

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT COMMITTEE
MONTANA STATE SENATE

March 5, 1985

The minutes of the eighteenth meeting of the Labor and Employment Committee was called to order at 1:05 p.m. on March 5, 1985, by Chairman J. D. Lynch in Room 413/415 of the Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 213: Chairman Lynch called on Representative Jan Brown, sponsor of House Bill 213. House Bill 213 is an act exempting direct home salespeople from workers' compensation. The purpose of this bill is to return direct selling such as Amway distributors to the limited purpose of House Bill 213 is to return direct sellers, such as Amway distributors, to the status accorded them under the Workers' Compensation Act prior to the 1983 session. As you know, during the 1983 session, a law was enacted requiring certain independent contractors to obtain workers' compensation insurance for themselves or an exemption from the Act. The purpose of the 1983 law was to clarify the status of workers who were either employees or independent contractors. Direct sellers such as Amway distributors have always been deemed independent contractors, however, so that the new law does nothing to clarify their status, but imposes a burden not placed upon them in any other state.

Vice Chairman Manning took over for Chairman Lynch.

PROPOSERS OF HOUSE BILL 213: George Allen, representing the Montana Retail Association, submitted testimony in support of House Bill 213. (Exhibit No. 1)

David Duncan who lives in Great Falls and is an independent distributor of Amway products, submitted testimony in support of HB 213. (Exhibit No. 2)

Cathy Galetti, representing Avon in Butte, submitted testimony in support of House Bill 213. (Exhibit No. 3)

Janelle Fallan, representing the Montana Chamber of Commerce, said the Chamber supports this bill because the direct selling industry provides a lot of work and a lot of income for people who might not otherwise be working. Direct selling gives people an opportunity to develop skills they might not have.

OPPONENTS OF HOUSE BILL 213: None were present.

QUESTIONS FROM THE COMMITTEE: Senator Blaylock asked if a person who is direct-selling can come under workers' compensation.

Representative Jan Brown said they can if they choose to.

Senator Towe asked if a determination should subsequently be made in the case that there is an injury and the injured party felt they were an employee as to whether they could sue the employer on the basis that they should be covered. He asked if the employers will have to have coverage to cover the situation.

Gary Blewett, Department of Labor, said if employers had employees in the State of Montana, they would have insurance coverage. If the employer had no insurance, they would be sued under the Uninsured Employers Act. There are sever penalties.

Senator Towe said the Uninsured Employers Act is not much help.

Gary Blewett said as far as the Uninsured Employers Act is concerned, there are penalties against the employer.

Representative Brown closed on House Bill 213, asking for the committee's concurrence.

The hearing was closed on House Bill 213.

Senator Fuller will carry the bill.

CONSIDERATION OF HOUSE BILL 251: Vice Chairman Manning called on Representative Jack Ramirez, sponsor of House Bill 251. House Bill 251 is an act revising laws relating to claims arising from occupational disease. This bill is supported by the insurance industry. The insurance industries are trying to avoid federal intervention.

PROPOSERS OF HOUSE BILL 251: Karl Englund, representing Montana Trial Lawyers Association, said there is a nationwide campaign to even up the rules on occupational disease. Their concern is that too restrictive state rules could lead to a federal program.

OPPONENTS OF HOUSE BILL 251: None were present.

QUESTIONS FROM THE COMMITTEE: Senator Towe asked Representative Ramirez what he is doing with the silicosis matter. He called attention to the bottom of page 1 and the middle of page 4.

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Representative Ramirez said there are changes because there are so many requirements; on page 1, lines 21-25.

Senator Towe asked if that is not a restriction.

Representative Ramirez said that's right, the bill treats silicosis like any other disease.

Senator Towe called attention to page 4, line 8-12 and asked who Representative Ramirez is talking about there.

Representative Ramirez said, "You are restricting them." An employer could discharge someone to escape liability for silicosis benefits. The only way he would be liable still is if there were 700 actual workshifts. The bill does away with all these restrictions because there have not been any new silicosis cases.

Karl Englund pointed out that the bill says "a silicosis employee who is discharged by his employer to escape liability for silicosis benefits is eligible to receive compensation under this chapter when totally disabled if he has 700 actual workshifts, he has to be discharged, disabled and have 700 workshifts under this provision."

Senator Lynch resume the chair.

Senator Towe asked what the two repealing sections on page 6 are.

Representative Ramirez said they deal with silicosis.

Senator Aklestad asked how many total years employees have now to turn in a claim.

Representative Ramirez replied they have 3 years from the time they last worked for the employer where they were exposed to the disease.

Senator Aklestad asked with this bill, what the time will be.

Representative Ramirez said it is two years after they know or should know that their disability is a result of occupational disease.

Senator Aklestad asked how many doctors are needed for this.

Representative Ramirez replied that it has to be proven by the evidence.

Senator Keating said we are dealing with more substances than just silicosis. He referred to the evidence of arsenic

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in the Anaconda area and asked Senator Haffey about that situation.

Senator Haffey said there are all kinds of tests going on, they are testing a lot of children.

Representative Menahan said that right now they are testing, but he doesn't think arsenic is affecting the population.

Senator Keating asked if there could be a rash of claims on occupational diseases.

Representative Ramirez replied that for silicosis there is a 10-year limitation. You have to have been a resident for at least 10 years.

Senator Keating asked if there is a residency requirement for silicosis.

Representative Ramirez said yes.

Senator Keating asked if that is the only residency requirement.

Representative Ramirez said yes.

Chairman Lynch asked how many new silicosis recipients we have had in the past year..

Gary Blewett replied that, under the Occupational Disease Act, he doesn't think we have had any, but under the Silicosis General Program we have had five.

Senator Lynch said Representative Ramirez had said there has not been any recipients for several years, but each year there are recurring new recipients of the silicosis benefits from the general fund.

Gary Blewett said the bill would have a positive act on the general fund, but what it would do is shift the cases that now are only eligible under the general fund program to the Occupational Disease Act.

Senator Lynch asked if there is a widow clause in the silicosis program.

Gary Blewett said there is a 100-per-month widow clause.

Chairman Lynch said he means now that we are shifting the funding to the Occupational Disease Act will there still be a widow clause for those people.

Gary Blewett said yes, that it is a beneficiary clause, higher than \$100 per month.

March 5, 1985

Senator Towe asked if this is a presumption that 407 of the 12,000 workshifts apply to the general fund program.

Gary Blewett replied that the only provision in the general fund is to identify that it did occur during occupation and that the individual lived in Montana for 10 years.

Senator Aklestad said, "You said that there was a concern to the insurance people and I was just wondering where they are at."

Senator Thayer asked if the insurance people were in agreement with this bill.

Representative Rameriz said yes, they are.

Senator Thayer asked if they have excluded this some way, or can employers still get coverage to protect themselves.

Karl Englund said no, they are not excluding things, their concern is about federal legislation in this area.

Senator Keating asked in which case that would impact the general fund.

Representative Ramirez said he had no idea if had any impact on the general fund. All he wants is for it to be fair so that federal intervention would not occur.

Senator Aklestad said the industry will sell more insurance.

Representative Ramirez said no, he was not talking about the insurance industry, he was talking about the employers.

Senator Keating will carry this bill.

Representative Ramirez closed on House Bill 251.

The hearing was closed on House Bill 251.

CONSIDERATION OF HOUSE BILL 306: Chairman Lynch called on Representative Menahan, sponsor of House Bill 306. House Bill 306 is a request by the Board of Athletics. It is to eliminate any members of the Board of Athletics being amateur boxers or involved in amateur or professional boxing.

PROPOSERS OF HOUSE BILL 306: Mary Lou Garrett, representing the Department of Commerce, rose in support of this bill and said she would answer any questions.

OPPOSERS OF HOUSE BILL 306: None were present.

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QUESTIONS FROM THE COMMITTEE: Senator Keating asked why amateur boxing matches. Does this mean a board member can be an amateur boxer.

Representative Menahan said yes.

Senator Keating asked if the Department of Commerce has rule making authority.

Mary Lou Garrett said yes.

Representative Menahan closed on House Bill 306.

Chairman Lynch will carry the bill.

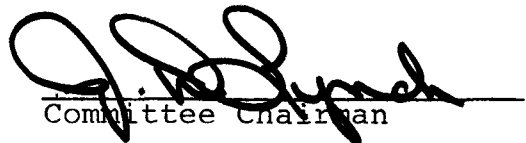
The hearing was closed on House Bill 306.

EXECUTIVE ACTION ON HOUSE BILL 306: Senator Haffey moved concurrence on House Bill 306. On a voice vote, the Committee voted unanimously that House Bill 306 BE CONCURRED IN.

EXECUTIVE ACTION ON HOUSE BILL 251: Senator Keating moved concurrence on House Bill 251. On a voice vote, the Committee voted unanimously, except for Senator Aklestad who voted no, that House Bill 251 BE CONCURRED IN.

EXECUTIVE ACTION ON HOUSE BILL 213: Senator Thayer moved concurrence on House Bill 213. On a voice vote, the Committee voted unanimously that House Bill 213 BE CONCURRED IN.

ADJOURNMENT: The committee, having no further business, adjourned at 2:01.


Committee Chairman

STANDING COMMITTEE REPORT

March 5

1985

MR. PRESIDENT

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

having had under consideration **HOUSE BILL**

No. **213**

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color

EXEMPTING DIRECT HOME SALESPeOPLE FROM WORKERS' COMPENSATION

Respectfully report as follows: That **HOUSE BILL**

No. **213**

BE CONCURRED IN

~~XXXXXX~~
DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

SENATOR J.D. LYNCH

Chairman.

STANDING COMMITTEE REPORT

March 5

19 85

MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **251**

third reading copy (**blue**)
color

**PROVIDE 2 YEAR DISCOVERY STAT. OF LIMITATIONS FOR INDUSTRIAL
DISEASE CLAIMS**

Respectfully report as follows: That **HOUSE BILL** No. **251**

BE CONCURRED IN

~~DO NOT PASS~~

~~DO NOT PASS~~

SENATOR J.D. LYNCH

Chairman.

STANDING COMMITTEE REPORT

March 5 19 85

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration HOUSE BILL No 306

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color

REVISION OF BOARD OF ATHLETICS LAWS

Respectfully report as follows: That HOUSE BILL No 306

BE CONCURRED IN

~~SENATOR~~

~~SENATOR~~

SENATOR J. D. LYNCH

Chairman.

Labor and Employment COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 3/5/85

SENATE SEAT #

NAME	PRESENT	ABSENT	EXCUSED
1 Senator Aklestad	X		
46 Senator Blaylock	X		
9 Senator Haffey	X		
20 Senator Keating	X		
19 Senator Manning	X		
33 Senator Thayer	X		
Sentor Towe	X		
Chairman Lynch	X		

Each day attach to minutes.



Exhibit 1

3/5/85

Executive Office
P.O. Box 440
34 West Sixth
Helena, MT 59624
Phone (406) 442-3388

TESTIMONY
HB 213

Mr. Chairman and Members of the Committee:

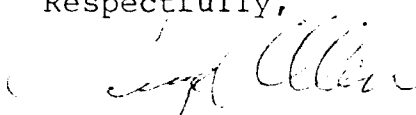
HB 213 is a bill that excludes the independent contractor, from going through all of the paperwork of applying for Workman's Compensation, when the department has ruled that this group of independent business people are truly independent contractors and therefore are excluded from carrying Workman's Compensation Insurance.

These men and women who are involved in the direct sale business such as Avon and Amway are truly an independent contractor. They buy their merchandise from a central distribution point at wholesale and sell it at retail in someone's home. The parent company has no control over these independent contractors whatsoever.

The department of Worker's Compensation looked at this bill. They tell me they have no objections to it. If Mr. Blewett is here, he may wish to comment on the bill.

There are several other people who would like to speak on this subject, and I therefore will end my Testimony in asking you to support HB 213.

Respectfully,


George Allen
Executive Vice President
Montana Retail Association

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

Exhibit a
3/5/85

NAME: David K Duncan DATE: 3/5/85

ADDRESS: 1312 SI St. So Great Falls

PHONE: 453-8955

REPRESENTING WHOM? Duncan Enterprises

APPEARING ON WHICH PROPOSAL: HB 213

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

3/5/85

AVON

Avon Products, Inc., 9 West 57th Street, New York, N.Y. 10019

February 14, 1985

The Honorable Thomas E. Towe
Senate Labor and Employment Relations Committee
State Capitol
Helena, Montana 59620

Re: H.B. 213 - Will Exempt Avon Representatives from
Workers Compensation Waiver Requirements

Dear Senator Towe:

On behalf of our many Avon District Managers and Representatives in Montana, Avon Products totally supports H.B. 213. We understand this bill has been assigned to your Committee.

House Bill 277 was enacted in 1983 to clarify the workers' compensation status of independent contractors in the logging industry. The thrust of the law was to have non-exempt independent contractors either obtain workers' compensation insurance or formally waive insurance coverage under an application procedure to the Montana Division of Workers' Compensation.

Unfortunately, the clarification of workers' compensation status in the logging industry could lead to confusion and unnecessary red tape in our industry. There is no need to clarify the independent contractor status of Avon Representatives. They are fully aware that they are independent salespeople who work when and if they want. In fact, the Sales Dealer Agreement, which establishes the business relationship between Avon and the new Representative, clearly states - "The Sales Dealer is an independent contractor . . ."

There are thousands of direct selling independent contractors in Montana engaged in consumer sales in the home. In the case of Avon, our Representatives are usually housewives who earn a modest supplemental income. Oftentimes, the goals for entering into this part-time earnings opportunity are short-term for some immediate purpose. This leads to a high but voluntary turnover rate in the direct selling industry.

An important factor in becoming an Avon Representative is the ease of entry into and out of this part-time pursuit with a minimum of red tape, expense or delay. A recent profile of the direct selling industry indicated that the basic reason people enter the field is to engage in an independent earnings

-2-

opportunity. The study further reveals that the overwhelming majority of those in direct selling are women who work less than nine hours a week. It becomes apparent that any bureaucratic interference with a simple, casual business such as ours which complicates the Representative appointment procedure places a burden on Avon and our Representatives.

In our experience, this burden will definitely discourage the average housewife from becoming an Avon Representative. If a prospect can't start earning money immediately and has to go through a pointless waiver procedure, she will find alternative part-time work.

H.B. 213 has no impact on the status of people who are employees. It simply relieves direct selling independent contractors and the companies they represent from the waiver procedure. Mr. Blewitt of the Montana Workers Compensation Division testified in the House that H.B. 213 has no fiscal impact for Montana and that he has no objection to it.

We appreciate your attention to our point of view and urge passage of H.B. 213 by the Senate Labor and Employment Relations Committee.

Sincerely,

Kevin M. Donoghue
Senior Government Affairs Attorney

KMD:jm

Attachment

SALES DEALER AGREEMENT

AVON PRODUCTS, INC.

Newark, Delaware
Atlanta, Georgia
Springdale, Ohio

Morton Grove, Illinois
Kansas City, Missouri
Pasadena, California

_____ intends to begin acting as an independent Sales Dealer in products of AVON PRODUCTS, INC., on _____ 19____, with primary responsibility for specified Territory in _____.

This Agreement is not subject to change, except in writing, signed by an authorized Avon official. It shall not be considered changed by reason of any advice, suggestions or Sales Aids furnished by Avon to you.

Nothing in this Agreement obliges Avon to accept any order placed by you or obliges either you or Avon to enter into any further contract with each other.

Any contract previously made between you and Avon is of no force and effect after the date of this Agreement.

AVON AGREES:

- A. To sell Avon products to you at prices set by Avon.
- B. To pay transportation charges on all merchandise orders shipped by Avon to you.
- C. Avon reserves the right to change paragraphs A and B of this Agreement at any time upon ten (10) days prior written notice.

YOU, THE SALES DEALER, AGREE:

- 1. To pay Thirty Dollars (\$30.00) for the order-taking privilege.
- 2. At times and in a manner within your discretion:
 - (a) To make regular sales trips to the homes within the Territory for which you have primary responsibility in order to promote and make sales of Avon products.
 - (b) To purchase those products and deliver them to customers.
- 3. To pay Avon the amount due for each shipment of products sent by Avon to you no later than the due date for mailing the next Campaign Purchase Order. No shipment will be made on credit if the amount owed for a previous Purchase Order is not paid when due.
 - ☐ A \$6.00 Service Charge will be added to the total amount of the order on orders totaling less than \$75 for products at suggested customer prices, Demonstration Products and Sales Aids.
 - ☐ For the first order, even if it totals less than \$75, \$6.00 will not be added to the total amount of the order.
- 4. That this Agreement and all Purchase Orders that you send in are subject to acceptance by Avon.
- 5. To furnish references which shall be subject to approval by Avon.
- 6. The Sales Dealer is an independent contractor and has no power or authority to incur any debt, obligation or liability or to make any promise or contract on behalf of Avon. This is the sole and only Agreement between the parties and does not constitute the Sales Dealer an employee of Avon. In particular, the Sales Dealer will not be treated as an employee with respect to any services for Federal tax purposes.

By _____
DISTRICT SALES MANAGER

SALES DEALER

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

March 7, 1985

The nineteenth meeting of the Labor and Employment Relations Committee was called to order on March 7, 1985, at 1:00 p.m. in the State Capitol in Room 413/415

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 715:

Chairman Lynch called in Representative Gary Spaeth, sponsor of House Bill 715. House bill 715 essentially exempts athletic officials or referees from coverage under the workers' compensation act during employment as an official at a school amateur athletic event.

PROPOSERS OF HOUSE BILL 715:

Chip Erdmann, representing Montana School Boards Association, read a statement from Mike Colbrese, representing Montana High School Association, and submitted it as Exhibit No. 1.

OPPOSERS OF HOUSE BILL 715:

None were present.

QUESTIONS FROM THE COMMITTEE:

No questions were asked.

Representative Spaeth closed on House Bill 715. All parties involved the School Board Association, the High School Association and the Montana Officials Association support this bill. They are independent contractors and should be recognized.

EXECUTIVE ACTION ON HOUSE BILL 715:

Senator Manning made a motion that House Bill 715 Be Concurred In. On a voice vote, the committee voted unanimously that HOUSE BILL 715 BE CONCURRED IN.

CONSIDERATION OF HOUSE BILL 378:

Chairman Lynch called on Representative Gene Donaldson, sponsor of House Bill 378. This bill is a request by the Department of Labor and Industry. What this bill deals with is those individuals who were disqualified from receiving unemployment insurance either by voluntarily quitting, misconduct, or failure to accept a suitable job.

PROPONENTS OF HOUSE BILL 378:

Dave Wanzenried, Commissioner of the Department of Labor and Industry, said the change that is significant on the bottom of page 1 and the top of page 2. That is the language we want to take a look at.

Jim Murry, Executive Secretary of Montana AFL-CIO, rose in support of this bill. He said the problem is in verifying the employment. He said the AFL-CIO feels that the work they do should be verifiable to overcome some of the problems. He suggested that on Page 2, line 1 following 'constitute'; insert 'verifiable.'

OPPONENTS OF HOUSE BILL 378:

None were present.

QUESTIONS FROM THE COMMITTEE:

Senator Keating asked Mr. Wanzenried how he would verify unemployment under 39-51-203 with the bill as written.

Dave Wanzenried said there would be a record of taxes having been paid on the portion. There would be a record of the person actually working because the covered employer must report those wages on behalf of the employee.

Senator Keating asked Mr. Wanzenried if he has a W-2 form to go on?

Dave Wanzenried said they have reports that are not actually W-2 forms.

Chairman Lynch referred to the new language on page 2, lines 1-3. He asked if a person comes to Montana seeking work, do we get credits from that person. Is what they have earned in unemployment from California transferred to our fund.

Dave Wanzenried said that is right. We file a claim against that persons' earnings in the other state.

Chairman Lynch said the word "verifiable" in fact would not be needed there.

Dave Wanzenried said not really, but the language here under 39-51-203 is the section of law that defines what an employer must pay in to the trust fund.

Chairman Lynch still questioned the word "verifiable" as to how it will help the bill.

Jim Murry said it is his organization's position to continue that not covered employment would qualify people for the benefit of all we are saying is there is a problem and there should be a verification process.

Chairman Lynch asked Representative Donaldson if he would object to verifiable being put in.

Representative Donaldson said he was not sure.

Senator Keating asked if there is a requirement for a proof of eligibility in general under the statute.

Sue Mohr, representing the Department of Labor and Industry, said the requirement for proof of eligibility as far as an employer being considered a covered employer in the statute is that the employer must have a total payroll exceeding \$500 dollars.

Senator Keating asked if those non-covered jobs would provide eligibility for unemployment compensation.

Sue Mohr, said no.

Senator Keating said "so as the bill reads, only covered employees are eligible and their employment is verifiable by the reports from the covered employer?"

Sue Mohr said yes.

Representative Donaldson closed on House Bill 378.

The hearing was closed on House Bill 378.

CONSIDERATION OF HOUSE BILL 428:

Chairman Lynch called Representative Joan Miles, sponsor of House Bill 428. Representative Miles said, "The fiscal note is calculated on a \$1500 figure and we are back down to \$1000."

PROPOSERS OF HOUSE BILL 428:

Dave Wanzonried, Commissioner of the Department of Labor and Industry, submitted testimony in support of House Bill 428.
(Exhibit No. 2)

OPPOSERS OF HOUSE BILL 428:

None were present.

QUESTIONS FROM THE COMMITTEE:

Senator Keating said to Mr. Wanzonried, "On page 7, line 13 is part of section 2. You amended the \$1500 to \$1000."

Dave Wanzonried said yes.

Senator Keating asked if this is the minimum amount an employer can pay to an employee, in order to be an covered employer.

Dave Wanzenried said yes.

Senator Keating asked whether, if the employer pays \$1000 in one month or two weeks, he would become a covered employer.

Dave Wanzenried said that the total payroll would not exceed \$1000 through a course of one year.

Senator Keating asked whether he would be eligible for unemployment.

Vice-Chairman Manning took over as acting chairman.

Rich Clough, Chief of Unemployment Insurance Bureau, said a person must have 20 weeks of employment before being eligible - the first 4 of the last 5 preceeding calender quarters. Plus, a person must have \$1000 in earnings and an average of \$50 a week minimum.

Senator Aklestad referred to page 5, line 6 and asked why the language was amended for a person to administer this chapter.

Scott Currey, Department of Labor and Industry, replied that they wanted to omit this whole section but we couldn't, so they changed it.

Representative Miles closed on House Bill 428 saying she was responsible for changing the \$1500 figure to \$1000 to make it consistant with the definition of "employee."

The hearing was closed on House Bill 428.

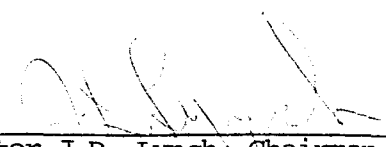
Senator Lynch resumed the chair,

Senator Keating made a motion that House Bill 428 Be Concurred In. On a voice vote the Committee voted Unanimously that HOUSE BILL 428 BE CONCURRED IN.

Senator Keating will carry the bill.

ADJOURNMENT: The committee, having no further business, adjourned at the hour of 1:50 p.m.

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Senator J.D. Lynch, Chairman

STANDING COMMITTEE REPORT

March 7

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MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **715**

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**EXEMPT FROM WORKERS' COMP. COVERAGE WORK AS OFFICIAL AT
SCHOOL SPORT EVENT**

(Senator Mazurek will carry the bill)

Respectfully report as follows: That **HOUSE BILL** No. **715**

BE CONCURRED IN

~~**DO PASS**~~

~~**DO NOT PASS**~~

SENATOR J.D. LYNCH

Chairman.

STANDING COMMITTEE REPORT

March 7

19. 85

MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **428**

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color

GENERALLY REVISE UNEMPLOYMENT INSURANCE LAW

(Senator Keating will carry the bill)

Respectfully report as follows: That **HOUSE BILL** No. **428**

BE CONCURRED IN

~~XXXXX~~

~~XXXXXXXXXX~~

SENATOR J. D. LYNCH

Chairman.

Labor and Employment

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 3/7/85

SENATE SEAT #

NAME	PRESENT	ABSENT	EXCUSED
1 Senator Aklestad	X		
46 Senator Blaylock	X		
9 Senator Haffey	X		
20 Senator Keating	X		
19 Senator Manning	X		
33 Senator Thayer	X		
Sentor Towe	X		
5 Chairman Lynch	X		

Each day attach to minutes.

March 2

Salon + Employment

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

March 7, 1985

HB 715

NAME: MONTANA HIGH SCHOOL ASSOCIATION, REPRESENTED BY MIKE COLBRESE,
ASSISTANT TO THE EXECUTIVE SECRETARY

BILL: HOUSE BILL 715

POSITION: IN SUPPORT OF HB715

My name is Mike Colbrese and I am employed as the Assistant Executive Secretary of the Montana High School Association. In this position I also act as the staff liaison with the Montana Officials Association.

The Montana High School Association is a non-profit organization with a 182 volunteer membership, almost all of Montana high schools. The Association through the leadership of a five member Board of Directors elected by the members, is responsible for regulating interscholastic competition.

The Montana Officials Association is an independent association, which since 1968, at its request, has been administered by the Executive Secretary of the Montana High School Association or his staff. The Montana Officials Association is governed by a ten member board of District Delegates. Each delegate represents a geographic area. These delegates are elected by the members of the Montana Officials Association they represent.

The Montana High School Association and the Montana Officials Association support HB715 for the following reasons:

1. This bill clarifies that members of the Montana Officials Association are independent contractors, as they've always been treated.
2. The nature of the duties of the members of the Montana Officials Association requires independent status. In this case, the employer should not be able to exercise control over the employee's decision.
3. Workers Compensation insurance is unnecessary as each member of the Montana Officials Association is enrolled in the National Federation of Interscholastic Officials Association which provides each official with the following insurance benefits:

- a. \$1,000,000 liability insurance
- b. \$10,000 accidental medical coverage *
- c. Disability income - \$50 per week up to 26 weeks

* Through membership in the Montana Officials Association, each official is also covered by the Montana High School Association Catastrophic insurance which provides coverage from \$10,000 without a maximum limit.

January 28, 1985

HOUSE BILL 428

EXPLANATION OF BILL TO GENERALLY REVISE THE UNEMPLOYMENT
INSURANCE LAW

Section 1. Section 1 eliminates the definitions "Administrator" and "Annual Total Payroll", terms no longer used in the unemployment insurance law. In addition, it amends the definition of "wages" to include back pay awards. This allows the department to recover benefits when a person has received back pay for the same period. ✓

Sections 2 and 3. These sections amend the definition of employer to mean an employing unit whose total annual payroll is more than \$1,500. Current law is \$500. This amendment will allow the department to focus on more significant violations of the unemployment insurance law. In addition, Section 3 amends out language in subsection (6)(j) that probably violates the Human Rights Act and has been repealed in the Federal Unemployment Tax Act (FUTA). /

The section on casual labor has been expanded to include a definition of regularly employed. In the current law an employer does not have to report wages in excess of \$50 a quarter if the employer can prove the individual was not regularly employed. The proposed amendment defines regularly employed as services performed during at least 24 days in the same quarter. The definition is used in the FUTA.

Sections 4 and 5. These sections bring the department's rulemaking authority in line with the public comment requirements of the Montana Administrative Procedures Act. It also provides the department with the subpoena power necessary to enforce the unemployment insurance law.

Sections 6 and 7. These sections acknowledge that hiring must be in accordance with State Personnel Division procedure.

Section 8. Section 8 designates the commissioner of labor and industry as the custodian of the unemployment insurance account. The law presently makes the state treasurer, an office that no longer exists, custodian of the fund. The section also repeals the requirement that the state treasurer post a performance bond with the department in conjunction with the duties as custodian.

Section 9. This change is necessary because of the changes made in Section 1.

Section 10. This section streamlines the unemployment insurance tax appeal procedure.

Section 11. Section 11 repeals reference to the Federal Bankruptcy Act of June 22, 1938, which no longer exists.

Section 12. Section 12 provides that an individual must "file a claim" rather than "register for work" to be generally eligible for unemployment insurance benefits.

Section 13. This change is necessary because of changes made in Section 12.

Section 14. The current method of service when a party appeals a decision of the Board of Labor Appeals to District Court is awkward and cumbersome. Section 14 provides that service is to be made pursuant to the Montana Rules of Civil Procedure.

Earlier this year, I was asked to investigate the employee status of contest officials in other states. As of May 1, 1984, only one state, Illinois, recognizes officials as employees of a school district. Most recently, Idaho's legislature passed legislation which now classifies officials in Idaho as independent contractors.

STANDING COMMITTEE REPORT

March 7 19. 35

MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **715**

third reading copy (**blue**)
color

**EXEMPT FROM WORKERS' COMP. COVERAGE WORK AS OFFICIAL AT
SCHOOL SPORT EVENT**

(Senator Mazurek will carry the bill)

Respectfully report as follows: That **HOUSE BILL** No. **715**

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

.....
SENATOR J.D. LYNCH

Chairman.

STANDING COMMITTEE REPORT

March 7

19 85

MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **428**

third reading copy (**blue**)
color

GENERALLY REVISE UNEMPLOYMENT INSURANCE LAW

(Senator Keating will carry the bill)

Respectfully report as follows: That **HOUSE BILL** No. **428**

BE CONCURRED IN

SENATOR J.D. LYNCH

Chairman.

Labor and Employment

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 3/7/85SENATE
SEAT

#

NAME	PRESENT	ABSENT	EXCUSED
1 Senator Aklestad	X		
46 Senator Blaylock	X		
9 Senator Haffey	X		
20 Senator Keating	X		
49 Senator Manning	X		
33 Senator Thayer	X		
Sentor Towe	X		
5 Chairman Lynch	X		

Each day attach to minutes.

DATE: March 7

COMMITTEE ON Salon & Employment

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: MONTANA HIGH SCHOOL ASSOCIATION, REPRESENTED BY MIKE COLBRESE,
ASSISTANT TO THE EXECUTIVE SECRETARY

BILL: HOUSE BILL 715

POSITION: IN SUPPORT OF HB715

My name is Mike Colbrese and I am employed as the Assistant Executive Secretary of the Montana High School Association. In this position I also act as the staff liason with the Montana Officials Association.

The Montana High School Association is a non-profit organization with a 182 volunteer membership, almost all of Montana high schools. The Association through the leadership of a five member Board of Directors elected by the members, is responsible for regulating interscholastic competition.

The Montana Officials Association is an independent association, which since 1968, at its request, has been administered by the Executive Secretary of the Montana High School Association or his staff. The Montana Officials Association is governed by a ten member board of District Delegates. Each delegate represents a geographic area. These delegates are elected by the members of the Montana Officials Association they represent.

The Montana High School Association and the Montana Officials Association support HB715 for the following reasons:

1. This bill clarifies that members of the Montana Officials Association are independent contractors, as they've always been treated.
2. The nature of the duties of the members of the Montana Officials Association requires independent status. In this case, the employer should not be able to exercise control over the employee's decision.
3. Workers Compensation insurance is unnecessary as each member of the Montana Officials Association is enrolled in the National Federation of Interscholastic Officials Association which provides each official with the following insurance benefits:
 - a. \$1,000,000 liability insurance
 - b. \$10,000 accidental medical coverage *
 - c. Disability income - \$50 per week up to 26 weeks

* Through membership in the Montana Officials Association, each official is also covered by the Montana High School Association Catastrophic insurance which provides coverage from \$10,000 without a maximum limit.

January 28, 1985

HOUSE BILL 428

EXPLANATION OF BILL TO GENERALLY REVISE THE UNEMPLOYMENT
INSURANCE LAW

Section 1. Section 1 eliminates the definitions "Administrator" and "Annual Total Payroll", terms no longer used in the unemployment insurance law. In addition, it amends the definition of "wages" to include back pay awards. This allows the department to recover benefits when a person has received back pay for the same period. ✓

Sections 2 and 3. These sections amend the definition of employer to mean an employing unit whose total annual payroll is more than \$1,500. Current law is \$500. This amendment will allow the department to focus on more significant violations of the unemployment insurance law. In addition, Section 3 amends out language in subsection (6)(j) that probably violates the Human Rights Act and has been repealed in the Federal Unemployment Tax Act (FUTA). /

The section on casual labor has been expanded to include a definition of regularly employed. In the current law an employer does not have to report wages in excess of \$50 a quarter if the employer can prove the individual was not regularly employed. The proposed amendment defines regularly employed as services performed during at least 24 days in the same quarter. The definition is used in the FUTA.

Sections 4 and 5. These sections bring the department's rulemaking authority in line with the public comment requirements of the Montana Administrative Procedures Act. It also provides the department with the subpoena power necessary to enforce the unemployment insurance law.

Sections 6 and 7. These sections acknowledge that hiring must be in accordance with State Personnel Division procedure.

Section 8. Section 8 designates the commissioner of labor and industry as the custodian of the unemployment insurance account. The law presently makes the state treasurer, an office that no longer exists, custodian of the fund. The section also repeals the requirement that the state treasurer post a performance bond with the department in conjunction with the duties as custodian.

Section 9. This change is necessary because of the changes made in Section 1.

Section 10. This section streamlines the unemployment insurance tax appeal procedure.

Section 11. Section 11 repeals reference to the Federal Bankruptcy Act of June 22, 1938, which no longer exists.

Section 12. Section 12 provides that an individual must "file a claim" rather than "register for work" to be generally eligible for unemployment insurance benefits.

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Section 14. The current method of service when a party appeals a decision of the Board of Labor Appeals to District Court is awkward and cumbersome. Section 14 provides that service is to be made pursuant to the Montana Rules of Civil Procedure.

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