

MINUTES OF THE MEETING  
LABOR & EMPLOYMENT RELATIONS COMMITTEE  
MONTANA STATE SENATE

March 17, 1983

The meeting of the Labor Committee was called to order by Chairman Gary C. Aklestad on March 17, 1983, at 1:00 p.m. in Room 404, State Capitol.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF HOUSE BILL NO. 309:

Chairman Aklestad introduced Representative Francis Bardanouve, sponsor of House Bill 309, to the Committee, and Representative Bardanouve presented the bill to the Committee.

House Bill No. 309 is an act to establish a uniform grievance process for state executive branch employees; to discontinue employee grievance appeal functions of the Board of Personnel Appeals for the Departments of Highways and Fish, Wildlife, and Parks; to discontinue the Merit System Council.

Representative Bardanouve stated that this bill attempts to establish one common appeal system for all state of Montana executive branch employees.

Representative Bardanouve offered some amendments to House Bill No. 309. These amendments are attached. (Exhibit No. 1)

Representative Bardanouve also stated that the Merit System supports abolishing itself.

PROPONENTS OF HOUSE BILL NO. 309:

Joyce Brown, representing the Personnel and Labor Relations Study Commission, stated that she supports House Bill No. 309. She further stated that this issue received the greatest attention by the Commission and the least consensus.

J. Brown stated that the bill does include some of the language that the Commission thought was important. She then explained the bill further to the Committee.

J. Brown's printed testimony is attached. (Exhibit No. 2)

Representative Cal Winslow, representing District 65, Billings, Montana, stated that he supports House Bill No. 309.

Morris Brusett, representing the Department of Administration, stated that they are in support of House Bill No. 309 with the amendments as proposed by Representative Bardanouve.

Mr. Brusett stated that employee morale is important, and this bill takes nothing away by creating this procedure.

Jeanne Cowley, representing ICCW, stated that they are in support of House Bill 309. Her printed testimony is attached.  
(Exhibit No. 3)

David Hunter, representing the Department of Labor, stated that they support House Bill 309. Mr. Hunter stated that they are striving for consistency. Mr. Hunter told the Committee that the record of the Board of Personnel Appeals is largely in favor of management. He thinks the Board is a useful process.

Representative Hal Harper, representing House District 30, Helena, stated that the state employees strongly support this bill. He feels a uniform grievance procedure should be established.

Representative Addy, representing House District 62, Billings, stated that he supports House Bill 309. Representative Addy's remarks are written on his testifying sheet which is attached.  
(Exhibit No. 4)

Dennis Taylor, representing the Personnel Division of the Department of Administration, stated that House Bill 309 provides a uniform grievance procedure for all state employees.

Mr. Taylor submitted some proposed amendments to House Bill 309. These amendments are attached.  
(Exhibit No. 5)

Mr. Taylor supports House Bill 309 with his amendments.

#### OPPONENTS OF HOUSE BILL NO. 309:

Jim McGarvey, representing the Montana Federation of Teachers, AFL-CIO, stated that they oppose House Bill No. 309.

Mr. McGarvey stated that no other branch of state government provides such procedure for state employees. He further stated that the scope is so limited already, and this is one more move to make this scope smaller and smaller.

Mr. McGarvey feels that since there are already amendments to House Bill 309 there may be many problems with the bill.

He stated that the unions more often than not screen grievances, and this process eliminates many of them somewhere along the line. He also feels the cost of administering this bill would be high.

Labor & Employment Relations  
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LeRoy Schramm, representing the Personnel Study Commission and the Montana University System, stated that they oppose House Bill 309.

Mr. Schramm stated that he feels the bill has been changed so much it is no longer a Study Commission bill.

He stated that this bill is not a uniform procedure for all state employees. He also stated that he does not feel the Board of Personnel Appeals is a good arbitration board.

R. Nadiean Jensen, representing AFSCME, stated that they oppose House Bill 309.

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL NO. 309:

Senator Lynch: Mr. Schramm, what about the comments by Mr. Hunter and Representative Harper regarding the question of uniformity?

LeRoy Schramm stated that he doesn't feel the bill does create a uniform procedure.

Senator Goodover: If this bill provides binding arbitration, how do you account for the fact that the unions are opposing it?

LeRoy Schramm: This bill gives binding arbitration to everyone. This bill gives something free that other people do not get for free.

Senator Lynch: Will it get to be a costly item for this free legal counseling?

LeRoy Schramm: The employees would have to pay for their legal counsel under the sponsor's proposed amendments. The cost I was referring to was the cost of the hearing examiner which would have to be paid for by the state.

Chairman Aklestad: The fiscal note has the cost at \$57,000 per year.

Representative Bardanouve: That is assuming it is run by the Board of Personnel Appeals.

Senator Blaylock: Where are the people that you say is excluded?

LeRoy Schramm showed Senator Blaylock the exclusions in the bill.

Representative Bardanouve made closing remarks in support of House Bill 309.

Chairman Aklestad called the hearing closed on House Bill No. 309.

CONSIDERATION OF HOUSE BILL NO. 281:

Chairman Aklestad introduced Representative Bob Dozier, sponsor of House Bill No. 281, to the Committee, and Representative Dozier presented the bill to the Committee.

House Bill No. 281 is an act to promote the general welfare in implementation of Article XII, Section 2, of the Montana Constitution by allowing employees of municipal and county governments to agree to work more than 8 hours a day and to agree to a 14-day, 80-hour work period and by allowing fire department employees to work a mutually agreeable workday or shift and work period.

Representative Dozier stated that House Bill No. 281 is basically a flex-time bill for public employees. The bill addresses the fact that they must have an agreement to do this.

PROPOSERS OF HOUSE BILL NO. 281:

Mae Nan Ellingson, representing the city of Missoula and the city of Helena, stated that they are in support of House Bill No. 281. Her printed testimony is attached.  
(Exhibit No. 6)

M. Ellingson stated that she has had excellent experience with the 80-hour, 14-day shifts in Missoula.

R. Nadiean Jensen, representing AFSCME, stated that they support House Bill 281. R. Jensen pointed out a possible proofreading error in the bill--page 9, line 8, the fourth word should read, "represents".

Rose Skoog, representing the Montana Health Care Association, stated that they support House Bill No. 281. They would like county-run nursing home facilities to be able to utilize a more flexible time schedule. They are trying to correct a problem they have with scheduling. R. Skoog presented some proposed amendments to House Bill 281. These proposed amendments are attached.  
(Exhibit No. 7)

Chad Smith, representing the Montana Hospital Association, stated that they support House Bill 281 as amended. Mr. Smith presented an amendment to House Bill 281. This amendment is attached.  
(Exhibit No. 8)

Mr. Smith stated that they would also support the nursing home amendments submitted by Rose Skoog.

Mr. Smith stated that only 20 hospitals are affected by this bill--only county hospitals and district hospitals.

Eileen Robbins, representing the Montana Nurses' Association, stated that they support House Bill 281, and they would support Rose Skoog's amendments, but not Mr. Smith's amendment.

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL NO. 281:

Senator Goodover asked Mr. Smith about the wording found on page 7, lines 6 and 7.

Mr. Smith stated that they would offer that as part of the proposed amendment.

Senator Lynch asked Representative Dozier what his feelings were toward Mr. Smith's suggested amendment.

Representative Dozier stated that they would have a problem with the amendment. They see no need for the change and feel it would create more problems.

Mae Nan Ellingson stated that she thinks the bill is preferable the way it was.

Representative Dozier made closing remarks in support of House Bill 281. He feels the bill is in good shape except for some language clarification on page 7. They have no problem with R. Skoog's amendments.

Chairman Aklestad called the hearing closed on House Bill No. 281.

CONSIDERATION OF HOUSE BILL NO. 406:

Chairman Aklestad asked Representative Clyde Smith, sponsor of House Bill No. 406, to present the bill to the Committee.

Representative Smith presented some amendments to House Bill 406. These amendments are attached.  
(Exhibit No. 9)

House Bill 406 is an act authorizing the Workers' Compensation Division to collect a premium from insured employers to provide additional funding sources for the Uninsured Employers' Fund.

PROPONENTS OF HOUSE BILL NO. 406:

Gary Blewett, Administrator of the Division of Workers' Compensation, stated that they support House Bill 406. Mr. Blewett's printed testimony is attached.  
(Exhibit No. 10)

Mr. Blewett also submitted a table on Uninsured Employers Funding and a pie chart showing the Distribution of Uninsured Employer Cases. The table and chart are attached.  
(Exhibit Nos. 11 and 12)

Jim Murry, representing Montana State AFL-CIO, stated that they support House Bill 406. Mr. Murry's printed testimony is attached. (Exhibit No. 13)

Representative Robert A. Ellerd stated that he supports House Bill 406.

Keith Olson, representing the Montana Logging Association, stated that they support House Bill 406.

OPPONENTS OF HOUSE BILL NO. 406:

George Wood of Missoula, representing the Montana Self Insurers, stated that they oppose House Bill 406. Mr. Wood's printed testimony is attached. (Exhibit No. 14)

Lloyd Crippen, representing the National Federation of Independent Business, stated that they strongly oppose House Bill 406. Mr. Crippen's printed testimony is attached. (Exhibit No. 15)

George Allen, representing the Montana Retailers Association, stated that they oppose House Bill 406.

Glen Drake, representing the American Insurance Association, stated that they oppose House Bill 406. Mr. Drake's printed testimony is attached. (Exhibit No. 16)

Tom Herzig, representing the Montana Electrical Contractors, stated that they oppose House Bill 406.

James J. Murphy, representing Allen Electric of Helena, Montana, stated that they oppose House Bill 406. Mr. Murphy's printed testimony is attached. (Exhibit No. 17)

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL NO. 406:

Senator Keating: Who must comply with the law?

Gary Blewett: All employers must comply with the law with the exception of a small number. Those not in compliance are not found out until there is an accident.

Senator Keating: Mr. Blewett, aren't there people in Workers' Compensation finding those employees who have not signed up?

Gary Blewett: That is true, but there will always be some uninsured employers.

Senator Galt: Have they figured out the cost?

Gary Blewett: Yes. It is in the fiscal note. It is not broken up independently.

Senator Blaylock: Are custom combiners exempt?

Gary Blewett: No, they are not exempt. They would have to have coverage.

Senator Gage: How many employees rat on their employers in a year's time?

Gary Blewett: We get several anonymous calls a year.

Dave Hunter: The way we find out about employers who don't have coverage is when there is a problem.

Senator Goodover: Asked about Mr. Smith's amendments. Why are you deleting lines 7 and 8 on page 3?

Gary Blewett: The deletion is for the fact that it could have been misinterpreted. We have to estimate what our liability would be.

Representative Smith made closing remarks in support of House Bill 406.

Chairman Aklestad called the hearing closed on House Bill No. 406.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 3:00 p.m.

  
\_\_\_\_\_  
Senator Gary C. Aklestad, Chairman

mln

## ROLL CALL

LABOR

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/17/83

[illegible]



March 17, 1983

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
P. Nadrean Jensen	AFSCME	HB 281	X	
"	"	HB 309		X
James J. Murphy	Allen Electric Inc Helena	HB 406		X
John R. Allen	Allen Electric Inc Helena	HB 406		X
John Brown	Personnel & Labor Rel. Serv. Co.	HB 309	X	
John H. Schramm	MT. Univ. System	HB 309		X
Gary Blum	Division Workers Cong	HB 406	X	
Bob Skoog	Int. Health Care Assoc	HB 281		
Jim M. Gann	Mont. Fed Teachers	HB 309		X
Rayd. Crispin	NFIB	HB 406		X
Charles Keyser	Personnel Div/D of A	HB 309	X	
Thomas L. Kuzin	Montana Chapter NECA	HB 406		X
Joe Wolfe	Polar Elec	HB 406		X

(This sheet to be used by those testifying on a bill.)

NAME: David Hunter DATE: 3/17/83

ADDRESS: Capitol Station Helen

PHONE: 419-3661

REPRESENTING WHOM? Dept of Labor

APPEARING ON WHICH PROPOSAL: AD 309

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Loren Brown DATE: 3-17-87

ADDRESS: Mitchell Building  
1748 Colorado Blvd

PHONE: 449-3871

REPRESENTING WHOM? Personnel & Labor Relations Study Comm.

APPEARING ON WHICH PROPOSAL: HB-309

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: \_\_\_\_\_

See attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: DENNIS H. TAYLOR DATE: 3-17-83

ADDRESS: HELENA

PHONE: 449-3871

REPRESENTING WHOM? PERSONNEL DIV / DJA

APPEARING ON WHICH PROPOSAL: HB 309

DO YOU: SUPPORT? X AMEND? X OPPOSE?       

COMMENT:

See attached amendments

HB 309 provides a uniform  
grievance procedure for  
all state employees.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Morris Bragett DATE: 3-17-53

ADDRESS: Helena

PHONE: \_\_\_\_\_

REPRESENTING WHOM? Dept. of administration

APPEARING ON WHICH PROPOSAL: HR 309

DO YOU: SUPPORT? ☒ AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jim McGarvey DATE: \_\_\_\_\_

ADDRESS: Box 1246

PHONE: 442-7123

REPRESENTING WHOM? Main Federation of Teachers AFL-CIO

APPEARING ON WHICH PROPOSAL: HP 3/14

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: James Crowley DATE: 2-17-83

ADDRESS: 14 E. Duane St. RELEVANT

PHONE: 443-5117

REPRESENTING WHOM? I.C.O.W.

APPEARING ON WHICH PROPOSAL: H.R. 309

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY:

NAME: LeRoy H. Schramm DATE: 3-17-83

PHONE: 443-7358

APPEARING ON WHICH PROPOSAL: H.B. 309

COMMENT: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



(This sheet to be used by those testifying on a bill.)

NAME: R. Nadean Jensen DATE: 3-17-83

ADDRESS: Helena

PHONE: 442-1192

REPRESENTING WHOM? AFSCME

APPEARING ON WHICH PROPOSAL: HB 309

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENT: Let the minutes show AFSCME opposes HB 309

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: George Wood DATE: 3/17/83

ADDRESS: Box 2899 Missoula, MT 59806

PHONE: 543-7195

REPRESENTING WHOM? MT. Self Insurers

APPEARING ON WHICH PROPOSAL: HB406

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? ☒

COMMENTS: Written Testimony will also be submitted

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



(This sheet to be used by those testifying on a bill.)

NAME: James J. Murphy DATE: 3/17/83

ADDRESS: 2101 N Main - Allen Electric Hx/ma

PHONE: 442-3781

REPRESENTING WHOM? Allen Electric

APPEARING ON WHICH PROPOSAL: HB 406

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENTS: Attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: R. Nadean Jensen DATE: 3-17-83

ADDRESS: Helena, MT

PHONE: 442-1192

REPRESENTING WHOM? AFSCME

APPEARING ON WHICH PROPOSAL: HB 281

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: We support as the bill appears before  
this committee.

It should be noted on page 9; line 8, 4<sup>th</sup> word  
~~may~~ should read represents, a possible proofreading  
error. Page 7; line 5; 4<sup>th</sup> word does read represents.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 1

Amendments to HB 309, Third Reading Copy, offered by the sponsor,  
Representative Francis Bardanouve

Submitted By  
Rep. Bardanouve  
3/17/83

1. Page 2, line 4.  
Following: "hours,"  
Insert: "or"

2. Page 2, line 5.  
Following: "involuntarily"  
Strike: "or reprimanded in writing,"

3. Page 2, lines 18 through 22.  
Strike: subsection (3) in its entirety  
Re-number: subsequent subsections

4. Page 3, line 10.  
Following: "employee"  
Strike: "is" through "aggrieved" on line 11  
Insert: "was terminated, demoted, suspended, or laid off for  
more than 40 working hours or transferred to another  
geographical location involuntarily and that the action was  
taken without just cause, in violation of law, in retaliation  
for filing or attempting to file a grievance appeal or in  
violation of state or agency rules or written policies which  
resulted in substantial prejudice to the rights of the  
employee"

5. Page 3, line 21.  
Following: "fees."  
Strike: "(1)"

6. Page 4, lines 13 and 14.  
Strike: subsection (2) in its entirety.

Testimony on HB309 by Joyce Brown,  
Project Director of the Personnel  
and Labor Relations Study Commission  
before the Senate Labor Committee  
March 17, 1983.

EXHIBIT 2  
Submitted by Joyce Brown  
3/17/83

pg 1

Mr. Chairman, members of the Committee, the issue of a uniform state employee grievance appeal process was easily the issue that received the greatest study by the Personnel and Labor Relations Study Commission and the issue that received the least consensus.

Everyone agreed that the current hodge podge of state employee grievance appeal procedures is undesirable. Currently employees of the Department of Highways and Fish, Wildlife and Parks have a statutory grievance appeal process before the Board of Personnel Appeals. Employees of agencies under federal merit system requirements (primarily employees of the Department of SRS, Health and Job Service Division) have the right of appeal to the Merit System Council. All other state employees who lack a negotiated process have agency grievance processes established according to Department of Administration rules with no appeal beyond the agency head.

The Study Commission largely agreed that one best procedure should be established but there the consensus ended. The options considered were 1. A procedure involving appeal to the Board of Personnel Appeals. (This option extended the statutory process for employees of the Departments of Highways and Fish, Wildlife and Parks to all employees as does the current HB309. 2. A grievance procedure involving appeal to a new independent grievance appeal board attached to the Department of Administration which would replace the Merit System Council. 3. An intra-agency process that provided employees with due process rights including the right to a hearing by an independent hearings officer but no administrative appeal beyond the agency head. The hearings officer's decision would be advisory to the agency head who would have the final word unless his decision was appealed to the courts.

After considerable debate and many reversals, the Commission decided on Option 3 (an intra-agency process with no administrative appeal beyond the agency director) with Option 2 (an appeal process before a new board) a close second. Although there was also some support for Option 1 (extending right of appeal to the BPA), which the current HB309 does.

Most management representatives on the Commission favored Option 3 - an intra-agency process - because it provided employees with due process rights such as notice of adverse actions and their day in court (a hearing before an independent hearings officer) but left final administrative decision making to the official responsible for the operation of the agency - the agency head. Employees who felt that the agency head's decision was unfair were given the right of appeal directly into the courts and the right to be awarded costs and attorney's fees if they prevail.



A majority of the Commission felt that this option struck a good balance between employees' rights to be protected from wrongful actions and management rights to hold its employees accountable for their job performance. There was a desire to avoid repeating the perceived federal error of over protecting employees, thereby sanctioning poor performance and low public sector productivity.

On the minority side, two of the labor representatives on the Commission opposed any uniform statutory grievance appeal process of any kind feeling that employees who desire a grievance arbitration process can collectively bargain for one. Consistent with that view, HB309 has been strongly opposed by labor in the House. A third labor representative and opponent supported the concept of statutory grievance rights for all employees but would only support the two options which maintains and extends existing statutory rights to an appeal beyond the agency head.

A couple of directors of agencies under Merit System requirements (who will probably testify here) also opposed the Study Commission's original bill because it eliminated the Merit System Council without maintaining the grievance appeal function in another board. These directors felt they had made an earlier commitment to maintain the grievance appeal function of the Merit System Council.

The upshot is that HB309 implements the least preferred option considered by the Study Commission, but does include some provisions approved by the Commission. These, in conjunction with the changes made by the amendments offered by Representative Bardanoue, help create the kind of balance between employee and management rights, the majority of the Commission attempted to achieve.

For example, Section 1, subsection 1 with Representative Bardanoue's proposed amendments limits the kinds of agency action which can be appealed to actions with significant adverse impact on the employee - terminations, demotions, suspensions of more than 40 working hours and involuntary transfer. The Commission considered including written reprimands but rejected them as being of lesser significance.

Section 1, subsection 4 primarily exempts elected officials and their personal staffs allowing strict accountability.

Section 2, subsection 2 with the proposed amendment carefully defines when an employee is aggrieved thereby limiting the discretion of the review board. It precludes a termination or suspension from being overturned for a minor procedural error which has no impact on the outcome.

Section 3, subsection 2 is deleted by the proposed amendment to eliminate awards of attorney's fees and discourage appeals beyond what is already designed to be a fair and impartial process.

With Representative Bardanoue's amendments other Study Commissioners may choose to support the bill or at least not oppose it. The amendments have been distributed to those Commissioners directly affected - LeRoy Schramm, Marilyn Miller and Gary Wicks as well as to the labor representatives for their review.

EXHIBIT 3

Submitted by Jeanie Cowley  
3/17/83

My name is Jeanie Cowley and I represent the Interdepartmental Coordinating Committee for Women (ICCW). The ICCW believes there should be a uniform grievance process for all state employees. We feel that an independent board or council should be available to any employee and that hearings should be provided in a timely manner while providing the employee a fair hearing.

HB 309 addresses all our concerns. The ICCW supports HB 309.

(This sheet to be used by those testifying on a bill.)

EXHIBIT 4  
3/17/83

NAME: Kelly Adley DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

REPRESENTING WHOM? H.D. 62

APPEARING ON WHICH PROPOSAL: \_\_\_\_\_

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: Admin review settles disputes  
prior to court

Hrg examiners same here as  
other places - striking in ALPs will  
make them more

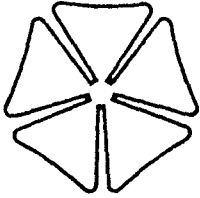
Unions fair for their members  
why not for others.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Option 2 Amendments to HB309 Prepared By  
Dennis M. Taylor, Administrator of the  
Personnel Division, Department of Adminis-  
tration

EXHIBIT 5  
Submitted by  
Dennis Taylor  
3/17/83

1. Page 2, line 5  
Following: "involuntarily"  
Strike: "or reprimanded in writing"
2. Page 2, lines 18 through 22  
Strike: subsection (3) in its entirety.  
Renumber: subsequent subsections.
3. Page 3, line 10  
Following: "employee"  
Strike: "is aggrieved"  
Insert: "was terminated, demoted, suspended, or laid off for  
more than 40 working hours or transferred to another  
geographical location involuntarily and that the  
action was taken without just cause, in violation  
of law, in retaliation for filing or attempting to  
file a grievance appeal or in violation of state or  
agency rules or written policies which resulted in  
substantial prejudice to the rights of the employee"
4. Page 4, lines 13 and 14  
Strike: subsection (2) in its entirety.



THE GARDEN CITY  
HUB OF FIVE VALLEYS

# Missoula, Montana

March 17, 1983

EXHIBIT 6

Submitted by

59802 Mae Nan Ellingson  
3/17/83

OFFICE OF CITY ATTORNEY  
201 West Spruce Street  
Phone 721-4700  
83-189

pg 1

To: Gary C. Aklestad, Chairman  
Members of Senate Labor and Employment Relations

From: Mae Nan Ellingson for the City of Missoula

Re: House Bill 281

House Bill 281 and House Bill 603, which you will be hearing on Saturday, are Bills that seek to allow public employees and their employers to agree on work schedules other than 5 - 8 hour days. Both Bills are desirable. HB 281 is particularly desirable in that the law is not at all clear as to whether city police officers, street department personnel, or any other city personnel can work 4 - 10 hour days, even though many of them are currently doing so.

State law currently provides in Section 39-4-107 that:

"(1) A period of 8 hours constitutes a day's work in all works and undertakings carried on or aided by any municipal or county government, (or) state government. . . ."

Even though that language seems fairly clear, the Attorney General issued an Opinion in June of 1980 that "state agencies and local governments may permit their workers to work four ten-hour days per week." That Opinion, Number 38-83, further concludes that "It would be appropriate for the Legislature to amend the strict language of Section 39-4-107 to make it compatible with current employment practices and court interpretation."

On the strength of that Opinion, the City has negotiated contracts with its Street Department employees and police officers for 4 - 10 hour days; and during the summer, we allow our Park and Recreation Department employees to work 4 - 10 hour days. We have undertaken these shifts at the request of affected employees, and we would feel safer in doing so if the statute were changed to reflect what the Attorney General says the law is.

The City of Missoula's experience with more flexible work schedules has been a boon to the City and its employees. In the Street Department it has been used to take advantage of longer daylight hours in the summer, cut down employees travel time to and from the job, reduce down time for breaks, reduce fuel

EXHIBIT 6

Submitted by

Mae Nan Ellingson

3/17/83

Gary C. Aklestad, Chairman  
Members of Senate Labor and Employment Relations

Page 2

March 17, 1983

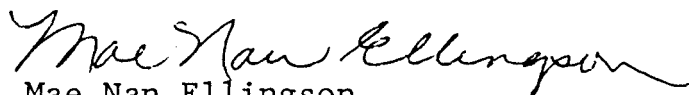
pg 2

costs and improve morale by giving employees an additional day off. The City Library which serves the public for periods longer than eight hours a day is another office in which this type of shift schedule could be used. We recognize that not every public office is amenable to 4 - 10 hour days or some other flexible work arrangement. This Bill gives the entity responsible for providing the service the ability to determine how to provide that service.

In the past, the Legislature has adopted a piecemeal approach to this issue. In 1979, the Legislature authorized county road and bridge crews to work 4 - 10 hour shifts. In 1981, the Legislature amended the law to allow sheriff's department employees to work other than 5 - 8 hour shifts. In addition to this Bill this session, you will be considering separate bills for firefighters' and police officers' hours of work. Unless you enact HB 281, I believe that over the years you will see different groups of employees coming in with their own specific bills to allow them to work different hours. This Bill should preclude the need for that type of legislation for most public employees.

In essence we are asking the Legislature to legalize what our City and several other cities and counties are doing.

Very truly yours,



Mae Nan Ellingson  
Deputy City Attorney  
Missoula, Montana

MNE/jd

Submitted by: Rose Skoog  
3/17/83

PROPOSED AMENDMENTS TO SB 113:

EXHIBIT 7

Submitted by  
Rose Skoog  
3/17/83

~~1. Page 5, line 24 through line 6 on page 6~~

~~Substitute the language in subsection (n) with the following:~~

"~~(n)~~ an employee of a hospital or other establishment primarily engaged in the care of the sick, disabled, aged, or mentally ill or defective who is working under a work period not exceeding 80 hours in a 14-day period established through:

(i) a collective bargaining agreement when a collective bargaining unit represents the employee; or

(ii) by mutual agreement of the employer and employee where no bargaining unit is recognized.

Employment in excess of 8 hours per day or 80 hours in a 14-day period must be compensated for at a rate of not less than 1-1/2 times the hourly wage rate for the employee."

~~2. Reinsert current language in Section 2 and remove any new language, leaving Section 2 as it is in the current law.~~

The above amendments would make state law consistent with federal law. It would give the employer the flexibility to schedule for a 14-day, 80-hour period while still ensuring overtime after 8 hours for the employee.

(This sheet to be used by those testifying on a bill.)

EXHIBIT 8

3/17/83

NAME: CRAIG SMITH

DATE: 3-17-83

ADDRESS: Box 604

PHONE: 442-2980

REPRESENTING WHOM? Mont Workman

APPEARING ON WHICH PROPOSAL: HB 281

DO YOU: SUPPORT? as amended AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT:

amend to delete as follows:

on page 7, line 7, delete "bargaining unit is recognized"  
and substitute "collective bargaining agreement exists"

on page 9, line 10, delete "bargaining unit is recognized"  
and substitute "collective bargaining agreement exists"

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



EXHIBIT 9  
Submitted by  
Rep. Smith  
3/17/83

48th LEGISLATURE

HOUSE BILL 0406/03

Amendments

(1) Page 2, line 16.

Following: "employee."

Insert: "The percentage shall be based on a rate not  
to exceed five cents per \$100 of the gross  
wage paid to each employee."

(2) Page 2, line 22.

Following: "premium"

Insert: "within the limitation allowed in (a) of this  
subsection"

(3) Page 3.

Delete: line 7 and 8.



**DIVISION OF  
WORKERS'  
COMPENSATION**



EXHIBIT 10  
Submitted by  
Gary Blewett  
3/17/83

pg 1

815 FRONT STREET

TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

HELENA, MONTANA 59604

TESTIMONY OF GARY BLEWETT ON HOUSE BILL 406, BEFORE THE SENATE LABOR AND  
EMPLOYMENT RELATIONS COMMITTEE, March 17, 1983

I am Gary Blewett, Administrator of the Division of Workers'  
Compensation, in support of House Bill 406.

In 1977 Montana passed the provisions of the Uninsured Employers Act. The purpose of the Act was to pay an injured worker of an uninsured employer the same workers' compensation benefits the worker would receive had the employer been properly insured.

The legislature recognized, at that time, that some employers will not voluntarily carry workers' compensation insurance. It also recognized that workers' compensation benefits are the most appropriate method of dealing with an industrial accident. However, benefits can only be paid if the Uninsured Employers Fund is adequately funded.

It is the Division position that unless a stable source of revenue is found to provide funding for the Uninsured Employers Fund, workers whose employers fail to obtain the coverage will not receive adequate protection. It seems that there will always be employers who do not provide compensation insurance for their employees. The underlying philosophy behind workers' compensation calls for the protection of all employees.

**Division Telephones:**

Administration  
406-449-2047

Insurance Compliance  
406-449-3721

Safety & Health  
406-449-3402

Since the Uninsured Employers Act became effective, the Division has conducted more than 2,700 investigations of suspected uninsured employers and has assessed almost 1.7 million dollars in fines and penalties. However, of this amount, less than \$700,000 has been collected. To date the Fund has expended more than \$691,000 in paying benefits and administrative costs of operating the Fund. When the account was declared insolvent in January of 1981, 196 injured employees had received benefits. As of June 30, 1982, almost 1,400 employers had been fined. However, of this number, almost half of the fines were referred to the Department of Revenue for collection. The distribution of uninsured employers identified during the past five years is widespread among all sectors of Montana's economy (see attachment).

The present method of funding the Uninsured Employers Fund by penalty assessment against uninsured employers has not provided sufficient income to administer the program nor to pay benefits on a sound financial basis. The present penalty assessments are determined by an audit of uninsured employers and are assessed at either double the premium the employers would have paid had they been properly insured or at a minimum of \$200, whichever is greater.

During the last legislative session, a bill was introduced and defeated which would have assessed all insurance carriers, including the State Fund, a percentage of premium collected for the express purpose of providing adequate funding to the Uninsured Employers Fund.

The remaining alternatives for augmenting the collection of fines and penalties are to combine a rigorous enforcement program with either general funds or an assessment of gross payroll. The Division comes before you with a proposal for enforcement and assessing gross payroll. The proposed legislation on independent contractors represents one part of the enforcement effort.

The coice of proposing an assessment of gross payroll rather than general fund is philosophical. The premise upon which the Workers' Compensation Act rests is that the employer should be responsible for the consequences of injury and disease in the workplace. To the extent that an irresponsible employer evades the law, society needs to establish some means of protecting the innocent employee. An assessment on identifiable employers is to be preferred to a general tax on the entire population since such a tax is in fact collecting substantially from employees in addition to employers.

The proposal in this Bill would provide the Division with authority to assess each employer in the state a premium to be calculated as a percent of the gross wage paid to each employee. The Division would have the authority to establish procedures for the collection of this premium by making it an obligation of the various insurance companies and the self-insured employers to collect and remit the premium to the Division of Workers' Compensation for deposit into the Uninsured Employers Fund. It would be the responsibility of the Division to determine the amount of funds needed for such purposes for each fiscal year. Assessments would have to be sufficient to maintain an actuarily sound fund, establish a catastrophe reserve and maintain reserves which would meet anticipated and unexpected losses. This Bill also states that the reserves or surplus would necessarily have to be adequate, but not excessive, for the intended purpose of the Act. Should the Division collect funds in excess of its needs in a particular year, credits will be allowed in the subsequent year for the average. By the same token if needs exceed funds collected, an additional assessment will be required in the following assessment period.

The amount of assessment required in addition to fines and penalties collected would be between 3 and 4 cents per hundred dollars of payroll each year of the next biennium. This would mean that over half of Montana's firms would pay something less than \$12 a year into this fund. The larger the firm, the more it would pay (see attachment).

If the Uninsured Employers Fund is to become solvent, we must believe in the wisdom of providing in the most efficient, most dignified, and most certain form, financial and medical benefits for victims of work-connected injuries, even though the injured worker's employer has failed to do so. The Division will maintain its responsibility to seek out and find employers who are not complying with the Act and continue to enforce the provisions already provided by statute.

H.B. 406 UNINSURED EMPLOYERS FUNDING--AFFECT ON EMPLOYER PAYROLLS

A.	Payroll Range	Under \$10,000	24,999	49,999	99,999	249,999	499,999
	Total Payroll *	\$24,604,177	\$70,277,757	\$113,515,482	\$185,908,340	\$361,853,390	\$323,762,343
	Number of Employers	8,561	4,233	3,165	2,611	2,310	935
	Average Payroll	\$ 2,874	\$16,602	\$ 35,866	\$ 71,202	\$156,241	\$346,270
	Uninsured Employer Assessment @ .00031503	\$ .91	\$ 5.23	\$ 11.30	\$ 22.43	\$ 49.22	\$ 109.09
B.	Payroll Range	\$500,000- 999,999	\$1,000,000- 2,499,999	\$2,500,000- 4,999,999	\$5,000,000- 9,999,999	\$10,000,000- 24,999,999	\$25,000,000- & over
	Total Payroll	\$296,794,847	\$332,304,133	\$229,987,529	\$129,928,014	\$188,009,385	\$187,393,412
	Number of Employers	428	225	66	19	12	3
	Average Payroll	\$ 693,445	\$ 1,476,907	\$ 3,484,660	\$ 6,838,316	\$ 15,667,449	\$ 62,464,471
	Uninsured Employer Assessment @ .00031503	\$ 218.46	\$ 465.27	\$ 1,097.77	\$ 2,154.27	\$ 4,935.72	\$19,651.18

\* Does Not Include State & Local Government and Most of Agriculture.

Source: Employment Security Experience Rating Report ES-204 -- 12/31/82

EXHIBIT 11  
Submitted by  
Gary Blewett  
3/17/83

DISTRIBUTION OF UNINSURED EMPLOYER  
CASES BY INDUSTRY

EXHIBIT 12  
Submitted by  
Gary Blewett  
3/17/83

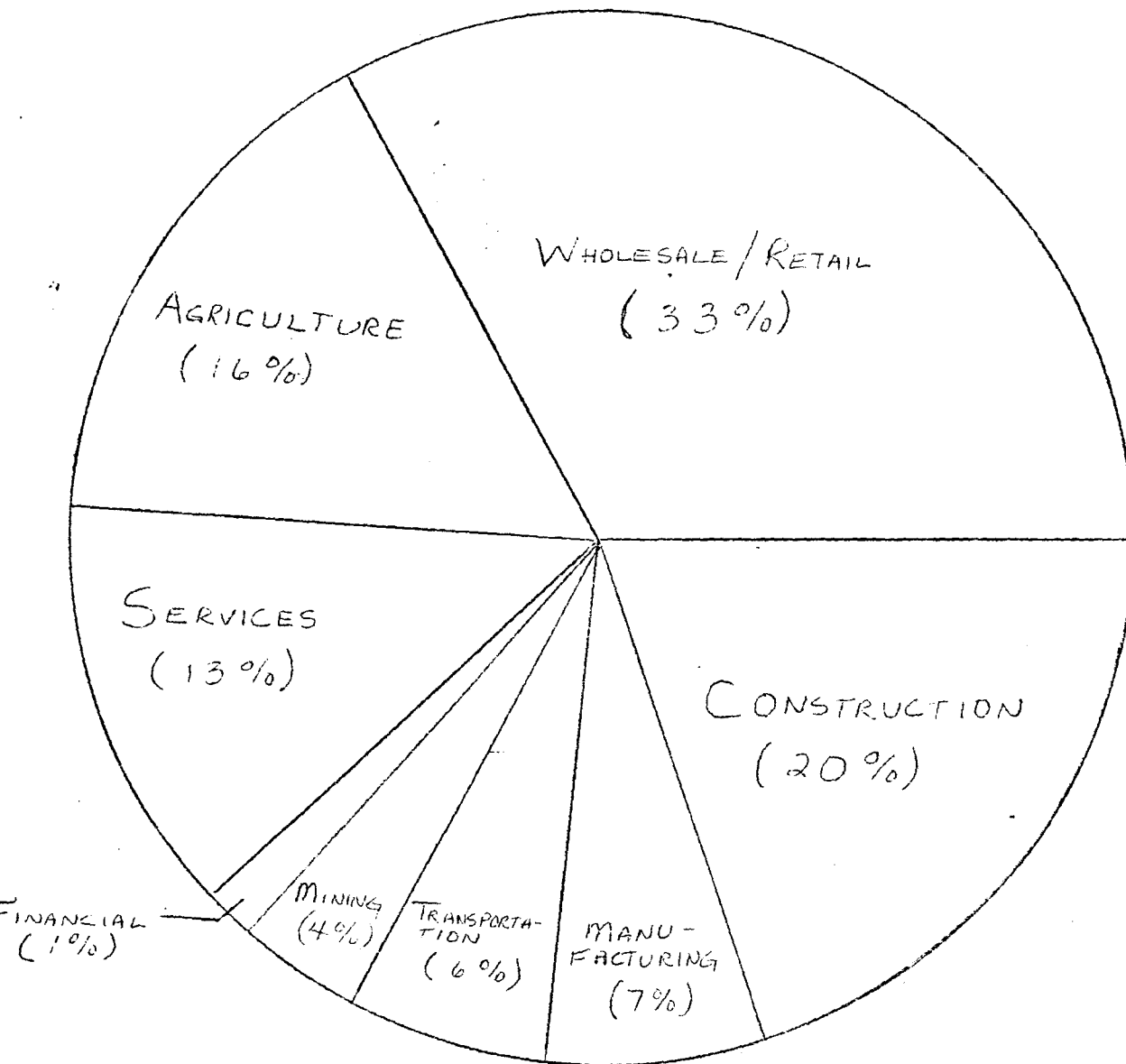




EXHIBIT 13

Submitted by Jim Murry  
3/17/83

Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF JIM MURRY IN SUPPORT OF HOUSE BILL 406, BEFORE THE SENATE LABOR AND  
EMPLOYMENT RELATIONS COMMITTEE, MARCH 17, 1983

-----

I am Jim Murry, representing the Montana State AFL-CIO.

House Bill 406 provides an excellent way of funding the uninsured employers fund for workers' compensation. This has been a pressing need in this state.

Workers' compensation provides some financial help to a worker who was injured on the job. Without such insurance, either through the state or through a private insurance carrier, the worker stands to lose everything through one industrial accident.

Some employers, however, refuse to provide their employees with coverage, usually without the knowledge of the employee. When such an employee is injured, the only recourse is the uninsured employers fund, which is presently funded by fines collected and taxes recovered from the offending employer.

The fund is usually underfunded by a substantial amount, however. When the employer either skips town or goes broke, the fund is unable to collect anything. And consequently, the employee is left to face a disastrous financial burden with little help.

The amount of increase on employer premiums to fund this program is minimal. But the difference it makes to the employees of an uninsured business can be the difference between a life shattered by financial debt and one in which recovery is possible.

According to House Bill 406, the fund is to be self-supporting, so premiums can rise or fall according to the costs associated with accidents among uninsured employers. That may provide incentive for insured employers to notify the Division when another employer is shirking their responsibility.



The most important result, however, is protection of workers. And in the long run, that of course protects the taxpayer from having to bear society's responsibility to the injured worker who is overwhelmed by debts.

Please give House Bill 406 a "do pass" recommendation.

Thank you.

HOUSE BILL 406

EXHIBIT 14  
Submitted by  
Geroge Wood  
3/17/83

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS GEORGE WOOD, EXECUTIVE SECRETARY OF THE MONTANA SELF-INSURERS ASSOCIATION, AND I ARISE IN OPPOSITION TO HOUSE BILL 406.

THE PURPOSE OF THIS BILL IS TO PROVIDE ADEQUATE FUNDING FOR THE UNINSURED EMPLOYERS FUND. THE MERITS OF THE UNINSURED EMPLOYERS FUND MUST BE QUESTIONED WHEN ONE CONSIDERS THAT SINCE ITS ENACTMENT, THE LEGISLATURE HAS NOT PROVIDED ADEQUATE FUNDING.

THE PURPOSE OF THIS FUND IS TO PROVIDE WORKERS COMPENSATION BENEFITS TO INJURED WORKERS WHOSE EMPLOYER HAS NOT COMPLIED WITH THE WORKERS' COMPENSATION ACT AND OBTAINED THE REQUIRED COVERAGE.

THE PRESENT LAW PROVIDES FOR ASSESSMENTS AGAINST THE UNINSURED EMPLOYER AND LIMITS HIS LIABILITY TO \$30,000.00. THIS WILL NOT PAY FOR DEATH OF A CLAIMANT OR A MODERATELY SEVERE ACCIDENT IN WHICH MEDICAL CLAIMS MAY EXCEED \$30,000.00. THE LAW EVEN GIVES THE WORKERS' COMPENSATION DIVISION THE RIGHT TO COMPROMISE THE AMOUNT DUE THE FUND FROM THE UNINSURED EMPLOYER. (SECTION 39-71-506)

OUR FIRST OBJECTION TO HOUSE BILL 406 IS A MATTER OF PHILOSOPHY. WE ARE REQUIRED BY THE LAW TO PROVIDE WORKERS COMPENSATION COVERAGE FOR OUR EMPLOYEES. WE DO. WE OBJECT TO PAYING FOR WORKERS' COMPENSATION BENEFITS TO EMPLOYEES OF EMPLOYERS WHO HAVE NOT COMPLIED WITH THE LAW. I'M SURE YOU WOULD AGREE THAT IT WOULD NOT BE REASONABLE TO ASK YOU TO PAY HOSPITAL AND MEDICAL EXPENSES WHICH I INCUR AND CANNOT PAY BECAUSE I FAILED TO OBTAIN HEALTH AND ACCIDENT INSURANCE. YET THIS BILL GOES ONE STEP FURTHER AND REQUIRES US TO PROVIDE THE MONEY TO PAY THE CLAIMS AGAINST AN EMPLOYER WHO IS IN VIOLATION OF THE LAW REQUIRING EMPLOYERS TO PROVIDE WORKERS' COMPENSATION COVERAGE.

SECTION 4 PROVIDES SOME REAL PROBLEMS. PARAGRAPH (a) "IF FUNDING SOURCES PROVIDED IN SUBSECTION (1) THROUGH (3) ARE INADEQUATE..." THEY ARE OR THERE WOULD BE NO NEED FOR THIS BILL.

"THE DIVISION SHALL ASSESS AGAINST AND COLLECT FROM EVERY EMPLOYER A PREMIUM TO BE CALCULATED AS A PERCENTAGE OF GROSS WAGE PAID TO EACH EMPLOYEE."

THIS, OF COURSE, MEANS THAT THE COST TO EVERY EMPLOYER, WHETHER SELF-INSURED, INSURED WITH A PRIVATE INSURER OR WITH THE STATE FUND WILL INCREASE.

I HAVE BEEN ADVISED THAT THE DIVISION ASSESSMENT FOR FISCAL 1984 WOULD BE .00031503 IN HOPE OF RAISING A MILLION DOLLARS. THE ASSESSMENT FOR 1985 IS PROPOSED AT .00032198 WHICH ONE WOULD ANTICIPATE WOULD RAISE ANOTHER MILLION DOLLARS. YOU SHOULD NOTE HERE THAT THERE IS NO LIMITATION ON THE PERCENTAGE AMOUNT THE DIVISION CAN ASSESS AGAINST EMPLOYERS.

ACCORDING TO FIGURES SUPPLIED ME BY THE WORKERS' COMPENSATION DIVISION, THE GROUP I REPRESENT, MONTANA SELF-INSURERS, PAID 503,270,064.23 IN WAGES IN MONTANA IN CALENDAR YEAR 1981. USING THE ASSESSEMENT FIGURES PERVIOUSLY GIVEN, MONTANA SELF-INSURERS WOULD BE ASSESSED \$158,545.00 FOR THE UNINSURED EMPLOYERS FUND IN FISCAL YEAR 1984.

ONE SELF INSURED, WHOSE GROSS PAYROLL WAS 58,734,372 WOULD BE ASSESSED \$18,503.00. ONE WHOSE PAYROLL WAS 8,614,469.00 WOULD BE ASSESSED \$2,713.00 AND ONE WHOSE PAYROLL WAS 5,013,412 WOULD BE ASSESSED \$1,579.00. THESE ARE LARGE ASSESSMENTS AND INDICATE THAT THE LARGER THE EMPLOYER, THE MORE STABLE THE EMPLOYMENT, THE HIGHER THE WAGES PAID, THE LARGER THE ASSESSEMENT WILL BE. THERE IS NO LIMITATION ON THE AMOUNT OF INDIVIDUAL GROSS WAGES TO BE ASSESSED NOR IS THERE A LIMITATION ON THE ASSESSEMENT ON THE EMPLOYERS GROSS PAYROLL. ASSESSEMENTS ARE TO BE PAID ON CLAIMS WHICH ARE IN NO WAY THE RESPONSIBILITY OF THE INSURED EMPLOYER. WE THEN HAVE IN SECTION 4 (A) A STATE AGENCY GIVEN THE RIGHT TO MAKE A PERCENTAGE ASSESSMENT, WITHOUT LIMITATION, ON THE PAYROLL OF THE EMPLOYERS LIMITED ONLY BY THE AMOUNT OF EMPLOYERS GROSS PAYROLL.

TO ADD INSULT TO INJURY, SECTION 4 (b) CHARGES THE EMPLOYER WITH THE COSTS INVOLVED IN COLLECTING THE ASSESSEMENT AND SECTION 4 (c) PROVIDES THAT THE COST OF ADMINISTERING AND DISBURSING THE FUNDS SHALL BE INCLUDED IN THE ASSESSMENT.

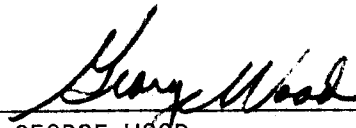
MONTANA EMPLOYERS ARE ALREADY ASSESSED TO PAY FOR THE OPERATION OF THE WORKERS' COMPENSATION DIVISION. <sup>pg 3</sup>

THE AMOUNT TO BE RAISED BY THE ASSESSMENT IS DISCRETIONARLY WITH THE DIVISION AND SHALL INCLUDE "AN ACTUARIALLY SOUND CATASTROPE RESERVE, RESERVES ACTUARIALLY DETERMINED TO MEET ANTICIPATED AND UNEXPECTED LOSSES AND SUCH OTHER RESERVES AND SURPLUS AS MAY BE DETERMINED BY THE DIVISION."

THE ONLY DEFINITE PROVISION IN THE BILL IS THAT WE, ALL MONTANA EMPLOYERS, WILL PAY.

IF THE PURPOSES OF THE SUBSEQUENT INJURY FUND ARE VALID THEN ADEQUATE FUNDING SHOULD BE NOT JUST THE RESPONSIBILITY OF THE EMPLOYER WHO IS COMPLYING WITH THE LAW. IT WOULD SEEM THAT ALL MONTANA CITIZENS HAVE AN OBLIGATION AND RESPONSIBILITY TO PROVIDE ADEQUATE FUNDING. CONSIDERATION SHOULD BE GIVEN TO FUNDING FROM THE GENERAL FUND AS WELL AS THE WAGES OF INDIVIDUAL EMPLOYEES <sup>which</sup> ARE NOT COVERED <sup>by</sup> ~~IN~~ THE BILL.

THE BILL AS WRITTEN WORKS AN INJUSTICE ON THE MONTANA EMPLOYER WHO HAS COMPLIED WITH THE LAW AND I RESPECTFULLY REQUEST THAT THIS COMMITTEE REPORT HOUSE BILL 406 "DO NOT PASS."



GEORGE WOOD  
Executive Secretary  
Montana Self-Insurers Association



TESTIMONY RE: HB 406, Committee Hearing Thursday March 17th, Senate Labor Committee

My name is Lloyd Crippen, and I represent NFIB, (National Federation of Independent Business) the largest small business association in Montana with over 5000 membership.

We strongly oppose HB 406 for the following reasons:

Our first objection of course, is one of philosophy. We are required by law to provide workers' compensation coverage to our employees, and we do. We object to paying assessments to pay workers' compensation benefits to employers who do not comply with the law. This bill HB 406 assesses the responsible employer for the benefit of their irresponsible employer. The legal employer is being assessed benefits for the illegal employer.

The present law provides for assessments against uninsured employers and limits his liability to \$ 30,000.00. This amount will not pay the bills for one moderately severe accident. In addition, the Workers' Compensation Division is given the right under the law to compromise the amount due from the uninsured employer. Therefore, the amount collected could be substantially less than the \$ 30,000.00.

SECTION 4, the funding section, creates some real problems. Employers who do pay their assessments are assumed to have responsibility for payment of benefits for employers who do not comply with the law. The Workers' Compensation Division is given the right to assess as they feel the need for a sufficient fund to pay for the uninsured employers. The basis for the assessment is not on the size of any responsibility of the employer but rather on the basis of the size of the payroll. The larger the employer the larger the payroll, the larger the assessment would be. There is no limitation on the amount the employer would be assessed.

I call your attention to a recent newspaper article indicating the results of a study conducted by Alexander Grant & Company in association with the conference of State Manufacturers' Associations. This study indicates that Montana had the highest workers' compensation insurance rates of selected manufacturing occupations. This was listed as a provision which manufacturers would weigh in selecting Montana as a site for a plant.



National Federation of  
Independent Business

EXHIBIT 15

HB 406 would increase the employers costs, and therefore, raise the workers' compensation average insurance rate.

Again for the above listed reasons NFIB opposes the passage of  
HB 406 ( see attachment)

## Montana's manufacturing receives mixed marks in national survey

By The Associated Press — The bad news and good news about Montana's manufacturing sector is a mixed survey of the manufacturing business climate.

The bad news is that Montana ranks next to last among the nine states of the North Central region and 25th among the 48 contiguous states.

Among other things, Montana had the third-lowest percentage of manufacturing jobs in 1982, according to the survey.

The good news is that Montana's national ranking is better than it was in 1981. In 1981, Montana was 28th among the 48 contiguous states.

The study is conducted by Alexander Grant & Co. in conjunction with the National Association of Manufacturers.

The study gives top ranking in the region to North Dakota, followed by Nebraska, Kansas, Iowa, South Dakota, Minnesota, Wyoming, Montana and Iowa.

Montana is in the bottom in three of 22 factors considered in the study, but is near the bottom in five others.

The study says it did not consider "quality of life" because it is "a personal concept for which we can find no objective basis for inclusion."

Placing Montana among the top rankings were findings that Montana had:

- The lowest state and local government general expenditure growth as a percentage of revenue growth, with a 1.5% increase over three years.

- The smallest increase in the nation in annual hourly manufacturing wages over three years, 16 percent.

- The second-lowest costs in the nation for fuel and electric energy, \$2.30 per million Btu's for manufacturers.

- The nation's 22nd-largest annual average work week, 40.5 hours.

Montana was last in the region in these categories:

- The lowest net worth of its unemployment compensation trust fund, \$74 per covered worker.

- The highest average worker's compensation insurance rate, \$6.08 per \$100 of payroll of selected manufacturing occupations.

- The least value added by manufacturing employees, \$3.19 per dollar of production payroll. This is the third-lowest productivity rate in the nation.

- The highest average unemployment compensation benefits, \$138 per covered worker per year.

- The highest non-agricultural labor union and association membership, 22.2 per 100 non-agricultural workers.

Montana's other low national rankings are the fifth-highest rate of state and local taxes, \$129 per \$1,000 of personal income.

3/17/83

STATEMENT OF GLEN L. DRAKE IN BEHALF OF  
THE AMERICAN INSURANCE ASSOCIATION  
IN OPPOSITION TO HOUSE BILL 406

House Bill 406 deals with the uninsured employer's fund. The uninsured employer's fund was created by legislative act in 1979. The act, as created, was to have been funded by penalties levied against uninsured employers and gives, under Section 39-71-506, the division the right to bring suit against uninsured employers to collect such funds. Thus, as the bill was originally conceived, it was to have been paid for and funded by the wrongdoing employer who failed to properly insure.

House Bill 406 changes all of that. House Bill 406, as proposed, makes an assessment against all employers. Thus, the thrust of the funding of the uninsured employer's fund has been taken from the uninsured employer and put over on those employers who, in fact, have paid for their own coverage. This is thus adding an additional burden upon the small businessman in Montana. This additional burden may be just enough to be the straw that breaks the camel's back.

Additionally, the bill makes no provision for what will happen if an insured employer fails or refuses to pay the assessment. Under subparagraph 4(b), it is noted that the burden to collect the premiums and forward the same to the division is placed upon all insurers under plan 1, 2 or 3. What happens then if an employer fails or refuses to pay the assessment made by the division. In such case, it becomes apparent that the insurer, whether he be self-insured, insured through an insurance company or the workers' comp division itself, will have to come up with the difference. If the division has to come up with the difference, then the division, of course, will merely assess a higher rate to all of its insured employers. The same would be true of any workers' comp insurance carrier. As to a self-insurer, presumptively, they would just have to charge a bit more for their product. In any event, the burden all goes back to the hard-pressed employer who is already paying his fair share.

If this committee believes that this bill is necessary, I urge you to look at a different source of funding and I urge you to look at the general fund for that funding. If this is social legislation that is necessary for the protection and health and welfare of the people of Montana, then all of the people in the state of Montana should share in its being sustained.

I urge you to vote against House Bill 406 or at least amend the bill so that the burden of the bill will fall on all of its citizens, not just the overburdened few who now pay their own way.



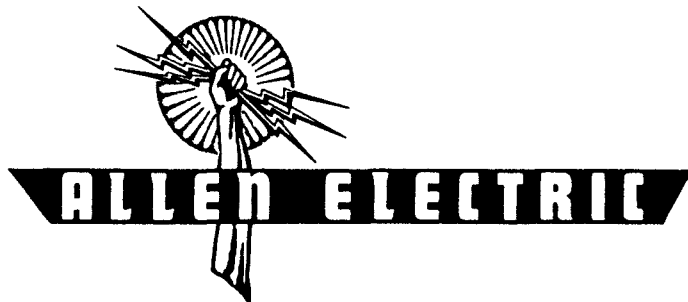


EXHIBIT 17  
Submitted by James J.  
Murphy

3/17/83

## *Electrical Contractors*

2101 N. MAIN P.O. BOX 5566  
PHONE 406/442-3780  
HELENA, MONTANA 59601

-2-

Such a funding source as proposed also raises serious economic problems and considerations. This legislature and other legislatures have considered and passed many bills to encourage new businesses to hang out their signs. What is being done to encourage on-going businesses to continue to operate in Montana? It does little good to encourage new business to put up their signs and at the same time have older established firms go bankrupt and remove their's.

Dollars available are finite. Money available for loans to small businesses for operation or capital investment is limited. Money available to potential customers for spending in our stores is not without limits. We are in direct competition with all employers for this available money to borrow and we are in competition for the limited customer dollar. We may also be in direct competition in terms of bidding on construction projects and in our retail store with the uninsured employer and H.B. 406 requires us to pay their insurance premiums. Providing these type of employers, who do not comply with the law, a competitive advantage over those of us that do, does not seem right or fair to me.