they wanted to work in Montana, to see what could be done about adding value to products being exported as natural resources.

Mr. Phillips stated, "The problem is, that we believe that all the things required by this legislature have been done, it's just time for action. This Governor is committed to that action, he was committed to it in his campaign, and he is committed to it now. We would be very glad to go on the record as saying, that as soon as we can get through the legislative session, and can devote five extra minutes to something, we begin the

process of implementing the value added effort in Montana."

"I would point to two specific things. One is that the Department of Commerce published, in December of 1988, a booklet of study, called The Next Century's Strategies For Advancing Montana's Economy. That is essentially what this legislation calls for, is a group to get together, develop strategies on value added in Montana. This does not specifically address value added. I readily concede that, but it does touch on all of the elements that are important for value added, and it essentially lays the strategies to accomplish the same purpose."

"In addition, I talked to Mr. Dennis Winters of the Montana Market Developing Company in Butte. Mr. Winters is an expert on how to take natural resources and add value, in countries which have little capital...He believes that you must have value added, but that you must have an infrastructure along with it, and that is essentially what this strategist talks about, is the infrastructure development."

Mr. Phillips said, that study was already available now, and all that needed to be done was implement it and move forward. He said, "Mr. Winters agreed that I could quote him. He said, 'If the Governor does agree to implement this kind of thing, then we really do need a commission'." Mr. Phillips said, "I can tell you the Governor has agreed, and is willing to do this work, and we don't need this legislation. Partly, because of cost, and partly because it is time for action, not time for another group."

Questions From Committee Members: Senator Noble asked why another study was needed when, as Mr. Phillips stated, the information was already available and ready to implement? Representative Vincent said that was always the argument against this bill, and it was the same argument last legislature. He said, if strategy development wasn't needed, then what better way was there to make a final decision on how to take action, than bring industry representatives together for creating a model for action. He said he felt legislature needed to have something in statute which stated it wanted some form of action.

Representative Vincent told Senator Noble the bill was written to be effective, on passage and approval.

Senator Hager said he questioned the use of only one research person on the board, as he doubted one person was able to speak to all of the different research projects? Representative Vincent said, he probably could not, but he would leave that for the committee to judge. He said, his idea of the commission, was that it would be essentially cost free to the state. He said most of the selected people would be doing the study in the normal course of their work, and he felt a number of selection choices were available.

Senator Williams asked if the bill was designed to implement the legislature's work of two years ago? Representative Vincent said he thought it was, and he didn't feel Mr. Phillips or the Governor were wrong. He stated, he felt there was the possibility of accomplishing the goals through an initiative on the part of the Governor. He said that if Mr. Phillips was right, about the information being available, you still needed the knowledgeable group of people to get everything going.

Chairman Thayer asked if studying this, or any other issue, was going to do any good, if other basic problems weren't solved? He asked what would be accomplished if we hadn't prepared a competitive atmosphere? Representative Vincent said he thought both should be worked on at the same time. He said he was not looking for another study, and felt that if Mr. Phillips had the information, it was time to gather a group of people, get the directive to the Governor, and get something done.

Senator Williams asked what the Governor's Office and the Department of Commerce had worked out to replace the bill? Mr. Phillips cited Mr. Winter's handbook as what had been completed in December, and stated they planned implementation procedures as soon as legislative business was taken care of. He also stated, many of the industrial people needed for the commission, were the same ones who had contributed to the report, and had already pledged support. He said he could not see a need for state expenditure, for help already volunteered.

Closing by Sponsor: Representative Vincent encouraged the committee to take a good look at the bill, and try saving some form of record, which would show legislature's requested action. He cited the bill as having plenty of discretion for whatever the Governor wanted done, yet it developed partnership between government and the private sector.

DISPOSITION OF HOUSE BILL 220

Discussion: Chairman Thayer said Montana wasn't getting business to come in, because of our tax structure, and our lack of development in the business climate, not because of the lack of value added. He said those businesses already knew how to do value adding, they just couldn't stay competitive in our economic environment. He said he thought value added would happen, once our state was competitive with other states. He said, although the program was well intentioned, he thought the information was already available through previous studies, and value added would develop, with use of that information.

Senator Williams said he agreed, but not in the fact that we didn't need this legislation. He said he thought it should be indicated that the state of Montana was going to make an added effort to put the mechanics together.

Senator Boylan said he thought what the bill did, was show that the committee was trying to help, and was backing the Governor in his attempt to get things moving in the right direction. He said he felt this program would allow the Department of Commerce to become involved in promotion, instead of their current role policing.

Senator Noble said he knew people who had been involved with these studies, and wouldn't volunteer any more, because nothing productive had come from previous studies.

The Question was called for.

Amendments and Votes: None

Recommendation and Vote: Senator Williams made a motion HB 220 BE CONCURRED IN. Senator Boylan seconded the motion. The motion failed, with four Senators favoring the motion, and Senator Meyer, Senator Noble, Senator Hager, Senator McLane, and Senator Thayer opposing the motion.

HEARING ON SENATE JOINT RESOLUTION 17

Presentation and Opening Statement by Sponsor: Senator Noble, Senate District 21, said SJR 17 urged the Montana Congressional Delegation to direct appropriate federal agencies to investigate problems arising from the servicing of loans, by the purchaser in a secondary market. It also asked for the determination of what action could be taken, or federal legislation needed proposed to remedy the servicing problem.

Senator Noble reminded committee members that SJR 17 arose from HB 209, which would have required a lending institution to act as an intermediary between a mortgage borrower and a secondary mortgage purchaser. He said this committee chose not to pass HB 209, but determined there was a problem which needed addressed. Senator Noble stated SJR 17 was the legislation designed to address the problem, and urged its passage. He said all committee members had signed the bill jointly.

List of Testifying Proponents and What Group They Represent:

Tom Hopgood - Montana Association of Realtors

List of Testifying Opponents and What Group They Represent:

None

Testimony: Tom Hopgood said he wouldn't reiterate any of the testimony they gave in support of HB 209, but they, likewise, supported SJR 17.

Questions From Committee Members: None

Closing by Sponsor: Senator Noble said he closed.

DISPOSITION OF SENATE JOINT RESOLUTION 17

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Boylan made a motion SJR 17 DO PASS. Senator Williams seconded the motion. The motion Carried Unanimously.

DISPOSITION OF HOUSE BILL 719

Discussion: Chairman Thayer reminded members that HB 719 was the bill Representative Menahan presented, and testimony indicated the bill would effectively shut down contracting out any services.

Senator Lynch said he was in favor of the bill, and that it was a fair way to go, but he felt a majority of the committee was going to disagree.

Chairman Thayer said he thought, through studying the bill, that they weren't effectively going to be able to do

any contracting out. He said the workers' compensation reorganization bill, which was hopefully going to pass the House, allowed for contracting out some of that division's services. He said he felt that was really needed, because the average case load in the workers' compensation division, for claims service, was about 300 claims.

Amendments and Votes: None

Recommendation and Vote: Senator Noble made a motion HB 719 BE NOT CONCURRED IN. Senator Hager seconded the motion. The motion Carried, with Senator Lynch, Senator Williams, and Senator Weeding opposing. Senator Thayer carried HB 719 on the Senate floor.

DISPOSITION OF HOUSE BILL 626

Discussion: Chairman Thayer said he thought the bill brought in new, extraneous language, which dealt with public convenience and necessity. He said the language didn't fit, and tried to enforce something through people who had never had this responsibility, and were not trained to do this line of work.

Senator Lynch said he felt all the bill did, was allow further testimony when there were hearings. He said he had spoken to several Senators in the agriculture business, and it seemed the bill simply allowed more testimony. He said he couldn't see anything wrong with public participation.

Amendments and Votes: None

Recommendation and Vote: Senator Lynch made a motion HB 626 BE CONCURRED IN. Senator Hager seconded the motion. Three Senators voted in favor of the motion, and Senator Noble, Senator Williams, Senator Hager, Senator McLane, and Senator Thayer opposed. The motion failed.

Recommendation and Vote: Senator Lynch moved to reverse the motion to DO NOT CONCUR IN HB 719. The motion Carried, with Senator Lynch, Senator Boylan, and Senator Weeding voting no. Senator Lynch requested a minority report. Senator Thayer carried the bill on the Senate floor.

DISPOSITION OF HOUSE BILL 652

Discussion: Senator Hager said if a \$300 minimum balance was going to be kept in an escrow account, that was

going to be a pretty big slush fund.

Chairman Thayer asked committee members how they felt about the bill?

Senator Lynch said he had a NOW account, and he had to have a minimum balance, on one of them, of \$1,000, and they paid interest on it. He said he thought there were also some of those accounts at \$300, and he thought it was a reasonable idea.

Senator Williams said he didn't think it would hurt to get it on the Senate floor. He said it would give others an opportunity to vote.

Amendments and Votes: None

Recommendation and Vote: Senator Noble made a motion HB 652 BE NOT CONCURRED IN.

Recommendation and Vote: Senator Boylan made a substitute motion HB 652 BE CONCURRED IN. Senator Williams seconded the motion.

Discussion: Mary McCue said there was a technical amendment needed.

Senator Boylan withdrew his motion, and Senator Williams withdrew his second.

Mary McCue said, on page 3, line 10, following "charge", they needed to strike "prohibited", and insert "allowed". She said that when the bill was amended, they forgot to delete that language.

Amendments and Votes: Senator Hager moved the amendment Mary McCue had presented. Senator Boylan seconded the motion. The motion carried, with Senator Noble voting no.

Senator Hager made a motion to amend the bill to require the payment of interest on balances of \$300 or over, on the year end balance, on the average of the month end balance. Senator Boylan seconded the motion.

Discussion: Mary Mc Cue suggested the language be included on page 3, line 14, following "year", insert "if the average of the month end balances for the calendar years exceeds \$300".

Senator Williams asked if the five and a quarter percent should be fixed. He said he thought it should be tied

into the going interest rate.

Mary McCue said that was a policy change, and she wasn't sure she was the proper one to answer.

Chip Erdman said he guessed, if they were going to do something like this, it would have to be a certain percentage under the prime. He said he couldn't say if it would be appropriate or not.

Chairman Thayer asked if it was his opinion the rate should be left at a fixed amount.

Mr. Erdman said yes, it would be, if they were going to pass the bill. He said they would like to see the flexible amount, but he thought it may be too cumbersome to devise a flexible interest rate, on such notice.

Senator Weeding said he didn't feel the amount of interest was large enough to worry about.

Senator Noble said he felt they were trying to patch a poor piece of legislation, and he felt it needed a lot more work than a little amendment here and there. He stated there had already been considerable work on the bill, and it was still in poor shape.

Chairman Thayer said Mary McCue had pointed out, that in 71-1-113, the law already stated the amount of funds on reserve may not exceed 110% of the projected amount. He said he didn't there would be too many situations with a large amount of money at the end.

Senator Lynch said he felt people had a right to get interest from those who were holding larger amounts.

The Question was called for. The motion Carried Unanimously.

Recommendation and Vote: Senator Lynch made a motion HB 652 BE CONCURRED IN AS AMENDED. Senator Boylan seconded the motion.

Chairman Thayer said he thought Senator Noble made some good points. He said some lending institutions were starting to do this anyway, and maybe that would be the way they decided to do it. He said he guessed that if the bill passed, it would force the issue. He said he agreed, the customer was going to pay.

Senator Noble asked Mr. Erdman about his testimony, that if this bill passed, there would be some lawsuits? Mr.

Erdman said that the way the bill was written, it would apply to mortgages that were entered into before the bill's effective date. He said those mortgages were entered into, with the understanding that the existing laws were a part of that contract. He said those mortgages were priced under the idea that there would be no interest charged on the escrow. He said there was an impairment of contract clause in the United States and Montana Constitutions, that said legislature could pass no law which impaired contract.

Senator Lynch asked if section 4, page 4, didn't cover that problem?

Chip Erdman said their concern was that specificity of that section may not be met, because generally mortgages and agreements didn't reference that.

Chairman Thayer stated, that Mary McCue had said amending to include preexisting contracts, or reserve accounts out of the bill, it could be made perfectly clear, if that is what they wanted to do. Mary McCue said, on page 5, lines 2 through 4, strike the language "if" on line 2 through "account" on line 4. Mr. Erdman said he didn't think, at that point, they would continue to oppose the bill.

Amendments and Votes: Senator Noble made a substitute motion to amend page 2, lines 2 through 4, strike the language "if" on line 2 through "account" on line 4.

Senator Lynch said he was going to oppose the motion, because it still wouldn't answer the problem, of people he thought were presently being taken advantage of, or those who wanted to sue. He said he thought the amendment would change one of the original reasons for the bill.

The Question was called for. The motion failed, with two Senators voting for the motion, and Senator Boylan, Senator Lynch, Senator Weeding, Senator Williams, and Senator Hager opposing the motion.

Action reverted back to Senator Lynch's motion that HB 652 BE CONCURRED IN AS AMENDED. Senator Boylan's second also stood. The motion Carried, with five Senators favoring the motion, and Senator McLane, Senator Noble, Senator Meyer, and Senator Thayer opposing. Senator Van Valkenburg carried the bill on the Senate floor.

DISPOSITION OF SENATE BILL 453

Discussion: Chairman Thayer, said he didn't know the pleasure of the committee, but this was the third time the bill had been voted on by this committee. He asked Senator Gage what had happened since the bill was brought back to the committee? He said they may have some questions for industry people also.

Senator Gage said, it was their contention the bill had some things in it that needed to be taken care of. He said he didn't think a bill should be killed because of a disagreement with a department or department head.

Chairman Thayer asked Senator Gage what he was referring to, with that statement?

Senator Gage said he had heard some indication that SB 453 had come to the committee under the guise of a housekeeping bill, which he hadn't lead them to believe. He said he also didn't think the length of a bill should be a deterrent. Senator Gage passed out exhibit #4, which contained five proposed amendments to the bill. He said #1 dealt with the title, and #3 dealt with the same thing within the body of the bill. He said #3 struck the section requiring an insurer to notify the insurance commissioner when their agents had violated a Montana insurance code, and #1 struck it from the title. He said the amendments were requested by the industry.

He said amendments #2 and #5 were the same way. He stated #2 struck section 33-18-401, and #5 struck section 27, which was the section which made it a felony to present false application of false information regarding proof of loss. He said there had been some concern that section 27 went to far, by changing from a misdemeanor to a felony.

Senator Gage said #4 referred to page 37, and struck lines 2 through 5 in their entirety. He said that amendment struck the portion which dealt with accidents, where the person wasn't at fault. He said the insurance industry had stated that was a problem for them.

Chairman Thayer said that when SB 453 was first introduced, the bill summary presented, stated "The bill is the general housekeeping bill for the Montana Insurance Department." (See Exhibit #3) He said that was the way the bill was introduced into the committee.

Senator Williams said there was opposition to page 2, section 4, and asked if they had discussed that with the commissioner? Senator Gage said yes, the commissioner did not want to change that.

Senator Gage told Senator Noble the insurance industry had stated the question of fault gave them problems in setting their rates. He suggested asking an industry person the question.

Senator Noble asked Jacqueline Terrell to address page 37, line 2. Jacqueline Terrell said the objection was, that it would put an added incentive for the insurer to have fault determined in every single instance. She said that was because people wanted to protect their insurance premium from an increase, and if fault was determined not to be on his part, he could do that. She stated that having the claim, would add difficulty because it would impede settlements. She said, in order to have that fault determined, you were going to head into a judicial proceeding. She said it would increase the necessity of litigation on every claim, and the consumer would end up bearing the burden of the increased litigation costs.

Senator Lynch asked how there was any litigation when something happened to your property, when you weren't even around? He asked if that wasn't pretty clear, that you weren't at fault. Jacqueline Terrell said he would be correct in that particular instance, but there were often cases where an accident occurred, with both parties claiming no fault. She said those instances often resulted in neither party wanting to accept fault, and have an adverse impact to their insurance. She said it was important to have fault settled, because the insurance company could ultimately be liable for bad faith, if they did not assist in settlement.

Senator Williams said he was concerned about the complexity of the total bill. He said he felt the insurance industry and the commissioner were quite a ways from agreement on the bill, and he felt they should work on it some more.

Senator Lynch said he was amazed they wanted to remove section 27, because it wasn't speaking to an error made, it said you could not "knowingly" or "willfully" make a false statement. He asked why anyone would find fault with that section? Susan Witte said the language in section 27, "knowingly" and "willfully" was existing language, and would stay in. She stated what was being

struck was the balance. She cited one reason for striking the section, was its controversial nature, and stated the same provision had been attempted in HB 734.

Senator Lynch said he was at the point , to reluctantly go with the one amendment on appointment, because he thought they had made a strong case against that. He said he could not support the other four amendments.

Chairman Thayer asked if anyone from the industry had a comment on the amendments? Steve Brown said he had not seen the amendments, and their primary reason for being there, was section 4. He stated Blue Cross Blue Shield had no opposition to passage of the bill, if that objection could be taken care of. He said the committee must understand that section 4 was not a simple housekeeping measure, it was really a rate making provision, or a prohibition on rate making. He said they had no objection to a reasonable standard, but there needed to be further values set, to define "financial impairment". He said the intent had to be known, and an insurance company's reserve level had to be maintained. He said he resented the bill having been presented as a housekeeping bill, when it was not. He said that if they removed section four, and passed the housekeeping portions, they would not object.

Larry Akey said they had not had a chance to review the amendments, but if sections 22 and 27 remained in the bill, they would have to remain adamantly opposed. He said they strongly supported the portion which allowed the commissioner to revoke the license of any agent to who violated any provision of the code. He said he thought it was a pretty stiff sanction to take away their livelihood for five years though, and he wasn't sure they needed to add a substantial fine, and the possibility of a jail sentence. He said Senator Gage's amendments to strike those sections, made the bill less onerous, but created an impasse if others couldn't live with the sections removed.

Tom Hopgood said he wanted to address section 4, by presenting a formal amendment. (See Exhibit #5) He said amendment #1 dealt with section 4, which they opposed strenuously. He said the topic had been controversial, but they still wanted section 4 removed, for the reasons stated by Mr. Brown.

He said amendment 2 had been taken care of in the other amendments passed. He said amendments 3 and 4 were discussed the first time the bill was worked on, and the commissioner's office had no objections.

Steve Brown said he would like to make it clear, regarding page 37, that Blue Cross Blue Shield did not condone fraudulent statements. He said that if an applicant for insurance did not fully disclose information, they thought those people should be punished. He emphasized that the section applied to an applicant for insurance, and it should be kept in mind that those people would be subjected to possible prosecution, if the section was left in.

Senator Lynch reiterated some of the reasons the bill had not passed. He said he saw several factions who were in disagreement on the bill, and felt the committee had not been in error in their original judgment of the bill.

Senator Gage said he thought they were only speaking of four sections of a fifty-eight section bill, which made a majority of the bill good. He said he didn't feel the bill had been dealt with justly.

Senator Lynch asked what would happen if the bill did not pass? He wanted to know if it was vital that the bill passed this session, and if it was so timely it couldn't be worked on, and brought back in better form?

Senator Gage said it wasn't, but he felt they should pass the good parts of the bill.

Chairman Thayer asked, assuming the committee was willing to put the bill in a subcommittee, and assuming they could come up with a bill, what were the chances of the House accepting the bill at this point in the session?

Senator Gage said he did not know the answer to that. He stated they took that gamble at transmittal, and felt if the bill was good enough to go through the Senate, then the House would accept it.

Chairman Thayer stated there were more than four sections needing work. He said his notes showed all kinds of technical language, testimony had shown needing work. He said the bill needed a major rewrite. He stated he had tried to get a subcommittee the last time. He said the bill's history was that it was killed, he held the report at Senator Hager's request, returned to committee, restudied, killed the second time, and now it was back again. He said the second time the bill was in committee, no one was willing to work on it in a subcommittee, because of the large number of problems. He asked the committee what their pleasure was, and

reminded them they did have permission to hold the bill for work?

Senator Lynch said he could go with a couple of amendments. He said probably section 4, and with the one on appointments, but he wouldn't support it if anything else came out.

Senator Williams said he could see no reason why the insurance industry couldn't work with the commissioner, and come back in two years, with a bill that will serve the purpose of all parties concerned.

Senator Noble said, if the insurance industry wasn't currently having great problems in most of the areas addressed, he felt they could continue as they were for two years. He said the matters could be studied further, and broken down to where they could be handled.

Senator Weeding said he amenable to passing the bill, if they amended section 4, 22, and 27 out, but he wasn't volunteering to being part of a subcommittee.

Chairman Thayer said he would support that, but only if it went to a subcommittee. He said there were too many changes needed to not utilize a subcommittee.

Amendments and Votes: None

Recommendation and Vote: Senator Lynch moved SB 453 BE LAID ON THE TABLE. Senator Williams seconded the motion. The motion carried, with Senator Hager and Senator Thayer opposing the motion.

ADJOURNMENT

Adjournment At: 12:15 p.m.


SENATOR GENE THAYER, Chairman

GT/ct

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 3/17/89

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

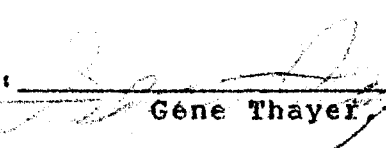
March 20, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 220 (third reading copy -- blue), respectfully report that HB 220 be not concurred in.

Sponsor: Vincent (Thayer)

BE NOT CONCURRED IN

Signed: 

Gene Thayer, Chairman

11.0
3/27/89
3: P.M.

SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SJR 17 (first reading copy -- white), respectfully report that SJR 17 do pass.

DO PASS

Signed


Gene Thayer, Chairman

4/10
3/20/89
3:06
P.M.

SCRSJ017.320

SENATE STANDING COMMITTEE REPORT

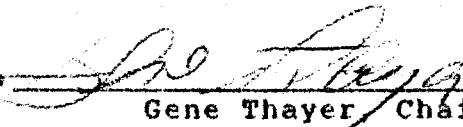
March 20, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 719 (third reading copy -- blue), respectfully report that HB 719 be not concurred in.

Sponsor: Menahan (Thayer)

BE NOT CONCURRED IN

Signed: 

Gene Thayer Chairman

W.C. 1/89
3/20/89
3:06 p.m.

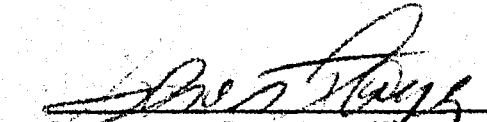
SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 626 (third reading copy -- blue), respectfully report that HB 626 be not concurred in.

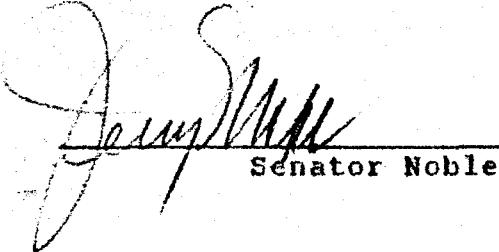
Sponsor: Whalen (Thayer)



Senator Thayer



Senator Meyer

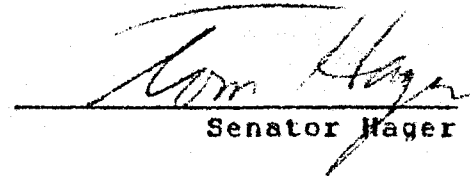


Senator Noble

Senator Williams



Senator McLane



Senator Hager

**MAJORITY REPORT
BE NOT CONCURRED IN**

Signed, 

Gene Thayer, Chairman

4/3/20/89
3:06 p.m.

SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 626 (third reading copy -- blue), respectfully report that HB 626 be concurred in.

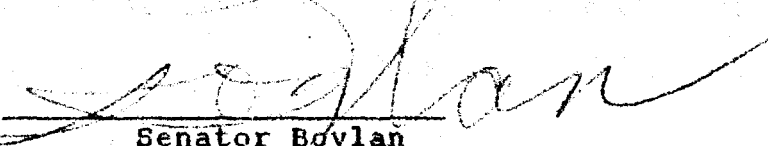
Sponsor: Whalen (Lynch)



Senator Lynch



Senator Weeding



Senator Boylan

MINORITY REPORT
BE CONCURRED IN

41.C.
3/20/89
3:06 P.M.

SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 652 (third reading copy -- blue), respectfully report that HB 652 be amended and as so amended be concurred in:

Sponsor: Brooke (Van Valkenburg)

1. Page 3, line 10.
Following: "charge"
Strike: "prohibited"
Insert: "allowed"

2. Page 3, line 14.
Following: "year"
Insert: "if the average of the monthend balances for the calendar year exceeds \$300"

3. Page 3, lines 19 and 22.
Strike: "month-end"
Insert: "monthend"

4. Page 5, lines 2 through 4.
Strike: "if" on line 2 through "account" on line 4

AND AS AMENDED BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

HC 189
3/30/89
4:45 p.m.

51st Legislature
Senate Bill 453
Senator Gage by request of the State Auditor

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. COPI
DATE 3/17/89
BILL NO. SB 453

BILL SUMMARY:

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3

The bill is the general housekeeping bill for the Montana Insurance Department. It cleans up dated language throughout Title 33, and also adds various enforcement and clarification provisions to the Montana Insurance Code. Substantive changes are as follows:

New Section 1. This section prohibits an agent who owns, manages, or has any working position with a nursing home from selling life or disability insurance to residents of the home. The section is designed to prevent any potential for undue influence or abuse of trust of a resident confined to the nursing home.

New Sections 2, 3, 5 and 6. These provisions all require "conformity with state statutes" for individual and group life and individual and group disability or health insurance policies. Many policies already contain such a provision.

New Section 4. Premium increases on disability or health policies would be limited to no more often than once a year because of company experience on any and all disability policies.

Section 7. This section clarifies that coverage shall not be put in force on a Montana risk until the policy or form which provides the coverage has been approved prior to sale or coverage.

Section 8. The section deletes the de novo requirement on appeals from orders of the commissioner. Deletion of this standard will allow the court to review the administrative record already compiled.

Section 10. Rate/form filing is eliminated from the application requirements placed upon an insurer when applying for a certificate of authority to transact business in the state. The section is redundant because filing of forms is already required in 33-1-501.

Section 11. The section separates property/casualty and life/health premium tax bases to take into account different accounting procedures used by the life industry as opposed to the property/casualty industry. It also modifies the penalty for late payment of premium tax to a \$50.00 fine plus a 12% interest penalty because the current fine of \$100.00 per day unduly penalized companies which owed a very small tax.

Section 12. An addition of self-governing entities is made to the list of those which cannot levy a tax on insurers.

Section 13. This section allows a permissive collection of fees in the event the commissioner contracts out the examination service.

Section 13. The section excludes, for example, Montana Workers' Compensation assessments from premium tax assessments.

Section 15. In the event an insurer goes into liquidation, insurance agents are obligated to pay earned unpaid premium to the liquidator. The liquidator can recover such premium from the agent; not the insolvent company.

Section 16. Authority to make reasonable requests for certain information from farm mutual insurers is given to the commissioner to replace mandatory submittal of specified information.

Section 17. The requirement that either advance premium or assessment method is to be sued by farm mutual insurers is eliminated.

Section 18. Penalties for the failure of fraternal to file annual statements are made consistent with 33-2-701(6).

Section 19. Cancellation and renewal should apply to surplus lines carriers as well. By changing the definition of "insurer", all insurers are covered; not just those admitted to do business.

Section 22. Insurance companies will be required to notify the commissioner when they receive complaints against an agent appointed to do business for them and when they have found that the agent has committed fraud, misrepresentation, misappropriation of funds or other violations of the Insurance Code. If the agent is terminated by the company, the reason(s) for termination is already required to be listed on all termination forms submitted to the Insurance Department.

Section 24. A uniform renewal date of July 1 is set for third party administrators.

Section 25. A prohibition is necessary to stop an agent from using an unlicensed person to sell insurance.

Section 26. The section provides that insurers may not consider any information about accidents or convictions for violations of motor vehicle laws that occurred more than three years immediately preceding the date of the application for a new policy or date of renewal of an existing policy.

Section 27. A felony provision is added back into the Insurance Code against an agent who knowingly or willfully makes a false or fraudulent statement or representation in insurance transactions.

Section 30. The section requires continuation of coverage for an insured child where the child or children are covered by a life rider on an adult's life insurance policy in the event of the insured's suicide

Sections 36 and 38. The sections clarify deletion of newborn coverage in policies where there would be none.

Section 39. Some type of coverage, in a group policy, must be available at the option of the insured at termination.

Sections 49 and 51. Motor vehicle liability insurers and home insurers will be required to send notices of cancellation to

ex. # 3 3/17/89

the loss payee as well as the insured as well .

Sections 53, 54., and 55. These sections will require that motor vehicle clubs must file bond/cash deposits with the commissioner rather than the state treasurer and also that motor club licenses will be continuous rather than annual.

Amendments to Senate Bill 453

EXHIBIT NO. 4DATE 3/17/89BILL NO. SB453

1. Title, line 10.

Strike: "33-17-231,"

2. Title, line 11.

Strike: "33-18-401,"

3. Page 29, line 11.

Strike: section 22 in its entirety

Renumber: subsequent sections

4. Page 37, line 2 through line 5.

Strike: line 2 through line 5 in their entirety

Renumber: subsequent sections

5. Page 37, line 6.

Strike: section 27 in its entirety

Renumber: subsequent sections

HIAA PROPOSED AMENDMENTS
TO SB 453

1. p. 2, Line 17.
Strike: Lines 17 through 24, in their entirety. Renumber subsequent sections.
2. p. 30, Line 23.
Strike: Lines 23 through 25, in their entirety.
3. p. 53, Line 13.
Following: "group"
Insert: "POLICY FOR WHICH THE INDIVIDUAL WOULD OTHERWISE BE ELIGIBLE"
4. p. 76, Line 2.
Insert: new section, as follows:
NEW SECTION. Section 56, Section 33-22-1515, MCA, is amended to read:

"33-22-1515. Solicitation of eligible persons.
Section 1-3 unchanged.

(4) An insurer, society, or health service corporation that rejects or applies underwriting restrictions to an applicant for disability insurance, EXCEPT DISABILITY INCOME INSURANCE, CREDIT DISABILITY INSURANCE, DISABILITY WAIVER INSURANCE, OR LIFE INSURANCE, must notify the applicant of the existence of the association plan, requirements for being accepted in it, and the procedures for applying to it."

Renumber subsequent sections.

NAME: John Asay DATE: 3/17/88

ADDRESS: 8605 Long Meadow Dr, Billings, 59106

PHONE: 656-4526

REPRESENTING WHOM? MONTANA CATTLE FEEDERS ASS'N.

APPEARING ON WHICH PROPOSAL: H.B. 220

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: The MONTANA economy desperately needs to stop talking "value-added" and start "adding-value" to its base products before export. Many of these products need no manufacturing or industrial type facility construction or financing.

One example is the retention of calves from weaning weight to slaughter weight within the state. The cost of the feed + labor to accomplish this would result in an added-value of \$200,000,000⁰⁰ to the state for every 500,000 calves. (approximately 1/3 of our annual calf crop) the stated benefit would be realized in a 6-8 month period.

House Bill 220 passage will help draw together the non-bureaucratic thinking necessary
PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

To accomplish positive action.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 6

DATE 3/17

BILL NO. HB 220

DATE 3-17-89

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Rob Morawic	Missouri Chamber	220	✓	
Carolyn Doering	Commerce	220	Withdrawn	
Eric Shaban	Brazos Chamber	220	X	
John Asay	MT Cattle Feeders Ass	220	X	

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date 3/17/89 Bill No HB 220 Time 12:13p.m

NAME	SEAT NO.	YES	NO
SENATOR DARRYL MEYER	35		✓
SENATOR PAUL BOYLAN	50	✓	
SENATOR JERRY NOBLE	34		✓
SENATOR BOB WILLIAMS	39	✓	
SENATOR TOM HAGER	42		✓
SENATOR HARRY "DOC" MC LANE	33		✓
SENATOR CECIL WEEDING	28	✓	
SENATOR JOHN "J.D." LYNCH	5	✓	
SENATOR GENE THAYER	23		✓

Carla Turk
Secretary, CARLA TURK

Gene Thayer
Chairman, GENE THAYER

Motion: Senator Williams made a motion
HB 220 Be Concurred In. Senator
Boylan seconded the motion.
The motion failed