

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 14, 1987 at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

PRESENTATION ON WORKER'S COMPENSATION

Bob Robinson, Administrator of the Workers' Compensation Division, of the Department of Labor and Industry gave a continuation of his presentation given on January 6. He presented a schematic that included the various stages in processing a workers' compensation claim after it is filed and some of the considerations that a claims examiner thinks about when making a determination on a claim. Exhibit No. 1.

Ben Everett, an attorney from Anaconda who represents claimants in workers' compensation cases, also appeared before the committee. Mr. Everett stated that he was asked to appear by Mr. England to discuss the procedure as it exists now, and as it exists under the Advisory Council proposal, and to discuss what would happen under the Governor's proposal. He made several points that reflected the claimant's perspective, one of which was the excessive time involved for payment of the claims. He stated that the Governor's proposal that has not yet been introduced places into the system an extremely complex appeal procedure. He distributed a copy of the information. Exhibit No. 2.

Questions were asked by the committee to Mr. Robinson and Mr. Everett. One of the points made by Mr. Everett during the questioning was that he felt the insurance system is financially troubled because it has set unrealistic low rates, but Mr. Robinson stated that the premiums have increased significantly in recent years, but the fund has been unable to keep pace with the rising costs.

HOUSE BILL NO. 94 - Make Membership in Rating Organization Optional For State Workers Compensation Fund, introduced by Representative Clyde Smith. Mr. Smith stated that the present statute required the state compensation insurance fund to be a member of the national rating organization. He stated that HB 94 merely makes such membership optional, and that the state compensation insurance fund needs the ability

and flexibility to manage its operations in order to make decisions or take appropriate action and to better service Montana employers. He said the fund is a member of the national rating organization, and uses some of its services to assist managing its policy services units. Mr. Smith also stated that if the state fund finds it necessary or identifies alternative methods of providing the services offered by the national rating organization, they should be allowed to take action without waiting for the legislature to remove restrictive language in the current statute.

PROPOSERS

Jim Murphy, Bureau Chief, State Insurance Fund Bureau. Mr. Murphy stated that the State Insurance Fund and the Division support this bill. He stated that the current law requires the state fund to be a member of the national rating organization, and that the Montana State Insurance Fund belongs to the National Counsel and Compensation Insurance, NCCI, which performs various services for the state fund. NCCI, he said, calculate the experience modification factors for all state fund policy holders who qualify, and they provide the same service for the insurance carriers that write workers compensation in Montana and other states. He continued to say that experience factors that adjust the policy holders premium is based on each policy holder's loss experience, and is measured against an expected loss; the state fund also adapts and uses the NCCI class code system and descriptions that are used in Montana by policy holders, the same as others carriers in Montana. He said they have no intention of dropping their membership in NCCI, however, if the time came that they could obtain these services at less cost or if NCCI could not provide these services in a timely manner, this bill would provide them with the flexibility to manage their operation if a problem develops. Exhibit No. 1 and 2.

Keith Olson, Executive Director of the Montana Logging Association. Mr. Olson gave an example of an experience of a member that became a member of the state fund in 1984 and was unable to assign them an experience mod because of difficulty they were having getting that information from NCCI. He said they were directed to use an experience mod of 1.0, and finally in 1986 the experience mod came from NCCI which was a rather substantial experience mod when retroactively applied to July 1, 1986; the back premium due was in excessive of \$23,000. He stated that this new experience mod they have to use will make it very difficult for them to competitively bid for those contracts, much less pay off that back premium. He said this bill will address and alleviate those kinds of problems.

OPPONENTS

Tanya Ask, Montana Insurance Department. Ms. Ask stated that their concerns with the bill would be taken care of by Mr. Murphy's proposed amendment. She stated that they do regulate the private insurers in the state, and one of their concerns is that the private insurers remain solvent and able to offer insurance in this state. She said they realize that the state fund is the largest provider of workers compensation insurance, and their experience is valuable to other insurers offering workers compensation, and wants to see that experience continue to be available to other insurers so their rates will reflect Montana insurance experience and not lead to potential insolvencies. She suggested that if the committee changes the wording in the workers compensation section and in order to avoid a conflict the committee may want to change the wording in the insurance code, 33-16-1005, that also contains a requirement that the workers compensation fund belong to a rating organization.

There being no further discussion by proponents or opponents, Chairman Kitselman asked for questions by the committee.

QUESTIONS

None.

CLOSING

Rep. Clyde Smith made no further comments.

EXECUTIVE ACTION - January 14, 1987 - 9:15 a.m.

ACTION ON HOUSE BILL NO. 51

Rep. moved that House Bill No. 51 DO PASS.

Rep. Kitselman moved amendments to House Bill No. 51.
The motion failed.

The original motion by Rep. Simon that House Bill No. 51 DO PASS was voted on. The motion carried unanimously.

ADJOURNMENT

The meeting adjourned at 9:40 a.m.



REP. LES KITSELMAN, Chairman

STANDING COMMITTEE REPORT

JANUARY 14

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 51

do pass

do not pass

be concurred in

be not concurred in

as amended

statement of intent attached

REP. LES KITSELVAH

Chairman

FIRST

VB

reading copy (

WHITE

color)

DAILY ROLL CALL
 BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date January 14, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

EXHIBIT 1
DATE 1/14/87
HB Workers Comp
Presentation

**EMPLOYERS INSURED
IN MONTANA
1977 - 1985**

PLAN 1	PLAN 2	PLAN 3
SELF INSURED	PRIVATE INSURANCE	STATE FUND
Y77 67	10,549	16,935
Y85 48	8,874	24,254

WORKERS' COMPENSATION BENEFITS PAID

By Plan and Year

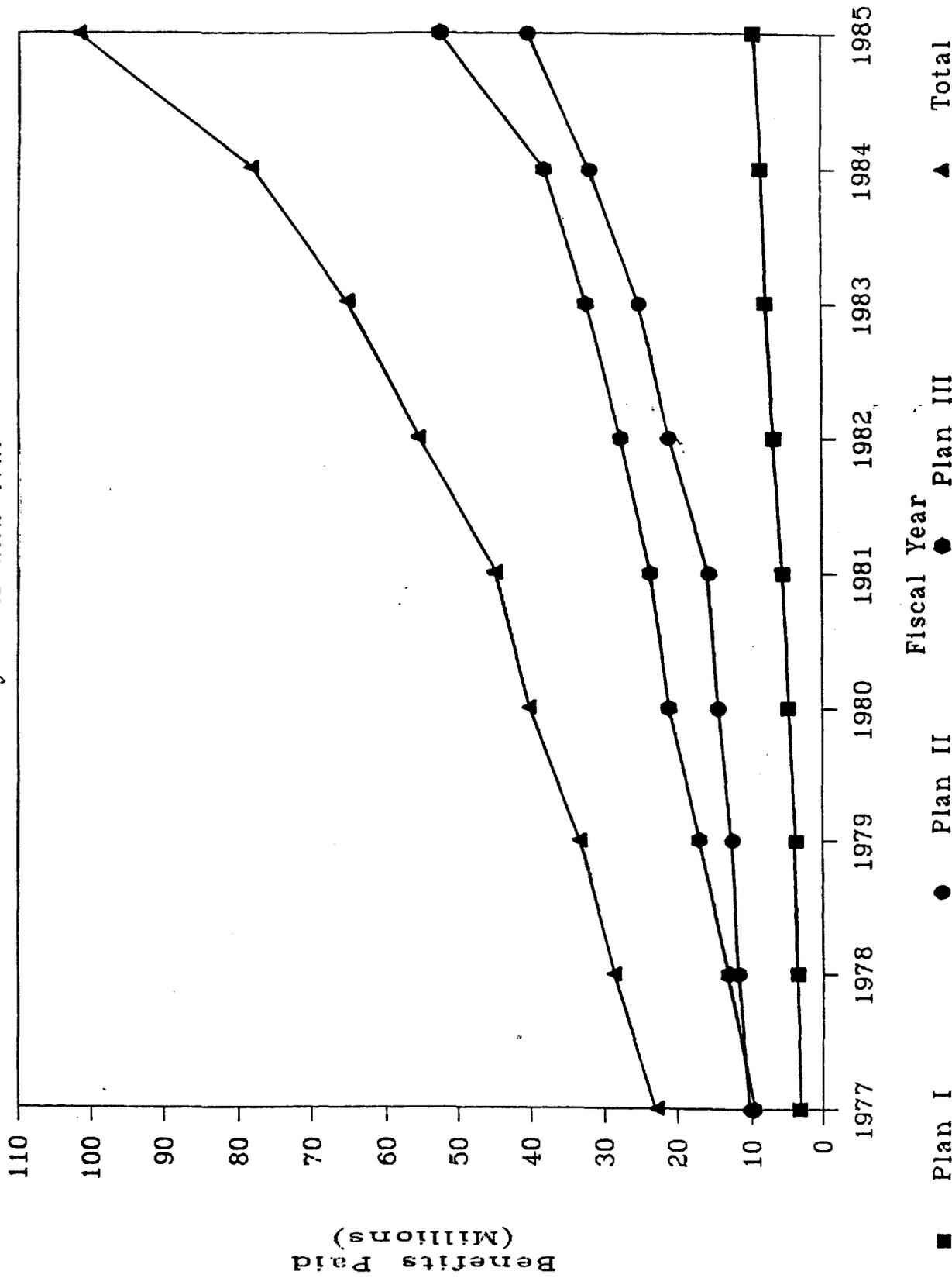
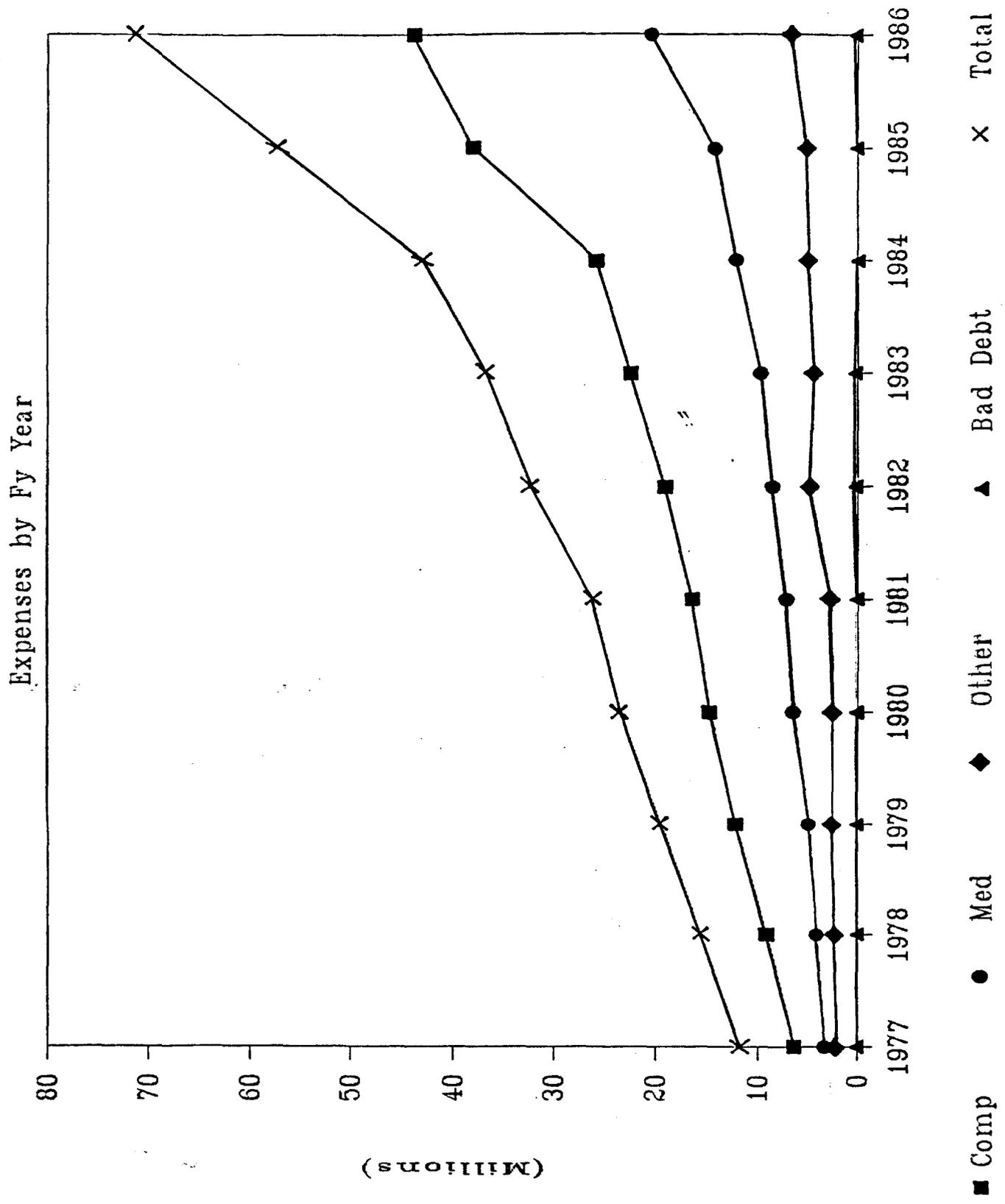


EXHIBIT _____
 DATE 1/14/87
 HB Workers Comp
Presentation

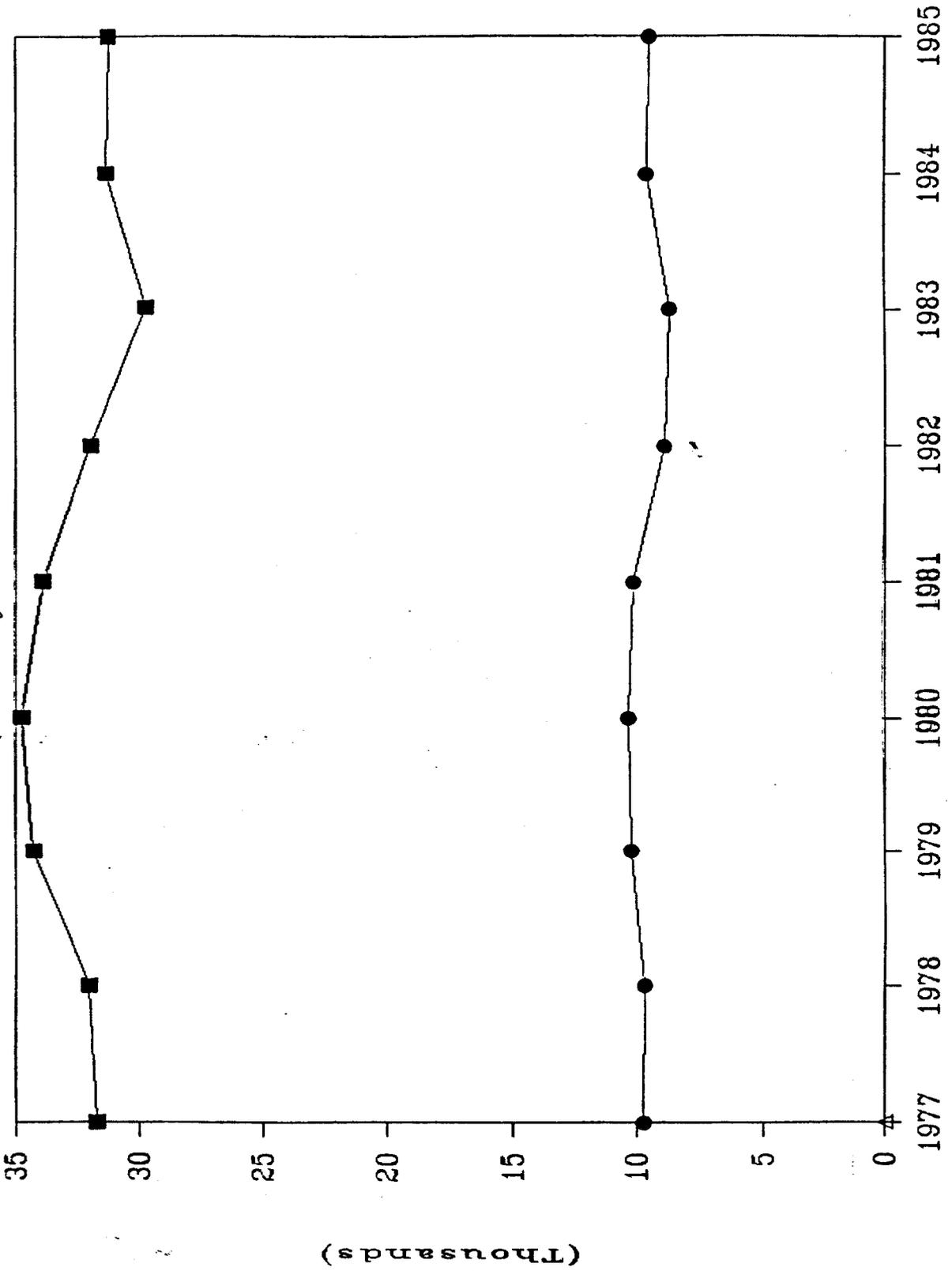
State Ins. Fund Financial Summary

EXHIBIT 1
 DATE 1/14/87
 HB Workforce Comm. Presentation



DWC REPORTED INJURIES

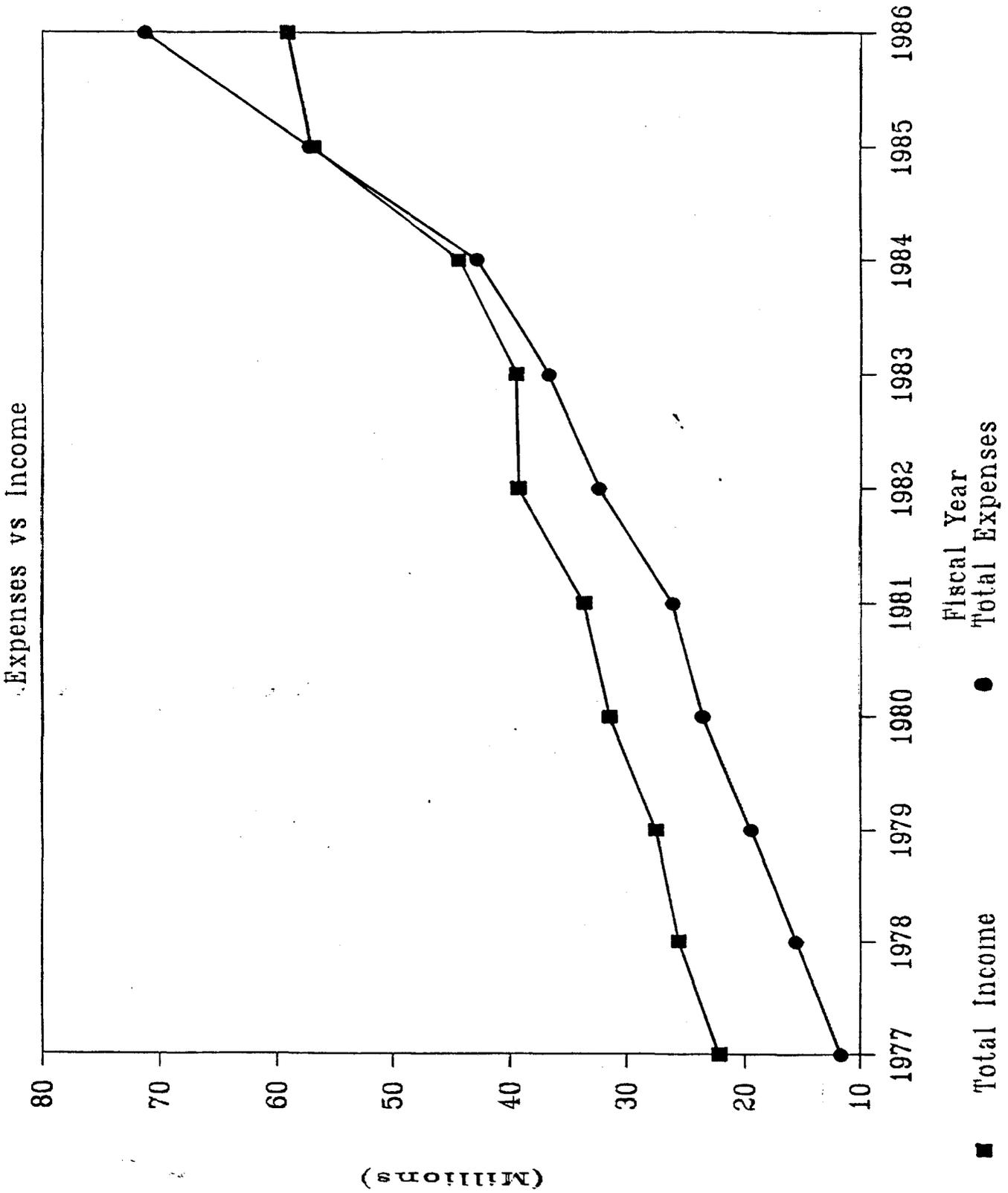
By Year



Fiscal Year
■ Total Injuries
● Lost Time Injuries

EXHIBIT 1
DATE 1/14/87
HB. Workers Comp
Presented

State Ins. Fund Financial Summary



State Ins. Fund Financial Summary

Premium vs Expenses

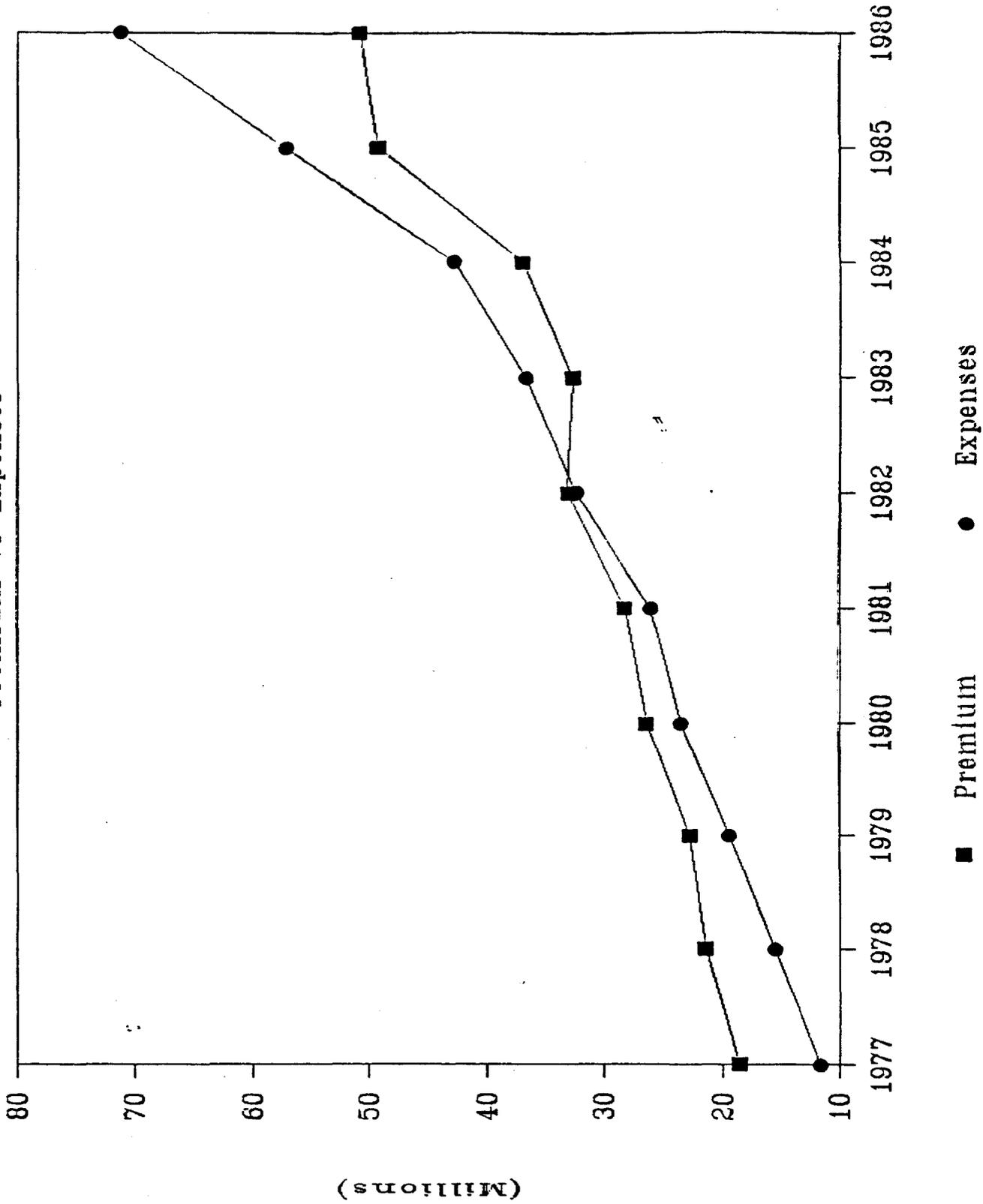


EXHIBIT _____
DATE _____
HB _____

DWC Annual Report Data

	1977	1978	1979	1980	1981	1982	1983	1984	1985
Plan I Employers									
Nm of Injuries	3,434	3,430	3,530	4,061	4,236	3,440	3,049	2,988	2,968
Nm of Claims Filed	819	943	939	1,003	868	721	642	580	649
Comp Benefits Paid	\$2,254,506	\$2,432,744	\$2,486,740	\$3,270,817	\$3,769,779	\$4,639,479	\$5,536,020	\$5,998,467	\$6,857,536
Med Benefits Paid	\$1,051,615	\$1,119,581	\$1,262,853	\$1,428,472	\$1,662,131	\$2,094,551	\$2,395,603	\$2,335,060	\$2,521,471
TOTAL BENEFITS	\$3,306,121	\$3,552,325	\$3,749,593	\$4,707,289	\$5,431,910	\$6,734,060	\$7,931,623	\$8,333,527	\$9,379,007
Plan II Employers									
Nm of Injuries	10,549	9,824	9,604	9,472	9,507	9,556	9,651	9,676	8,874
Nm of Claims Filed	16,296	15,053	14,918	13,300	12,369	12,649	11,765	12,521	12,717
Comp Benefits Paid	\$6,827,621	\$8,094,026	\$8,730,712	\$10,137,449	\$10,875,669	\$14,631,178	\$16,950,363	\$21,668,737	\$26,970,999
Med Benefits Paid	\$3,364,555	\$3,789,400	\$3,758,113	\$4,303,102	\$4,783,380	\$6,325,371	\$7,927,952	\$9,981,991	\$13,171,048
TOTAL BENEFITS	\$10,192,176	\$11,883,426	\$12,496,825	\$14,440,551	\$15,659,049	\$20,956,549	\$24,878,315	\$31,650,728	\$40,142,047
Plan III Employers									
Nm of Injuries	16,935	18,735	20,189	20,838	22,389	22,399	22,732	23,610	24,254
Nm of Claims Filed	12,004	13,577	15,847	17,375	17,283	15,864	14,903	15,834	15,558
Comp Benefits Paid	\$6,242,303	\$9,062,434	\$12,073,818	\$14,592,039	\$16,354,209	\$18,994,422	\$22,447,940	\$25,753,121	\$38,034,472
Med Benefits Paid	\$3,218,933	\$4,062,421	\$4,792,134	\$6,355,624	\$7,084,644	\$8,438,957	\$9,682,244	\$12,141,318	\$14,050,173
TOTAL BENEFITS	\$9,461,236	\$13,124,855	\$16,865,952	\$20,947,663	\$23,438,853	\$27,432,979	\$32,130,184	\$37,894,439	\$52,119,645
TOTAL INJURIES									
Lost Time Injuries	31,734	32,060	34,295	34,736	33,888	31,953	29,717	31,343	31,243
Fatalities	9,760	9,668	10,185	10,306	10,127	8,903	8,709	9,597	9,533
	46	50	38	37	45	44	45	48	40
TOTAL COMP BENEFITS	\$15,324,430	\$19,589,204	\$23,299,270	\$28,008,305	\$30,999,657	\$38,265,079	\$44,934,323	\$53,420,325	\$71,863,007
TOTAL MED BENEFITS	\$7,635,103	\$8,971,402	\$9,813,100	\$12,087,198	\$13,530,155	\$16,858,509	\$20,005,799	\$24,458,394	\$29,777,692
TOTAL BENEFITS	\$22,959,533	\$28,560,606	\$33,112,370	\$40,095,503	\$44,529,812	\$55,123,588	\$64,940,122	\$77,878,719	\$101,640,699

EXHIBIT _____
 DATE _____
 HB _____

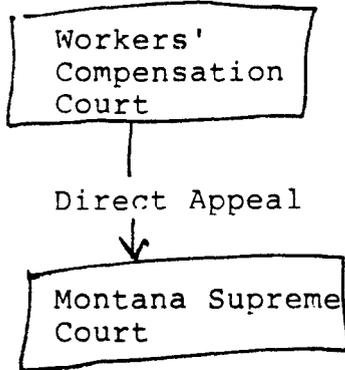
State Ins. Fund Financial Activity Summary
 Fiscal Year-End Reports 1977 - 1986

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
REVENUE										
Premium Collected	\$18,569,726	\$21,384,869	\$22,724,305	\$26,453,151	\$28,343,966	\$33,130,446	\$32,689,000	\$37,032,669	\$49,292,000	\$50,861,305
Investment Earnings	\$3,542,377	\$4,234,005	\$4,714,651	\$4,966,314	\$5,237,962	\$5,758,864	\$6,490,260	\$7,201,849	\$7,401,282	\$7,964,872
Misc Income	\$13,200	\$26,000	\$118,000	\$140,000	\$105,000	\$432,000	\$347,000	\$169,000	\$426,000	\$313,000
TOTAL INCOME	\$22,125,303	\$25,644,874	\$27,556,956	\$31,559,465	\$33,686,928	\$39,321,310	\$39,526,280	\$44,403,518	\$57,119,282	\$59,139,177
EXPENSES										
Comp Benefits	\$6,292,303	\$9,062,434	\$12,073,818	\$14,592,039	\$16,354,209	\$18,994,422	\$22,447,940	\$25,753,121	\$38,034,472	\$43,866,927
Med Benefits	\$3,218,933	\$4,062,421	\$4,792,134	\$6,355,624	\$7,084,644	\$8,438,557	\$9,682,244	\$12,141,318	\$14,085,173	\$20,472,171
Other Expenses	\$2,133,606	\$2,285,490	\$2,488,642	\$2,439,404	\$2,629,336	\$4,699,496	\$4,374,494	\$4,999,361	\$5,021,998	\$6,672,158
Bad Debt Expenses	\$94,268	\$141,481	\$156,705	\$98,696	\$68,220	\$267,930	\$248,911	\$0	\$100,144	\$248,948
TOTAL EXPENSES	\$11,689,110	\$15,551,826	\$19,511,299	\$23,485,763	\$26,136,409	\$32,400,405	\$36,753,589	\$42,893,800	\$57,241,787	\$71,260,204
RESERVES (CH&E Repts)										
Liabilities Benefits	\$16,146,000	\$39,543,000	\$41,490,000	\$47,616,914	\$58,133,548	\$64,192,549	\$67,163,811	\$73,897,734	\$103,169,681	\$138,118,055
Surplus Reserves	\$8,722,000	\$9,937,000	\$9,874,000	\$8,037,907	\$6,239,749	\$5,739,759	\$5,547,025	\$352,684	(\$28,970,970)	(\$81,021,967)
Cash & Investments	\$51,102,000	\$56,493,000	\$59,684,000	\$60,401,555	\$60,269,269	\$62,607,167	\$66,265,406	\$64,292,102	\$57,737,038	\$47,951,191

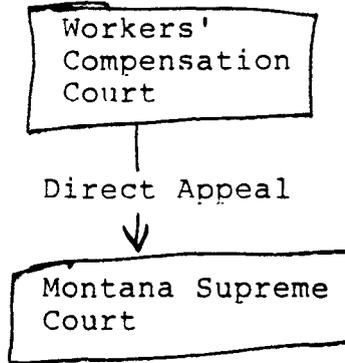
WORKERS' COMPENSATION
BENEFIT DISPUTE RESOLUTION

EXHIBIT 2
DATE 1/14/87
HB Workers Comp
Presentations

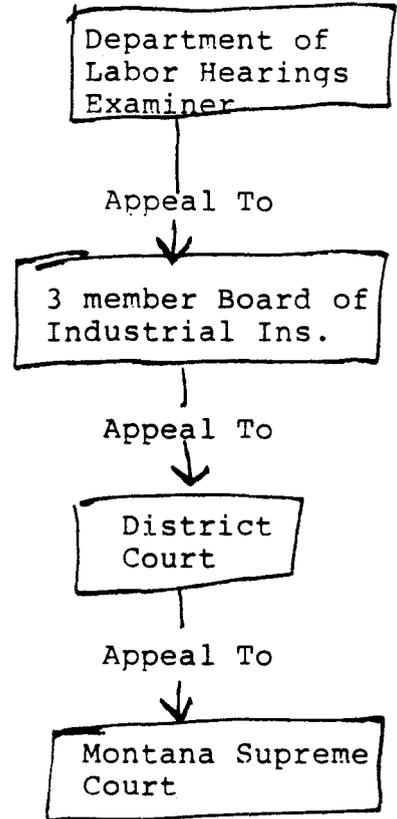
PRESENT LAW



ADVISORY COUNCIL'S PROPOSAL



GOVERNOR'S PROPOSAL



Under the Governor's proposal the Workers' Compensation Court is to be replaced by Hearings Examiners, a 3 member Board of Industrial Insurance (Each paid an annual salary of 80% of the Commissioners of Labor & Industry, and the District Courts.

WORKERS' COMPENSATION COURT
ISSUES AND ANSWERS

Governor Schwinden when announcing his decision to ask the 1987 Legislature to abolish the Workers' Compensation Court said:

The Workers' Compensation Court should be scrapped and replaced with an administrative review panel to help head off the growing trend toward litigation of cases, he said.

The court acts as an invitation to litigation, he said, pointing out that the number of court suits in workers' compensation cases has increased from 300 a decade ago to 571 last year. An administrative review process will bring control of the system back to the Legislature, Schwinden said.

Great Falls Tribune, November 13, 1986

Fact: The number of decisions issued by the Workers' Compensation Court has remained constant for the past three years. In 1984 it issued 87 decisions; in 1985 it issued 97 decisions; and in 1986 the number actually decreased to 92.

The number of petitions filed in the Court decreased 11 percent in 1986. The 1986 figure of 571 petitions with only 92 completing the adjudication process shows the high percentage of settlements that occur. Many times petitions are filed to end a statement with the insurer's adjusters forced a review by the insurer's legal counsel.

Gene Huntington,
Labor Commissioner:

Robert Robinson,
Administrator of the Workers'
Compensation Division and the
State Compensation
Insurance Fund:

". . . the (State Fund) losses were primarily the result of costly, adverse court decisions, not administration of the Fund."

"The degree of litigation and the impact of the courts' decisions are a major portion of the financial stability for all insurers doing workers' compensation."

Great Falls Tribune, November 10, 1986.

Montana Standard, October 12, 1986.

Fact: Claimant's prevailed in only 28 percent of the cases decided by the Workers' Compensation Court between September 21, 1985 through September 20, 1986. Of the claims filed for compensation, only one-tenth of one percent are ever litigated. The self-insurers and the private carriers have not created a deficit or called for an end of the Workers' Compensation Court.

THE MONTANA WORKERS' COMPENSATION SYSTEM

The Montana Workers' Compensation system is comprised of three plans of insurance protection for injured workers. Plan one is the self-insured coverage by large employers, plan two is the private insurance carriers, and plan three is the State Compensation Insurance Fund.

The Workers' Compensation Division regulates the three plans and the administrator of the division is also the administrator of the State Fund. Montana is the only state in the nation where the administrator of the State Fund is also the person in charge of the agency that regulates it. The Legislative Auditor in 1974 and the Governor's Council in 1985 recommended this continuing conflict of interest be ended.

The Workers' Compensation Court was created in 1975 after the Legislature agreed with its select committee that studied the workers' compensation system and recommended that an independent entity was necessary to adjudicate disputes.

The Governor's proposal to now abolish the Workers' Compensation Court would return the state to the same inherent conflict of interest that was eliminated after the workers' compensation scandals of the early 1970's.

Today the basic components in the workers' compensation system are essentially sound except for the State Fund which recently revealed that it has a deficit of 81 million dollars according to the lowest of the three estimates it received. The administration denies that the deficit is the result of poor management decisions and instead blames the court system. They are proposing to abolish the Workers' Compensation Court and substantially change the workers' compensation statutes.

The past three administrators of the Division of Workers' Compensation and State Fund have had no workers' compensation or insurance experience prior to being interviewed and appointed by the Governor. They were presented with complex and conflicting situations which often resulted in decisions that were inconsistent, incorrect and costly. The results have provided expensive proof that the ability to run one agency does not transfer that skill to the specialization required by another.

Undoubtedly, the largest single reason for the State Fund deficit was the continual refusal of administrators to gradually raise premiums when it was obvious that the rates would not cover the losses anticipated. Such refusal was sometimes based on not wanting to be the one to be responsible for such increases and thus leaving the unpleasant task to his successor. Sometimes the State Fund was told that for political reasons it could not raise

rates at a time when it was obvious that they should have been raised. As a result, the problems did not disappear but only grew to a point until it can no longer be ignored and the crisis in the State Fund has been publicized as a crisis for the entire workers' compensation system.

Instead of honestly disclosing the development of the State Fund crisis, the administration decided to place all of the blame on the courts while denying and mismanagement in the operation of the State Fund.

The Workers' Compensation Court's decisions apply equally to the three plans but only the State Fund blames the Court for the deficit which it alone possesses. Representation of the self insurers and the private carriers have vigorously criticized the Governor's Administration for proposing that the Workers' Compensation Court be abolished.

Justification for the elimination of the Court is based on an alleged explosion of litigation which is said to have produced the major portion of the State Fund's financial crisis. The facts do not support this assertion.

The Workers' Compensation Court in fiscal year 1986 decided 92 cases. In 1985, it decided 92 and in 1984, it decided 87 cases. In 1986, the number of petitions filed actually decreased from

DATE 11/14/85
HB

646 to 571. The actual decisions written by the Workers' Compensation Court has remained basically steady for the past three years. The litigation explosion is a myth.

Only 28 percent of the Workers' Compensation Court decisions favored the claimant between September 21, 1985 and September 20, 1986. This could not possibly account for the 52 million dollars that the State Fund alleges that it lost in that one year alone.

The Workers' Compensation Court has been unfairly blamed for a deficit which has, in fact, been due to a series of poor management decisions by inexperienced administrators. The fact that the administrator of the division also is administrator of the Fund contributed to poor management decisions which were more difficult to detect and correct.

The workers' compensation system is centered around an independent Court created after the legislative auditor and select legislative committee in 1974 recommended and the legislature created the present Court. It should not be sacrificed for a new system which would compound the present conflict by giving them the authority to hear disputes that arise from their own actions.

The proposal now to abolish the Workers' Compensation Court and return to a failed system ignores the lesson that total control does not produce total justice, even at a suggested reduced price. Montana needs a viable workers' compensation system but eliminating an independent Court is false economy and only diverts attention from the actual source of the State Fund deficit.

WORKERS' COMPENSATION COURT STATISTICS
1982 Through 1986

	FY82	FY83	FY84	FY85	FY86	FY87
Petitions Filed	351	405	437	646	571	
Pretrials	294	321	393	441	416	
Minute Book Entries (Trials)	258	189	137	150	126	
Procedural Order	432	459	729	992	1004	
Notice Given	565	659	763	1104	1196	
Findings of Facts	57	67	87	99	92	
Substantive Orders			78	187	119	
Attorney Fee Orders			<u>63</u>	<u>148</u>	<u>53</u>	
TOTAL			228	334	264	
Compromise Settlement	747	863	805	1055	1152	

EXHIBIT 2
1/19/87

EXPLANATION OF WORKERS' COMPENSATION COURT STATISTICS

PETITIONS FILED

This document opens the Register of Actions for a case. It does not include cross-petitions, amended petitions, petitions for attorney fees filed while a case is still active, or various other petitions filed in an active case.

PRETRIALS

These are scheduled in each case as a result of the filing of the initial petition.

MINUTE BOOK ENTRY

The Clerk of Court's official record of a trial and entries are made each time the Court convenes to hear a matter.

FINDING OF FACT, CONCLUSIONS OF LAW & JUDGMENT

The final decision of the Court which is issued after the evidence has been presented, depositions are filed and proposed findings and briefs have been filed. This may result in a request for attorney fees or a rehearing. An appeal to the Montana Supreme Court can be made by either party.

SUBSTANTIVE ORDER

This includes many and varied Court rulings such as: summary judgment, discovery rulings, interim rulings on various issues, and rulings on rehearing petitions.

COMPROMISE SETTLEMENT

This review is required by Section 39-71-2908, MCA.

PROCEDURAL ORDERS

These include orders of the Judge, hearing examiners, or Clerks of Court regarding the procedure of the case. They include orders regarding discovery, production, exhibits and dismissing without prejudice.

NOTICE

Notices include the setting, vacating, and or resetting of trials.

Testimony HB94

The State Compensation Insurance Fund (SCIF) and the Division of Workers' Compensation supports HB94.

Current law requires SCIF to be member in a national rating organization. We belong to the National Council on Compensation Insurance (NCCI). NCCI performs required services for SCIF such as:

1. NCCI calculates the experience modification factors for all SCIF policyholders and in fact provides this same service for all insurance carriers. Experience mod factors adjust policy holders premium based on each policyholders actual accident experience measured against a standard of expected loss experience. We submit payroll premium and accident data to NCCI for qualified policyholders and using actuarial formulas NCCI prepares the factors.

2. SCIF also adapts the NCCI class code system for use in Montana by our policyholders. For the most part, we use the NCCI class code numbers and descriptions which are used by other carriers in Montana and in many other states. The class codes are the four digit numbers where policyholders classify their payroll for premium calculation purpose. For example, 8810 - is the secretary code, 2702 - logging, etc.

3. NCCI also provides assistance in determining which type of business or occupation should be classified in which of the 400 plus

EXHIBIT 1
DATE 1/14/87
HB 94

class codes. They do this by telephone with our staff and by on-site inspections at the policyholders place of business.

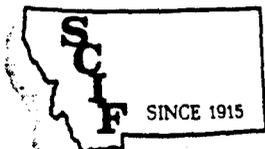
HB94 merely provides SCIF the flexibility to manage its operation. We have no intention of dropping our membership in NCCI, because the services provided are required to better serve our policyholders.

However, if the time comes where we can obtain these services at less cost, or if NCCI cannot provide proper services in a timely manner, we must be able to change without having to wait and get the law changed in the next session. If we have to wait we will not be providing adequate and proper services to Montana employers.

Frankly, we are presently experiencing some problems in obtaining experience mod factors on a timely basis and because of the differences in our rate structure, we may have a problem in the future in getting experience mod factors which truly represent the experience of our policyholders. The SCIF and NCCI have been working for the past several months attempting to resolve some of these problems and we have made progress and our intention is to find solutions so our policyholders are provided proper services. Nevertheless, I would recommend the passage of HB94 so we have the flexibility to deal with any problems in the future before a crisis develops and we are unable to act because of the current statutory language.

Submitted by

James J. Murphy, Bureau Chief
State Compensation Insurance Fund



STATE COMPENSATION INSURANCE FUND
DIVISION OF WORKERS' COMPENSATION
P.O. BOX 4759
HELENA, MONTANA 59604-4759

EXHIBIT 2
DATE 1/14/87
HB 94

POLICY SERVICES: (406) 444-6440

CLAIMS: (406) 444-6500
January 19, 1987

MEDICAL PAYMENTS: (406) 444-6460

Representative Clyde Smith
House of Representation
State Capitol
Helena, Mt 59601

Re: Amendments to House Bill 94

Dear Representative Smith:

As a result of the hearing on HB94, it will be necessary to request the House Business and Labor Committee to amend the proposed bill. I have enclosed two amendments for you and the committee's consideration.

1. The first amendment is needed to make sure the Insurance Commissioner's statutes agree with the intent of the proposed legislation. The amendment will eliminate the requirement for the Division of Workers' Compensation from being a member of the rating organization.
2. The second amendment requires the division and the rating organization to provide the necessary exposure and accident information for rate making, calculating experience modification factors and other purposes. As discussed in the committee hearing, this language assures NCCI and other insurers that the State Compensation Insurance Fund will be required to provide its data to the rating organization for rate making purposes, regardless of whether the division is a member. The amendment also requires the rating organization to provide data to the division for the same purposes. In the unlikely event the SCIF provides some of the services, now provided by NCCI, especially experience mod factors, we would need the accident and exposure information from insurance carriers who previously enrolled Montana employers.

Tanya Ask of the Insurance Commioner's office reviewed the proposed amendments and indicated they seemed to satisfy their concerns.

Sincerely,

JAMES J. MURPHY
Bureau Chief

JJM/vj

Enc.
cc: Representative Kitselman ✓

EXHIBIT 7
DATE 1/14/87
HB 194

House Bill 94

First Amendment

Amend Section 33-16-1005, MCA in (1) by striking the word "including" in the first sentence and inserting the word "except."

"(1) Every insurer, ~~including~~ except the Division of Workers' Compensation, writing workers' compensation insurance in this state shall be member of a workers' compensation rating organization."

EXHIBIT 2
DATE 1/14/87
HB 94

House Bill 94

Second Amendment

Amend Section 39-71-2302 of HB94 by inserting after the end of the sentence on line 19 the following:

"The division and the rating organization shall exchange financial and statistical data, including but not limited to payroll exposure and accident information, for rate making experience modification and other purposes regardless of whether the division is a member of the rating organization."

