

2013 HOUSE POLITICAL SUBDIVISIONS

HB 1157

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1157
January 24, 2013
Job # 17686

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to county road machinery.

Minutes:

Testimony #1

Chairman N. Johnson: Opened the hearing on HB 1157.

Rep. Vigesaa: Introduced bill on behalf of the Association of Counties. It has been about 15 years since the limit has been raised on how much an annual payment can be for a county commission to enter into a lease purchase and also the length of time for the lease purchase to be in effect. You can see over that time we have had a great increase in the cost of equipment in all different types of industries. In the automobile industry 15 years ago I would never have dreamt that I would be selling pickups there were over \$60,000. Just like combines with headers for over a half million dollars. So obviously construction equipment has followed suit and has gotten to be very expensive. Now it is difficult for county commissioners to enter into these lease purchase agreements because they are now limited to an annual payment of \$20,000 or less and a term of only five years. This bill will raise those limits and I would hope this committee with strongly consider a do pass recommendation on HB 1157.

Rep. W. Hanson: This addressed the dollar amount and years and the major changes being twenty to forty and five to seven. Would you entertain an amendment to make sure that we can reset this again in the further?

Rep. Vigesaa: Every two years the legislature would have the ability to hear from commissioners if they would like to see the limit raised at any point they could do it every two years so I don't think that would be necessary.

Terry Traynor, Ass't Director, ND Association of Counties: (See testimony #1)

Rep. J. Kelsh: When you talk about that price of \$20,000 for five years is that on the lease price or selling price of the equipment?

Terry Traynor: It is the lease price. I am not sure there is a difference.

Rep. J. Kelsh: In your testimony you said limiting its use to equipment selling?

Jeff Magrum, County Commissioner: This resolution started with Emmons County and we brought it to our six county committee and we had no opposition there. They recommended the resolution be brought to the Association of Counties so we brought that to the Association of County convention last fall and there was no opposition there. If we want to keep a piece of equipment and we want to upgrade. Last year we wanted to keep a blade for our road crew and we were at the mercy of the equipment sales people because of the lease payments. We couldn't go over \$20,000 over 5 years, but the price of the blades are about \$280,000 so we had to come up with a larger down payment and we don't have a lot of money setting on the sidelines for equipment down payments so we like to lease our equipment so we keep newer dealers on hand. We recommend a do pass.

Opposition: None

Hearing closed.

Do Pass Motion Made by Rep. Beadle: Seconded by Rep. J. Kelsh:

Rep. Koppelman: I would be very alarmed by the chart that Mr. Traynor handed out if the federal government didn't continue to assure us that inflation is not a problem.

Chairman N. Johnson: Looks like a reasonable request and can help out counties that are leasing equipment.

Vote: 13 Yes 0 No 2 Absent Carrier: Rep. W. Hanson:

Closed.

Date: 1-24-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1157

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Beadle Seconded By Rep. J. Kusch

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Loosten	—				
Rep. Andrew Maragos	—				
Rep. Lisa Meier	✓				
Rep. Nathan Toman	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Hanson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1157: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1157 was placed on the Eleventh order on the calendar.

2013 SENATE POLITICAL SUBDIVISIONS

HB 1157

1

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee Red River Room, State Capitol

HB 1157
March 7, 2013
19535

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to county road machinery.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing on HB 1157. All senators were present.

Representative Vigesaa District 23 brought this bill forward on behalf of the counties in the state. It allows the county commissioners to enter into lease purchase agreements for equipment where you see on the second page the very first line, their limits have been \$20,000 and this is going to raise it to \$40,000 for annual payment and then also on line 3, we'll extend the current five year time frame for a lease purchase to seven years. The current limits have been in place for 15 years and as you are probably well aware, the cost of equipment has gone up tremendously since that time. So when we're buying trucks or road graters, equipment for the county the current parameters just don't work for the cost of the equipment and if you are from a rural area you can relate to this very well by knowing what farm equipment costs. Over time the parameters that are in place right now, don't work very well for the county commissioners. Raise the dollar limit and extend the time frame a little bit so that they can work with the current prices of equipment.

Senator John Grabinger How does this affect Home Rule Charter, commissions versus others? **Rep. Vigesaa** replied I truthfully can't answer that question. Hopefully Mr. Mel Kambeitz will be able to answer that for you.

Mel Kambeitz Association of Counties. Written testimony #1. In reference to Senator Grabingers question, I do not have the answer to his question but I will find out what impact Home Rule has regarding this legislation.

Senator John Grabinger Your raising the limit to \$240,000, are we going to be in two years tackling this again? It seems like when we're purchasing road graters under this type of proposal, which we did in Jamestown, we're at that threshold right now, so why wasn't it suggested to go even a little higher to give us some room?

Mel Kambeitz replied that he has someone from the Emmons County commission and he has experienced this and could answer this better than I could.

Chairman Andrist you said \$280,000 is the maximum. **Mel** replied for 7 years times 40= \$280,000.

Senator Judy Lee I see that it's a 01 version here obviously there wasn't any amending in the House or anything like that. But this is a follow-up really on Senator Grabinger' question, since you mentioned in your testimony that it had been an open-ended 5 year lease at one time, I would certainly think it might be worthy of discussion that we eliminate the dollar amount and permit the 7 year lease extension or something like that. Was there any thoughts from the Association of Counties about doing it differently rather than being so limiting here?

Mel Kambeitz replied, no there hasn't been and we wouldn't be opposed to discussions and amendments to that nature.

Chairman Andrist I would presume that they don't feel this is particularly limiting. **Mel Kambeitz** replied not at the moment no. Most of the companies will provide a seven year lease now.

Senator Jim Dotzenrod On line 9, it has the \$50,000 limit on purchases, if you're going to be going over the amount, you have to advertise that, is that an old number? I would assume that must have been changed fairly recently because the other numbers are looking like they are old and they need to be brought up to date, but that one must old. I assume you don't want to go any higher, that's a good number that should stay there.

Mel Kambeitz replied I would think they should stay. **Senator Jim Dotzenrod** the language down there in lines 14-15 that say, you cannot charge more than 20% for rent. Do those words also then apply to the next subsection 2, that you can't have a lease purchase where that same rule would apply? It can't be over 20%. **Mel Kambeitz** replied that's correct.

Jeff Magrum Emmons County Commissioner and this bill started with Emmons County. We brought it to the Association of Counties convention last fall and the counties were all in support of it raising the lease term and payments to what we're proposing now. I am on my 5th year as commissioner and our blades went from where we lease and we keep good equipment on hand. We always renew our leases every five years, but, through the four years I've been in we had to increase our down payment so much. We don't have a lot of ready money setting on the sidelines so this was getting to be a problem. We talked to the equipment people and they said they would go to a 6 year or 7 year lease warranty if we could get this changed. As far as the questioning about having incremental raise year or every two years, that was brought out by the House Committee, but they didn't amend it and we didn't make that a part of the requests in the bill. But, that would be a great suggestion and some of the representatives brought that up and I was hoping they would make it an increase every two years or something like that. But what the increase is going to be, we don't know, it just changes every year. That is our biggest problem as we're kind of in a box with the way it is set up now.

Chairman Andrist Are these leases similar to car leases in that at the end of the five years

or the seven years you don't own the equipment? **Jeff Magrum** replied, they do give us a guaranteed purchase which right now has been about \$100,000 if you buy a blade for \$250,000 and at the end of the lease if you don't go over the hours that they allow you, which is 5,000, then they will give you \$100,000 towards your next machine. So I think the car, you will lose everything. We just don't lease blades; we also lease trucks so we've got a pretty good fleet of equipment because we've got our own graveling hauling trucks and so on. It works good the lease them like we, but like I say, the trouble is the limitations.

Senator John Grabinger Wouldn't it make sense to eliminate the dollar amount on the maximum? **Jeff Magrum** replied yes. **Senator John Grabinger** Were talking about equipment that is going up rapidly in price and stuff and has been. I just think we're going to be back here shortly redoing this because of that and like Senator Lee was alluding to as well, maybe this is something we need to amend. You haven't had any talk with anybody else about that other than the manufactures or the companies that provide you equipment, right? **Jeff Magrum** replied no we haven't. I would like to change that or take that dollar limit out if this committee would consider that. I would definitely be for it as a county commissioner. That is the only time that it came up at the House when the Representatives from Cass County brought it up.

Senator John Grabinger In saying that, all this is doing is it's preventing you in the future from doing what you need to do if you run up against this again. Do you know about Home Rule counties, do they fall into this because I don't remember us running into this situation from the city standpoint? Maybe it was there and we just never knew it. I wasn't aware of it then, but I can see how this would be a definite problem unless Home Rule isn't ruled by this and you can get away from it with the Home Rule charter.

Jeff Magrum replied I do believe the Home Rule Charter counties, which there are not very many. I think five out of 53. I don't think they have to abide by this because of the charter, but I am not the authority there.

Senator Judy Lee Could we ask Bethany if she would just check to make sure. I believe that Senator Grabinger is right in that and that Home Rule is not covered. They are not affected by this. That is the whole purpose of the Home Rule. But I did have another question. If you would clarify for me, it says that the Board of County Commissioners may not enter a rental contract for a longer period than 12 months from the date of the rental contract. So are they annually renewable contracts as well then? If you sign a five year lease this says you can only lease for a year, but you must have an annual renewable? **Jeff Magrum** replied is that a rental, because we do rent equipment sometimes? **Senator Judy Lee** replied this is a rental contract. **Jeff Magrum** replied yes ours are leased. We do rent occasionally like the bad winter we had, we rented an extra blade and I wonder if that doesn't cover the rental part side of it.

Chairman Andrist Closed hearing on HB 1157.

Senator Howard Anderson Bethany is looking up the history on when that dollar limit was put for us as well as the lease question to about how it affects home rule.

Chairman Andrist The dollar limit you're speaking of is the \$40,000 annual payment?

Senator Howard Anderson yes, it indicates that payment was just put in there in 1997 and I wondered what the lease was.

Senator Judy Lee I would be interested if you're open for delay, in having a little response to the possibility of an amendment that would eliminate the dollar amount because I trust our elected county commissioners to do the right thing. They are responsible for the voters and that is us. The seven year lease that extends some options for them too certainly with the higher priced equipment, but I would personally be comfortable with removing the dollar amount if other members of the committee were supportive of an amendment of that sort.

Chairman Andrist Yes, I would just add a cautionary caveat, we don't know what they were thinking was on the other side. **Senator Judy Lee** added one, we don't care and the second thing is that it probably is not something anybody in this room is going to fall on their sword for in a conference committee. But I think it might be worth running up the flag pole to see if enough people salute.

Senator John Grabinger I would wholeheartedly agree. Being in the position as an elected city official we would've run up against that dollar amount and I just think that now with the cost of machinery and equipment and everything. We just bought in Stutsman County a recycler for our roads and that was over this amount right there. If you would've bought that on a lease by-back program we wouldn't have fit under this. I know that is a Home Rule Charter county but even so, we might be limiting the ability of these county commissioners to do the job they need to do. I would definitely think we should remove that.

Vice Chairman Ronald Sorvaag I think it's worth looking at even if it doesn't end up removed and even if it was a larger amount so it gives a bigger window. It would be worth going to conference committee and seeing.

Senator Jim Dotzenrod I am interested in these comments would essentially would you be talking about eliminating Subsection 2? Would we delete that? We are not talking about deleting it. **Vice Chairman Ronald Sorvaag** From my understanding we would just leave the last part with the 7 years. I don't think we want to take the 7 years out; it's just the dollar amount. Obviously some of the language preceding the dollar amount would have to be removed, but I think the intent of the discussion was we would still leave the 7 year limitation in.

Senator Judy Lee Do you see a problem with leaving the 7 years in? I know there is not a problem with leaving the money out, but I am not looking to eliminate the whole section, subsection 2. But does the 7 years create any barriers for you as a county commissioner.

Jeff Magrum replied no. I think that would work for us. You could take the dollar amount out that would help us out a lot.

Chairman Andrist This does just apply to equipment? It doesn't apply to real estate right? **Jeff Magrum** replied yes.

Senator Judy Lee I move that we amend HB 1157 to eliminate in Subsection 2 of section 1, the dollar amount maximum and retain the 7 year lease period.

2nd **Vice Chairman Ronald Sorvaag**

Chairman Andrist We had two ideas, one to raise it and the other one was to remove it.

Role Call Vote 6 Yea, 0 No, 0 Absent

Chairman Andrist Amendment is carried.

Senator John Grabinger I would move we pass the bill as amended

Vice Chairman Ronald Sorvaag 2nd

Role call vote 6 Yea, 0 No, 0 Absent

Carrier: Senator Judy Lee

13.0305.01001
Title.02000

Adopted by the Political Subdivisions
Committee

March 7, 2013

3/7/13
TD

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1157

Page 1, line 24, overstrike "under which the annual payments by the county do not exceed!"

Page 2, line 1, remove "forty"

Page 2, line 1, overstrike "thousand dollars"

Page 2, line 2, overstrike the comma

Renumber accordingly

Date: 3-7-2013
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1157

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Sr. Grabinger Seconded By Sr. Sorvaag

Senators	Yes	No	Senator	Yes	No
Chairman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Ronald Sorvaag	✓		Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Judy Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1157: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1157 was placed on the Sixth order on the calendar.

Page 1, line 24, overstrike "under which the annual payments by the county do not exceed"

Page 2, line 1, remove "forty"

Page 2, line 1, overstrike "thousand dollars"

Page 2, line 2, overstrike the comma

Renumber accordingly

2013 CONFERENCE COMMITTEE

HB 1157

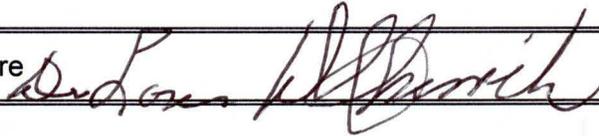
2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1157
April 9, 2013
Job # 21005

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to county road machinery.

Members present: Rep. Beadle; Rep. M. Klein, Rep. B. Hanson; Senator J. Lee, Senator Dotzenrod, Senator H. Anderson.

Rep. Beadle: Chaired the conference committee meeting on HB 1157. This was a bill that dealt with contracts for road machinery. When passed out of the House chamber we had amended it for subsection two that counties were limited to \$40,000 for road machinery and articles as opposed to \$20,000 previously in statute. It looks like the Senate amended out that language so there was no longer a limitation on the dollar threshold. I discussed this with our chairwoman we discussed the logic behind that and where it came from. They completely eliminated the dollar level.

Senator J. Lee: I don't recall it being a county request at all. We don't think it is necessary to have every detail in statutes. We feel that the county commissioners have been responsible and careful about what they are trying to do with our tax dollars in the counties and so we just supported the idea of allowing the counties to decide. Because there are significant increases in the prices of these pieces of equipment compared to when the \$20,000 figure was in there; rather than having to come back and adjust this a few years down the road because of the huge projects that are taking place in some areas that we would leave it to the discussion of the counties, but leave the seven year limit in.

Rep. Beadle: Contracts for road machines is usually not a budget killer for most political subdivisions so I assume the impact of above \$40,000 on property taxes that are on county budgets etc. really would be minimal is anything.

Senator J. Lee: I think that there was a general concurrence among the members of our committee that the county commissioners in the counties in which we live have been really responsible and trying to keep costs down; recognizing that dissatisfaction with high property taxes in all I can't imagine that they were going to be any more fragrant in their attitudes in the future than they have in the past. It is just indicating confidence in what county commissioners had been doing. If we think they are indiscrete in the way they approach this there is another legislative session coming and the numbers would go back in.

Rep. Beadle: Part of the testimony we had received was that the construction machinery costs have increased nearly 40% just over the last few years and some parts of the state it has been more than that and some less so I don't really see too many problems with this. With that I would entertain a motion for the House to accede to the Senate amendments.

**Rep. M. Klein made a motion for the House to accede to the Senate amendments;
Seconded by Rep. Ben Hanson.**

Discussion: None

Vote: 6 Yes 0 No 0 Absent.

Closed.

2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Palatka, Sub.

Bill/Resolution No. 1157 as (re) engrossed

Date: 4-9-13

Roll Call Vote #: 1

- Action Taken**
- HOUSE accede to Senate amendments
 - HOUSE accede to Senate amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 897 -- 898

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: Rep. M. Klein Seconded by: Rep. B. Hanson

Representatives				Yes	No		Senators			Yes	No
<u>Rep. T. Bradle</u>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			<u>Senator T. Lee</u>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
<u>Rep. M. Klein</u>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			<u>Senator Dotzger</u>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
<u>Rep. B. Hanson</u>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			<u>Senator H. Anderson</u>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Bradle Senate Carrier Sen. T. Lee

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1157: Your conference committee (Sens. Anderson, Dotzenrod, J. Lee and Reps. Beadle, Hanson, Klein) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ pages 897-898 and place HB 1157 on the Seventh order.

HB 1157 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

HB 1157

Testimony to the
House Political Subdivisions Committee
Prepared January 24, 2013 by
Terry Traynor, Assistant Director
North Dakota Association of Counties

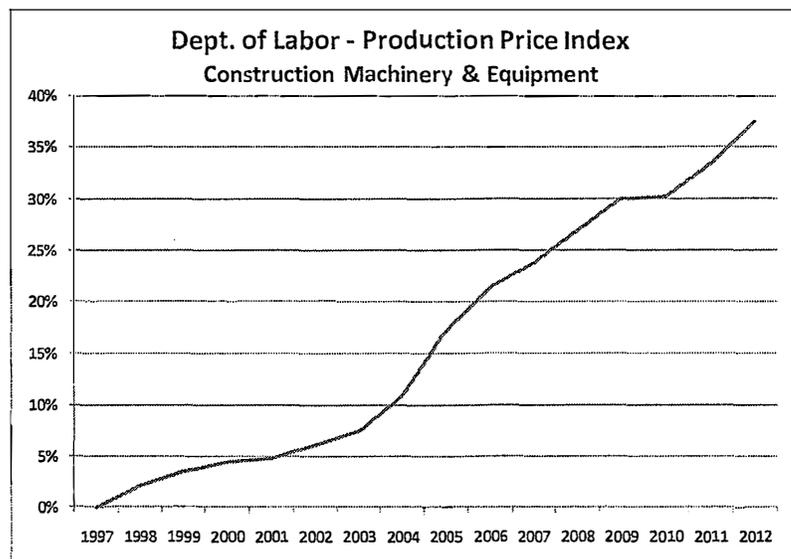
Regarding: HB1157 – Lease/Purchase of County Road Equipment

Madam Chair and Committee Members, the North Dakota Association of Counties requested the introduction of this bill on behalf of our county members and they are in full support of its passage.

As is apparent in the bill, this section of law addresses the bidding thresholds for county road construction as well as county road equipment. The only portion that this bill proposes to amend is the specific limitations on the use of the lease-purchase option for road machinery.

Currently, the law limits this option to \$20,000 per year for 5 years – limiting its use to equipment selling for a maximum of \$100,000. This may have been appropriate when that dollar threshold was enacted in 1997, but since that time the price of road equipment has increased quite significantly. Interestingly, prior to 1997, there was no dollar threshold, only the current 5-year term limitation. The unlimited 5-year lease option was in place at least since the early 1980's.

To illustrate the increase to the cost of equipment I have included a chart from the Department of Labor's Production Price Index specifically for construction equipment – illustrating the documented inflation across the nation to the cost of this type of equipment since the current threshold was established.



Several specific, recent, real-life examples were provided to our office by Cass County.

- A tandem-axle truck purchased for \$87,000 in 1995 cost them \$98,000 in 2010.
- A front-end loader bought for \$108,000 in 2001 cost them \$130,000 in 2011.
- And the big-ticket item, a motor grader they bought in 2002 for \$166,000 came in at \$247,000 in 2012.

Moving the dollar limit and the term as proposed would move the maximum allowable lease to \$280,000.

While adjusting the dollar-limit and the term-limit together addresses the equipment cost, the purpose for the adjusting the term is actually two-fold. Until very recently, the 5-year term matched the common warranty limit for most equipment. As equipment cost has increased and its reliability improved, warranties of 6 and 7 years are more common and counties are more likely to maintain the equipment longer before trade-in.

For these reasons, Madam Chair and committee members, our Association urges a Do Pass recommendation. Thank you.

Testimony to the
Senate Political Subdivisions Committee

Prepared March 7, 2013 by
Mel Kambeitz, Government Relations
North Dakota Association of Counties

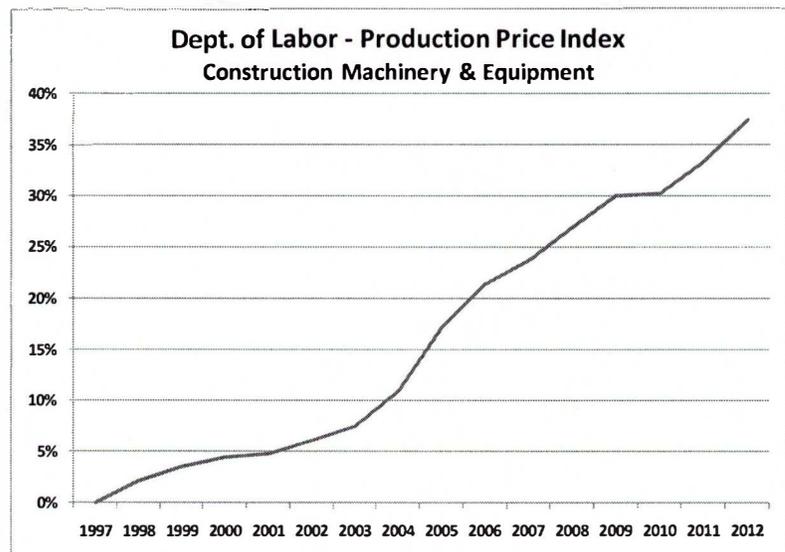
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