

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS & INDUSTRY**

**Call to Order:** By Chairman J.D. Lynch, on January 14, 1991, at 10:00 a.m.

#### **ROLL CALL**

**Members Present:**

J.D. Lynch, Chairman (D)  
John Jr. Kennedy, Vice Chairman (D)  
Betty Bruski (D)  
Eve Franklin (D)  
Delwyn Gage (R)  
Thomas Hager (R)  
Jerry Noble (R)  
Gene Thayer (R)  
Bob Williams (D)

**Members Excused:** None

**Staff Present:** Bart Campbell (Legislative Council).

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** Senator Lynch started out by stating that if there was no objections it will be his policy to take bills that are introduced by non committee members first, so they can attend to their other business and bills that are introduced by members of the committee will be done second.

#### **HEARING ON SENATE BILL 48**

#### **Presentation and Opening Statement by Sponsor:**

Senator Nathe, sponsor of the bill, stated that what senate bill 48 does is redefine and put the definition of the commodity fever back to where it was prior to 1985. The reason for that is in 1985 we didn't require, we changed the law, and changed the definition as such that the requirements for a bond with a commodity dealers, namely an elevator sells grain to another elevator they don't have to be bonded. An elevator that buys grain from a producer has to be bonded, but from 1985 on that bond was eliminated between elevators. We are a small elevator and the only way we can survive is in specialty markets. There are a number of elevators in Montana that have been burned just

in the past year. Other smaller elevators that have sold grain to them, there is no bond or any recovering of any money. The bonds that are listed in 80-4-505,504 and 80-4-604 are based on the term the amount of wheat that is bought from a elevator from a producer. That was used as the volume that based the bond on. That in some cases would be higher because an elevator buys more wheat from a producer than it may sell from an elevator to elevator. A technical amendment might have to be looked at to correct that to make a corrected that the bond be based on some kind of estimated sales from elevator to elevator. However 80-4-504 does set a maximum limit on bonds of one million dollars that cannot be exceeded. If you're out of state and you buy no grain from the producers but buy grain in the state from the elevators you would not have to carry a bond.

Proponents' Testimony:

Ralph Peck with the Montana department of agriculture supports the bill.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Lynch asked why they made the change in 1985.

Senator Nathe responded that prior to 1985 there was an exemption of ten thousand dollars. You could buy up to ten thousand dollars worth of grain from an elevator without having a bond. What happened is that the feed lot operators objected, because this bill as it goes back is going to require the feed lot operators and we upped the amount in 1985 from ten thousand to thirty thousand. If they exceed the thirty thousand, they're going to have to have a bond. The feed lot operators in some incidences take just as much as a risk, if not more from feed lot operators than you do from elevator to elevator.

Senator Lynch asked that the thirty thousand dollars, there is no way of tying this into a flat amount.

Senator Nathe commented that thirty thousand dollars is a reasonable amount and should be left alone.

Senator Williams asked if bonds are readily available for the feed lot operator for say thirty, sixty, ninety, days without a real high cost.

Senator Nathe replied that they would be buying on a year around basis. It would depend upon a financial statement. If a feed lot has trouble getting a bond, it is up to the individual elevator manager if he wants to take the risk but that is the way it is now.

Senator Hager asked if Senator Nathe mentioned a technical amendment.

Senator Nathe replied that he had, but he did not have it and had to work with the department because he had just got in contact with them this morning.

Closing by Sponsor:

Senator Lynch announced that there would be no action today pending the amendment.

Senator Nathe closed.

Executive action will be taken for senate bill 48 tomorrow, January 15, 1991.

HEARING ON SENATE BILL 11

Presentation and Opening Statement by Sponsor:

Senator Thayer, district 19, sponsor of the bill stated that this bill is an act providing for reciprocal bid preference on public contracts for construction, repair, or public works; and amending section 18-1-102 of the Montana codes. He is introducing this bill because it will help some economic development for Montana. When the bid preferences were first adopted some years back, the idea was we were going to try to protect our own companies in Montana. With the economy the way it has been for the past two years in Montana, this particular bid preference is now working against some of the larger contractors in the state. As many of them are doing more business out of state then they are in state. The problem is that Montana has a preference bill that goes into affect, their law automatically kicks in and gives their contractors a matching reciprocal bid preference.

Proponents' Testimony:

Eugene Fenderson, representative of the state building trades council, spoke in favor of the bill. He stated that for a number of years the building trades unions in the state of Montana supported the law that is on the books. They did it for protective reasons for their members. Many contractors now were bidding out of state creating work for Montana that go with them, and many do. One of the great export commodities in the state is highly skilled workers. A lot of Montana contractors are picking up work in other states and employing our workers. The law is beginning to work against them.

John Manzer, teamsters union, said they are in support of the bill.

Bob Sletten, Sletten construction, spoke in favor of the bill. Every state in the pacific northwest except for Wyoming and Montana have all adopted reciprocal bills. If Montana adopts it Wyoming doesn't. One of our main exports are the construction workers in Montana, and by being able to utilize those workers in other states has made us and probably other contractors in surrounding states very competitive in the market place. We have a three percent preference that we have to overcome, in today's construction market that is an impossibility.

Dave Becker, Washington contractors group, spoke in support of the bill. Two of our biggest resources are equipment and labor, and we export a lot of that. They basically centralize

the operating functions in the main headquarters in Missoula. The biggest asset they utilize is their equipment fleet. Because of the central maintenance facilities in Missoula, they staff a fairly large support group there. This staff travels out of the state, through this becomes the tripling affect to various vendors and suppliers that Montana is based.

Lars Erickson, representative of the carpenters trade council in Montana, spoke in favor of the bill. Well over one hundred carpenters working out of state most of them work for in state contractors. A lot of the contractors are being forced to travel.

Jim Stucky, representative of the IOEW Local 400, supports this bill.

Martin Becker, sletten construction, spoke in favor of this bill by adding that they also take their subcontractors out with them. Those subcontractors that we developed an understanding with in Montana travel with them to the surrounding states.

Dennis Lind, representative of the washington corporation, favors the bill. Substantial portion of the major contractors work that is now done out of state. In order to allow the contractor to maintain their headquarters in state it is appropriate to give them the opportunity to bid competitively in the region. We have to protect the economy we have.

#### Opponents' Testimony:

None

#### Questions From Committee Members:

Senator Gage asked how much preferences costs to Montana.

Senator Thayer didn't recall any dollar amounts, but commented that two years ago the auditor put out a special report on bid preference. A recommendation from the auditors committee that we reevaluate the whole statute on bidders preference and do away with it entirely. There wasn't a lot of support two years ago.

Senator Williams asked if there was any statistics on how many out of state bidders bid.

Ralph DeCunzo, architecture engineering, had no statistics.

#### Closing by Sponsor:

Senator Thayer closed by saying that we are very fortunate that some of the companies have chosen to stay in Montana. Any time that a company does seventy to ninety percent of their business out of state you run the risk of losing those companies. Montana cannot afford to do that. This is an important piece of legislation.

Senator Lynch commented that in years gone by the small contractors are very concerned that they would be adversely affected compared to the part of the small contractors.

Martin Becker, sletten construction, answered by saying that

because of the short time on the setting and the change of one committee to the other, some of the other smaller contractors could not make it. It has never applied to the subcontractors anyway and that's typically where you would see the volume of employment come through.

Senator Thayer commented that the benefit to this is that we are heading into the heavy construction season, and the sooner that this bill can be implemented the more work its going to give for our people.

Senator Lynch commented that the council instructions unless otherwise informed would be normal process of October 1.

Executive action for senate bill 11 will be taken tomorrow, January 15, 1991.

#### HEARING ON EXECUTIVE ACTION FOR SB 2

Presentation and Opening Statement by Sponsor: Senator Lynch stated that two years ago gave a two year period for this law to make it permanent. The insurance industry had strong opposition to it. And the auditor's office wants to keep it permanent.

#### Proponents' Testimony:

None

#### Opponents' Testimony:

None

#### Questions From Committee Members:

None

#### Closing by Sponsor:

Senator Hager moved that this bill be due pass.

Senator Lynch added that the reason this would have affective passage and approval is that it would sunset if it didn't pass.

Senator Thayer asked if this motion passes, will it go in and stay in.

Senator Lynch replied that right now if the bill is in, if the bill didn't pass come July 1, it would be out. If it does pass with affective unapproval it would just keep going.

Senator Gage commented that this bill has not had a chance to work yet because of the time period. Is the auditors office interested in extending sunset.

Senator Hager replied that he would take what he could get. It would depends on hiring an actuary.

Senator Thayer agrees with Senator Gage in which the bill is flagged for another two years. The department would have to make

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it work. The original bill was supposed to be narrow in scope and it was only to be for those areas where the insurance was both difficult to get in. Whole area still needs some more scrutiny.

Senator Williams asked if Senator Hager would be receptive to that amendment.

Senator Hager replied that the 1993 legislature will be here in the next two years. If there is a problem with this they could look at it at that time.

Senator Williams asked when the actuary came on board.

Dave Barnhill, deputy insurance commissioner, said the actuary came on board in late spring, and began work this fall.

Senator Williams moved that senate bill 2 be amended section 33-16-103 until October 1, 1993.

Bart Campbell, staff researcher, commented that he may have to make an amendment to the title itself. As it now states 'repealing' the provision that makes it temporary.

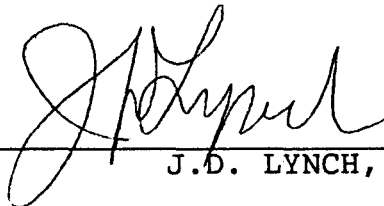
Senator Hager resists this amendment, and stated he would hope they can pass the bill the way it was introduced.

The amendment to senate bill 2 passed 5 to 4 by a roll call vote.

Senator Hager moved that senate bill 2 due pass as amended.

Senate bill 2 passed unanimously as amended and go to second reading.

Adjournment At: 10:55 a.m.



J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

JL/da

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SENATE STANDING COMMITTEE REPORT

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MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 2 (first reading copy -- white), respectfully report that Senate Bill No. 2 be amended and as so amended do pass:

1. Title, line 5.

Following: the second "ACT"

Strike: "REPEALING"

Insert: "AMENDING"

2. Title, line 7.

Following: "TEMPORARY;"

Strike: "REPEALING"

Insert: "AMENDING"

3. Page 1, lines 11 and 12.

Strike: section 1 in its entirety

Insert: "Section 1. Section 13, Chapter 400, Laws of 1989, is amended to read:

"Section 13. Termination. [This act] terminates October 1, ~~1991~~ 1993."

Signed: 

John "J.D." Lynch, Chairman

  
Amd. Coord.

  
Sec. of Senate