

HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE MINUTES
January 27, 1983

The House Labor and Employment Relations Committee convened on January 27, 1983 at 12:30 p.m. in Room 224K of the State Capitol with Chairman Williams presiding and all members present. Chairman Williams opened the meeting to executive session.

EXECUTIVE SESSION

HOUSE BILL 277 Chairman Williams recognized Rep. Smith. Rep. Smith said HB 277 addresses the independent contractor problem and the bill is to correct some shortfalls within the act. He said they would like this to come out as a committee bill as they are not happy with the way it was drafted. He asked if Mr. Hunter could address the problem. Permission was granted. David Hunter, Commissioner of Labor, said the issues addressed in HBs 277 and 406 are pretty complex and as there is a drafting problem in 277, he felt the issues could be presented more clearly as a committee bill.

Rep. Harper mentioned it would take a three-quarters affirmative vote to make a committee bill and so this could be a precarious route. Mr. Hunter said they had spoken to Speaker Kemmis and he had suggested seeing if the committee could be prevailed upon to permit this. Rep. Harper added that to be a committee bill the committee must agree with the essence of the bill and he didn't know if the committee understood the bill well enough to have that agreement. Rep. Smith said what they are trying to do is to get an independent contractor to state his position as such and so waive his rights under workmen's compensation. Mr. Hunter added that the intent of the bill would remain the same.

Chairman Williams suggested keeping the title and rewriting the bill to make it a substitute bill. In that case no committee action would be needed at this time. He said the bill could be scheduled for a hearing and Rep. Smith could present his substitute bill. He said the committee would hear HB 406 at the same time since they are similar. All agreed this was a good route to follow.

HOUSE BILL 314

REPRESENTATIVE FRANCIS BARDANOUVE, District 6, chief sponsor, said he was the sacrificial lamb. He said David Hunter had got ahold of him and twisted his arm. He said neither side would touch this one as both management and labor oppose it. But, he said, if we don't pass this bill or some version of it, we will be in a very uncomfortable position of having our employment fund bankrupt. A couple of years from now we will be 22 million in the hole and quite likely heading in deeper. He said we could well be facing a 45 to 50 million deficit in the fund. If we go in the red the federal government will loan us the money. If we are in the red for two years, we will be paying 10 percent annual interest. He said the administration got wise after Pennsylvania borrowed 2 billion dollars and Uncle Sam can't get its money back. There is a 10 percent interest penalty

and an even worse penalty. Employers in Montana will pay .8 of one percent on payroll; but if we don't turn that fund around, the treasury will increase our contribution .3 of one percent until a ceiling of 5.4 percent is reached. This would be a horrible assessment on Montana business and an increase of 700 percent. This bill has a unique alignment of opponents -- labor doesn't want it and neither does business. You won't touch it -- you will bury your head under the rug and let the fund go broke. We could have extremely high obligations to pay back. We should be fiscally responsible and pay as much of our bills as possible when they come due. The part that labor doesn't like - the limitation on the increase in benefits - would limit the drain on the fund. The base salary would rise and the employers don't like that. I would urge you to face your responsibilities today. Tell people we are taking care of ourselves and don't intend to become a welfare state.

DAVID HUNTER, Commissioner of Labor and Industry, spoke next as a proponent. He said there is a choice as we can allow the trust fund to go broke and borrow from the federal government. He said he felt it was his statutory responsibility to inform the Legislature and offer a proposal to keep the trust fund solvent. This proposal would raise the tax on the employer and reduce the amount of benefits. He used charts to show the schedule of contribution rates; the unemployment trust fund balance from 1980 through 1985; the average weekly wage, maximum week unemployment benefit amount, average weekly benefit amount and annual taxable wage base of the present and proposed laws. A copy of this was also given to each member and a copy is Exhibit 1 of the minutes. Suggested amendments, a copy of the fiscal note, and the anticipated fiscal impact numbers is Exhibit 2.

JIM MURRY, Executive Secretary, AFL-CIO, spoke next in opposition. A copy of his statement is Exhibit 3 of the minutes.

JIM MAYES, Operating Engineers, Local 400, spoke next in opposition. A copy of his statement is Exhibit 4 of the minutes.

F. H. BOLES (Buck), Montana Chamber of Commerce, spoke in opposition. He used one of Mr. Hunter's charts to make a point that the employers would be paying less if the money were borrowed from the government than if this bill were to pass. He mentioned that the taxable wage base increases by \$200 each year without anything being done. He said previous legislation has designed the program as it is and it is fair and the \$200 a year increase is fair. He said this is an emergency situation we are facing, but he didn't feel this bill was designed for emergency conditions.

EUGENE FENDERSON, Laborers' 254, rose in opposition. He said for the record they concur with the testimony given by the AFL-CIO.

WYATT FROST, Cement Workers Local 239, spoke next in opposition, and a copy of his testimony is Exhibit 5.

ROBERT N. HELDING, Montana Wood Products, spoke in opposition to the bill.

KEITH OLSON, Montana Logging Association, said they opposed the bill.

JIM HUGHES, Mountain Bell, spoke in opposition. He didn't feel the problem was a long term one and that borrowing from the federal government was the way to go now. He said we should not increase the burden on the employers.

REPRESENTATIVE BARDANOUVE in closing said in his 26 years in the Legislature the bill had accomplished something he had rarely seen -- got all in the same corner. He said he had a pretty good labor record - anywhere from 75 to 90 percent. He said he believed some of the testifiers believe in Santa Claus or in Reaganomics. He said he knew of a rancher who sold \$48,000 worth of cows and the check bounced. He faces foreclosure with no unemployment compensation to look forward to. He said quit feeling sorry for yourself. He said he was surprised to see the free enterprise system embrace social welfare. He said he had been reading a lot in magazines about a social disease that is sweeping America called herpes, which is caused by certain people crawling into bed together. He said he felt in a couple of years we will have a heck of a lot of economic-labor herpes around.

Questions were asked by the committee.

Rep. Ellerd asked if this bill is following what appears to be the present push to build up Montana by building up business - by taxing business. Mr. Hunter said one of the primary indicators of our business climate has been the solvency of the unemployment trust fund. He said we will see our rating with the United States Chamber of Commerce decline significantly if we let the fund go into deficiency. He said we will have a serious image problem if we borrow. He said it will be an added burden on the employers whether we borrow or go this other route.

Rep. Smith asked of Mr. Boles if he advocated that we go on the dole to the federal government. Mr. Boles said the federal law did not suggest that anyone in particular be taxed for the interest should you decide to borrow. The money to pay the interest comes from the general fund and not the trust fund. That is the way the law was written.

The question was asked as to what would be the actual compounded interest we would pay. Mr. Hunter said we don't know the answer as federal regulations haven't been finalized.

Rep. Miller asked concerning borrowing from the State Board of Investment. Rep. Bardanoue responded that this would not be economically wise as long as they get more than 10 percent interest, and there would not be a way of paying back.

Rep. Hannah said even if the recession was to change and the economy improved we would still have to do something to address the continuing spread. What are some of the options available? Do we correct simply by raising the rates and will this solve the long term problem? Mr. Hunter said we could take the lid off the taxable wage base or limit the benefits to the wage base. Rep. Hannah mentioned the 77-79 year seemed to mark a change and caused the fund to head in the different direction. So the imbalance was caused by the mechanism rather than the recession. Chairman Williams said the recession has also played a part.

Rep. Ellerd suggested using the I95 money which might be available at a lesser interest rate than we would need to pay the federal government.

Chairman Williams closed the hearing on HB 314 and opened the meeting to a hearing on HB 174.

HOUSE BILL 174

REPRESENTATIVE HAL HARPER, District 30, chief and only sponsor of the bill, said this is a fairness bill and not a revenue raising one. The lower you set the taxable wage base the more burden it places on the businesses with the lower paid employees. They pay unemployment insurance on almost every dollar they pay their employees. Once you get over the taxable wage base cap every dollar paid the employee is free. Retailers and other lower-paid employee businesses are not the ones draining the funds in most places--it is the construction companies, wood products companies and other companies with higher paid and usually a more seasonal work pattern; and these are the ones that are really hurting and going into economic collapse. He suggested two amendments be added: one to add a \$37,500 cap and the second a lowering of rates (this schedule is Exhibit 6 of the minutes).

WYATT FROST, Cement Workers, spoke in support of the bill and a copy of this testimony is Exhibit 7 of the minutes.

GEORGE ALLEN, Montana Retail Association, spoke next in support and a copy of his testimony is Exhibit 8 of the minutes.

JIM MURRY, Executive Secretary of the Montana State AFL-CIO, spoke next in support and a copy of his testimony is Exhibit 9.

JIM MAYES, Operating Engineers, Local 400, spoke next in support and a copy of his testimony is Exhibit 10.

FRANK J. DAVIS, Executive Director of the Montana State Pharmaceutical Association, spoke next in support. A copy of his testimony is Exhibit 11.

PHIL STROPE, Montana Tavern and Innkeepers Association, spoke next in support. He said he was there both to lend their support and explain why this should pass into law and HB 314 turned down. He said if you decide not to go with this bill adopt HB 301 and go into the borrowing program. He said the factor is that almost all their wages would be taxed and they would still be paying a disproportionate share. This bill in its modified version would increase the overall tax base and decrease the tax rate which would benefit them. He said their employees draw very little from the fund. He said he joins with the testimony of the retail establishments and the pharmaceutical people. He said they have run out of gas to carry their friends in the construction and wood industries.

CHAD SMITH, Unemployment Compensation Advisors, Inc., spoke in opposition. He said he represents small business also as none have over 100 employees and only a few over 50. He asked that the committee try not to do anything that would raise taxes. He felt it would be unjust to raise the tax base. He questioned that there were many full-time employees working for \$8200 a year. He said employers most responsible for the drain should be collected from with a rating schedule to give a better break to those who have never had a claim.

ROBERT N. HELDING, Montana Wood Products, opposed the bill. He felt the way to go to salvage the fund for the present was to borrow.

JIM HUGHES, Mountain Bell, strongly opposed the bill. He said he does represent a large employer with well paid employees. He said they pay in \$700,000 a year to the fund and their employees draw very little from the fund. He said with this bill their taxes would be increased 69 percent.

REPRESENTATIVE HARPER closed. He said in 1979 Mr. Porter from Billings had a hard time raising the taxable wage base from \$6400 to \$8000. He said the same arguments are being made as were made then and from exactly the same people. He said we are faced with a situation now where middle class workers are queuing up in the unemployment lines. He said the plug has been pulled from the bottom of the fund and it is draining out. He said the way the bill is written it is not to raise extra money to save the fund but is to make it more fair. He said the base of the states around us are at least \$2,000 higher than ours. He said this is an economic recovery bill - a small business bill.

Questions were asked by the committee. Rep. Addy asked Mr. Hunter if he had figures on the employers with a deficit account. Mr. Hunter read from a list. All were large corporations. Anaconda had paid in \$240,000 and benefits withdrawn were \$4,100,000.

Chairman Williams closed the hearing on this bill and opened the hearing on HB 308.

HOUSE BILL 308

REPRESENTATIVE FRANCIS BARDANOUVE, District 6, chief sponsor, said the bill is a result of the Personnel Labor Commission and has a lot to recommend it. He said it received ten of the 12 votes on the commission. He said Duane Johnson, an outspoken labor advocate, in 1973 after the session was appointed to the Personnel Appeal Board, recommended this bill. The bill means that the Board should hire its own staff independently of the Department of Labor. He said he had heard an ugly rumor that the forces were lining up to oppose the bill.

TOM SCHNEIDER, Montana Public Employees Assoc., spoke in support. He said a similar bill passed the house and Senate in 1979 and was vetoed by the governor. He said having the same department hire the staff as you are filing your claim with could lead to unfair labor practices. He said this Board should be completely neutral and a way to do that is to have them hire their staff independently.

CHIP ERDMAN, Montana School Board Association, spoke in support. He said he did not intend to imply that the Board does not operate in an independent fashion, but this would add to its image of neutrality. The collective bargaining procedure would have added creditability and both labor and management would benefit from that.

DAVE HUNTER, Commissioner of Labor, spoke in opposition. He said he had discussed the bill with the governor and he had suggested he appear in opposition. He said having the staff responsible to the department helps in the day to day accountability. He said he didn't see why this area of personnel appeals should be different from other quasijudicial boards all of whose staff report directly to the department heads. He felt the conflict of interest was one of image only. He said if there are cases heard against another management person they can get an outside hearing examiner from the Attorney General's Office. He said the ultimate protection for the person with the complaint is the Board which sets in unbiased review and can be appealed to.

ALLEN JOSCELYN, neutral member on the Board of Personnel Appeals, said the Board had arrived at a decision this past Friday to oppose the bill. He said the Board sees no need for this power. He said they feel the administration of this would be cumbersome since they meet about once a month.

House Labor and Employment Relations Committee Minutes
January 27, 1983
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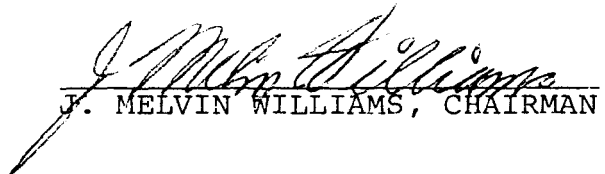
REPRESENTATIVE KELLY ADDY spoke in opposition although he said he said he couldn't get really worked up about it. He said what the bill would do is assign a new managerial function to the Board. The burden you are placing on the Board will require them to hold longer and more frequent meetings. He said if you do this, you should also raise their pay. He said there is legislation before the committee to assure that there would be impartial hearing examiners as it allows for disqualifying examiners.

REPRESENTATIVE BARDANOUVE asked in closing if you got involved with the county attorney, would you like to have the county attorney pick your attorney for you, and do you think you will get a fair trial?

Due to lack of time there were no questions from the committee.

Meeting adjourned at 2:55 p.m.

Respectfully submitted,


J. MELVIN WILLIAMS, CHAIRMAN

Emelia A. Satre, Sec.

SCHEDULE OF CONTRIBUTION RATES

	Sched. I	Sched. II	Sched. III	Sched. IV	Sched. V	Sched. VI	Sched. VII	Sched. VIII	Sched. IX	Sched. X
Minimum Ratio of Fund to Total Wages	(.0150)	(.0145)	(.0140)	(.0130)	(.0120)	(.0110)	(.0095)	(.0075)	(.005)	(.0005)
Average Tax Rate	1.3	1.5	1.7	1.9	2.1	2.3	2.5	2.7	2.9	3.1

CONTRIBUTION RATES FOR ELIGIBLE EMPLOYERS

Rate Class										
1	0.2%	0.3%	0.5%	0.7%	0.9%	1.1%	1.3%	1.5%	1.7%	1.9%
2	0.4	0.6	0.8	1.0	1.2	1.4	1.6	1.8	2.0	2.2
3	0.7	0.9	1.1	1.3	1.5	1.7	1.9	2.1	2.3	2.5
4	1.0	1.2	1.4	1.6	1.8	2.0	2.2	2.4	2.6	2.8
5	1.3	1.5	1.7	1.9	2.1	2.3	2.5	2.7	2.9	3.1
6	1.6	1.8	2.0	2.2	2.4	2.6	2.8	3.0	3.2	3.4
7	1.9	2.1	2.3	2.5	2.7	2.9	3.1	3.3	3.5	3.7

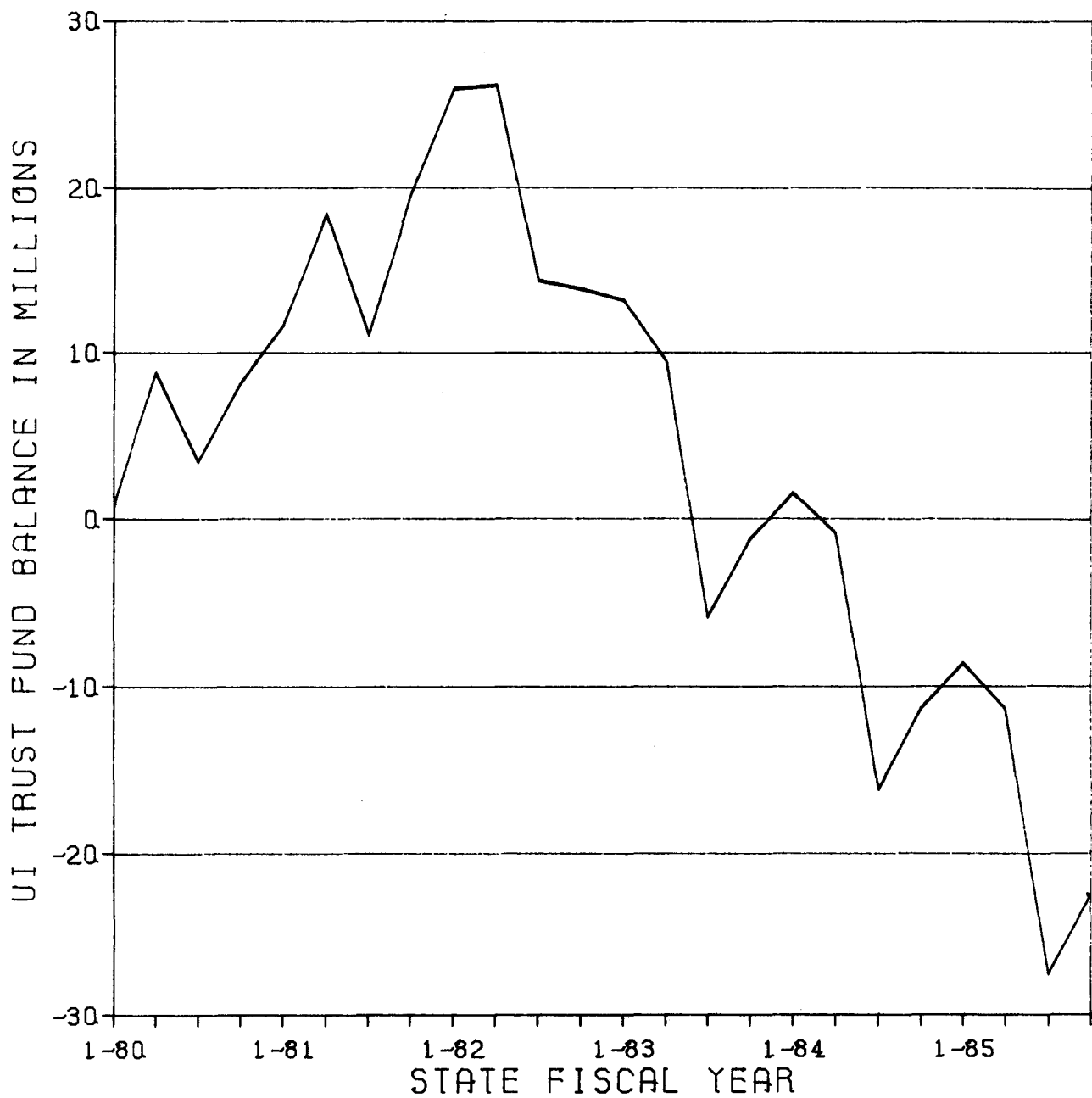
CONTRIBUTION RATES FOR UNRATED EMPLOYERS:

CONTRIBUTION RATES FOR DEFICIT EMPLOYERS

Rate Class										
1	2.2%	2.4%	2.6%	2.8%	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%
2	2.4	2.6	2.8	3.0	3.2	3.4	3.6	3.8	4.0	4.2
3	2.6	2.8	3.0	3.2	3.4	3.6	3.8	4.0	4.2	4.4
4	2.8	3.0	3.2	3.4	3.6	3.8	4.0	4.2	4.4	4.4
5	3.0	3.2	3.4	3.6	3.8	4.0	4.2	4.4	4.4	4.4
6	3.2	3.4	3.6	3.8	4.0	4.2	4.4	4.4	4.4	4.4

Exhibit 1

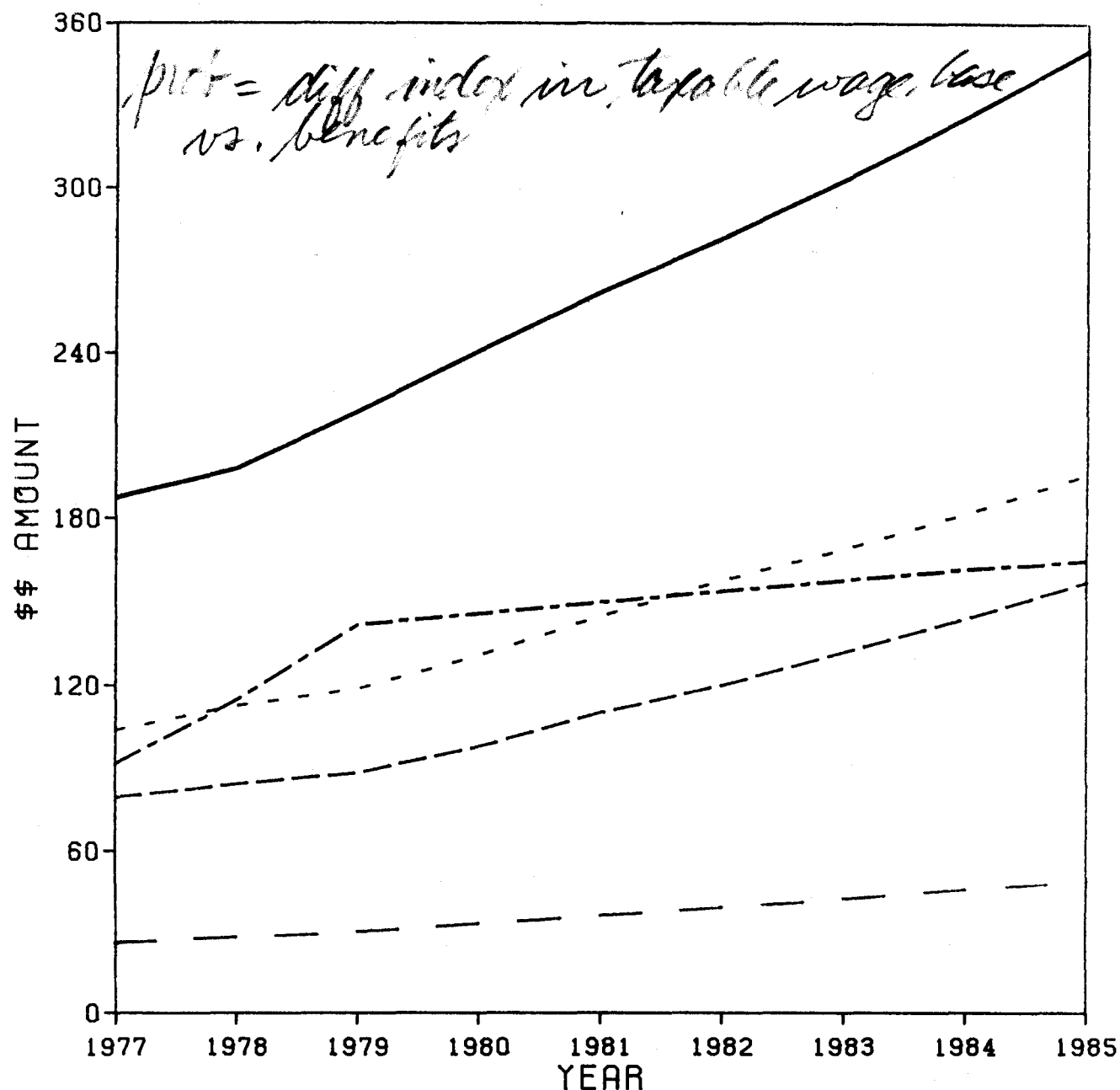
UI TRUST FUND BALANCE
FY 1980 THROUGH 1985



UNEMPLOYMENT INSURANCE TRUST FUND BALANCE

<u>As Of June 30</u>	<u>Balance</u>
1980	\$ 8,197,000
1981	19,633,000
1982	13,863,000
1983	-1,115,000
1984	-11,285,000
1985	-22,555,000

MAX., MIN. & AVG. WKLY. UI BENEFIT AMOUNTS
TAXABLE WAGE BASE & AVERAGE WEEKLY WAGE
1977 THROUGH 1985



- AVERAGE WEEKLY WAGE
- AVERAGE WEEKLY BENEFIT AMOUNT
- ... MAXIMUM WEEKLY BENEFIT AMOUNT
- . MINIMUM WEEKLY BENEFIT AMOUNT
- ANNUAL TAXABLE WAGE BASE (DIVIDED BY 52 WKS)

AVERAGE WEEKLY WAGE, MAXIMUM WEEK UI BENEFIT AMOUNT,
AVERAGE WEEKLY BENEFIT AMOUNT & ANNUAL TAXABLE WAGE BASE IN MONTANA

	<u>CY 82</u>	<u>CY 83</u>		<u>CY 84</u>		<u>CY 85</u>	
		<u>Existing Law</u>	<u>Proposed</u>	<u>Existing Law</u>	<u>Proposed</u>	<u>Existing Law</u>	<u>Proposed</u>
Average Weekly Wage	\$282.32	\$303.49		\$326.25		\$350.72	
Average Weekly Benefit Amount	\$120.00	\$132.00		\$144.00	\$136.00	\$157.00	\$141.00
Maximum Weekly Benefit Amount	\$158.00	\$169.00	\$162.00	\$182.00	\$167.00	\$196.00	\$179.00
Annual Taxable Wage Base	\$8000	\$8200	\$10,200	\$8400	\$11,000	\$8600	\$11,800

BENEFITS/WAGES IN BASE PERIOD/TAXABLE WAGE BASE

<u>Year</u>	<u>Maximum Benefit</u>		<u>Average Benefit</u>		<u>Taxable Wage Base</u>
	<u>Weekly Amount</u>	<u>Wages In Base * Period To Qualify</u>	<u>Weekly Amount</u>	<u>Wages In Base * Period To Qualify</u>	
1982	158	16,432	120	12,480	8,000
1983	169	17,576	132	13,728	8,200
1984	182	18,928	144	14,976	8,400
1985	196	20,384	157	16,328	8,600

*Assumes claimant worked for entire base period with weekly earnings equal to two times his weekly benefit amount.

Proposed Amendments to HB 314

Page 2, Line 25

Following: "Times"
Omit: "45%"
Insert: "47.5%. On and after July 1, 1984, an eligible individual's weekly benefit amount shall be the total base period wages divided by the number of weeks of covered employment times 45%."

Page 3, Line 10

Following: "Determined"
Strike: "Sixty, and in their entirety lines 11, 12, 13, 14 and "year" on line 15.
Insert: "On and after July 1, 1983, 57.5% of the average weekly wage shall constitute the maximum weekly benefit amount. On and after July 1, 1984, 55% of the average weekly wage shall constitute the maximum weekly benefit amount. The maximum weekly benefit amount as calculated herein, shall apply to all maximum benefit amount claims filed to establish a benefit year commencing on or after July 1 of the same year."

STATE OF MONTANA

REQUEST NO. _____

FISCAL NOTE

Form BD-15

In compliance with a written request received _____, 19 _____, there is hereby submitted a Fiscal Note for HB 314 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation:

To remove the \$200 ceiling from UI taxable wage base increase and allow base to equal 75% of statewide average weekly wage. Also to decrease percentage used to calculate individual UI benefit entitlement.

Assumptions:

1. Assume taxable wages under current law equal to 48% of CY84 total wages or \$1,826B in FY84 and 46% of CY85 total wages or \$1.9B in FY85 -- for current wage base of \$8,200 in CY83, \$8,400 in CY84 and \$8,600 in CY85.
2. Assume taxable wages under proposed law equal to 58% of CY84 total wages or \$2,114B in FY84 and 58% of CY85 total wages or \$2.289B in FY85 -- for proposed wage base of \$10,200 in CY83, \$11,000 in CY84 and \$11,800 in CY85.
3. Assume Schedule X or 3.1% average tax rate for the biennium under current and proposed law.
4. Since proposed tax base increase takes effect 1-1-83, assume additional \$3M in contributions under proposed law for 4th fiscal quarter 1983.
5. Assume interest earnings at 10% per year.
6. Assume decrease in FY84 expenditures under proposed law by 5% due to calculating claimant's WBA at 47.5% of his average weekly wage instead of current 50%. Assume additional decrease in FY84 benefit expenditures under proposed law by \$1,300,000 due to decrease in calculated maximum WBA from 60% of previous year's statewide average weekly wage to 57½% (decrease maximum WBA from projected \$182 current law to \$167 proposed law in FY84).
7. Assume 10% decrease in FY85 benefit expenditures under proposed law due to calculating claimant's WBA at 45% of claimant's average weekly wage instead of current law 50%. Assume additional decrease in FY85 benefit expenditures under proposed law by \$2,750,000 due to decrease in calculated maximum WBA from 60% of previous year's statewide average weekly wage to 55% (decreases maximum WBA from projected current law of \$196 to \$179 under proposed law in FY85).

See attached for Fiscal Impact:

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

Continuation Fiscal Note

HB 314

Fiscal Impact:

	FY84		FY85	
Revenue	Current Law	Proposed Law	Current Law	Proposed Law
Contributions	\$56,600,000	\$65,550,000	\$58,900,000	\$70,950,000
Interest Earnings	-0-	131,437	-0-	449,344
Total	56,600,000	65,681,437	58,900,000	71,399,344
Benefit Expenditures	67,900,000	63,200,000	71,300,000	61,350,000
Net Effect				
Revenue - Expenditures	(11,300,000)	2,481,437	(12,400,000)	10,049,344
UI Trust Fund Balance	(16,032,282)	749,146	(28,432,282)	10,798,490



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF JAMES W. MURRY ON HOUSE BILL 314
BEFORE THE HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE
JANUARY 27, 1983

I am Jim Murry, executive secretary of the Montana State AFL-CIO. Our organization opposes House Bill 314. We support the provision to increase the taxable wage base, although it is not as good as House Bill 174 in that direction. But we oppose the part which cuts the unemployed workers' benefits.

We are very well aware of the disastrous state of the unemployment insurance trust fund. It is very clear that supply-side economics has led directly to this condition by causing such high levels of unemployment. The state is not to blame for what is happening. But what should be the state's response?

There are three possible responses, which can be taken singly or in combination.

The first is to cut the benefits received by unemployed workers. That is what the bill does. The second would be to raise the amount of money received from employers. This bill also does that. The third method is to borrow from the federal government. First let's look at workers' benefits.

It doesn't make sense for some people at the national level to accuse Montana workers of being responsible for their own unemployment. Surely we would all agree to that.

But it also doesn't seem fair to make those same unemployed workers pay the penalty for the mess that the national economy is in.

It is always tough for a worker who loses a job. Not only is there the economic stress of figuring out how to feed a family and pay the rent, but there is a direct increase in health problems, in spouse and child abuse, in drug and alcohol abuse and in suicides and other forms of death. The stress of losing a job, at a time when other jobs are not available, is one of the worst pressures on a person in our society.

During a recession, that stress is even worse. A person laid off during the 1981 ARCO closure in Anaconda and Great Falls could hope that the overall economy would improve and that other jobs would be provided, even if ARCO didn't intend to do so. But at this point in the recession or depression, even that hope has disappeared.

The average weekly benefit for UI recipients in 1982 was only \$120 per week. That is not enough to support a family. With utility rates skyrocketing, the choice of freezing or starving is no longer the domain of the elderly alone.

Since only about 40% of the unemployed receive UI, both here in Montana and in the nation, that means that the people who do not receive UI, or who have run out of their eligibility, must find some other means of survival. And that means an increased burden on state and county taxes, for the people who still do have jobs.

It is not just the workers and their families who benefit from UI, for as long as it lasts. Whole communities have become dependent on the UI checks, which have replaced real paychecks for so many workers in so many communities. Towns like Anaconda, Butte, Libby, Kalispell, Columbia Falls, and Missoula, have been particularly impacted by UI checks. That has kept main street merchants open, who would otherwise have gone into the record bankruptcy statistics.

HB 314 takes a particularly unfair way of lowering worker benefits. It lowers the benefits received by a worker by reducing the benefit from 50% to 45% of that workers' average weekly wage. However, many workers who were laid off from higher paying jobs are subject to the maximum wage, which is computed as 60% of the state's average weekly wage. Such workers will not be affected by HB 314's cuts in benefits, because even with the 45% provision, their entitlement will still be above the maximum limit.

What that means is that the lowest paid workers who can be expected to have the fewest resources to cope with unemployment, will be the ones who are penalized. Cutting worker benefits during a recession is unfair, and this is the least fair means of making those cuts.

The second means of protecting the UI trust fund is to raise more money from employers. A provision is contained in HB 314 for that, but HB 174 is much better. Since HB 174 is also being heard today, I will discuss our support for it during the debate on that bill.

The third method of protecting the fund is to borrow from the federal government.

During the 1975-77 recession, the fund also experienced problems. From 1976 to 1978 the fund borrowed \$10.5 million from the federal government's unemployment insurance trust fund.

After the economy turned around, and some changes were made in the UI law, the money was paid back, and the fund balance again climbed to a peak of \$26.2 million in the black in 1980.

We support the borrowing, if it is necessary, as a way of keeping the fund with enough money to pay checks, without penalizing the unemployed workers. The recession can't last forever. Pressure is mounting from both parties, and from business as well as labor for President Reagan to change the course. As soon as that happens, this nation will begin the long climb back to better economic times. And if the course is not changed, then the electoral process will provide a remedy.

House Bill 302 has already passed the committee, to allow for the UI trust fund to borrow and providing for the repayment of the interest entailed. Twenty other states are already taking that path, and most of the rest will soon follow. Even if our worst fears are realized and we have in fact entered a depression, the federal government will be forced to do something to help out all the states which cannot cope with the increased burdens of unemployment.

We ask that you vote no on House Bill 314. There is a better remedy -- House Bills 174 and 302. Please don't penalize the workers who have already given up their jobs to the recession. They have already sacrificed enough.

Thank you.

WITNESS STATEMENT

NAME Wyatt Frost BILL No. 3141
ADDRESS P.O. Box 804 DATE 1/27/83
WHOM DO YOU REPRESENT Cement Workers Local 239
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



UNITED CEMENT, LIME AND GYPSUM WORKERS
LOCAL UNION NO. 239 AFL-CIO
THREE FORKS, MONTANA

Wyatt Frost

NAME OF WRITER

Box 804

ADDRESS

Three Forks, Montana

CITY, STATE AND ZIP

Testimony of Wyatt Frost on House Bill 314 before House Committee on Labor and
Employee Relations -- January 27, 1983

Mr. Chairman, members of the committee, we rise in opposition to this bill.

I am Wyatt Frost from Cement Workers Local 239, Three Forks.

We like the idea of raising the taxable wage base. But we do not think this bill
goes far enough. We do not believe there should be any cap on the taxable wage base.

We oppose any reduction in unemployment insurance benefits. Unemployment insurance
benefits is the only income most of the unemployed have. Any reduction in benefits
would not only hurt us, it would also hurt the people we buy from. Main street
merchants would suffer because we would have to cut back even further.

Since we have been laid-off many of the things we and many others considered necessities
have become luxuries.

We respectfully ask that you oppose this bill and support House Bill 174. It is
a better deal for all concerned.

Thank you.

VISITOR'S REGISTER

HOUSE LABOR AND EMP. RELATIONS

COMMITTEE

BILL HB 314

DATE 1/27/83

SPONSOR BARDANOUE

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Wynett Frost	Bozeman	Cement Workers		X
Robert M. Haldin	Missoula	mt. Wood Products		X
David Knisk	Helena	MT Dept Labor	X	
Jim Hughes	Helena	Mr. Bell		X
Keith Olson	Helispell	MT Logging Assn.		X
Shelomney	Helena	Self		
CHAD SMITH	Helena	Unemp Comp Admin. Div		X
JH Bole	Helena	News Chamber		X
Jim Mular	Butte	AIRLINES CLERKS		X
Arthur Phorman	Bozeman	Cement Workers		X
Eugene Fink	Salisbury 254			X
Joe Brown	Butte	Teamsters		X
Jim Murray	Helena	Mont. AFL-CIO		X
Jim Mays	Helena	LOCAL 400 IUOE		X

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME Wyatt J. Hunt BILL No. 1741
ADDRESS P. O. Box 804 DATE 1/27/83
WHOM DO YOU REPRESENT Cement Workers Local 239
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

PROPOSED SCHEDULE S. CONTRIBUTION RATES
FOR \$35,700 TAX BASE
January 19, 1983

	Sched. I	Sched. II	Sched. III	Sched. IV	Sched. V	Sched. VI	Sched. VII	Sched. VIII	Sched. IX	Sched. X
Minimum Ratio of Fund to Total Wages	(.0150)	(.0145)	(.0140)	(.0130)	(.0120)	(.0110)	(.0095)	(.0075)	(.005)	(.....)
Average Tax Rate	0.7	0.8	0.9	1.0	1.1	1.2	1.3	1.4	1.5	1.6

CONTRIBUTION RATES FOR ELIGIBLE EMPLOYERS

Rate Class	1	2	3	4	5	6	7		
0.02	0.05	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8
0.08	0.15	0.3	0.4	0.5	0.6	0.7	0.8	0.9	1.0
0.2	0.4	0.5	0.6	0.7	0.8	0.9	1.0	1.1	1.2
0.5	0.6	0.7	0.8	0.9	1.0	1.1	1.2	1.3	1.4
0.7	0.8	0.9	1.0	1.1	1.2	1.3	1.4	1.5	1.6
0.9	1.0	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8
1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	2.0

CONTRIBUTION RATES FOR
UNRATED EMPLOYERS:

	1.3	1.4	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.2
--	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

CONTRIBUTION RATES FOR DEFICIT EMPLOYERS

Rate Class	1.4	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.2	2.3
1										
2	1.6	1.7	1.8	1.9	2.0	2.1	2.2	2.3	2.4	2.5
3	1.8	1.9	2.0	2.1	2.2	2.3	2.4	2.5	2.6	2.7
4	2.0	2.1	2.2	2.3	2.4	2.5	2.6	2.7	2.8	2.9
5	2.2	2.3	2.4	2.5	2.6	2.7	2.8	2.9	3.0	3.1
6	2.4	2.5	2.6	2.7	2.8	2.9	3.0	3.1	3.2	3.3

Exhibit 6



Exhibit 7

**UNITED CEMENT, LIME AND GYPSUM WORKERS
LOCAL UNION NO. 239 AFL-CIO
THREE FORKS, MONTANA**

Wyatt Frost
NAME OF WRITER
P.O. Box 804
ADDRESS
Three Forks, Montana 59752
CITY, STATE AND ZIP

TESTIMONY OF WYATT FROST ON HOUSE BILL 174, BEFORE THE HOUSE COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS, JANUARY 27, 1983

Chairman, members of the committee. My name is Wyatt Frost. I am Financial Secretary of the Cement Workers Local 239, in Three Forks.

As I told you the other day, most of us who work for Ideal Cement have been laid off. This lay-off has perked up our interest in the unemployment insurance system.

Being laid off is also giving us the opportunity to watch our government at work. It has been enjoyable and educational. We appreciate our system of government more because of our experience. But, given a choice, we'd rather be working.

We like House Bill 174. We hope you will support this important legislation.

House Bill 174 will help the Unemployment Insurance Trust Fund overcome serious financial problems. At the same time this bill will help small businesses in Montana.

Right now small businesses are paying their fair share of unemployment insurance costs. In comparison some big businesses are not paying as much as they should.

The tax burden for large and small businesses are the same. Small businesses are paying the maximum unemployment insurance tax. At the same time their employees may not be eligible for the maximum benefits. Employees of larger businesses are often eligible for higher benefits, even though their employer paid no more into the Unemployment Insurance Trust Fund.

This bill could correct a situation where small businesses are subsidizing larger businesses. This bill would give a break to many small businesses.

House Bill 174 would help the Unemployment Insurance Trust Fund and at the same

TESTIMONY, HOUSE BILL 174
WYATT FROST

-2-

JANUARY 27, 1983

time correct an injustice in the Unemployment Insurance Tax system.

We urge you to support House Bill 174.

Thank you.

Exhibit 8

Mr. Chairman and Members of the Committee:

My name is George Allen, I am the lobbyist for the Montana Retail Association. I am here today in support of House Bill 174.

This is a revolutionary idea for unemployment insurance. You may call this a bill to equalize the responsibility of providing unemployment insurance benefits to our citizens.

The retail business for years has been very close to a one hundred percent employer. We are the state's LARGEST CONTRIBUTOR to the unemployment insurance fund. In comparison to what we pay in, we draw very little out. We feel we have been subsidizing the deficit employer long enough.

The retail community works on a very low profit margin. Probably the lowest profit margin of any group contributing to the fund. The largest burden for providing unemployment insurance is placed on the shoulders of those least able to pay.

The person who is breaking the fund is not the low-salaried employee. It is the employee that makes fifteen to twenty-five thousand in several months of work, then draws unemployment insurance for a period of time.

At one time I visited with a seasonal employer about his employee's salaries. This is his story: The good employees that they wanted to keep have their unemployment insurance figured into their yearly salary package, figuring they will work eight to ten months a year and draw unemployment insurance the remaining months of that year. This insures them their good people will be there when they need them next year. That is only a forty to fifty percent employer.

As you know, this is not an isolated case. Many deficite employers have the same philosophy. The retailer, being a one hundred percent employer, finds himself in a position of providing part of the deficite employees scheduled annual salary.

We have a new set of problems facing us in the 80's that we did not have in the previous decades. We have all seen on television, heard on the radio, read in magazines and newspapers of the new problems. For example, we see the mid-management, well-educated, higher paid employee standing in the unemployment lines for the first time in their lives. No longer is it just the blue collar, or the lower income person making demands on unemployment insurance.

Large companies are cutting back, causing many problems. We have seen a good example of that here in Montana during the past year. For as long as I can remember, if a person worked for some of the long established, powerful companies in Montana they had it made. You would never expect their employees to be found standing in the unemployment insurance lines. During the past few months there has been numerous unemployment insurance claims made by these employees. These are the better educated people with the higher paying jobs.

Let's look at the mining operation in Butte. As I understand it, everything will be suspended this spring. Men will loose their jobs and will be claiming unemployment insurance. For many of them this will be their first experience standing in unemployment insurance lines, for many of them are mid-management, engineers, electricians, well-trained, well-educated, higher paid employees. Yet the company only paid into unemployment insurance funds on the first \$8200.00 of each employee's salary.

We cannot solve the unemployment insurance problems of the eighties with the old tools of the sixties and seventies.

If this bill is passed it will not generate a lot of additional funds for the department, but it will shift the burden in a more equitable manner from the employer least able to pay to the employer more able to pay his fair share.

We, the retailers, are not trying to get out of paying our reasonable share. We want to shoulder the burden that is ours. However, we feel we have been

discriminated against long enough. The time is now for the legislature to take corrective action to equalize the unemployment insurance burden.

I would like to tell you of one specific store owner and his problems. This is a store in the northern part of the state. This businessman has owned the store for twenty seven (27) years. Last year was the first year he did not make a profit. He is not guaranteed a margin of profit like some of the businesses and industries in Montana. He must risk one hundred percent of his investments, capital and abilities. With his current business difficulties he is still required by law to pay unemployment compensation insurance despite the fact he had no profit to pay the insurance with.

This is not an isolated case. In Montana last year there were over one hundred small businesses that went bankrupt. You and I both know that the unemployment compensation insurance he paid did not cause the bankruptcy, but it laid a brick on the wall that prevented him from staying in business.

House Bill #174 is a large step in the right direction. With the bill as amended to \$35,700 at a rate of %1.6, the burden is equally shared by everyone in Montana earning a pay check up to the amended figure. With a greater percentage of salaries being taxed the rate can substantially be reduced.

As you all know, I-95 is a bill to help small businesses in Montana. The present unemployment compensation insurance discourages anyone in small business from staying in business. It is counter productive.

In closing, let me emphasize, this bill is NOT a bill to increase unemployment compensation insurance taxes. It is a bill to EQUALIZE the burden of providing unemployment compensation insurance for our citizens.

Respectfully Submitted,

GEORGE E. ALLEN
Executive Vice President
Montana Retail Association



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARYZIP CODE 59624
406/442-1708

TESTIMONY ON HOUSE BILL 174, BEFORE THE HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE--
JANUARY 27, 1983

The Montana State AFL-CIO supports House Bill 174 as one of the two means of handling the unemployment insurance crisis. This bill, along with HB 302 is the sensible means of surviving the present situation. Of course, neither this nor any other measure is a long-term solution to the funds problems. Only a better economy, created by changing the national direction, will supply that. But this is a good short-term measure for surviving supply-side economics.

You are aware that Montana's employers pay their unemployment compensation taxes on a sliding scale, based on their experience rating. Those who have done a better job of not laying off employees enjoy paying their tax at a lower rate.

However, Montana has a taxable wage base, which means that the employer currently only pays on the first \$8,200 in salary for each employee, regardless of how high the gross salary is. Since 1979, the amount of the taxable wage base has only been allowed to increase \$200 per year, so that the wage base has fallen far behind its original intent of being pegged at 75% of the average wage.

The effect of the wage base is that small employers pay unemployment insurance taxes at a far greater tax rate than large employers, who pay higher wages. If, for example, two employers are paying the same tax rate of 2.5%, on \$8,200, then both pay exactly the same amount of money on their employee. But if one employer is a small business and only pays \$8,200, while the other is a larger business paying \$16,400, then the larger business is only paying half of the tax rate of the smaller one.

The small wage base, limited to a \$200 per year rise, is the primary reason that the unemployment insurance trust fund diminished so quickly in the face of the recession.

HB 174 would not only establish the taxable wage base on "total wages", so that everyone with the same experience rating would be paying the same tax rate, but it also lowers the overall tax rate structure.

The net result is an increase to the fund of over \$22½ million over the next biennium, according to the fiscal note. That is approximately the figure being used to project how much the fund will be in debt in the next two years.

It is possible that this measure will not be enough to counter the effects of the national economy's dismal failures, especially if the economy gets worse. But this will certainly help, and it may preclude the fund from being in the red in two years.

This bill is fair. It is part of the solution to the unemployment insurance trust fund crisis, along with HB 302 to allow for borrowing from the federal unemployment insurance trust fund, if necessary. Montana can't do much about the national economy which controls our economy. But we can take these important steps until better economic times return.

International Union of Operating Engineers

LOCAL 400

Affiliated with AFL-CIO

Montana

JOHN SLATTERY
President

D. E. "DAVE" JOHNSTON
Vice President

LOUIS LAYMAN
Treasurer

RALPH REID
Rec. Comm. Secretary



BILL BURLINGAME
Business Manager &
Financial Secretary

HEADQUARTERS
2701 Airport Road
Helena, Montana 59601
Telephone: 406-442-9000

TESTIMONY ON HOUSE BILL 174, BEFORE THE HOUSE LABOR COMMITTEE JANUARY 27, 1983

My name is Jim Mayes, and I represent the Operating Engineers, Local 400, and the Montana State Building and Construction Trades Council in support of House Bill 174.

Everybody knows the Unemployment Insurance Trust Fund is in bad shape. The question is what we can do about it, while we wait for the economy to get better.

House Bill 174 is the right way for Montana to deal with the problem. It raises the taxable wage base from only \$8,000 to 100% of the employee's salary. It also lowers the tax rates.

The result of this bill is that small employers won't be paying such high tax rates in relation to the bigger employers. If businesses want to discriminate against small business, that doesn't concern us much. But when that big business bias in the law leads to reduced funds for the trust fund, then it is our business.

This bill will raise a substantial amount of money, almost exactly equal to the amount the trust fund will be in the red. Of course, it's hard to predict what is going to happen with the economy in the next two years. Even the biggest pessimists in the labor movement couldn't have seen how far down the economy would be driven by supply side economics. We can't say for sure this bill will keep the Unemployment Insurance Trust Fund in the black, but it will sure help. And if the economy picks up at all, this may be all the state has to do.

Montana State Pharmaceutical Association

Incorporated
P.O. BOX 6335
GREAT FALLS, MONTANA 59406
TELEPHONE 406-452-3201

January 27, 1983

Testimony Supporting HB 174

By: Frank J. Davis, R.Ph.
Executive Director
Montana State Pharmaceutical Association
P. O. Box 6335
Great Falls, MT 59406
Phone 452-3201

Mr. Chairman:

Members of the Committee on Labor and Employment Relations:

The pharmacists of Montana and their association would appreciate your favorable consideration on HB 174. We believe this bill would more equitably distribute employer contributions to the unemployment fund. We believe the rate schedule proposed in this legislation would produce a better balance between the amount of money contributed to the fund by an employer and the benefits available to the employees of that company when needed.

We support the testimony offered by the Montana Retail Association and would appreciate a do-pass recommendation from this committee.

Thank you,



Frank J. Davis
Executive Director

VISITOR'S REGISTER

HOUSE LABOR AND EMP. RELATIONS

COMMITTEE

BILL HB 174

DATE 1/27

SPONSOR ~~BARDANOSIVE~~ Hoyer

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Walter Frost	Bozeman	Cement Workers	X	
George Allen	Helena	Montana Railroad Assn	X	
Harold V. Harris	Helena	Dept of Labor	X	
Jim Hoyer	Helena	U. M. B. C.		X
Robert M. Hedding	Missoula	Int. Wood Products		X
Frank Davies	Butte	MT. ST PHAN. ASSN	X	
KEITH OLSON	Kalispell	MT. Logging Assn		X
CHAD SMITH	HELENA	Unemp Camps Admin, Inc.		X
John Hollow	Helena	MT. Home Builders		X
Jim Mular	Butte	AIRLINES CLERKS	X	
Al Bole	Helena	Montana Chamber		X
ARLYN PLOAMAN	BOZEMAN	CEMENT WORKERS	X	
Ernest Funder	Helena	Salvadori 254	X	
Ed Brown	Butte	League of Women	X	
Jim Murray	Helena	Mont. AFL-CIO	X	
Jim Mays	Helena	LOCAL 400 IUOE	X	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DEPARTMENT OF ADMINISTRATION
PERSONNEL DIVISION



TED SCHWINDEN, GOVERNOR

ROOM 130, MITCHELL BUILDING

STATE OF MONTANA

(406) 449-3871

HELENA, MONTANA 59620

308

January 28, 1983

Representative Mel Williams
Chairman
House Labor and Employment Relations Committee
Room 224R
State Capitol
Helena, Montana 59620

Dear Representative Williams:

Killed the bill

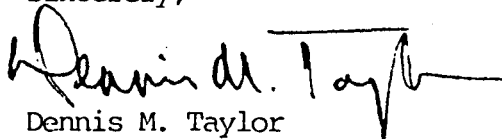
HB308, sponsored by Representative Bardanouve at the request of the Personnel and Labor Relations Study Commission, would permit the Board of Personnel Appeals rather than the Department of Labor and Industry to hire its own staff. The Board of Personnel Appeals has maintained a strong tradition of neutrality and independence throughout its entire existence. The studies conducted by the Personnel and Labor Relations Study Commission staff documented the neutrality of the Board of Personnel Appeals. The Board of Personnel Appeals is staffed by employees in the Personnel Appeals Division which is under the management and supervision of the Department of Labor and Industry. This organizational structure is consistent with well established principles of State government management, implemented and maintained throughout the executive branch since the days of executive reorganization in the early 1970's.

Let's not turn back the clock on proven and effective principles of public administration by adopting the idea contained in HB308. HB308 is not necessary. The measure is inconsistent with the spirit of executive reorganization. There is no evidence, whatsoever, of any infringement on the authority of the Board of Personnel Appeals by the Commissioner of Labor and Industry, neither now nor in past administrations. HB308 violates sound management principles well established in State government.

The Board of Personnel Appeals is composed of hard working, dedicated private citizens who give of their time and energy to serve on this important quasi-judicial board. This responsibility takes them away from the regular responsibilities of work and family each month. Board members do not work full time and can hardly be expected to manage the day-to-day functions of the full time staff in the Personnel Appeals Division.

Accountability for effectiveness and productivity rests with the Department Director, as it should. I urge you and the members of the Labor and Employment Relations Committee to give HB308 a "do not pass" recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis M. Taylor", with a horizontal line extending from the end of the signature.

Dennis M. Taylor
Administrator
Personnel Division

DMT/jk

cc: Labor and Employment
Relations Committee Members

(2)(d) indicates that the department shall provide staff to the board or agency and the agency may not hire its own staff unless specifically allowed by statute elsewhere in the chapter.

This provision recognized that there may be situations under which a Board or Commission should have authority to hire its own staff to insure strict neutrality and independence from the attached-to department.

II. Agencies and Boards which are allocated to a department for administrative purposes only but have been given statutory authority to hire their own staff or top staff.

Commissioner of political practice allocated to the Office of the Secretary of State (Has authority to hire its own staff.)

Board of Investments allocated to the Department of Administration (Has authority to hire top staff and approve the Department's appointment of other staff.)

Merit System Council allocated to the Department of Administration. (Has authority to hire own staff.)

Teacher's Retirement Board allocated to the Department of Administration (Has authority to hire own staff.)

Historical Society, Montana Arts Council, and State Library are allocated to the Board of Education but management of the staff is vested in the trustees of the Historical Society, the Montana Arts Council and State Library Commission.

Division of Worker's Compensation allocated to the Department of Labor and Industry. (Has authority to hire its own staff.)

Human Rights Commission allocated to the Department of Labor and Industry. (Has authority to hire its own staff.)

Board of Crime Control allocated to the Justice Department. (Has authority to hire its own staff.)

Highway Traffic Safety Program allocated to the Department of Justice. (Has authority to hire its own staff.)

Board of Veteran's Affairs attached to the Department of Social and Rehabilitation Services (SRS). (Has authority to hire its own staff.)

Board of Pardons allocated to the Department of Institutions. (Has authority to hire its own staff.)

Board of Oil and Gas Conservation allocated to the Department of Natural Resources. (Has authority to hire its own staff.)

III. Reasons the Board of Personnel Appeals should have the authority to hire its own staff.

The integrity and neutrality of a Board with responsibilities for deciding between conflicting parties is central to its overall effectiveness. Consistent with this principle, the national Public Employment Relations Service, which recently reviewed Montana's Board of Personnel Appeals, recommended in strongest language that the Board of Personnel Appeals be "insulated from the Commissioner of Labor and Industry and other department heads so that no conflict of interest would exist or be suggested".

Both employees of the Department of Labor and Industry and management of the Department could be parties to a dispute before the Board. Since staff of the Board is hired and accountable to the head of the Department and are integrally involved in adjudicating such disputes (act as hearings officers) there is a clear conflict of interest.

Given the fact that the Board of Personnel Appeals has no direct control (absent agreements it can reach with the Commissioner of Labor and Industry) over the naming of its chief full-time administrator, if there were to be a philosophical division between the Commissioner and the Board, the Commissioner could select an Administrator who would be loyal to the philosophy of the Commissioner rather than the Board.

HOUSE LABOR AND EMP. RELATIONS

BILL HB 308

DATE 1/27

SPONSOR BARDANOUE

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

House BILL NO. *378*
Brand Mendelsohn-Warley Cabral

1 INTRODUCED BY
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE VETERANS'
5 APPOINTMENT AND EMPLOYMENT PREFERENCE TO REAPPOINTMENT AND
6 CONTINUED EMPLOYMENT; AMENDING SECTION 10-2-203, MCA."

7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 10-2-203, MCA, is amended to read:
10 "10-2-203. Preference in appointment, reappointment,
11 and employment, and continued employment. (1) In every
12 public department and upon all public works of the state of
13 Montana and of any county or city thereof, the following
14 shall be preferred for appointment, and reappointment,
15 employment, and retention in employment: veterans, their
16 spouses and surviving spouses, and the other dependents of
17 disabled veterans and disabled civilians recommended by the
18 rehabilitative services division of the department of social
19 and rehabilitation services.

20 (2) Age, loss of limb, or other physical impairment
21 which does not in fact incapacitate does not disqualify any
22 disabled veteran or civilian provided he or she possesses
23 the business capacity, competency, and education to
24 discharge the duties of the position involved.

25 (3) Those of the above-described veterans who have

1 disabilities admitted by the veterans administration of the
2 United States to have been incurred in service in any of the
3 wars, military expeditions, or police actions, whenever such
4 disabilities do not in fact incapacitate, shall be given
5 preference in employment over other veterans."

-End-

House BILL NO. *384*

INTRODUCED BY *J. Skarnet*
BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RESTAURANT, BAR, AND TAVERN WAGE PROTECTION ACT TO REQUIRE THE BONDING OF ALL RESTAURANTS, BARS, AND TAVERNS; ALLOWING THE COMMISSIONER OF LABOR AND INDUSTRY TO WAIVE THE BONDING REQUIREMENT; PROVIDING A GRANDFATHER CLAUSE; AMENDING SECTIONS 39-3-602 THROUGH 39-3-605, 39-3-607, AND 39-3-608, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-602, MCA, is amended to read:
"39-3-602. Purpose. The purpose of this part is to protect the state of Montana and employees of ~~tenessees~~ conducting business persons operating businesses as restaurants, bars, and taverns; to assure the payment of wages to such employees in the event the ~~tessee~~ person ceases operation of his business and is unable to pay the wages due and owing to his employees; and to assure the payment of payroll taxes to the department of ~~labor~~ industry."

Section 2. Section 39-3-603, MCA, is amended to read:
"39-3-603. Definitions. For the purposes of this part,

the words and phrases used herein have the following meaning:

(1) "Bar" or "tavern" means a house where liquor or beer is sold to be drunk on the premises.

(2) "Beer" means any beverage so defined in the Montana Alcoholic Beverages Code.

(3) "Business" means a commercial enterprise of any kind involving the buying and selling of goods.

(4) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(5) "Department" means the department of labor and industry provided for in 2-15-1701.

(6) "Employee" means a person who works for wages or salary in the service of an employer.

(7) "Teesee" means one to whom a teesee is made.

(8) "Liquor" means any beverage so defined in the Montana Alcoholic Beverages Code.

(9) "Person" includes any establishment, firm, partnership, corporation, person, or association of persons. (10) "Restaurant" means a public eating house where food is prepared and served for human consumption on the premises."

Section 3. Section 39-3-604, MCA, is amended to read:
"39-3-604. Bond to be filed by ~~tessee~~ bond requirements. (1) Every person ~~who~~ who ~~teeses~~ teeses ~~from another~~

1 person premises for the purpose of conducting therein
 2 operating a business as a restaurant, bar, or tavern is
 3 hereby required to file a bond equal to at least double the
 4 amount of the projected semimonthly payroll with the
 5 commissioner of labor and industry. Said bond shall at all
 6 times be kept in full force and effect and any cancellation
 7 or revocation thereof or withdrawal of the sureties
 8 therefrom is grounds for enjoining the conduct operation of
 9 business, as provided for in 39-3-607, until such time as a
 10 new bond of like tenure and effect shall have been filed and
 11 approved as herein provided.

12 (2) The bond and affidavit required by subsection (1)
 13 of this section shall be filed with the commissioner of
 14 labor and industry. The state of Montana shall be named as
 15 the obligee therein, with good and sufficient sureties to be
 16 approved by the attorney general.

17 (3) Such bond shall be conditioned to assure that in
 18 any lease transaction of the type referred to in 39-3-608
 19 the persons employees who perform labor or other personal
 20 services for the lessee are guaranteed their wages in the
 21 event the lessee person ceases operation of the business for
 22 any reason and is unable to pay the wages due and owing the
 23 employees and to assure payment due the division of
 24 employment security department as a result of payroll taxes.
 25 (4) Except as provided in 39-3-605(2), this section

1 does not apply to any person who has operated the same
 2 restaurant, bar, or tavern continuously since October 1,
 3 1980.
 4 Section 4. Section 39-3-605, MCA, is amended to read:
 5 "39-3-605. New Waiver of bond -- new or additional
 6 bond. (1) After 3 years of compliance with this part, the
 7 commissioner may waive the provisions of 39-3-604 for any
 8 person showing compliance with the applicable provisions of
 9 the Fair Labor Standards Act and all the applicable laws
 10 administered by the department.

11 (2) Notwithstanding 39-3-604(4) and subsection (1) of
 12 this section, the commissioner of labor and industry may ^{shall}
 13 require a person operating a restaurant, bar, or tavern
 14 including a person who has been in business since October 1,
 15 1980, or for over 3 years, to file a new bond or a bond of a
 16 greater amount than double the semimonthly payroll whenever
 17 the commissioner deems it necessary for the protection of
 18 the state of Montana or the employees of a lessee person
 19 operating a restaurant, bar, or tavern."

20 Section 5. Section 39-3-607, MCA, is amended to read:
 21 "39-3-607. Enjoining lessee's business until bond
 22 filed. If any person engages in the operation of a restaurant,
 23 bar, or tavern business as lessee without having first filed
 24 a bond as required by 39-3-604(1) or by 39-3-605, the
 25 attorney general, the commissioner of labor and industry, or

1 any citizen, group of citizens, or any association in the
2 county where the violator ~~conducts~~ operates his business may
3 institute an action to enjoin such person from ~~engaging in~~
4 operating the business until compliance with this part has
5 been met."

6 Section 6. Section 39-3-608, MCA, is amended to read:
7 "39-3-608. Unlawful for ~~lessee~~ to operate business
8 without bond. From and after ~~July 1, 1965~~ October 1, 1983,
9 it shall be unlawful for any person to ~~lease premises to be~~
10 used as the place for conducting operate a restaurant, bar,
11 or tavern business without first having filed with the
12 commissioner of ~~labor and industry~~ a bond in accordance with
13 the requirements of 39-3-604~~44~~ or 39-3-605."

-End-

1
2 INTRODUCED BY House Bill NO. 390
3 John D. Dwyer
4 BY REQUEST OF THE PERSONNEL AND
5 LABOR RELATIONS STUDY COMMISSION

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE UNFAIR LABOR
7 PRACTICES BY HEALTH CARE FACILITIES AND LABOR ORGANIZATIONS
8 REPRESENTING NURSES; TO ESTABLISH PROCEDURES FOR
9 ADJUDICATING UNFAIR LABOR PRACTICES CHARGES; AND TO RESOLVE
10 APPROPRIATE UNIT AND REPRESENTATION QUESTIONS CONSISTENT
11 WITH THE PUBLIC EMPLOYEES COLLECTIVE BARGAINING PROVISIONS;
12 AMENDING SECTIONS 39-32-102 THROUGH 39-32-106 AND 39-32-109,
13 MCA; AND REPEALING SECTIONS 39-32-107, 39-32-108, AND
14 39-32-111, MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 39-32-102, MCA, is amended to read:
18 "39-32-102. Definitions. As used in this chapter,
19 unless the context clearly requires otherwise, the following
20 definitions apply:

21 (1) "Appropriate unit" means a homogeneous group of
22 employees (as herein defined) of a health care facility
23 having similar duties and qualifications determined pursuant
24 to 39-32-106.

25 (2) "Board" means the board of personnel appeals

1 provided for in 2-15-1705.

2 ~~(27)~~(31) "Employee" means a registered professional or
3 licensed practical nurse performing services for
4 compensation for a health care facility but does not include
5 a member of a religious order assigned to a health care
6 facility by the order as a part of her obligation to the
7 order.

8 ~~(37)~~(41) "Health care facility" means a hospital or
9 nursing home or other agency or establishment employing
10 employees as defined in this chapter, whether operated
11 publicly or privately, having as one of its principal
12 purposes the preservation of health or the care of sick or
13 infirm individuals or both.

14 ~~(47)~~(51) "Strike" shall mean any work stoppage caused by
15 the employees of a health care facility, as defined in
16 subsection ~~(3)~~ 41 of this section, that interferes with the
17 operation of the health care facility or affects the care of
18 patients in the health care facility."

19 Section 2. Section 39-32-103, MCA, is amended to read:

20 "39-32-103. Rules. The department ~~of labor and~~
21 ~~industry may board shall~~ adopt and promulgate rules as to
22 times ~~and places for hearing and notice thereof so as to~~
23 ~~provide adequate notice and opportunity to be heard to all~~
24 ~~interested parties as to elections and so as to carry into~~
25 effect the provisions of this chapter."

1 Section 3. Section 39-32-104, MCA, is amended to read:
 2 "39-32-104. Hearings for determination of appropriate
 3 unit. The ~~department-of-labor-and-industry board~~ may set the
 4 time and place for hearings for determination of the
 5 composition of appropriate units when requested to make such
 6 determination under 39-32-106(2) ~~or 39-32-106(1).~~"

7 Section 4. Section 39-32-105, MCA, is amended to read:
 8 "39-32-105. General classifications for health care
 9 facilities and appropriate units -- petition for removal
 10 from general classification. (1) The ~~department-of-labor-and~~
 11 ~~industry board~~ may determine, on its own motion by holding
 12 hearings or conducting such investigations as it thinks
 13 necessary, general classifications for health care
 14 facilities and appropriate units.

15 (2) When such determination has been made hereunder
 16 and when an application has been made by a health care
 17 facility or an employee organization for a specific
 18 determination as to it, the ~~department board~~ may make such
 19 determination on the basis of such general classification.

20 (3) The health care facility or employee organization
 21 may, within 30 days after notice to it of such
 22 determination, file a request for a hearing upon written
 23 petition which shall set forth the facts which it believes
 24 remove it from such general classification, and hearing
 25 shall be held on such petition."

1 Section 5. Section 39-32-106, MCA, is amended to read:
 2 "39-32-106. Determination of appropriate bargaining
 3 unit. (1) The composition of an appropriate unit in a health
 4 care facility, for purposes of this law, may be determined
 5 by mutual consent between such facility and the employees
 6 thereof.

7 (2) In the event no such mutual consent is available,
 8 then either the facility or representatives of employees may
 9 apply to the ~~department-of-labor-and-industry board~~ and said
 10 ~~department board~~, through a duly designated agent, shall
 11 make a determination of the composition of such an
 12 appropriate unit.

13 (3) In determining such appropriate unit, professional
 14 employees may not be included in the same unit with
 15 nonprofessional employees unless a majority of professional
 16 employees in a proposed unit desire such inclusion. Weight
 17 shall be accorded similarity of duties, licensure, and
 18 conditions of employment, among other relevant factors, in
 19 determining an appropriate unit."

20 Section 6. Section 39-32-109, MCA, is amended to read:
 21 "39-32-109. ~~Improper employment practices~~ Unfair labor
 22 practices of health care facility. It is an ~~improper~~
 23 employment unfair labor practice for a health care facility
 24 to do one or more of the following:

25 (1) interfere with or restrain or coerce employees in

1 any manner in the exercise of their right of
2 self-organization;

3 (2) initiate, create, dominate, contribute to, or
4 interfere with the formation or administration of any
5 employee organization that has collective bargaining as one
6 of its principal functions;

7 (3) discriminate in regard to hire terms or conditions
8 of employment when a purpose of such is to discourage
9 membership in an employee organization that has collective
10 bargaining as one of its principal functions;

11 (4) refuse to meet and bargain in good faith with the
12 duly designated representatives of an appropriate bargaining
13 unit of its employees. For the purpose of this subsection,
14 it is a requirement of bargaining in good faith that the
15 parties be willing to reduce in writing and have their
16 representative sign any agreement arrived at through
17 negotiations and discussion.

18 (5) unilaterally exclude from work or prevent from
19 working or discharge any one or more employees when the
20 purpose of such action is in whole or in part to interfere
21 with or coerce or intimidate an employee in the exercise of
22 rights assured in this law."

23 NEW SECTION Section 7. Unfair labor practices of
24 labor organization. It is an unfair labor practice for a
25 labor organization or its agents to:

1 (1) restrain or coerce employees in the exercise of
2 the right to:

3 (a) form, join, or assist any labor organization;

4 (b) bargain collectively through representatives of
5 their own choosing; or

6 (c) engage in other concerted activities for the
7 purpose of collective bargaining or other mutual aid or
8 protection;

9 (2) restrain or coerce an employer in the selection of
10 his representative for the purpose of collective bargaining
11 or the adjustment of grievances;

12 (3) refuse to bargain collectively in good faith with
13 an employer if it has been designated as the exclusive
14 representative of employees;

15 (4) use agency shop fees for contributions to
16 political candidates or parties at state or local levels.

17 NEW SECTION Section 8. Adjudication of unfair labor
18 practices complaints. Violations of 39-32-109 or [section 7]
19 are remediable by the board, and board orders are
20 enforceable and reviewable by the court in the same manner
21 as provided for in Title 39, chapter 31, part 4.

22 NEW SECTION Section 9. Representation questions
23 decided by the board. Representation questions shall be
24 decided by the board in the same manner as provided for in
25 39-31-207 through 39-31-210.

1 NEW SECTION. Section 10. Subpoena power. The board
2 has the same power to subpoena witnesses and administer
3 oaths and affirmations under this chapter as it does under
4 Title 39, chapter 31, and the provisions of 39-31-106 and
5 39-31-107 are incorporated by reference into this chapter.
6 NEW SECTION. Section 11. Codification instruction.
7 Sections 7 through 10 are intended to be codified as an
8 integral part of Title 39, chapter 32, and the provisions of
9 Title 39, chapter 32, apply to sections 7 through 10.
10 NEW SECTION. Section 12. Repealer. Sections
11 39-32-107, 39-32-108, and 39-32-111, MCA, are repealed.

-End-

STANDING COMMITTEE REPORT

Page 1 of 2

February 3, 1983

MR. **SPEAKER:**

We, your committee on **LABOR AND EMPLOYMENT RELATIONS**

having had under consideration **HOUSE** Bill No. **174**

First reading copy (**white** color)

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE TAXABLE WAGE BASE FOR PURPOSES OF UNEMPLOYMENT INSURANCE CONTRIBUTIONS AND ESTABLISHING A NEW EMPLOYER RATE SCHEDULE; AMENDING SECTIONS 39-51-1108 AND 39-51-1210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That **HOUSE** Bill No. **174**
be amended as follows:

1. Page 2.

Following: line 14

Strike: line 15 through line 19 on page 4

Insert: "SCHEDULES OF CONTRIBUTION RATES -- Part I

	Sched. I	Sched. II	Sched. III	Sched. IV
Minimum Ratio of Fund to Total Wages	(.0150)	(.0145)	(.0140)	(.0130)
Average Tax Rate	0.7	0.8	0.9	1.0

Rate Class Contribution Rates For Eligible Employers

1	0.02	0.03	0.1	0.2
2	0.08	0.15	0.3	0.4
3	0.2	0.4	0.5	0.6
4	0.5	0.6	0.7	0.8
5	0.7	0.8	0.9	1.0
6	0.9	1.0	1.1	1.2
7	1.1	1.2	1.3	1.4

~~XXXXX~~
DO PASS

February 3, 1983

Contribution Rates For Unrated Employers

1.3 1.4 1.5 1.6

Rate Class

Contribution Rates For Deficit Employers

1	1.4	1.5	1.6	1.7
2	1.6	1.7	1.8	1.9
3	1.8	1.9	2.0	2.1
4	2.0	2.1	2.2	2.3
5	2.2	2.3	2.4	2.5
6	2.4	2.5	2.6	2.7

SCHEDULES OF CONTRIBUTION RATES -- Part II

Sched. V (.0120)	Sched. VI (.0110)	Sched. VII (.0095)	Sched. VIII (.0075)	Sched. IX (.0050)	Sched. X (.....)
1.1	1.2	1.3	1.4	1.5	1.6

Rate Class Contribution Rates For Eligible Employers

1	0.3	0.4	0.5	0.6	0.7	0.8
2	0.5	0.6	0.7	0.8	0.9	1.0
3	0.7	0.8	0.9	1.0	1.1	1.2
4	0.9	1.0	1.1	1.2	1.3	1.4
5	1.1	1.2	1.3	1.4	1.5	1.6
6	1.3	1.4	1.5	1.6	1.7	1.8
7	1.5	1.6	1.7	1.8	1.9	2.0

Contribution Rates For Unrated Employers

1.7 1.8 1.9 2.0 2.1 2.2

Contribution Rates For Deficit Employers

1	1.8	1.9	2.0	2.1	2.2	2.3
2	2.0	2.1	2.2	2.3	2.4	2.5
3	2.2	2.3	2.4	2.5	2.6	2.7
4	2.4	2.5	2.6	2.7	2.8	2.9
5	2.6	2.7	2.8	2.9	3.0	3.1
6	2.8	2.9	3.0	3.1	3.2	3.3

AND AS AMENDED
DO PASS

MEL WILLIAMS

STANDING COMMITTEE REPORT

Page 1 of 3

February 8, 1983

MR. **SPEAKER:**

We, your committee on **LABOR AND EMPLOYMENT RELATIONS**

having had under consideration **HOUSE** Bill No. **277**

First reading copy (**white**)
Color

**A BILL FOR AN ACT ENTITLED: "AN ACT MAKING WORKERS' COMPENSATION
COVERAGE MANDATORY FOR INDEPENDENT CONTRACTORS AND PROVIDING FOR
AN OPTIONAL EXEMPTION FROM COVERAGE; AMENDING SECTION 39-71-401,
MCA."**

Respectfully report as follows: That **HOUSE** Bill No. **277**

be amended as follows:

1. Pages 1 through 3.

Strike: all of the bill following the enacting clause

Insert: "Section 1. Section 39-71-401, MCA, is amended to read:

"39-71-401. Employments covered and employments exempted. (1)
Except as provided in subsection (2) of this section, the Workers'
Compensation Act applies to all employers as defined in 39-71-117
and to all employees as defined in 39-71-118. An employer who has any
employee in service under any appointment or contract of hire,
expressed or implied, oral or written, shall elect to be bound by
the provisions of compensation plan No. 1, 2, or 3. Every employee
whose employer is bound by the Workers' Compensation Act is subject
to and bound by the compensation plan that has been elected by the
employer.

(2) Unless the employer elects coverage for these employments
under this chapter and an insurer allows such an election, the
Workers' Compensation Act does not apply to any of the following
employments:

XXXXX
DO PASS

February 8, 1983

- (a) household and domestic employment;
 - (b) casual employment as defined in 39-71-116(3);
 - (c) employment of members of an employer's family dwelling in the employer's household;
 - (d) employment of sole proprietors or working members of a partnership other than those who consider themselves or hold themselves out as independent contractors;
 - (e) employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States;
 - (f) any person performing services in return for aid or sustenance only;
 - (g) employment with any railroad engaged in interstate commerce, except that railroad construction work shall be included in and subject to the provisions of this chapter.
- (3) A sole proprietor or working member of a partnership who holds himself out or considers himself an independent contractor must elect to be bound personally and individually by the provisions of compensation plan no. 1, 2, or 3 but he may apply to the division for an exemption from the Workers' Compensation Act for himself. The application must be made in accordance with the rules adopted by the division. The division may deny the application only if it determines that the applicant is not an independent contractor. When an application is approved by the division, it is conclusive as to the status of independent contractor and precludes the applicant from obtaining benefits under this chapter.

AND AS AMENDED
DO PASS

STATEMENT OF INTENT ATTACHED

MEL WILLIAMS.....
Chairman.

February 3, 1983

MR. SPEAKER:

WE, YOUR COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS, HAVING
UNDER CONSIDERATION HOUSE BILL NO. 277, FIRST READING COPY (WHITE),
ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL NO. 277

Under the law in effect prior to the enactment of this act, independent contractors were exempt from coverage under the Workers' Compensation laws. Many times, the determination of whether a worker is an independent contractor is made after a worker, for whom no contributions have been made, is injured and files a claim. This act provides a method for a before-the-fact determination of the independent contractor status. The act is not intended to make independent contractors subject to the Workers' Compensation Act but requires that they apply for that status to be exempt.

This bill authorizes the Division of Workers' Compensation of the Department of Labor and Industry to adopt rules to implement this act. It is the intent of the Legislature that the Division will provide an application form and provide for a hearing if the applicant disagrees with the Division's initial determination. Any substantive rules adopted pursuant to this act must be consistent with the statutory definition of "independent contractor."

MEL WILLIAMS

Chairman.

STANDING COMMITTEE REPORT

January 31,

83

19.....

SPEAKER:

MR.

LABOR AND EMPLOYMENT RELATIONS

We, your committee on

HOUSE

308

having had under consideration Bill No.

First

white

reading copy (.....)

**A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE BOARD OF PERSONNEL
APPEALS TO HIRE ITS OWN STAFF; AMENDING SECTION 2-15-1705, MCA."**

HOUSE

308

Respectfully report as follows: That..... Bill No.

DO NOT PASS

**~~XXXXX~~
DO PASS**

STATE PUB. CO.
Helena, Mont.

MR. WILLIAMS

Chairman.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

January 31, 19 83

MR. **SPEAKER:**

LABOR AND EMPLOYMENT RELATIONS

We, your committee on

having had under consideration **HOUSE** Bill No. **314**

First reading copy (**white** color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE TAXABLE WAGE BASE AND DECREASE THE PERCENTAGE USED IN CALCULATING THE INDIVIDUAL BENEFIT ENTITLEMENT FOR PURPOSES OF UNEMPLOYMENT INSURANCE; AMENDING SECTIONS 39-51-1108 AND 39-51-2201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That **HOUSE** Bill No. **314**

DO NOT PASS
~~XXXXX~~
DO PASS

NEL WILLIAMS Chairman.