

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

#### COMMITTEE ON HOUSE APPROPRIATIONS

Call to Order: By Chairman Bardanouve, on July 7, 1989, at 8 a.m.

#### ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Judy Rippingale, LFA

Announcements/Discussion: None

#### HEARING ON HOUSE BILL 64

AN ACT SUPPLEMENTING THE APPROPRIATION CONTAINED IN HOUSE BILL NO. 15 OF THE FIRST SPECIAL SESSION TO PROVIDE MONEY FOR THE CONTINUED OPERATION OF THE FIRST SPECIAL SESSION OF THE FIFTY-FIRST LEGISLATURE, CONVENING JUNE 19, 1989, AND FOR OTHER RELATED PURPOSES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Representative Thoft asked if we can deal with the feed bill without suspension of the rules.

Representative Spaeth said we cannot deal with the feed bill without suspension of the rules, and if that is a problem we should wait until after 9 a.m. we can suspend the rules and come back down.

Representative Thoft said he believed under the previous feed bill for the regular session we don't need this feed bill, it can be a continuation of spending and he asked Mrs. Rippingale to address that issue. Mrs. Rippingale said there is between \$400,000 and \$500,000 left from the feed bill from the regular session which appears to be unobligated and could be used to operate this special session. She said the title of that bill is very broad, it just says for the operation of the 51st Legislature and we think that money is available for use with no action other than the decision of the leadership to do so.

Chairman Bardanouve asked what formal procedure we have to have to use this money. He asked if we just do it, and Mrs. Rippingale answered, just do it. Chairman Bardanouve asked, without any legislation or any formality? Mrs. Rippingale answered it appears the Legislation has been enacted and is

in effect. She said based on the work Clayton did with the council yesterday, there is approximately \$470,000 unobligated after allowing for expenses the Council was aware of that might be accrued, and allowing for presession to start the next session. She said there is one other thing that bill did allow, if any money was left over it could be spent on computer purchases. She said, if you spend some of this money, there will be less spent on computers.

Motion: Motion by Representative Thoft that no action be taken on the feed bill, to just continue it.

Substitute Motion: Substitute Motion by Representative Spaeth to table House Bill 64 until after the session today.

Discussion: Representative Marks asked what happens after today and Rep. Spaeth said it would just be tabled until after the first session this morning. Rep. Bardanouve said we would have a recess of the Appropriation Committee and come back later on today.

Recommendation and Vote: The substitute motion was voted, roll call vote, **passed**, 11 members voting yes, 8 members voting no.

#### HEARING ON HOUSE BILL 56

AN ACT TO REVISE THE WORKERS' COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO IMPOSE A 0.3 PERCENT TAX ON EMPLOYEE WAGES, IN ADDITION TO THE CURRENT EMPLOYER PAYROLL TAX, TO REDUCE THE UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL INSURANCE FUND; AMENDING SECTIONS 39-71-701 THROUGH 39-71-704, 39-71-721, 39-71-1024, AND 39-71-2501 THROUGH 39-71-2504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE, AND A RETROACTIVE APPLICABILITY DATE.

Chairman Bardanouve said we have had House Bill 56 referred from the floor to our committee which will pump \$20 million into Workers' Comp. He said the whole session we have sat here and argued about bills, and killed bill after bill and the total that we killed isn't as much as this one bill. He said he could not say it was not necessary, but it is only a down payment, in '91 we will be back with a big chunk of money.

#### Presentation and Opening Statement by Sponsor:

Representative Driscoll, House District 92, Billings and Chief Sponsor of House Bill 56 said this is a very important piece of legislation to stop the rate increases on July 1. He said this money is already spent and you have to pay off the

debt. He said there is at least \$215 million in debt out there, and until we get an actuary--the Lum Owens bill has a study committee to see what to do with the whole mess. He said the states around us subsidize their workmens' comp. He said the freezes that were put in on the floor of the House save \$3 million a year, or \$6 million over the biennium; the \$20 million appropriation could come from Senator Crippen's bill and the accelerated collections they are holding which to him was far more acceptable than building new buildings when the state is in debt. He said this is a one time expenditure, and in '91 someone will have to find a source of money to pay off \$215 million. To separation of the fund from the Division has already started, they are working on that and it should be accomplished by July 1, but then you will have an insurance company that is insolvent from the beginning. He said if they were a private company the state auditor would shut them down. He said if you are going to have a state fund that is going to work you are going to have to put in some money for the old debt, whether we use general fund, a different tax, or whatever, somebody has to pay it. He said, if you pay it off with rates, then you will have the same complaint you have been hearing for years, that our rates are substantially higher than surrounding states.

Testifying Proponents and Who They Represent:

Don Judge, Montana State AFL-CIO  
Jim Tutwiler, Montana Chamber of Commerce  
Mike Micone, Workers' Comp

Proponent Testimony:

Mr. Judge said the AFL-CIO is not overly enamored with this bill, but it is better than the employee payroll tax, which we felt had some constitutional problems. He said they are concerned with the figures and the deficit as it sits, there doesn't seem to be much agreement between the Workers' Comp Division and the Legislative Auditors office on the necessity for raising the rates back to what the original law says, that you shall run the insurance agency actuarially sound; the deficit that is out there is at \$215 million. When you left the regular session it was a \$157 million so over the past 2 months it has raised \$58 million. He said they did support the Lum Owens bill to have an independent actuarial audit study of the system so we can try to get the final numbers. He said he would like to point out that the deficit is not a deficit that was created since 1987 when all the major changes were made in the act. He said if we were operating the system on the '87 law, our rate would be more than sufficient to pay for the ongoing expenditure in the fund. He said the problem is that we have about 4,000 cases outstanding from pre 1987 and those cases are now coming due and were all challenge cases; they have gone through the courts or some other process to try to reach

settlement. He said those cases are now coming due and that is why the latest actuarial projection is that we would begin to pay those cases off at an accelerated basis. He said one of the projections was to pay off just over \$60 million of those cases in this current fiscal year. He said most of that money will be paid to the old cases, some of it to the new ongoing cases. He said in Wyoming they subsidize with general fund and their deficit funding is approximately \$1 million a month. He said in Idaho they have set artificial rates. Teachers in Montana, we pay something like 39 cents on each \$100 in wages; in Idaho they set an artificial rate which may be \$2 or \$3 or \$4 for each \$100 in wages so the lower paid industries actually subsidize the higher wage industries. He said this is a stop gap measure to hold down the rate increases scheduled to go into effect about 3 days ago, it will roll those rates back, get us through 1990, and then in July of 1990 the rates may have to go up. He said you will be back to deal with the situation, but in the mean time they hope to be working with the Lum Owens bill to study the whole system; to talk about a better way to administer that system, to make the employers more responsible, giving better rates to those that have safety records, and figure out different ways to set those rates.

Mr. Tutwiller said they support the bill and also share in the conviction that it is a major problem in the state of Montana. He said there have been many legislators and many people who have worked very hard on this. He said there had been 28 bills during the session dealing with workers' compensation. He said they are concerned on the employer business side in Montana, we know employers are already burdened with a 3/10 of 1% payroll tax and very nearly avoided an increase of that. He said they are also aware there are reforms in place and gains made in the past session, and felt claims would be handled in some better fashion in the future. He said some refer to the soaring rates of accidents in the state, and said they felt this was not necessarily true, some have raised, but other categories have decreased. He said another factor is the medical services which are inflating at a much higher rate than the over all inflation, and that affects Workers' Comp. He said he had read a survey in the Wall Street Journal the average rate of inflation for medical services in America for the past 15 years has averaged 12%.

Mr. Micone said the Department does not take a position on the bill. He said they did not ask for the legislation to allocate money to the Division. He said it was their position that the Legislature had mandated that Workers' Comp be operated actuarially sound and the rates were put in place July 1. He said it is the Legislature's decision to put the rates back, but we do support any efforts you have to help out in this situation.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Representative Thoft asked Representative Driscoll if he had any objection to incorporating some of the "Crippen language" in the bill, using accelerated tax preparations and Rep. Driscoll said absolutely not, he wanted to get the bill moving since the Senate bill was hung up on second reading and wouldn't move it.

Representative Marks asked if we coordinate the language in this bill to provide that, if in the end the Crippen bill did not pass, this bill would not be effective. Rep. Thoft said that was not needed, we could put the language in this bill and they can do whatever they like with the Crippen bill. Rep. Marks explained that the Crippen bill had other topics in it.

Representative Driscoll said the Crippen bill took the accelerated withholding which is around \$50 million and put it into a university system bonding buildings and the senate committee took \$20 million of that and put it into the workers' comp fund, so there would be less for building. He said he thought the Senate was willing to put the money into the workers' comp and did not know what the hang up was.

Representative Thoft asked what they accelerated on and Rep. Driscoll said everybody under \$400 a quarter. Rep. Thoft asked how much it would be if they just took it on the corporations part, and was told about \$20 million.

Chairman Bardanouve said he had heard you needed about \$19 million plus to keep this raise from going into effect. He said this would be \$20 million plus \$3 million. Rep. Driscoll said it would be \$3 million next year, but if they raise the rates they may stay in effect for 2 years, and if they did that would be \$38 million. It would depend on what happened in July of '90 whether or not the accident ratio etc, changed. He said they would have to do an actuary study for last year to see how the rates compared to risk. He said if they raised the rates 22% in July of this year they didn't think they would have to raise rates, but they did not say they would roll them back, and actually we would still be short of what the rate increase would bring in over the 2 years. He said they are talking about \$38 million over the 2 years. He said the Montana Loggers Association and the Montana Motors Association have both instituted safety programs. He said the Loggers Assn. has brought their ratio down to 38% and the truckers can do the same.

Representative Thoft asked if it would create a problem if we had \$20 million of revenue and it only took \$17 million and Rep. Driscoll said it goes into the fund and they invest it in the Board of Investments. He said they have \$29 million over there now but because the law says they must run a division actuarially sound, they have to increase the revenue by \$20 million to be actuarially sound. He said they aren't going to spend all that money as soon as they get it, it will be over at the Board of Investments and over the biennium, hopefully, they wouldn't draw down on that balance more than \$6 million or \$9 million, so they would have \$49 million when the money got in there and they would draw it down 6.

Representative Bardanouve asked about the amendments prior to this hearing and what they actually do. Rep. Driscoll said they freeze all medical payments, hospital, doctor, chiropractor, everybody until '91. He said they have been frozen since '87 and it also freeze the maximum temporary total at 299 and if it don't freeze it goes to 318. He said it is the state's average weekly wage since '87. Rep. Bardanouve asked if this is a four year freeze and was told yes. Rep. Driscoll said it is the temporary total of permanent partial, the weekly payment on deaths, indemnity award etc. He said these are the people at the top, the people who do not make the maximum never were frozen. If a person had a job and was making \$300 a week, they get 2/3 of what their gross is. He said if you were injured you would get \$200 a week for lost time. He said just the maximum was frozen and that is people who were making \$450 a week prior to the injury, and they get \$299 a week under the maximum benefit.

Representative Bardanouve asked about the medical people, and if they were protesting the freezes. Rep. Driscoll said he didn't know, it is not like medicare, they pay considerably better than medicare, and the Doctors are accepting that. He said they have a schedule and are frozen according to the schedule of '87.

Representative Swysgood said the rates went up from the 299 to 318 July 1. He said if this bill passes and goes into effect we will still have to pay the 318 until the effective date, or is it retroactive? Rep. Driscoll said he had asked Sweeney with the division and he didn't think we could make it retroactive, so any injuries that happen between July 1 and the effective date of this act, if he is correct, those people would get \$318 a week, and injuries after that date would get \$299. He said we are talking about 15 days and there are 9,000 accidents in this state per year and he didn't know how many accidents they might be talking about. He said he thought it was the Willis decision in the Supreme Court where they ruled you can't make that retroactive.

Representative Swysgood said, even with that 15 day period we don't know what the accident rate would be and they will have the money either through the general fund or the accelerated tax. Rep. Driscoll said he did not know how fast the money comes in, but there is \$29 million in the bank now, and to be actuarially sound they should have about \$240 million in the bank. He said if you put \$20 million into the account they also get the investment earnings credited to workers' comp instead of to the general fund, or wherever else it might be. He said the \$20 million this biennium, influx of new money, the \$6 million in freezes and the investment earnings on the \$20 million will be what they get. In answer to a question from Rep. Bardanouve he was told the interest rate is 7%.

Representative Grinde asked how he felt about Senator Williams concept of paying them the minimum. Rep. Driscoll said he felt it was all right, but Senator Williams went too high. He said our low rate in the state is 36 or 37 cents and that includes most of the school employees. He was going to raise that to \$4, and that is a pretty high increase. He suggested that a \$1 increase might be more realistic. He said the new board that will run the division will have to make decisions like that. He said with the new board, when it gets separated from the division and if we provide the money to pay off the old debt, there will be a lot less political meddling in the whole system. He said when you have employers that are getting a \$27,000 increase in payments to workers' comp, it is real hard to negotiate a raise for the workers.

Representative Grinde said in the '87 session we enacted a bill on this, and although it has only been a couple of years, is it working? Rep. Driscoll said George Wood went with a self insurers association and told him they only have 20 months of data, but he is guessing a 25% savings and the division is also saving on new cases. He said there were some deals made, the rates were a little low at that time, plus we had this debt. They are using part of that savings on the '87 law to pay off old debts and keeping the rates artificially high, and part of this 22% they want to put in, 7.7% of that is to pay off old debt, so you would have a 7.7% rate increase projected out 80 years to pay the debt, plus the savings of 315.

Representative Cody said, this \$20 million we are talking about as an infusion of money into the system is just until the '91 session and then reviews the problems? Rep. Driscoll said they keep the money, it just goes to their account. He said the money would be invested by the Board of Investments for them and the interest earnings credited back to their account. He said it gets them into a positive cash flow and actuarially sound until '91. He said if the accident rates go up, we will have trouble, but if the loss ratio comes down to 80% they would be in great shape. He said we have

to work to get the loss ration down, last year it was 88% and he has seen projections from 85% to 90%.

Representative Menahan said, we are \$215 million down now, and that is an obligation we have out there. He asked how high he felt that would go, and asked, what about \$300 million? Rep. Driscoll said there are two constitutional challenges to the law we passed in '87. The Supreme Court ruled against the Division on both of those and so I have no idea what the debt might be.

Representative Menahan said there is about \$480 million in a coal tax fund and an obligation here probably equal to that amount. He said when they came here they heard there was \$41 million in the treasury, we are spending \$20 million today, and asked if the financial experts could explain where the government was at and why we should be giving all the tax breaks. Chairman Bardanouve said apparently we like to pass bills and mentioned the retirement bill that cost about \$6 million. Rep. Driscoll said when we left in April the ending fund balance was projected to be about \$20 million and we come back and it is \$56 million. He said Rep. Rice asked in committee where all the money came from? He said we estimated low, the price of oil went up, revenue collections went up, so we are still pretty close.

Representative Marks said, if these rate increases, which are scheduled to go into effect July 1, take place, isn't the fund very likely to lose the market here? Rep. Driscoll said it probably will, and will make the situation worse. He said they are projecting 51% of the market share and an accident rate on about 88 or 90%, and if you lose the market share, especially on a big employer, you will lose dollars that are helping to run the system.

Chairman Bardanouve said he felt we had to put some money into this, it is a bad situation, and is not a proper cost of operating the government, it is insurance for a segment of our economic base. He said he had introduced a bill that put some of the pain on all segments of Montana industry, a very conservative raise, but it would raise about \$3 million a year. He said he felt industry should share some of the pain. He said the thing that concerns him is what we do with all the other bills. He said the committee had sat there day after day and the Governor had vetoed bills saying we can't afford the programs, but we can afford an industry with a \$20 million infusion. He said it really bothers him that we cannot use money to operate other things when this is really not a part of operating government, but a part of an insurance industry and a cost of doing business in Montana, and it is dumped on the Legislature.

Closing by Sponsor:

Representative Driscoll said what you are doing is keeping the



rate of increase on safe employers from going into effect. Unsafe employers will still get a rate increase, class codes will still go up. He explained that the Loggers got a 19% raise because they had instituted and spent a lot of money putting safety programs in and brought their loss ratio down to 38% in the past 2 years, but they need 3 or 4 years to set the class code. He said if they don't need the 22%, if we get the \$20 million, they will not get a rate increase, and they will see some fruits of their spending for safety. He said for certain class codes where there are no safety programs they are going to get a raise, plus the mod factor will go up for the unsafe employer, and they will get an additional raise on top of that. He said the way the class codes work is that if you are hurting people and have no safety programs, the rate is supposed to go so high you are out of business. He said, if you are safe, you should be rewarded, and he felt the class code works but the mod factor does not change fast enough.

Representative Thoft said he would like to amend the bill, and he did not have any language drafted but Judy could draft it, to use accelerated corporate income tax to fund the bill. He said the reason he was doing it was because it would make a clean bill out of it and the Senate could adjust their bill however they saw fit.

Discussion was held on incorporating the amendment in the Senate bill, authority to accelerate the corporate income tax, etc. and that this bill would give more incentive to the Senate to pass out Crippen's bill. There was discussion on the legality of incorporating it, and Mrs. Rippingale said there are a lot of bills introduced with the same subject, and many topics in them. She said she would have a hard time looking at this bill, after seeing the other bills this session, and saying you can't do it. She said the council lawyers might say you can't, but the bills they have written cover everything.

Representative Spaeth suggesting tabling the bill and having Judy and the Council check this out, and come back with it after we meet on the floor today. It was agreed by the committee to explore the amendment and recess to the call of the chair.

Recess at 8:55 a.m. Readjournment at 4:15 p.m. Roll call was taken with Representative Iverson being absent, all remaining Representatives were present, Mr. Wolcott staffed the meeting.

#### FURTHER CONSIDERATION OF HOUSE BILL 56

Representative Thoft presented a proposed amendment, EXHIBIT 1 and the Council was not present to explain the amendment and exactly what it did, and no one had the amendment long enough to explain it.

Representative Bradley presented a proposed amendment EXHIBIT 2 for the committee to look at.

Mr. Wolcott said Rep. Thoft's amendment incorporates Senate Bill 14 into House Bill 56 and said he could give his understanding of how it works. He said it coordinates the accelerated corporate taxes in Senate Bill 14 into House Bill 56. He said the one Rep. Bradley handed out did the same thing. He said his understanding is that during the biennium accelerated corporate taxes will generate \$15.5 million and House Bill 56 requires about \$20 million. He said 25% of the corporate license tax goes to the Foundation Program, so that is about \$5 million, but because the Foundation Program already has general fund in it, it will free up \$5 million in general fund and there will still be \$20 million available in the bill to fund what is in House Bill 56 but only \$15.5 comes from corporate taxes.

Representative Bardanoue said because you put more money into the foundation program, it will free up more general fund money.

Representative Driscoll said Senate Bill 14 does not put any money into the general fund. It puts \$20 million into the Workers' Comp account. It accelerates corporate withholding and the way it is written now it is \$20 million for Workers' Comp and the rest to the general fund.

Representative Marks said he had some confusion. He said we are discussing two different amendments and the short one (EXHIBIT 2), refers specifically to Senate Bill 14 which has a much broader application of advanced revenue than the amendment of Rep. Thoft.

#### DISPOSITION OF HOUSE BILL 56

Amendments, Discussion, and Votes: Motion by Representative Thoft to adopt his amendment, EXHIBIT 1.

Representative Thoft said he felt this amendment should be passed, he said we would then have a clean bill and be able to do what they and Representative Driscoll want to do, and will leave out a lot of taxpayers that are not subject to this kind of taxation. He said the corporate people already pay the federal tax on this basis, so there should be no problem there. He said he did not know what the status of the Senate bill is or if it will get to the House.

Representative Cody said we know how much Senate Bill 14 raises, but asked Rep. Thoft if his bill raised the same amount. Rep. Thoft answered that it accelerates the tax on corporations in excess of \$5,000 and it raises \$15 million for Workers' Comp but it also raises \$5 million for the foundation program which would go to the general fund and

release \$5 million which we can use to fund Workers' Comp.

Substitute Motion: Representative Bradley moved a substitute motion to adopt her amendment, EXHIBIT 2.

Representative Bradley said it is a coordinating clause that ties this bill to Senator Crippen's bill which is out of committee and waiting for final action. She said it is her understanding they are going to take it up and she thought this might be the prod to push them into it. She said she felt they should do this for several reasons. She said she felt it would be nice to go for something with a one shot sum of money that is an investment instead of flushing the money down permanently where we will never see it again. She said the rest of this money went to Higher Education buildings, and \$20 million was taken off the top for Workers' Comp.

Representative Bardanouve asked what sort of condition that Senate bill was in and Rep. Bradley said it is on the floor of the Senate, it has come out of committee and everyone agreed that sum of money would be taken out for Workers' Comp. Rep. Driscoll said Senator Crippen had made a motion to put it on second reading tomorrow morning.

Representative Thoft said this amendment that he has proposed takes care of the Workers' Comp issue and that is important. He said Rep. Bradley's motion brings in a whole new group of taxpayers that are not prepared to have their taxes accelerated.

Representative Bardanouve asked how it can bring in a lot more taxpayers. Rep. Bradley said Rep. Thoft's bill refers to the larger income taxpayers and since she had thought it was to be only accelerated corporate taxes she had been confused in reading the first insertion. She said Senator Crippen's bill includes with the larger income withholders as well, and is really two categories. Rep. Thoft said that is true, his amendment only deals with the corporate taxpayer.

Representative Peck asked Rep. Bradley, you have something over \$30 million additional to the \$20 million and you are proposing that will go to university building? Rep. Bradley said that is what this bill does, when it was originally introduced the entirety went to building. Senator Crippen had said if they were going to spend the money anyway, why not invest it in something, not just spend it.

Representative Peck asked, in comparison to Rep. Thoft's amendment, yours would generate about \$32 million of additional funds and direct that to University buildings. Rep. Bradley said it ties the two bills together, so that, in effect, is what it would do.

Representative Peck asked what building order, is it specified in

the bill or left up to the Regents, or what? Rep. Bradley said she had assumed there would be a bonding program and it would be done through the Regents at whatever rate the sum would pay them off.

Representative Grinde asked Rep. Driscoll how he felt on tying Rep. Bradley's bill to the Workers' Comp bill and Rep. Driscoll said his preference would be to take the whole bill and put it in House Bill 56. Representative Grinde asked if Rep. Thoft's bill would take care of Workers' Comp and Rep. Driscoll said if both bills passed the legislative Council would have to incorporate the two since both bills accelerate the corporate tax.

In answer to a question from Rep. Bardanouve as to whether they could wait for the Crippen bill he was told that would be too late.

Representative Swysgood asked if there isn't another option to the Crippen bill if we insert Rep. Thoft's amendment into this particular legislation, they have the option of deleting the part in the Senate bill that deals with the corporate tax and leaving the bill just addressing the individual income tax for the money that goes to the University building. Rep. Spaeth said that would be an option.

Discussion was held on what would happen in each scenario and how it could be handled. Representative Spaeth said if we pass the Bradley amendment, in order to have money for the acceleration, then Senate Bill 14 would have to pass. If it did not pass in some form or other, then this would not be affected.

Representative Quilici asked what effect that would have on the Workman's Comp then, and was told by Rep. Bradley that it would get the money from the general fund, it depended only on where we get the money to put into the general fund.

Representative Peterson said the Workers' Comp bill is very important in her area and she would feel more comfortable with the Thoft amendment in case something happened to the Senate bill.

Recommendation: The Bradley amendment was voted, passed, 11 members voting yes, 9 members voting no.

Motion: Motion by Representative Spaeth that House Bill 56, as amended, do pass.

Recommendation and Vote: Voted, Voice Vote, motion passed with Representatives Grinde, Swift, Swysgood, Cobb and Grady voting no.

Representative Spaeth said we had planned to take action on House Bill 64 and he had talked to Bob Person, the Legislative Council and the Fiscal Analyst and they say we have enough money to go through tomorrow, but will probably need to have the figures put together since we will probably have to pass a feed bill on Monday.

Representative Bardanouve asked why we were told we had \$500,000? Rep. Spaeth said we have enough to get through tomorrow, but we will be back on Monday. He said he would suggest we announce a committee meeting on the feed bill for sometime Monday morning and Person and the Fiscal Analyst will have it together because we may be in the process of shutting down some of our agencies. He said we possibly don't have the money to get through Monday or Tuesday.

Representative Bardanouve asked again, why were we told we had \$500,000 this morning? Representative Spaeth answered that what we were told this morning didn't have the total bearing on what the Legislative Council has indicated. Bob Person said we can get through tomorrow but Monday you will have to do some changing.

Representative Thoft asked if the issue was whether we could use too much money from the general session? Rep. Spaeth said that was part of it, but we will be running out according to Bob Person, and also in talking to John Larson in the Senate we may well be running out of money Monday. He said the Legislative Council's position is if they want to take it out of the Fiscal Analyst's budget that is fine, but that is a problem they will be dealing with. He said they would have an update and we may want to meet Monday to have it clarified.

ADJOURNMENT

The meeting adjourned at 5:20 p.m.



REP. FRANCIS BARDANOUE, Chairman

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DAILY ROLL CALL

HOUSE APPROPRIATIONS

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date July 7 - 1989

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE BARDANOUVE	✓		
REPRESENTATIVE SPAETH	✓		
REPRESENTATIVE PECK	✓		
REPRESENTATIVE IVERSON	✓		
REPRESENTATIVE SWIFT	✓		
REPRESENTATIVE QUILICI	✓		
REPRESENTATIVE BRADLEY	✓		
REPRESENTATIVE PETERSON	✓		
REPRESENTATIVE MARKS	✓		
REPRESENTATIVE CONNELLY	✓		
REPRESENTATIVE MENAHAN	✓		
REPRESENTATIVE THOFT	✓		
REPRESENTATIVE KADAS	✓		
REPRESENTATIVE SWYSGOOD	✓		
REPRESENTATIVE KIMBERLEY	✓		
REPRESENTATIVE NISBET	✓		
REPRESENTATIVE COBB	✓		
REPRESENTATIVE GRINDE	✓		
REPRESENTATIVE CODY	✓		
REPRESENTATIVE GRADY	✓		

DAILY ROLL CALL

HOUSE APPROPRIATIONS

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date

*July 1- PM*

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE BARDANOUVE	✓		
REPRESENTATIVE SPAETH	✓		
REPRESENTATIVE PECK	✓		
REPRESENTATIVE IVERSON	.	✓	
REPRESENTATIVE SWIFT	✓		
REPRESENTATIVE QUILICI	✓		
REPRESENTATIVE BRADLEY	✓		
REPRESENTATIVE PETERSON	✓		
REPRESENTATIVE MARKS	✓		
REPRESENTATIVE CONNELLY	✓		
REPRESENTATIVE MENAHAN	✓		
REPRESENTATIVE THOFT	✓		
REPRESENTATIVE KADAS	✓		
REPRESENTATIVE SWYSGOOD	✓		
REPRESENTATIVE KIMBERLEY	✓		
REPRESENTATIVE NISBET	✓		
REPRESENTATIVE COBB	✓		
REPRESENTATIVE GRINDE	✓		
REPRESENTATIVE CODY	✓		
REPRESENTATIVE GRADY	✓		

STANDING COMMITTEE REPORT

"An Act to Appropriate \$20 Million from the General Fund  
to Reduce the Unfunded Liability  
in the Workers' Compensation System"

July 7, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Appropriations report that  
HOUSE BILL 56 (second reading copy -- yellow) do pass as  
amended .

Signed: Francis Bardanouve, Chairman

And, that such amendments read:

1. Title, line 15.

Following: " ; "

Insert: "PROVIDING A COORDINATION PROVISION; "

2. Page 17, line 18.

Following: line 17

Insert: "NEW SECTION. Section 4. Coordination. If Senate Bill  
No. 14 is not passed and approved or if Senate Bill No. 14  
is passed and approved but does not provide for the  
accelerated collection of corporate income and license taxes  
with the deposit of at least \$15 million of accelerated  
collections in the general fund, [this act] is void."

Renumber: subsequent section



ExH 1

Amendments to House Bill No. 56  
Second Reading Copy

EXHIBIT 1  
DATE July 7 - 89  
HB 56

Requested by Representative Thoft  
For the Committee on Appropriations

Prepared by Greg Petesch  
July 7, 1989

1. Title, line 13.

Following: " ; "

Insert: "TO REQUIRE QUARTERLY ESTIMATED PAYMENTS BY ALL TAXPAYERS  
SUBJECT TO CORPORATE LICENSE OR INCOME TAX WHO HAVE ANNUAL  
STATE TAX LIABILITIES IN EXCESS OF \$5,000; TO PROVIDE FOR  
INTEREST PENALTIES FOR UNDERPAYMENT; "

2. Title, line 15.

Strike: "SECTION"

Insert: "SECTIONS 15-31-101, 15-31-502, AND"

3. Title, line 17.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE."

4. Page 16, line 11.

Following: line 10

Insert: "Section 1. Section 15-31-101, MCA, is amended to read:

"15-31-101. Organizations subject to tax. (1) The term  
"corporation" includes associations, joint-stock companies,  
common-law trusts and business trusts which do business in an  
organized capacity, and all other corporations whether created,  
organized, or existing under and pursuant to the laws,  
agreements, or declarations of trust of any state, country, or  
the United States.

(2) The terms "engaged in business" and "doing business"  
both mean actively engaging in any transaction for the purpose of  
financial or pecuniary gain or profit.

(3) Except as provided in 15-31-103 or 33-2-705(4) or as  
may be otherwise specifically provided, every corporation engaged  
in business in the state of Montana shall annually pay to the  
state treasurer as a license fee for the privilege of carrying on  
business in this state such percentage or percentages of its  
total net income for the preceding taxable year at the rate  
hereinafter set forth. In the case of corporations having income  
from business activity which is taxable both within and without  
this state, the license fee shall be measured by the net income  
derived from or attributable to Montana sources as determined  
under part 3. ~~This~~ Except as provided in 15-31-502, this tax is  
due and payable on the 15th day of the 5th month following the  
close of the taxable year of the corporation; however, the tax  
becomes a lien as provided in this chapter on the last day of the  
taxable year in which the income was earned and is for the  
privilege of carrying on business in this state for the taxable  
year in which the income was earned.

(4) Every bank organized under the laws of the state of

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Montana, of any other state, or of the United States and every savings and loan association organized under the laws of this state or of the United States is subject to the Montana corporation license tax provided for under this chapter. For taxable years beginning on and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548)."

Section 2. Section 15-31-502, MCA, is amended to read:

"15-31-502. ~~Assessment and payment of tax, penalty, and interest~~ -- estimated tax payment. (1) All taxpayers shall compute the amount of tax payable under this chapter and shall remit ~~such the~~ amount to the department of revenue on or before the 15th day of the 5th month following the close of the taxable period. ~~If the tax is not paid on or before the due date, there shall be assessed a penalty of 10% of the amount of the tax unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax due under this chapter is not paid when due, by reason of extension granted or otherwise, interest shall be added thereto at the rate of 12% per annum from the due date until paid.~~

(2) Each corporation shall make estimated tax payments if its annual estimated tax can reasonably be expected to be \$5,000 or more. The estimated payments must be made in installments as follows:

	<u>4th month</u>	<u>6th month</u>	<u>9th month</u>	<u>12th month</u>
<u>the 4th month of the taxable year:</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>
<u>the last day of the 3rd month and before the 1st day of the 6th month of the taxable year:</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	<u>33 1/3%</u>
<u>the last day of the 5th month and before the 1st day of the 9th month of the taxable year:</u>	<u>50%</u>	<u>50%</u>	<u>50%</u>	<u>50%</u>
<u>the last day of the 8th month and before the 12th month of the taxable year:</u>	<u>100%</u>			

(b) If after paying any installment of estimated tax the taxpayer makes a new estimate, the amount of each installment, if any, is the amount that would have been paid if the new estimate had been made when the first estimate for the taxable year was made, increased or decreased, as the case may be, by the amount computed by dividing:

(i) the difference between:

(A) the amount of estimated tax required to be paid before the date on which the new estimate was made; and

(B) the amount of estimated tax that would have been required to be paid before that date if the new estimate had been made when the first estimate was made:

(ii) by the number of installments remaining to be paid on or after the date on which the new estimate was made.

(3) The application of this section to taxable years of less than 12 months must be in accordance with rules adopted by the department.

(4) At the election of the corporation, any installment of the estimated tax may be paid before the date prescribed for its payment."

NEW SECTION. Section 3. Estimated payments -- interest

penalty -- tax returns -- penalty -- interest. (1) For corporations failing to make estimated payments according to the schedule provided in 15-31-502(2), there is assessed a 20% per annum underpayment interest penalty calculated as follows:

(a) For purposes of this subsection (a), the amount of underpayment is in excess of the amount of the installment that would be required to be paid if the estimated tax were equal to 80% of the tax shown on the return for the taxable year or, if no return was filed, 80% of the tax for the year over the amount, if any, of the installment paid on or before the last date prescribed for payment.

(b) Notwithstanding the provisions of subsection (1)(a), the interest penalty with respect to an underpayment of any installment may not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax were the lesser of the following:

(i) the tax shown on the return of the corporation for the preceding taxable year if a return showing a liability for tax was filed for the preceding taxable year and the preceding year was a taxable year of 12 months;

(ii) an amount equal to the tax computed at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year; or

(iii) an amount equal to 80% of the tax for the taxable year, computed by placing on an annualized basis the taxable income:

(A) for the first 3 months of the taxable year in the case of the installment required to be paid in the 4th month;

(B) for the first 3 months or for the first 5 months of the taxable year in the case of the installment required to be paid in the 6th month;

(C) for the first 6 months or for the first 8 months of the taxable year in the case of the installment required to be paid in the 9th month; and

(D) for the first 9 months or for the first 11 months of the taxable year in the case of the installment required to be paid in the 12th month of the taxable year.

(c) For purposes of subsection (1)(b)(iii), the taxable income must be placed on an annualized basis by:

(i) multiplying by 12 the taxable income referred to in subsection (1)(b)(iii); and

(ii) dividing the resulting amount by the number of months in the taxable year (3, 5, 6, 8, 9, or 11, as the case may be) referred to in subsection (1)(b)(iii).

(d) Notwithstanding subsections (1)(a) through (1)(c), the interest penalty with respect to an underpayment of any installment may not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds 80% of the amount determined under subsection (1)(e).

(e) To determine the amount under this subsection (e) for any installment:

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(i) take the taxable income for all months during the taxable year preceding the filing month;  
(ii) divide the amount by the base period percentage for all months during the taxable year preceding the filing month;  
(iii) determine the tax on the amount calculated under subsection (1)(e)(ii); and  
(iv) multiply the tax computed under subsection (1)(e)(iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

(f) For purposes of this subsection (1):

(i) the base period percentage for any period of months is the average percentage that the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income of the 3 preceding years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this subsection (1) applies only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70%; and

(iv) the department of revenue may by rule provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(2) If the tax for any corporation is not paid on or before the due date of the return as provided in 15-31-111(2), there is assessed a penalty of 10% of the amount of the tax due, unless it is shown that the failure was due to reasonable cause and not to neglect.

(3) If any tax due under this section is not paid when due, by reason of extension granted or otherwise, interest is added to the tax due at the rate of 12% a year from the due date until paid."

Renumber: subsequent sections

5. Page 17, line 18.

Following: line 17

Insert: "NEW SECTION. Section 7. Codification. [Section 3] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 3].

NEW SECTION. Section 8. Applicability. [Sections 1 through 3] apply to taxable years beginning after December 31, 1989."

Renumber: subsequent section

EXH 2

Amendments to House Bill No. 56  
Second Reading Copy

EXHIBIT 2  
DATE 7/7/89  
HB 56

Requested by Representative Bradley  
For the Committee on Appropriations

Prepared by Greg Petesch  
July 7, 1989

1. Title, line 15.

Following: ";

Insert: "PROVIDING A COORDINATION PROVISION;"

2. Page 17, line 18.

Following: line 17

Insert: "NEW SECTION. Section 4. Coordination. If Senate Bill No. 14 is not passed and approved or if Senate Bill No. 14 is passed and approved but does not provide for the accelerated collection of corporate income and license taxes with the deposit of at least \$15 million of accelerated collections in the general fund, [this act] is void."

Renumber: subsequent section

Appropriations COMMITTEE

BILL NO. NB 56

DATE 7/7/89

**SPONSOR** \_\_\_\_\_

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# ROLL CALL VOTE

HOUSE APPROPRIATIONS

COMMITTEE

DATE

July 7-89

BILL NO.

64

NUMBER

#1

NAME	AYE	NAY
REPRESENTATIVE SPAETH	✓	
REPRESENTATIVE PECK	✓	
REPRESENTATIVE IVERSON	✓	
REPRESENTATIVE SWIFT		✓
REPRESENTATIVE OUILICI	✓	
REPRESENTATIVE BRADLEY	✓	
REPRESENTATIVE PETERSON		✓
REPRESENTATIVE MARKS	✓	
REPRESENTATIVE CONNELLY		✓
REPRESENTATIVE MENAHAN	✓	
REPRESENTATIVE THOFT	✓	
REPRESENTATIVE KADAS		
REPRESENTATIVE SWYSGOOD		✓
REPRESENTATIVE KIMBERLEY	✓	
REPRESENTATIVE NISBET	✓	
REPRESENTATIVE COBB		✓
REPRESENTATIVE GRINDE		✓
REPRESENTATIVE CODY		✓
REPRESENTATIVE GRADY		✓
REPRESENTATIVE BARDANOUVE	✓	

TALLY

11 8

Sylvia Kinsey

Secretary

Representative Bardanouve

Chairman

MOTION:

Take for 9:30 P

# ROLL CALL VOTE

HOUSE APPROPRIATIONS

COMMITTEE

DATE 7-7-99

BILL NO. HB 56

NUMBER # 2

NAME	AYE	NAY
REPRESENTATIVE SPAETH	✓	
REPRESENTATIVE PECK	✓	
REPRESENTATIVE IVERSON		✓
REPRESENTATIVE SWIFT		✓
REPRESENTATIVE OUILICI	✓	
REPRESENTATIVE BRADLEY	✓	
REPRESENTATIVE PETERSON		✓
REPRESENTATIVE MARKS		✓
REPRESENTATIVE CONNELLY	✓	
REPRESENTATIVE MENAHAN	✓	
REPRESENTATIVE THOFT		✓
REPRESENTATIVE KADAS	✓	
REPRESENTATIVE SWYSGOOD		✓
REPRESENTATIVE KIMBERLEY	✓	
REPRESENTATIVE NISBET	✓	
REPRESENTATIVE COBB		✓
REPRESENTATIVE GRINDE		✓
REPRESENTATIVE CODY	✓	
REPRESENTATIVE GRADY		✓
REPRESENTATIVE BARDANOUVE	✓	

TALLY

11 9

Sylvia Kinsey  
Secretary

Representative Bardanouve  
Chairman

MOTION:

Bradley  
ch 2