

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

January 22, 1987

The fourth meeting of the Labor and Employment Relations Committee was called to order by Chairman J. D. Lynch on January 22, 1987 at 1:00 p.m. in Room 413/415 of the State Capitol.

ROLL CALL: All members were present with the exception of Senator Jack Galt, who was excused by the Chairman.

CONSIDERATION OF SENATE BILL NO. 84: Senator Gene Thayer, Senate District No. 19, sponsor of the bill, stated he is sponsoring this bill at the request of the Department of Labor and Industry. Senator Thayer stated Section 39-71-403, MCA was amended in 1979 to allow public corporations, other than state agencies, to insure under Plan 1 or Plan 2 rather than exclusively Plan 3. Senator Thayer continued that when this was enacted the legislature overlooked Section 7-32-203, MCA, and the result was that public corporations, other than state agencies, may insure under Plan 1 or Plan 2 for all employees, except for reserve officers as defined in Section 7-32-201, MCA. Senator Thayer stated the reason for this bill is to provide coverage for reserve officers. This coverage would be provided by the carrier that provides coverage for all other employees. He stated this was overlooked and Senate Bill 84 will correct this problem.

PROPOSERS: Mr. Bob Robinson, Administrator for the Workers' Compensation Division, testified in support of SB 84. Mr. Robinson stated this is just a housekeeping bill and that the counties that have opted to be insured with the Montana Association of Counties Self-Insurance Pools are covering the reserve officers and this bill will make sure the law is in conformance.

OPPOSERS: None present.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 84: There were no questions on SB 84.

Senator Thayer closed the discussion on SB 84.

DISPOSITION OF SENATE BILL NO. 84: Senator Manning made a motion that SB 84 DO PASS. The motion carried unanimously.

FURTHER CONSIDERATION OF SENATE BILL NO. 34: Senator Manning made a motion that the Labor and Employment Relations Committee request a new fiscal note. The motion carried unanimously. Senator Lynch requested a new fiscal

note with Senator Harding's amendments.

CONSIDERATION OF SENATE BILL NO. 103: Senator Tom Hager, Senate District 48, sponsor of the bill stated SB 103 will clarify the method of payment for the standard prevailing wage rate under the provisions of the Little Davis-Bacon Act. Senator Hager stated that Federal law applies under any Davis-Bacon plan for a job that is federally funded. He informed the committee that there are three options for the payment of wages concerning fringe benefits, and they are as follows: 1) to pay the amount of wages and benefits in case; 2) to pay the amount of wages and contribute the fringe benefits to a benefit fund; and 3) to pay to the trustee, or to a third party, the rate of contributions in accordance with a bonafide fringe benefit plan. Senator Hager stated that the purpose of this law is as follows: 1) to bring Montana law in compliance with Federal law; 2) to treat all employers equally; and 3) it does not jeopardize the employee. Under the Davis-Bacon Act the employee receives the same amount whether he works for an employer under a collective bargaining agreement or otherwise.

PROPOSERS: Mr. Lloyd Lockrem, representing Montana Contractors Association, gave testimony in support of this bill. Mr. Lockrem stated the bill does not affect unions in Montana and it does not apply to a single union member in Montana. Mr. Lockrem stated that this bill will bring Montana's Little Davis-Bacon Act to an equal status with the Federal Davis-Bacon Act. Mr. Lockrem continued that employers who pay fringes directly to the employees, pays workers' compensation, public liability and unemployment at a cost of approximately 30%. Mr. Lockrem stated the existing law has no labor agreement and the fringe benefits are predetermined by the state of Montana, and these benefits are also subjected to state income tax, federal income tax, and FICA. He urged the committee to pass this bill.

Mr. Marvin L. Lehman, representing Lehman Construction Company, Great Falls, Montana, gave testimony in support of SB 103. Mr. Lehman stated that in the past his company paid cash benefits directly to the employees and his company researched various benefit packages for the employees. Recently the employees of Lehman Construction requested their benefits be paid into a trust through a third party in their behalf and they found a few companies that met the federal requirements. Mr. Lehman recently found that the language contained in the third statute doesn't allow his company to participate in a benefit package on the employees' behalf. Mr. Lehman stated he is

testifying on behalf of his employees' concerns. He urged the committee to pass this bill.

Mr. Tim L. Eckland, representing National Western Life Insurance Co., Austin, Texas, gave testimony in support of this bill. Mr. Eckland stated that National Western Live Insurance Co. has a multiple employment plan which is approved by the federal and state Davis-Bacon Act wages. Mr. Eckland testified that the business his company does in other states is aligned with the federal Davis-Bacon Act. Mr. Eckland stated that in the area of discrimination and fairness, this act is contrary to the federal act. Also, under states with federal money, the state has chose to use the Little Davis-Bacon Act to force the contractors to put the fringes on the individual employee's check. Mr. Eckland continued, there are federal guidelines; 1) the Federal Department of Labor wanted that money to benefit the employee; 2) the federal law wanted a 100% vesting rule on all contributions; 3) if the employee works more than 500 hours, the employee must have a 100% vesting program; 4) the money also has to be administered by an uninterested third party, such as a bank or an insurance company; 5) the payments cannot be distributed through the contractor; and 6) the program is set up similar to an IRA program; the money is free from taxation. Mr. Eckland stated there is discrimination against employees compared to other contractors under the same wage situation. Mr. Eckland explained that the National Western Life Insurance Co. meets with the federal statutes on vesting guarantees and their plan is approved by the state of California's prevailing wage law. He urged the committee to support this bill.

Mr. John Felton, representing Felton Construction Co., Missoula, Montana, gave testimony in support of this bill. Mr. Felton feels SB 103 would be fair to both the employer and the employee. Mr. Felton stated employees must work 500 hours before they are vested in some plans. This bill will allow a plan that can invest the employee with their first hour of work. Mr. Felton urged the committee to support this bill.

Mr. Michael Don Hutton, representing the Insurance Exchange Inc., gave testimony in support of this bill. He explained the original intent of the Davis-Bacon Act was to introduce fairness of wages and benefits for all workers. Mr. Hutton stated the Little Davis-Bacon Act has been interpreted to mean that an open shop worker who is given a bonafide health disability protection plan or pension plan is entitled to receive fringe benefits in cash. Mr. Hutton stated there is a growing number of people who need benefit protection. Mr. Hutton feels the Little Davis-Bacon

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Act is not doing its original intent, and that is providing equality of wages and fringe benefits. Mr. Hutton stated a few multiple employment plans have been approved on the federal level; however, the state of Montana has determined that an open shop contractor cannot use this plan.

Mr. Roy Clause, representing Clause Excavating, Billings, Montana, stated this bill would bring about fairness to the employer and the employee. Mr. Clause believes his employees should have a choice on how they should be paid their fringe benefits. As of right now, they have to be paid in cash.

OPPONENTS: Mr. Gene Fenderson, Montana State Building and Construction Trades Council, gave testimony in opposition to this bill. He stated he is on a trust fund committee with combined assets of approximately \$40 million and this has given him valuable experience concerning health insurance and pension plans. Mr. Fenderson stated that union leaders and union management trustees are constantly being monitored. He explained the Union Trust Plan covers workers of a given trade, this includes the transient work force of the construction trade, so that the workers can move from job site to job site and get credit for all hours the employee has worked, whether it was public or private. The state of Montana also has a reciprocal agreement with all other states to accept a worker's accumulated hours. Mr. Fenderson stated the other plans discussed today do not have the advantage of the mobility of their plan. Mr. Fenderson stated that the law was established to protect the employee.

Mr. John Whiston, Missoula attorney representing the Building and Construction Trades, gave testimony in opposition of this bill. Mr. Whiston feels this bill would not clarify Montana law, but it would lose the fairness for the employees and the employers, as was the intent of the federal and state Davis-Bacon Act and it will open the public treasury and the public state contracts to a serious risk of financial abuse. Mr. Whiston feels the crucial language in this bill is that the contribution will be made to a bonafide benefit program, Section 1, sub section C of the bill. Mr. Whiston explained there is a great deal of litigation and dispute, particularly in Washington, D. C., concerning what constitutes a bonafide investment trust and there are suits and appeals pending before the Wage Appeals Board of the Division of Labor. Mr. Whiston stated that his legal opinion is the presently marketed trusts in Montana and the trusts discussed in today's meeting would not be a bonafide Davis-Bacon trust and would not be allowed to have the contributions made to them should this bill pass. Mr. Whiston feels

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this would allow trusts to rise and this could open the door to a serious history of abuse. Mr. Whiston continued and said he believes the Federal Davis-Bacon Act does not say you have the choice of paying the \$10 wages and \$2.50 in fringe benefits, but the federal regulations do allow the contractor the flexibility to make certain contributions to benefits in undetermined amounts. The Internal Revenue Code sections of ERISA allows employers to make contributions up to 25% of the total compensation package. An example is a wage rate of \$10 and the fringe benefit portion is \$2.50. The total compensation package is \$12.50. The contractor has the discretion of using 25% of the \$12.50, and the contractor can distribute this money to whatever trust the employer chooses. Thus, the employer actually only has to pay the employee \$9.50 and only pays taxes on the \$9.50. This gives the employer a competitive advantage. Mr. Whiston stated these trusts are being sold in Montana as a secret way to give a company a competitive advantage, and this is the reason there is legislation today to repeal Montana law. he stated he believes this is completely contrary to the intent of the Little Davis-Bacon Act. On that basis, he believes these trusts are in violation of ERISA, the Davis-Bacon Act, and the Montana Wage Act, Section 39-3-204, MCA. Mr. Whiston stated most of the history of these funds involves National Western Life Insurance Company and most of his information shows approximately 1,000 contractors nationwide are using this trust. He stated there are three parties involved, the contractor, the insurance company and the employee. Mr. Whiston explained that before the Department of Labor order in 1984, contractors were contributing up to 60% of the employees' total compensation package to the trust. This was in violation of the Internal Revenue Code and this gave those contractors a healthy competitive advantage by underbidding union contractors, and allows them to obtain other Davis-Bacon work. Mr. Whiston explained how the National Western Life Insurance Company works: If the employee withdraws his money in the first year, there is a 2% penalty for administration and an 18% withdrawal penalty and this is a total loss of 20% that the Davis-Bacon Act intended to give the employee. The relationship between the Builders Trust and National Western Life Insurance Company is presently under litigation. This involves the relationship that all the assets are invested in National Western Life Insurance and there is no competitive bidding for those contracts. The chief officers of Builders Trust are the officers of National Western Life Insurance. National Western Life Insurance has less than market returns in its annuities. The annuity expenses for National Western Life Insurance Company are higher than the average. It has been admitted that many of the contributions were made directly

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from the contractor to National Western Life Insurance Co., contrary to ERISA, the Builders Trust. All of the above are violations of ERISA, Section 404 and Section 406, MCA. Mr. Whiston feels that with National Western Life Insurance Co. and its trust being the leading trust company, it opens up a pattern of abuse that is a violation of the law. Mr. Whiston also informed the committee that National Western Life Insurance Company's president and vice president were indicted by a federal grand jury in Las Vegas, Nevada on December 3, 1985, charged with bribery, false statements under ERISA, mail fraud, and other charges. Mr. Whiston was informed by the Organized Crime Strike Force of the Department of Justice in Las Vegas, that the trial is scheduled to begin on April 27, 1987. Mr. Whiston stated these trusts do not require the employees' consent and that it is a violation of the Montana Wage Act, which states that all deductions of an employee's compensation have to be authorized by the employee in writing. Because it is a violation of that law, it would in turn violate the Montana Davis-Bacon Act if we look at the federal act for guidance. Mr. Whiston closed by stating he does not feel this legislation should change a system that has worked, to allow for a chance of abuse that could seriously effect the good contractors and construction employees of this state.

Mr. Bob Kinghorn, representing Operating Engineers Local 400, Teamsters Council #2, stated this organization opposes this bill. He stated they are very concerned about the intent of the purposes of the contractors and the insurance companies that are supporting this legislation. Mr. Kinghorn stated they are concerned because of evidence of what has happened in other states that have allowed individual contractors to decide to pay fringe benefits to private insurance company trusts. Mr. Kinghorn stated they are especially concerned with the marketing program of National Western Life Insurance Co. that has been used to convince contractors to participate in their program. Mr. Kinghorn continued that in the marketing brochure from National Western Life Insurance Company, they do not adequately describe the benefits for the effected employees. Instead they emphasize how a contractor can save money and obtain a competitive advantage by paying large amounts of the employees' money into a pension program (see Exhibit 1). He stated that one of National Western Life Insurance's examples shows the payroll tax cost of an employee who earns \$8 an hour wages, plus \$2 an hour fringe benefits. They suggest the employer pays the worker \$6 an hour and \$4 an hour into their pension program, thus saving 98cents per hour in payroll taxes. Mr. Kinghorn explained that

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the worker gets less money, social security fund, unemployment and insurance funds, the public liability fund, and state and federal tax revenues. The example they site projects this 98 cents up to a one year savings of \$1,881.60 per employee and the savings on a one year job with a twenty man crew would be \$37,632.00. Mr. Kinghorn continued that this amount of money would give a contractor a competitive advantage. Mr. Kinghorn stated the present Davis-Bacon Law should remain in effect.

Mr. Curt Wilson, representing the Montana District Council of Laborers, gave testimony in opposition to this bill. He stated this bill will affect 98% of the workers in heavy highway construction and 80% of the workers in the building construction, and all the union contractors involved with the reflective bargaining agreements that have health pensions. Mr. Wilson pointed out the competitive edge provided by National Western Life Insurance Company's marketing brochure (see Exhibit 1). Mr. Wilson stated that the Montana District Council of Laborers are opposed to this bill because 1) it will provide unfair competition for contractors with collective bargaining agreements; 2) a contractors competitive edge is reached by lowering the employee's wages (see Exhibit 1); 3) this would open the door for abuse by the unscrupulous contractor (see Exhibit 2); and 4) the employee has no say on whether he would like to use this benefit fund. Mr. Wilson stated he has not seen a fiscal note attached to this bill and he feels it should be a high priority with this bill. He said under the present law the employee is paid the benefit money in cash or on his check and he can choose the plan he wants to use. Mr. Wilson feels that the National Western Insurance Co. only benefits the employer. He continued that the Laborers ADC Trust, the Operating Engineers Trust, and several other union trusts bank their money in the state of Montana.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 103:

Senator Thayer asked Mr. Gene Fenderson about the laws concerning a trust fund and if all the trust fund laws governed follow the same procedure. Mr. Fenderson stated that all plans are governed under the national ERISA act but the type of plan they have are ruled by the Taft-Hartley Trust and they are also governed under the national Labor Laws. The unions cannot set up a trust fund and run them solely, they have to be run by employers and union representatives and the amount varies from trust to trust.

Senator Thayer asked Mr. Fenderson if he implied in his testimony that there were more regulations in administering a union trust than there were in administering other trusts. Mr. Fenderson replied that was true because the Taft-Hartley Trust falls under the National Labor Relations Act.

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Senator Thayer asked Mr. Lloyd Lockrem about his difference in testimony compared to Mr. Wilson in regards to it not affecting unions. Mr. Lockrem replied that in SB 10 the AFL-CIO referred to these employees as scabs and now they are here defending them. Mr. Lockrem stated this applies to merit shop and open shop contractors because under this bill the wages are predetermined so to change this and to allow for other options will only affect the merit shop or open shop contractors.

Senator Blaylock asked Mr. Lockerm why the only people who spoke in support of this bill were contractors. Mr. Lockrem directed that question to Mr. Lehman. Mr. Lehman replied that his company doesn't have much work right now and their number of employees are down. Mr. Lehman stated his employees asked him to look into benefit packages and they found that the language in the current law does not allow this.

Senator Lynch asked Mr. Eckland, representing National Western Life Insurance Company, if the purpose of his company is to show the employer how to save money at the employees' expense. Mr. Eckland replied that before the Department of Labor made the 25% rule in 1984, there were some contractors that were taking advantage of the employee, however with the area he has been involved in, they do not allow the contractor to get involved in the base rate. There are state prevailing wage laws that limit that. In Wyoming you follow a line by line itemization of wages, fringes, insurance and benefits and in California you follow a line by line and you do not dip into the base rate. Mr. Ecklund stated their early withdrawal penalty is only used if the employee draws his money out before a three year period and the penalty is the 2% administration fee. Mr. Eckland continued that the marketing process before had been to promote the 25% rule based on the differences between prevailing wage and the actual wage in the area.

Senator Lynch asked Mr. Eckland if this is a recent brochure. Mr. Eckland replied his company no longer uses that brochure. Senator Lynch stated this brochure was received only a few days ago in Missoula, Montana. Mr. Eckland replied that he is not sure where that brochure came from because there are four other individuals in the United States who market this trust besides him, and they could have mailed it as a current marketing brochure. Senator Lynch asked Mr. Eckland if he subscribes to what the brochure states, for example, "Learn the secret that can give your firm the competitive edge!" Mr. Eckland replied no, and that they really don't have contractors that dip into the base rate.

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Senator Lynch stated he believes Mr. Eckland was saying he doesn't believe in this marketing brochure, but someone that represents your company does subscribe to this belief. Mr. Eckland replied that in areas where the prevailing wage and the private wage are of great differences, then someone might subscribe to this belief.

Senator Lynch asked Mr. Eckland who will benefit from what this brochure represents (see Exhibit 1). Mr. Eckland replied they can adequately compete on a one on one with union contractors.

Senator Lynch asked if the contractor can save money at the employees' expense. Mr. Eckland replied that no, they cannot save money at the employees' expense because all the money will go into the plan and it will be vested to them, but in states where you dip into the base rate, the employee is required to sign a wage card to allow you to do it.

Senator Lynch asked if the brochure is suggesting you dip into the base rate. Mr. Eckland replied that yes, it does, but they are not allowed to do it in Wyoming and California.

Senator Lynch asked Mr. Eckland if they would be allowed to dip into the base rate if this bill passed. Mr. Eckland replied no, you could write the bill that you would have to follow a line by line itemization of wages, fringes, insurance and benefits. Senator Lynch asked if you could dip into the base rate with this bill. Mr. Eckland replied that he assumes you could.

Senator Keating asked Mr. Eckland if he knew Mr. Larry West, the man whose name is on the brochure in question (see Exhibit 1). Mr. Eckland replied that yes he did, and that he was going to attend this meeting but he had to travel elsewhere. Senator Keating asked Mr. Eckland if National Western Life Insurance Co. has a monopoly on these plans. Mr. Eckland replied no, but their company is a multi-employer plan and they have 1,600-1,800 contractors using their plan. The 500 hour plan does not come under their plan because of the 100% vesting hour one, what happened originally to get us to begin using the 25% rule plan, which is actually 25% of the cash wage, which comes to 20%.

Senator Keating asked Mr. Eckland if their company has any competitors. Mr. Eckland replied yes, Johnson and Higgins has a plan, but the only difference is that his company is a multi-employer plan and the individual contractor does not have to go out and get it approved by the Department of Labor. Mr. Eckland continued that he is totally against five or ten year vesting, his company is 100% vesting at hour one. Senator Keating asked Mr. Eckland who

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regulates his company. Mr. Eckland replied the Department of Labor regulates his company and the business done through his office is audited on a monthly basis. Senator Keating asked Mr. Eckland if the article discussed in Exhibit 2 was referring to his company. Mr. Eckland said yes, but it was handled out of an office in Spokane, Washington.

Senator Blaylock asked Mr. Fenderson how long it takes to vest in their trust. Mr. Fenderson replied it takes 435 hours for all work, whether it was private or public work, because some employers will only vest if their employer is working on a Davis-Bacon project.

Senator Haffey asked Mr. Fenderson what benefit this bill would give an employee. Mr. Fenderson replied there is not much long term retirement benefits for the employee in the National Western Life Insurance policy versus the Taft-Hartley Trust Plan that the unions are members of. A defined contribution plan is when it has to be defined what the employee is going to be paid or what it is worth. Under their plan the only thing they actually have to pay is the \$6,000, and there are no guarantees or protection.

Senator Haffey asked Senator Hager what the benefit for the employer would be. Senator Hager replied the benefit for the employer would be to show he cares about his employees and that some employees would rather have it in cash. Senator Hager believes this will help an employee with a pension plan. Senator Haffey asked Senator Hager what the benefit would be for the employer concerning the National Western Life Insurance Co. brochure. Senator Hager replied that he has not seen this brochure so he couldn't comment.

Senator Haffey asked Mr. Whiston what the benefit would be for an employer. Mr. Whiston replied there is a benefit to the non-union employer who can lower his wages and in turn pay less payroll taxes, unemployment taxes, and workers' compensation taxes and if he goes into the base wage that would give him a competitive advantage because he is paying less total labor costs than someone who is under a collective bargaining agreement and paying line by line the Little Davis-Bacon allocations. Mr. Whiston said that to pretend this does not affect other contractors and union employees ignores the realities of the situation. Senator Haffey asked Mr. Whiston if SB 103 was another variation of SB 10 and that it could end up costing government agency contracts more money. Mr. Whiston replied the purpose behind Davis-Bacon on the federal level is to equalize the bidding so that the unscrupulous contractor does not have an advantage. Senator Haffey asked Mr. Whiston if this bill would put a fix in that would enable the bid submitted, which was lower than it could have been, to go into the base wage. Mr. Whiston replied yes and that

contractor might get the job.

Senator Keating asked Mr. Michael D. Hutton, Billings Insurance agent, if he served both union and non-union workers. Mr. Hutton replied he served both. Senator Keating asked Mr. Hutton if, under the current law, the union contractor has the advantage of paying some of the wage as benefits or retirement benefits into the particular fund, and if at the present time a non-union contractor does not have this advantage. Mr. Hutton replied that is exactly right. Senator Keating stated that in a sense the union contractor has an advantage of promising his workers a base pay plus fringe benefits that are going into a fund, and now the non-union contractor wants to have the same opportunity to pay into a fund for his workers. Senator Keating asked Mr. Hutton if this is what this bill is about. Mr. Hutton replied that is part of what this bill is about. The employee is not going to get a fringe benefit on a non-union shop the way the bill is written right now. Mr. Hutton stated that Wyoming made this an equitable situation by bringing the union and non-union contractor to an equal basis to avoid loading the bid in favor of the non-union contractor because the union does have it loaded in their favor. Mr. Hutton stated you could bring the unions and non-unions into equality by passing this bill and possibly suggesting an amendment that says you will follow it line by line like the state of Wyoming.

Senator Thayer asked Mr. Kinghorn if he was against allowing for some equality for all employees and if he was concerned that an employee should have some say in the benefit plan that was housing his money and were concerned about wanting stricter language for this bill. Mr. Kinghorn replied yes, workers need some type of benefit protection in this day and age and his key concern was that under these plans that have been in effect in other states, the employee has no say and it is a decision by the non-union contractor.

Senator Lynch asked Mr. Lehman if he was also seeking that the employee should have a say in what is done with their money. Mr. Lehman replied that yes his employees are asking for an opportunity to voice their opinions; however they do not have this opportunity right now.

Senator Lynch asked Mr. Lehman if his company would force their employees to use a trust they did not want. Mr. Lehman replied no, we would give them a choice. He stated that his company, as a merit shop, is at a competitive disadvantage because with a \$100,000 payroll versus a union contractor with a \$100,000 payroll, the portion the union contractor pays to the trust fund on a benefit plan for their employees, they do not have to pay workers'

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compensation, unemployment taxes, FICA, or liability insurance, and this amounts in his firm to over 30%.

Senator Lynch asked Senator Hager about the plan that states the employer will contribute an hourly amount for the employee but the law Mr. Gomez pointed out says that no person for whom labor has been performed may withhold from any employee any wages earned for longer than ten days, but this plan they are suggesting the employers join is going to hold out something from the employees' check will this be a conflict. Senator Hager directed this question to Mr. Eckland. Mr. Eckland replied in 1985 the AFL-CIO submitted a letter to the Department of Labor concerning whether it should be a voluntary or non-voluntary plan and the Department of Labor has consistently interpreted the regulation in question as requiring employee's consent for employee contributions into a fringe benefit plan, and a fringe benefit is not considered part of the wage. Mr. Eckland stated if the voluntary application was made for our program, there would be employees who would move from union to non-union employers and request they receive their money in cash. Mr. Eckland stated the voluntary contribution has to do with the base rate only, and it has never contended to be a payroll deduction. Mr. Eckland stated his company does require the employee sign a job card that will explain how much the employee is getting paid per job.

Senator Keating asked Ms. Peg Hartman, Department of Labor, about a comment made that if this bill passed, then there would be a great deal of regulatory inspection, and if the Department of Labor were aware of the amount of extra personnel that will be needed to keep track of this business. Mr. Hartman stated this would be hard to answer, however, the Department of Labor, at this point, enforces the current law and there are cases now where some employers fail to pay the fringe benefits and the Department of Labor forces those employers to pay. Ms. Hartman believes the Department of Labor would need considerable additional expertise person-power to enforce this.

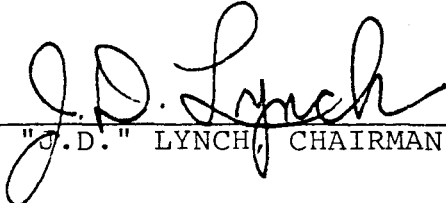
Senator Keating requested the Department of Labor give the committee more research on the amount of additional personnel needed, and the source of revenue that would pay for it. Ms. Hartman said she would get the additional research.

Senator Blaylock asked Mr. Michael Hutton if it was true some contractors will pay the benefits on the Davis-Bacon jobs but will not pay the benefits on private jobs. Mr. Hutton said that was true and the advantage of this program is that the State Insurance Commissioners Office has to monitor these investment plans, so if a company is involved and they are the admitted carrier in the state of Montana

there is financial security through the state guarantee fund.

Senator Hager closed by stating 1) that wages paid under the Davis-Bacon Act have benefits that are fixed and this bill will not effect this; 2) jobs funded with Montana dollars would be treated the same as jobs funded with federal dollars; 3) this is a fairness issue and under Mr. Eckland's program there would be vesting after the first hour of work; 4) these plans would be reviewed by our insurance commissioner and it has to comply with the IRS under ERISA; 5) the federal Davis-Bacon Act now being used for the federally funded programs has been reviewed by the IRS and the Department of Labor; 6) if you are paid in cash, the W-2 form states you received more than you actually received; and 7) under a bonafide plan this money has to go through a third party and it cannot go back to the employer.

ADJOURNMENT: There being no further business to come before this committee, the hearing adjourned at 2:45 p.m.


JOHN "J.D." LYNCH, CHAIRMAN

jr

ROLL CALL

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 22, 1988

NAME	PRESENT	ABSENT	EXCUSED
John "J.D." Lynch Chairman	X		
Gene Thayer Vice Chairman	X		
Richard Manning	X		
Thomas Keating	X		
Chet Blaylock	X		
Delwyn Gage		X	
Jack Haffey	X	X	
Jack Galt			X

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date Jan. 22, 1987 Bill No. 5B 84 Time 1:07pm

NAME	YES	NO
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman	Y	
Richard Manning	X	
Thomas Keating	X	
Chet Blaylock	X	
Delwyn Gage	X	
Jack Haffey	X	
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: On Pass

DATE January 22, 1987

COMMITTEE ON LABOR

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bob Jensen	Dept. of Labor			
Mike Stump				
David E. C... ..	Boilermaker	SB103		✓
Bob Kingham	Operating Eng. - Terminals	SB103		✓
Curt Wilson	Mont. Dist. Cncl. of Laborers	SB103		✓
Wolfgang Z... ..	Printers LOCAL 260	SB103		✓
John Whiston	Bldg Trades Council	SB103		✓
Gen F. Wharcker	Oper. Eng. #400	SB103		✓
Mike Keating	" "	SB103		✓
Michael Dan Hartman	The Insurance Exchange	SB103	✓	
Lloyd Lockman	Mont. Cont. Ass	SB103	✓	
MARVIN Lehman	Lehman Const. Co.	SB103	✓	
Bryan Enderle	Missoula Chamber of Comm.	SB103		
Jim L.	Met Western Life	SB103		
Roy E. Plouse	Plouse Excavating	SB103	✓	
John Helton	Fulton Const. Co.	SB103		
Pill Olson	Mt. Contractors	SB103	✓	

Lloyd Lockman

DATE : _____

Montana Coal Assoc

442.4261

Mont. Cont.

SB 103

✓

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: LEHMAN MARVIN L. DATE: 22 JANUARY 87

ADDRESS: 4125 NORTH STAR BLVD. GREAT FALLS, MONTANA. 59404.

PHONE: (406) 761-3769

REPRESENTING WHOM? LEHMAN CONST CO. INC.

APPEARING ON WHICH PROPOSAL: SB- 103

DO YOU: SUPPORT? YES AMEND? OPPOSE?

COMMENTS: AS THE CURRENT LAW STANDS, UNION CONTRACTORS
HAVE A COMPETITIVE EDGE IN THE BIDDING PROCESS AT
THE EXPENSE OF OUR EMPLOYEES WELFARE AND THAT
OF HIS FAMILY.

WE ARE CURRENTLY A MERIT SHOP. AND AT THE
REQUEST OF OUR EMPLOYEES SEEK EQUALITY, FAIRNESS AND
JUSTICE.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Tim L. Ecklund DATE: 1-22-86

ADDRESS: Box 5506 Missoula MT 59806

PHONE: 406-728-2127

REPRESENTING WHOM? Not written here

APPEARING ON WHICH PROPOSAL: SB 103

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: I feel that the Bill must
be passed to make all things
equal & allow the employees to provide
the Tax Free Benefits in place of
Taxable wages.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John Felton DATE: 1-22-87

ADDRESS: 2823 Felton Lane Missoula MT 59803

PHONE: 728-8100

REPRESENTING WHOM? Felton Const Co Felco Industries

APPEARING ON WHICH PROPOSAL: 103

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

COMMENTS: IT has more fairness for
both employer & employee

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Michael Don Hutton DATE: 1/22/87

ADDRESS: PO Box 7077 Billings MT. 59103

PHONE: 406-248-7434

REPRESENTING WHOM? The Insurance Exchange Inc

APPEARING ON WHICH PROPOSAL: SB 103

DO YOU: SUPPORT? X AMEND? X OPPOSE?

COMMENTS: Should go to a by Line Item and a specific
Amount for Health Ins, Pension, Disability like the
Wyoming Law.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: ROY E CLAYSE DATE: _____

ADDRESS: 848 MAIN BILLINGS

PHONE: 2565110

REPRESENTING WHOM? CLAYSE EXCAVATING

APPEARING ON WHICH PROPOSAL: 103

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

COMMENTS: Requested finances for ourselves and our
employees

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Eug. Funder DATE: Jan 20-8

ADDRESS: BOX 202 Helms

PHONE: 442-1441

REPRESENTING WHOM? State Bldg. Trade

APPEARING ON WHICH PROPOSAL: SB-103

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John Whiston DATE: 1/22/87

ADDRESS: PO Box 8988, Mesa 59807

PHONE: 543-5156

REPRESENTING WHOM? Building & Trades Council

APPEARING ON WHICH PROPOSAL: SB 103

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

COMMENTS: The bill as written opens door to
serious abuse, especially given the history of
National Western Life Ins. The plans violate
ERISA, Davis-Bacon and NCA 39-3-204

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE: 1-22-87

1714 11th Ave Helena

442-1270

Operating Engineers - Steamers

SB 103

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Curt Wilson DATE: 1/22/87

ADDRESS: Box 1178 Great Falls, Montana 59401

PHONE: (406) 965-3032

REPRESENTING WHOM? Montana District Council of Laborers

APPEARING ON WHICH PROPOSAL: SB 103

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

COMMENTS: Bad legislation - cuts wages
Cuts employee & employee taxes - takes
millions of dollars out of state - will
cost tens of thousands of dollars per
year to administer.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mike Keating DATE: 1-22-57

ADDRESS: 2911 84th Ave Great Falls Mt

PHONE: 452-7725

REPRESENTING WHOM? Imm 400

APPEARING ON WHICH PROPOSAL: SB 103

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENTS: The existing is working for both
Union and non union employees

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

January 22,

87

19.....

MR. PRESIDENT

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

having had under consideration..... **SENATE BILL** No. **84**

(first) reading copy (**white**)
color

DISCRETION OF LAW ENFORCEMENT AGENCY IN RESERVE OFFICERS' INSURANCE PLAN

Respectfully report as follows: That..... **SENATE BILL** No. **84**

DO PASS

~~DO NOT PASS~~

Sen. John "J.D." Lynch,

Chairman.

Bidding on a Davis-Bacon or State Prevailing Wage Project?

Learn the secret
that can give
YOUR firm
the COMPETITIVE EDGE!



YOUR PROBLEM: How to bid competitively on Davis-Bacon State Prevailing Wage Projects. YOUR SOLUTION:

The Builders, Contractors and Employees Retirement Trust.

As a contractor, you have long faced the problem of wage scales on Davis-Bacon State Prevailing Wage projects, as well as projects under the Service Contract Act. The chart below gives base hourly wage and fringe figures for a number of occupations—figures you have to comply with when bidding on public work projects.

However, the law does not require you to pay the exact hourly base rates and hourly fringe rates shown in the chart. Any combination of cash wages, insurance, or trust payments for approved fringes is acceptable, provided the total is at least as much as the total cash and fringe rates determined by the Secretary of Labor.

The Builders, Contractors and Employees Retirement Trust gives you a way to pay your people a lower cash base rate and a higher fringe rate. This lets you: (1) save money; (2) bid more competitively; and (3) "level out" your employees' pay between private and public work.

EMPLOYMENT CLASSIFICATION	BASE HOURLY WAGE	Health & Welfare	Pension	FRINGE BENEFITS PAYMENTS				TOTAL BA AND FRINGE
				Vacation	Training	Fringes	Total	
Carpenter	\$10.44	\$0.85	\$1.25	\$0.50	\$0.08	\$2.68	\$13.12	\$13.12
Plumber	11.15	1.05	1.50	0.55	0.14	3.24	14.39	14.39
Electrician	12.66	1.60	1.70	0.60	0.10	4.00	16.66	16.66
Laborer	7.60	0.70	1.00	0.30	0.04	2.04	9.64	9.64
Millwright	10.99	0.90	1.60	0.50	0.09	3.09	14.08	14.08
Operator	12.04	1.55	1.65	0.60	0.12	3.92	15.96	15.96

The Builders, Contractors and Employees Retirement Trust can give you competitive edge you need to succeed! See inside for more details.

The Builders, Contractors and Employees Retirement Trust was created in 1977. It is administered and underwritten by:

National Western Life Insurance Company
Rated A (Excellent) by A. M. Best Company

The Builders and Contractors Insurance Trust was created in 1983. It is administered and underwritten by:

New York Life Insurance Company
Rated A+ (Excellent) by A. M. Best Company

For more information contact your local representative:

or:

LARRY WEST, CLU
Sales Director

B & C Fringe Benefit Trust

1-800-531-5225

512-250-5023

**NATIONAL WESTERN LIFE
INSURANCE COMPANY**
850 East Anderson Lane
Austin, Texas 78776



SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1

DATE 1/33/87

BILL NO. CB 103

more sky-high payroll taxes and insurance costs.

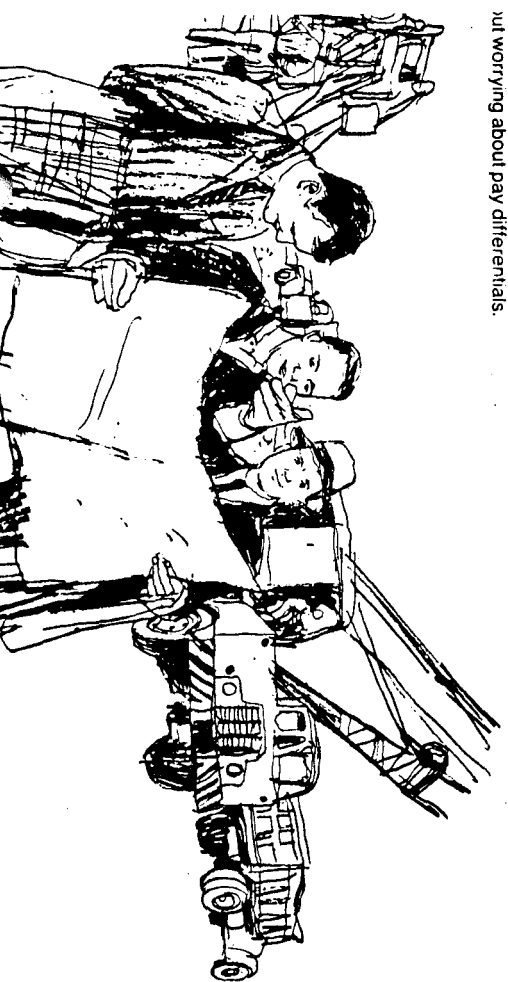
When you say you're adding the base hourly rate to your hourly fringe rate and paying the total to your employees in cash wages. This means you are paying payroll taxes and insurance (FICA, Worker's Compensation, State and Federal Unemployment and Public Liability) on gross payroll. Not only does this make your firm less competitive in bidding, but it becomes extremely difficult for you to move employees between public and private work.

When you pay a percentage of compensation as wages, you lower the total payroll on which you must remit payroll taxes and pay insurance costs. This saves you money, lets you bid more competitively, and allows you to move your employees between private and public jobs without worrying about pay differentials.

No costly, time-consuming administrative duties.

You can, of course, set up your own company fringe benefit programs. However, you then have the responsibility of designing a program that is fair for all the different types of workers and wages you have. You are also required to obtain DOL approval and IRS approval. And once you overcome all these obstacles, you then have to set up an administrative system, as well as pay set-up charges and ongoing administration fees as a company expense.

With the Trust, you have no plan design or legal problems, and you bear none of the cost for administration.



Let the Trust go to work for your firm. Here's how . . .

1 Set your basic hourly rates.

The rate you set is normally governed by your usual rates on private work, and the available to workers. You then take credit for any fringe benefits you provide on private work, such as apprenticeship payments you make to your association, or group health premiums you pay your hourly workers.

2 Adopt as company policy the fringes you do not like

A. A Money Purchase Pension Plan. You can contribute up to 25% of an employee's taxable income on prevailing wage work only. (Overtime pay must be paid at 1 1/2 times basic hourly rate in cash. Only 1 times the fringe rate is required.)

This pension plan provides each employee with a portable plan that he can take with him and retain throughout his working years. It lets him build a sizable retirement income before-tax dollars. This is a very important benefit in today's economy—one that is well-received by workers in the construction industry.

B. Group Health Insurance. This plan is administered on an hour bank basis designed for hourly workers. You can install this program and use it for your hourly workers whether they are working on prevailing wage work or not. The premium is paid only on hours worked—not a set amount each month.

Benefits are on a cost-sharing basis with the employee in order to keep the price as low as possible. However, there is no dollar limit on the amount of benefits that can be paid. A very important feature in light of today's escalating health-care costs.

3 Figure and submit your bid on your next Davis-Bacon or State Prevailing Wage Project, secure in the knowledge that you are in the best possible competitive position.

You have to do to maintain your competitive edge is send a monthly check to the Trust for a breakdown for your employees. The rest is taken care of for you . . . by professional understanding and are responsive to your needs.

Leon Arukovich, who became the authorized representative for the joint venture contractor in February, said his firm is scrambling to sort out various financial problems and to complete the water project.

"We have nothing to hide," Arukovich said. "We just don't know all the answers."

Congressional funding for the project came in the late 1970s with backing from the state's influential Democratic senators, Henry Jackson and Warren Magnuson.

They got their "port barrel" project through at a time when the Carter administration was talking about axing federal water projects. It was the last of its kind in the United States funded with federal money.

The new system, operated with state-of-the-art electronics, will take 186 cubic feet of water a second from the Okanogan and Similkamen rivers and deliver it to orchards through 100 miles of underground irrigation pipe.

It will replace an antiquated, above-ground wooden flume system built in the 1920s.

The joint venture contractor was awarded a \$14.9 million contract in August 1984, with scheduled com-

An infusion of \$3.5 million in cash was needed to get suppliers paid and keep the project moving on its timetable.

pletion this August. But now the contractor says the job won't be done until October at the earliest.

Ardukovich replaced Robert Krueger, owner of Kit-San Construction, as authorized representative of the joint venture. Krueger's company filed for federal reorganization in U.S. Bankruptcy Court

in Spokane earlier this year because of the financial problems associated with the Osoyoos Project.

Krueger, reached for comment in Eugene, Ore., said problems with Osoyoos Project's final phase developed last year because Azusa Construction, a partner in the joint venture, did not forward adequate capital.

His company, Kit-San, was to provide administrative support and Azusa to install the major pipeline and handle initial financing.

Krueger said he told John A. Arukovich, owner of Azusa, last November that an infusion of \$15 million in cash was needed to get suppliers paid and keep the project moving on its timetable.

The whole problem started over a money issue, and the money issue is still there," Krueger said.

The federal government is particularly concerned that at least 41 subcontractors and suppliers — many of them located in the Pacific Northwest — have not been paid claims that currently total \$3.7 million, project director Dickensheet said.

When suppliers deliver material to such a federal job site, they release their lien so the contractor can transfer the material to the government and federal funds can be dispersed.

The federal funds were released as supplies were delivered, but were not distributed to all subcontractors and suppliers on the project.

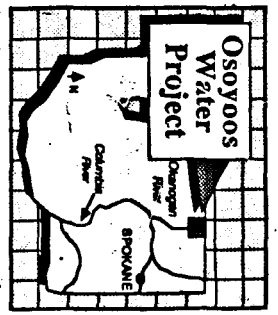
Dickensheet said he thinks the problems are linked to the lack of adequate start-up money on the part of the contractor.

Krueger's company isn't the only one that's been financially hard-hit by the project.

Mid-Mountain Machinery in Spokane was owed \$20,414 for equipment it supplied for the project.

The contractor has made partial payments, and the remaining balance is \$14,400, said Duncan Runge, credit manager for Mid-Mountain.

"There are a lot of companies that are a lot worse off than we are in this deal," the Spokane business



executive said. "Some of these companies will be broken financially because of this," Krueger said.

Subcontractors are owed amounts ranging from \$804 to \$330,000.

The government contract required the contractor to post a bond. Federal procurement regulations, however, only required a \$2.5 million bond on any federal projects in excess of \$5 million.

When suppliers' claims exceeded the bond, the bonding company, Travelers Indemnity Co., turned the bond over to U.S. District Court in Spokane in April. A federal judge will decide later this year how the money will be distributed.

Dickensheet said suppliers aren't shipping additional material needed to complete the project because they haven't been paid.

"If the contractor does not come up with the money to pay them, it could seriously affect the completion of the project in time for next year's crops," he said.

The suppliers aren't the only participants in the project that are up-set.

About 100 Kit-San Azusa employees are demanding to know what became of \$205,000 in trust funds, withheld from the paychecks to provide benefits, but never deposited in a fund with National Western Life in Texas.

Rod E. Smith, an Oroville cement finisher on the project, said his pay status show approximately \$8,000 in trust he "was withheld from his pay."

"It was over a six-

month period, but only about \$5,000 was deposited in the trust account."

"I think they spent our (trust) money to pay our wages, is what I think happened to it," Smith said.

He and other angry employees took their complaints to the U.S. Department of Labor, which assigned investigators from Seattle.

The government has dispersed about 75 percent of the project funds to the contractor, Bureau of Reclamation officials said. The government, however, retained 10 percent of its payments — approximately \$800,000 — which the Labor Department impounded to make up the employees' trust fund disbursements.

Orchardists, meanwhile, are frustrated by the thought of water costs increasing for the next 50 years. Once completed, the project will be turned over to the Oroville-Tonasket Irrigation District.

The local water district must pay the federal government \$259,200 a year for the next 50 years. Acreage within the water district produces \$20 million worth of apples a year.

Dan Smith, who operates a roadside grocery store in Ellensburg, said orchardists he knows are growing angrier over the muddy water and high bills.

The \$60 a year per acre assessment is levied whether or not the orchardists use the water.

"When this thing was first put out, it was supposed to be \$60 a year," Smith said. "Now, the last letter I saw is it was proposed to be \$102 by next spring."

"This expense is probably the biggest concern to the orchardists," said the businessman, whose grocery store is a gathering place for many growers.

Smith said some orchardists quietly are talking about refusing to pay their bills in protest.

Water district manager Thompson said he hasn't heard about any such revolt.

"We have all problems you wouldn't believe," he said. "So far, it's just something the growers feel is not right, based on what rates we were predicting in 1979 when this thing got started."

that doesn't mean we have to remove sample by pushing for the removal of the university's \$3.65 million in holdings in five companies operating in South Africa.

He has to do more than sign a letter," Goldman said.

GOP

(Continued from page 1)

"We hate the sin, we love the sinner," said Donnie Roberts of Everett, leader of the statewide anti-abortion movement. "Touch their hearts, Lord heal them."

Margaret Regan of Seattle, a convention delegate, was one of two GHOW members trapped in the middle of the prayer circle.

"I believe I'm a child of God as much as any of them and we share God's love," said Regan, a former nurse and a Catholic.

Regan said "we have to educate those people who are so down on us."

Robbins sent a letter to the GOP platform committee last week warning it not to drive gays from the party. He was trying to block a platform statement that says:

"We are opposed to laws that grant special privileges and protections based on sexual orientation, such as homosexuality and lesbianism. Therefore we oppose knowingly hiring or continuing employment of individuals with such deviant

Bill until last week to register for work with the Washington Employment Security Department.

Not that the Joneses didn't have \$200 to spare for a new stereo system from J.C. Penney. But, as Bill puts it, "It was half price and there was no way I was going to pass that deal up."

And although they were down to their last \$10 before Thursday's newspaper feature stirred our emotions, a one-time \$832 grant from the state welfare department was expected to arrive "today."

Sure, I understand why some people down there (California) are upset," says Mary, nursing her low-

think worry and concern will help anything."

It's hard not to feel for Bill and Mary Jones and their children. They are definitely homeless and needy. And perhaps they are sincere in their plans to settle down here and become productive members of the community.

Clark

(Continued from page 1)

I hope they are. Because once again, they have been given the chance of a lifetime — money, job offers and a place to stay. Only the days ahead will determine if the Jones family dreams have substance or if they came out of a corrob pipe.

Betty Zachow, a Spokane resident who testified about the

Homosexual delegates. Van Camp said should be "banned, out, gone, not here."

Van Camp said homosexuals should not be allowed to have a booth at the convention. "What they're doing is promoting a deviant lifestyle that the Republican Party wants nothing to do with at all."

Doyle Hastings, R-Pasco, chairman of the platform committee.

Van Camp said homosexuals should not be allowed to have a booth at the convention. "What they're doing is promoting a deviant lifestyle that the Republican Party wants nothing to do with at all."

Still, he said he doesn't believe the party will move to exel gay members and be vowed to remain a Republican. He said the party represents his views on most issues such as defense and the economy.

"I really don't see the party taking any steps to ban any groups of Republicans," said Barrett.

Our party wants to be inclusive of everybody," agreed state Rep. Doc Hastings, R-Pasco, chairman of the platform committee.

Van Camp said homosexuals should not be allowed to have a booth at the convention. "What they're doing is promoting a deviant lifestyle that the Republican Party wants nothing to do with at all."

SPOKANE-REGIONAL

OBITUARIES/B8

Problems flowing from Osoyoos Project

By Bill Morlin
Staff writer

OROVILLE, Wash. — Red blood is flowing over a high-tech irriga- y project for 10,000 acres of fruitland a north central Washington.

The \$48 million Osoyoos Project is expected to cost taxpayers an additional \$30 million because of cost-overruns and inflation. Orchardists who expected to pay \$60 an acre a year for water are looking at bills in excess of \$100 per acre.

Suppliers say the project contractor owes them \$4 million for materials and services on the project. The contractor's employees, meanwhile, are demanding payment of \$205,000 in trust funds that disappeared.

The Osoyoos Project was designed to serve 600 orchardists and 400 homeowners in a valley that stretches south from the Canadian border, through Oroville and Ellisford to Tonasket.

One of the selling points of the system was that it would provide enough water for orchardists to sprinkle their trees to combat frost in the spring.

"Now they tell us there isn't enough water for all of us to use water at the same time," area resident Dave Certain said.

Water being delivered in two completed phases of the project is so contaminated with silt that it is wearing out sprinkler systems.

"My horse will not drink the water out of the trough because it's so dirty," Certain said of the water from the new irrigation system.

Harvey Dickensheet, project manager for the Bureau of Reclamation, said the agency may have to spend millions to correct the water quality problems.

Dickensheet said he has never seen a federal water project with such problems. "We are looking out at a mess," he said.

Rescuing people divers' only pay

By Theresa Goffredo
Staff writer

The 16-foot raft was beached off a road at Riverside State Park and the divers milled around. The men and women were preparing to save a victim trapped on a rock in the Spokane River at Devil's Toe-nail.

The victim was hurt — perhaps bleeding from the head or with a possible broken leg.

But there was no cause for concern, no rush of adrenalin, no hurry-scurry. Some people were even laughing.

This swift-water rescue was just practice for the members of the Volunteer Underwater Rescue/Recovery Unit. The mock victim, although complete with real-looking injuries, was one of the unit's divers who hadn't even been placed on the rock yet.

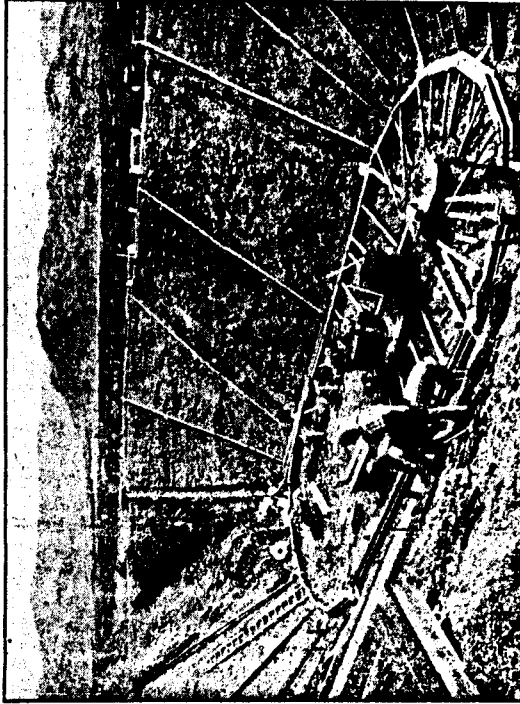
The members of the dive unit hold training sessions twice a month. And the training was going well Saturday until about 1 p.m., when a call came through on the police scanner. A fisherman had spotted a body floating in the Spokane River 100 yards west of the Sullivan Bridge.

This was the real thing.

The divers loaded up the raft, jumped in their cars and headed for the Mirabeau Recreational Area about 20 miles up-stream. There, the raft was placed in the water and two divers climbed in. One began to steer, and the other got down on his stomach to peer into the water.

Six hours later, the divers were called off.

The report may have been a false alarm. But what the men and women of the diving team face every time they are called to a scene is quite real.



Staff photo by BILL MORLIN

Workers build a storage pond for the troubled Osoyoos irrigation project.

however, what water rates will be once the problems are solved.

"The main problem, as we see it, is to get design corrections to get the system on line and completed and to have water clean enough to grow crops," Thompson said.

The contractor for the last phase of the project is a joint venture, Kit-San-Azusa. The partnership involves Kit-San Construction of Sandpoint and Azusa Construction, of Azusa, Calif.

Thompson said the partnership is a joint venture, Kit-San-Azusa.

THOMPSON WAS LOCATED IN CHARGE BY GARY CLY FOR THE PHOTOGRAPH.

Darrel and Suzanne Barton. The Bartons, you have to understand, are not well-heeled philanthropists. They are middle-class people with a high mortgage, bills up to their ears and a 3-year-old son. Darrel works as a computer programmer. Suzanne has been out of work since February.

"We figured it would help them more than it would hurt us," says Suzanne. "My husband's philosophy is that if every family in America helped a needy family there would be no needy families."

The Bartons scraped together \$1,150 and spent two days looking for an apartment for the Joneses.

"The more we did, the more the Joneses kept asking for more and more," Suzanne said. "Nothing was ever quite good enough for them."

Then, two days before they were to move into their new digs, Bill and Mary packed their bags, cashed the Bartons' check and added it to the rest of what they had — \$2,500 altogether.

Then they boarded a Greyhound, telling dumbfounded reporters and benefactors thanks, but sayonara. Their real dream, they explained, had always been to live in the wilds of Spokane, where Bill could fulfill a lifelong desire to hunt deer and elk.

Bill's reasoning, he said, was based on the fact he had once hitchhiked through our city. Perhaps he hadn't heard about our high unemployment rates or that it's been years since the town's population of deer and elk has outnumbered the winos. Even spotting an Elks Lodge around here is no easy task.

"When the whole thing blew up in our face we just wanted to get out of it and forget about it," says Suzanne. "We were crushed."

But the Joneses left and arrived in Spokane on June 26. They checked into a motel across from the bus station at \$81 a week and watched as their cash reserves steadily dwindled away, although it took

Back on page 2

(See Divers on page B1)

BUILDERS, CONTRACTORS & EMPLOYEES RETIREMENT TRUST AND PENSION PLAN

SUMMARY PLAN DESCRIPTION

Foreword

National Western Life Insurance Company, Austin, Texas 78776, has established a Retirement Trust and Pension Plan for employees whose wages are subject to the provisions of, or regulations or orders issued under, the Davis-Bacon Act or a state "Prevailing Wage" law.

Your employer has made application to the Builders, Contractors & Employees Retirement Trust & Pension Plan in your behalf which is established and administered by National Western Life Insurance Company. Your employer will be contributing an hourly amount to the above named pension plan under the applicable regulations or order referred to above for you.

The Plan and Trust Agreement is a complicated legal document. Therefore, in order to present Plan provisions in an understandable and simple manner, this Summary Plan Description has been prepared for you. It provides answers to questions most frequently asked about the Plan. If you would like more detailed information, you may obtain copies of the Plan and Trust Agreements from the Plan Administrator, provided that you request such material in writing.

ELIGIBILITY AND PARTICIPATION

When am I eligible to join the Plan?

When you are an employee whose wages are subject to the provisions of, or regulations, or orders issued under, the Davis-Bacon Act or a state "Prevailing Wage" Law and your employer has applied for participation under the Plan.

How long can I participate?

Until you retire. If you are working for a participating employer during your working years, contributions will be made for you. If you cease to work for a participating employer, your cash accumulation value will continue to be credited with interest.

CONTRIBUTIONS INTO THE PLAN

Does my Contractor/Employer pay into my Plan?

Yes. Your employer will contribute for you an hourly amount when you are working on a qualifying Davis-Bacon or State Prevailing Wage project. The amount will vary depending upon the wage determination, to which

each project is subject, and upon the contribution rate selected by your employer.

Will I be required to contribute additional money?

No. But you may elect to make additional contributions on a voluntary basis.

TRUST AND PLAN

Where do the contributions go?

To a trust sponsored by National Western Life Insurance Company in Austin, Texas.

What safety does this provide me?

You will receive an annuity certificate that is guaranteed by a life insurance company and provides a guaranteed rate of interest. You can earn more interest but never less.

Why is the purchase of an Annuity contract a part of the Plan?

For four reasons: 1) to provide guaranteed benefits to your beneficiaries if you die before reaching retirement age; 2) to provide you with a guarantee that you cannot outlive your retirement income; 3) to provide a degree of security in the event of disability; and 4) to make use of the facilities of the insurance company in distributing the monthly benefits.

PLAN BENEFITS

Does my annuity have a cash accumulation?

Yes, immediately upon receipt of the first contribution from your employer your annuity starts accumulating cash for your retirement. Your cash accumulation value will be 98% of the contribution received during each certificate year with interest. Interest will be compounded at the guaranteed rate or the current rate if greater.

What benefits will I receive when I reach retirement age?

You will receive your total accumulation value at your normal retirement date distributed as follows:

- 1) Survivorship Annuity — If you are married, you will automatically be provided with a qualified joint and survivor annuity unless you elect in writing to receive another option available. This provides for payments payable to you for life with 50% of the same amount to continue to your surviving spouse.
- 2) Straight Life Annuity — If you are not married, you will automatically be provided with a Straight Life Annuity, unless you elect in writing to receive another option available.

- 3) Other available options include:
a) Periodic Installments
b) Period Certain Annuity

What are my death benefits?

In the event of your death prior to retirement, your beneficiary will receive the Accumulation Value or the sum of your total contributions received by the Company, whichever is larger.

What if I become disabled before I retire?

If you become disabled and, as a result, are separated from service of your Employer, you will be entitled to receive 100% of your Accumulation Value.

RETIREMENT DATE

What is my normal retirement date?

Your normal retirement date is the monthly date coincident with or next following your 65th birthday.

May I continue to work after my normal retirement date?

Yes, and subsequent contributions will be used to increase your benefits.

May I retire before reaching my normal retirement date?

Yes, but not earlier than the monthly date on which you attain age 59½ or have become an inactive participant for 2 years.

Would early retirement affect my benefits?

Your benefits will not be as large because the contributions of the employer would have been made over a shorter period of time and the commencement date for starting benefits is at a younger age.

TERMINATION OF EMPLOYMENT

Do I have to remain in the program until retirement, death or disability? What happens if I cease to be employed by a participating employer?

Your options are as follows:

- 1) Leave your cash accumulation at interest until retirement age or until you are rehired.
- 2) Establish your own Individual Retirement Account or Individual Retirement Annuity and roll over your cash accumulation value (less the surrender charge described below in item 4), tax free.

CLAIMS AND EMPLOYMENT

EXHIBIT NO. 2
DATE 1/22/87
BILL NO. 08103

Will I have a surrender charge deducted from my retirement benefits?

No, provided that (1) you have attained either the normal retirement age or the early retirement age (59½ or older) after 2 years following discontinuation of contributions, and (2) you elect to receive your cash accumulation under any settlement option with periodic annuity payments for at least (a) 3 years, if you have been in the program a minimum of 5 years, or (b) 5 years if you have been in the program less than 5 years.

CLAIMS PROCEDURES

Do I, or my beneficiary, have to do anything to start receiving benefits when I die or retire?

Yes. You or your beneficiary should apply for benefits by completing a form provided by the Plan Administrator.

What should be done if I, or my beneficiary, think a benefit should be paid and none is paid?

A claim should be filed in writing with the Plan Administrator.

What if my claim is turned down?

If your claim is turned down, the Plan Administrator will provide you or your beneficiary with a written notice. The notice of denial will explain the reason for denial in simple language.

Can the decision of the Plan Administrator be appealed?

Yes, if you notify the Plan Administrator in writing (within 60 days after notification of claim denial by the Plan Administrator) that you do not agree with the denial, he will arrange for a full and fair review of the decision.

Are the plan benefits insured under Title IV (Plan Termination Insurance Provisions) of ERISA?

No. The plan benefits are comprised 100% by the accumulation value of an annuity policy and do not require such insurance.

GENERAL INFORMATION

do I obtain information regarding any aspect of this plan?

either by calling the sales representative who established your plan or by contacting National Western Life Insurance Company, 850 East Anderson Lane, Austin, Texas 78776, telephone 512-836-1010.

are the participating employers in this plan?

complete list of the employers participating in this plan is available upon written request to the Administrator.

type of plan is this?

is known as a Defined Contribution type Pension Plan (Money Purchase).

ERISA RIGHTS

participant in Builders, Contractors and Employees Retirement Plan You are entitled to certain rights and information under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all participants shall be entitled to:

amine, without charge, at the plan administrator's and at other specified locations, such as work sites and union halls, all plan documents including insurance contracts, collective bargaining agreements and copies of documents filed by the plan with the U.S. Department of Labor, such as detailed annual reports and plan provisions.

tain copies of all plan documents and other plan information upon written request to the plan administrator. The administrator may make a reasonable charge for copies.

ceive a summary of the plan's annual financial statement. The plan administrator is required by law to provide each participant with a copy of this summary report.

tain a statement telling you whether you have a right to receive a pension at normal retirement age 65, so, what your benefits would be at normal retirement age if you stop working under the plan now. If you have a right to a pension, the statement will tell you how many more years you have to work to get a pension. This statement must be requested in writing and is not required to be given more than once a year. The plan must provide the statement free of charge.

tion to creating rights for plan participants, ERISA is duties upon the people who are responsible for the operation of the employee benefit plan. The people who create your plan, called "fiduciaries" of the plan,

have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension, welfare benefit or exercising your rights under ERISA. If your claim for a pension benefit is denied in whole or in part, you must receive a written explanation of the reason for the denial. You have the right to have the plan reviewed and reconsider your claim. Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials from the plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to \$100 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. If it should happen that plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous. If you have any questions about your plan, you should contact the plan administrator. If you have any questions about the statement or about your rights under ERISA, you should contact the nearest Office of the U.S. Labor-Management Services Administration, Department of Labor.

OTHER IMPORTANT DATA

Plan Sponsor: National Western Life Insurance Company
850 East Anderson Lane
Austin, Texas 78776

Employer Identification Number: C 780 2000

Policy Number: GA-243

Plan Number: 001

Type of Administration: Insurer Administration

Plan Administrator: National Western Life Insurance Co.

Agent for Service of Legal Process:
National Western Life Insurance Company
850 East Anderson Lane
Austin, Texas 78776

Plan Documents:

Group Annuity Policy, Individual Certificates and Builders, Contractors & Employees Retirement Plan and Trust

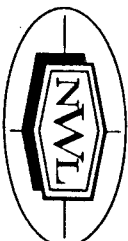
Valuation Date: December 31 of each year

Plan and Trust Year: January 1 through December 31

Trustees:

Richard L. Boswell – Vice President, Actuary
John R. Howard – Vice President, Finance/
Treasurer/Assistant Secretary
Richard Andrews – Vice President,
Pension Administration

Underwritten by:



NATIONAL WESTERN LIFE
INSURANCE COMPANY

AUSTIN, TEXAS 78776
512/836-1010



BUILDERS, CONTRACTORS AND
EMPLOYEES RETIREMENT TRUST
AND PENSION PLAN

SUMMARY
PLAN

DESCRIPTION