

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By Chairman Russell, on March 21, 1989, at 7:15 P.M.

ROLL CALL

Members Present: All present.

Members Excused: None.

Members Absent: None.

Staff Present: Eddy McClure, Staff Attorney.

Announcements/Discussion: We have five big bills to hear tonight. We will give each bill half an hour; ten minutes for the presentation and closing, ten minutes for opponents' and ten minutes for proponents.

HEARING ON SB 430

Presentation and Opening Statement by Sponsor:

SEN. THAYER: When the Governor's Advisory Council met in 1985 and 1986 one of the items considered by the council was the reduction of the 500-week limit on partial benefits to 325 weeks. At that time the actuaries estimated that this proposed reduction would decrease premium costs by approximately 9%. This bill limits the allowance to 400 weeks maximum and our estimate of what this could do to cost savings in the program would be about 3% of premium costs.

Recent indications are that we will see the costs of medical benefits exceed 50% of the total workers' compensation benefits in the next ten years. It is my opinion and I think of others who have worked in the workers' compensation area, that the way you can try to save costs is to (1) lower the cost of administration; (2) you can reduce accidents; (3) you can raise the rates, and the problem with that is if you raise the rates and you are not competitive with the other states, you just drive more business out of the state and you end up with fewer jobs in the state; (4) you can put on a tax, which we did in the last session; and (5) is the most unpopular of all, and that would be to reduce benefits.

I did not introduce this bill with the idea that I was going to make any serious attempt to try to pass it in terms of this being one of the best options. Personally, I don't think it is the best option, I think that the state of

Montana had the fiduciary responsibility for handling the employer's funds and do it in a prudent manner and they didn't do it. This House committee has all of the options before them to try to solve this huge problem that we have.

Testifying Proponents and Who They Represent:

BEN HAVDAHL, Executive Vice President of the Montana Motor Carriers Association.

JAMES MOCKLER, Executive Director of the Montana Coal Council.

Proponent Testimony:

BEN HAVDAHL, proponent. Read from written testimony, attached hereto as Exhibit #1.

JAMES MOCKLER, proponent. I wish my statement to apply to workers' comp as a whole. Montana coal industry, according to my last check, has the best safety rating of any industry in Montana. We self insure. We pay the sur tax and we have not complained, although I am not sure it is legal. We are vitally interested in other industries, just like everyone else is, as to who has jobs and who doesn't have jobs in Montana and we support those people. We support this bill, SB 430, we support 405. It is the first time you have heard me or anyone else from the coal industry complain. I think it is time that everyone pitches in a little bit on that too, and pitches in on the safety to come up to the standards we employ and we use. I hope you will give a do pass to these and the other work comp bills tonight.

Testifying Opponents and Who They Represent:

NORM GROSSFIELD, Attorney in Helena, Former Administrator of the Division of Workers' Compensation.

JIM MURRY, Executive Secretary of the Montana State AFL-CIO.

MICHAEL SHERWOOD, Montana Trial Lawyers Association.

BOB HEISER, Montana Food and Commercial Workers.

DON WILKINS, Business Agent for the Lumber Production Industrial Workers, Local #2581 in Libby, Montana.

DAN EDWARDS, International Representative for the Oil, Chemical and Atomic Workers.

JOE ZITO, Represents the people from Bonner, Montana, Local 3038 of the Lumber Production Industrial Workers.

WYATT FROST, Bozeman, Montana, self.

GENE FENDERSON, Montana State Building and Construction Trades Unions.

Opponent Testimony:

NORM GROSSFIELD, opponent. I do both claimant and defense workers' compensation work.

I oppose the bill. I have worked with Sen. Thayer on some substantial pieces of legislation in the past, but I disagree with him on this one. I worked with the advisory council that worked on SB 315 which was passed in 1987 and it was a lengthy two-year process and finally a package was put together; the governor's office didn't agree fully and added some additional matters and we had some substantial debate and discussion in the 1987 session and 315 was passed. I think that the effort in 315 was such to reduce benefits substantially to the employers of this state somewhere between 22 to 30% and under the workers' compensation system the way the premium reduction is applied it is not even seen at this point, it takes three years of history before premiums are affected by benefit reductions. The employers of this state will see substantial premium reductions in the future. I think last session made an effort to reduce benefits substantially that will ultimately reduce premiums. This session we have dealt with the structure of the workers' compensation system. To reduce permanent partial benefits now even further and under the law passed in 1987 they are very minimal in any event, I think is somewhat of a breach of faith of the people who put together 315 in 1987. To reduce medical benefits and limit them, is another concern. That is a substantial benefit. It is even a substantial benefit to workers up to ten years after the injury. I don't think those should be taken away.

I think we should confine the efforts of workers' compensation reform to the structure. You have already heard the substantial restructuring bill and I think it was passed out of this committee unanimously. I suggest to the committee that the efforts of workers' compensation reform in 1989 should be confined to the structure, and the benefit package should be left as the agreement was reached in 1987.

JIM MURRY, opponent. Read from written testimony which is attached hereto as Exhibit #2.

MICHAEL SHERWOOD, opponent. We oppose this legislation and do so for the reasons set forth by Mr. Grossfield and by Mr. Murry.

BOB HEISER, opponent. We oppose this bill. As Jim Murry stated, we feel that the injured workers in Montana have given enough. They gave up a lot of their benefits two years ago. This bill asks that they give up even more of their

benefits. We urge you to give this bill a do not pass recommendation.

DON WILKINS, opponent. We oppose this bill. I come from an area that should be familiar to anybody who was involved in the workers' comp reform in 1987. The workers' comp action committee was formed in Libby, Lincoln, Flathead and various other counties. This was a group of people made up of logging contractors, logging owners, logging workers, mill workers and mill owners to get SB 315 passed through the legislature. I appeared here then in opposition to SB 315.

Workers in 1987 were told that in order to have a secure job for their current livelihood and for their future, that there was going to have to be some drastic changes in the workers' comp system in order to assure that they would have a job. Since 1987, the worker benefits have definitely been reduced. I do not know of one injured employee at Champion International who hasn't had to get legal aid for some type of assistance, so that has not happened. That tells me that the system has failed the injured worker. Now we are going to further reduce benefits to the injured worker. As I said in 1987, once benefit cuts become the practice to bail out the system then that will be the norm for legislative session, after legislative session. It is time for the Montana legislature to put some responsible treatment to injured workers and I would recommend that you do not pass this bill.

DAN EDWARDS, opponent. We support the testimony of Jim Murry and for the good reasons given therefor. I would like to point out that the sponsor of this bill said this isn't the best option, I would suggest to you that it is not an option. This is a case of making the victim pay, and I urge you to do not pass this bill.

JOE ZITO, opponent. We also will go on record in opposition to this bill as does the Montana State AFL-CIO.

WYATT FROST, opponent. I oppose this bill as Jim Murry and the AFL-CIO does. Do not pass on this bill.

GENE FENDERSON, opponent. We go on record as opposing this bill.

Questions From Committee Members:

SIMPKINS: Question for Grossfield. What other programs do we have to encourage people to get back into the work force that are on temporary disability?

(Question actually asked of Jim Murry but he referred it to Mr. Grossfield)

GROSSFIELD: Under the structure of workers' compensation, after the injury, one is on what is called temporary total

disability benefits. Those benefits cease in one of two ways. If the worker returns to work without reaching maximum healing, benefits are automatically cut off. If the worker reached maximum healing, as designated by the doctor, the worker must return to work unless there is a designation of further disability. Those designations are made based by physician reports and, under the 1987 legislation, objective medical findings from medical panels. There are substantial protections to the employers who pay premiums and some protections to the employee, although I question some of the protections that were passed in the 1987 legislation. Basically, it is a matter of medical determination and it is based primarily on what the treating physician states should be done and what the panel of physicians states should be done. The panel is appointed by law by the division of workers' compensation.

SIMPKINS: Do I read this bill correctly, that the determination should be made within 500 weeks?

GROSSFIELD: No. What we are dealing with here is permanent partial disability and it is a completely separate benefit from temporary total payments. Permanent partial payments are made after the injured worker returns to work. Conceivably, if the injured worker can demonstrate a continuous wage loss after returning to work, the worker would be entitled to basically ten years of benefits. What this bill would do would be to reduce it by approximately two years. The bill has nothing whatsoever to do with an early return to work. That would have taken place years ago. It is a substantial cut in benefits once the worker has demonstrated a continuous wage loss well after the injury has occurred.

Closing by Sponsor:

SEN. THAYER: I just want to remind this committee that during the last two years while we took in some \$22 million in premium tax that was put on the employers of this state, the unfunded liability continued to grow from \$149 million to \$157 million. If anybody thinks this problem is under control and that we have a handle on it, they better think again. The bills you are going to hear tonight, including this one, offer this committee and the House of Representatives solutions on how we are going to solve this problem. When you have a problem of the magnitude we have in workers' comp, it is going to take some bold and imaginative solutions to try to solve that. With that, I close.

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HEARING ON SB 165

Presentation and Opening Statement by Sponsor:

SEN. BOB BROWN: The bill is pretty straight forward. It is an act providing the deputy directors and division administrators, through the pleasure of the department head, employment protection. The bill is essentially contained in section 1, page 1(1), where it says a deputy director or division administrator who is hired after the effective date of this act, serves at the pleasure of the department head, or, essentially, at the pleasure of the governor. On page 2(b), the bill indicates that a deputy director or division administrator removed pursuant to (2)(a) of this bill may retain employment with the department at the same grade level with step increases available to state employees generally.

Presently, the governor can appoint his cabinet, that is the top level of the bureaucracy.

If you were to pass this bill, he would be able to appoint one level below that, or the deputy director level, and then one below that, the division administrator level. What we are talking about is something on the order of 15 departments of state government, so that is the power the governor has under existing law. If you pass this bill, you would give him the additional authority over 15 other people, the deputies, below the department directors and then there are about 85 division administrators that would be subject to hire and fire on the part of the governor below that.

The bill is not an unprecedented kind of thing. Other governors have greater power than this, but I think it was considered to be a moderate approach, something similar to one that Gov. Schwinden proposed in 1981.

Testifying Proponents and Who They Represent:

DON INGELS, Montana Chamber of Commerce.

WAYNE PHILLIPS, Representing Gov. Stevens.

MIKE MICONE, Commissioner of the Department of Labor and Industry.

Proponent Testimony:

DON INGELS, proponent. State government is big business and we believe that SB 165, if implemented, would also be good business. We urge its support.

WAYNE PHILLIPS, proponent. When the public elects a governor they expect him to set policy directions for the state of

Montana, particularly those directions that they campaigned on. They want to see the results of those policy directions implemented in state government. The governor is unique in that the only way he can implement those policies is through the staff of the state agencies. Just because he might say something ought to be a certain way doesn't mean it is going to happen that way. The reason is that policy control does not stop at the director of the department. Policy, as many of you know, is also made by deputies and administrators. To have that policy control, this administration must have people who are responsive to its new directions and the change it brings to state government. We must have the opportunity to have our own management team. This bill is one way to do that.

We want to emphasize that there are what we call tenure provisions in the bill. That the people who are now in the positions will, if they were replaced, and I say if, they would maintain a position in state government at the same pay and grade and they could not be laid off, as the bill states, for any arbitrary reason. I point out that budgetary constraints would prevent anything from doubling up, so there wouldn't be the wholesale laying off that people have accused us of intending with this bill.

I would also like to respond to several direct concerns that have been expressed to us about the bill. First of all, people have asked how can we find qualified people for these positions if there is some difficulty in finding those qualified individuals for department directors. We would argue that these positions are somewhat different than department directors. First of all, given the governor's policy of new directions, he wanted to hire more people out of the particular departments, but for the division administrators and the deputy directors we could look within. I know from my experience in the state auditor's office we were able, because of our freedom, to appoint certain individuals. We were able to go into the ranks of our various departments and pick out highly talented individuals who had not been given the opportunity to use their skills to advance in the way that they should. We found excellent administrators who were capable and who were team players. We think this bill would allow us to do that as well.

Second, I would like to address the notion that for some reason this might be simply a return to the patronage system. I would remind the committee that all this goes back over a hundred years ago with the Tammany Hall patronage system in New York and the act that turned that around was the Pendleton Act which was passed by Republicans. This Republican administration has no intention of going back on the fine tradition that the Pendleton Act represents. It was progressive and it was responsible. The problem is that Montana has gone too far.

As Sen. Brown noted, the federal government and our sister states all allow the governor to appoint individuals at levels lower than we are asking for in this bill. We will be responsible with this bill and we need responsible leadership and this bill offers us an opportunity for that.

Finally, I would comment on the notion that all we have to do if somebody refuses to follow our direction is to fire him. As you may be aware, the current legal climate in Montana makes that difficult, if not impossible. It is also such a state of affairs with hiring and firing in Montana that a department director would spend all their time documenting a person's refusal to follow directions and hardly any time in governing. We also note that recently a district judge has just overturned as unconstitutional a law passed by this legislature on wrongful discharge. The whole area is up in the air. It is prime for litigation. We think this bill will allow us to have a leadership team that will avoid those litigation problems. We urge this committee to support this bill.

MIKE MICONE, proponent. I am here in support of SB 165. I support this bill not merely because I am a part of this administration, but I believe any administration should have the authority to select management personnel.

I think it is important that we recognize that this governor, as well as any governor, should have the right to appoint management people to fulfil the philosophies of that particular administration. The opposition has charged that all we are doing is looking forward to hiring unprofessional people and going back to the patronage system. I think Gov. Stevens has demonstrated that he has carefully deliberated all of his appointments. I would hope that this committee would look upon this piece of legislation not as one that is going to have wholesale dismissal of individuals, but one that will provide the management tools necessary for the proper operation of this government.

Testifying Opponents and Who They Represent:

JOE MAZUREK, Senator, Senate District #23.

MARK O'KEEFE, Representative, Central Helena.

JIM JENSEN, Executive Director of the Montana Environmental Information Center.

JOHN BHEND, Montana Federation of State Employees.

JOHN R. FERO, himself as a citizen.

COLLEEN RODGERS, President of the Federation of SRS Workers, Montana Federation of Teachers, Montana Federation of State Employees.

JANET ELLIS, Montana Audubon Legislative Fund, bi-partisan organization.

GEORGE HOLTON, citizen and businessman.

KIM WILSON, Montana Sierra Club.

ROBERT CARROLL, Chemist.

BRANT QUICK, Northern Plains Resource Council.

C. B. PEARSON, Executive Treasurer of Common Cause in Montana.

Opponent Testimony:

JOE MAZUREK, opponent. I have no problem with the governor going down to the deputy director level, but to go to the division administrator level in the state of Montana is to go too far. Sen. Brown has told you that there are approximately 19 directors, and about 15 deputy directors and 80 or 85 division administrators, so we are getting over 100 people at this point. In addition, there are many policy making boards -- the Board of Natural Resources, Fish and Game Commission, the Board of Health and Environmental Sciences - - and those boards are policy making boards, they aren't just simply professional occupational licensing boards. The governor appoints all those boards as well.

Division administrators are just that, they are administrators, they are not policy makers. As hard as it may be for many people to believe, there are many people here in Helena who aspire to a career in public service. It is a career. They have chosen it as a career just as others have chosen teaching, practicing law, owning taverns, being loggers, they are public servants, they are public employees, they have gone to school with that objective in mind. The effect of this bill will be to limit public employees to bureau chief level because if they move up to division administrator level they serve at the pleasure of the governor or the director of their department and can be fired for any reason or no reason, and I don't think many people want to move up with that risk in mind.

It was urged on the Senate floor that productivity or competency will be protection. I submit to you that there is nothing, absolutely nothing, in this bill that provides any protection against anything. In the private sector, once an employee passes his probationary period he or she cannot be terminated except for good cause. That protection would be taken away under this bill for anyone at the division administrator level. Division administrators are working positions. Don't fill those jobs with political patrons.

We have people who have trained, gone to college, worked towards this career ladder in public service and you are going to cap them at the bureau chief level. I think that would be a grave mistake. I hope that at the very least you will amend division administrators out of this bill if you want to pass it.

MARK O'KEEFE, opponent. Two points I want to make, (1) I don't think we need the bill at all. It is the custom for deputy directors, under past administrations, and I believe under this administration, to submit a letter of resignation upon removal of the director. If I am wrong, I apologize. The second thing, Mike Micone said that we have seen the governor being very deliberate in the choosing of his appointees. I don't think the governor has been as thorough as the people of Montana want him to be. I am opposed to this bill. In 1981 as a state employee I was opposed to it with Schwinden as the governor. So I hope we give a do not pass to this bill.

JIM JENSEN, opponent. I am in a position where I, by virtue of my job, work on a regular basis with professional people in government. Technical people who have training in the natural resource field, scientists who have often grown up through the bureaucracy and come to levels of responsibility. Those people understand Montana's natural resources, they understand the natural resource laws and the history of those laws and to subject people at the division administrator level to patronage will make it impossible for us to work effectively with our government. People will be here for all the wrong reasons and very few of the right reasons.

In addition, I want to say that we have five levels of management in Montana government, five -- program managers, bureau chiefs, division administrators, occasionally a deputy division administrator, deputy director and director. What this bill does is make a two-tier development career ladder. That will not attract good people into government, it will attract only those people who believe they can rise no higher than that and do not aspire higher than that. I think this bill deserves the fate of the casket.

JOHN BHEND, opponent. Read from written testimony, attached hereto as Exhibit #3.

JOHN R. FERRO, opponent. Read from written testimony, attached hereto as Exhibit #4.

COLLEEN RODGERS, opponent. We wish to go on record opposing SB 165. Submitted written testimony, attached hereto as Exhibit #5.

GEORGE HOLTON, opponent. We oppose this bill. Submitted written testimony, attached hereto as Exhibit #6.

KIM WILSON, opponent. We oppose this measure. The reasons have been stated adequately before. I only point out that there are few enough incentives to private individuals to work for the state government and if this bill passes you are removing one of the best ones, which is the possibility of promotion.

ROBERT CARROLL, opponent. I am a chemist for a local firm and I would just like to say I would like to keep the professionals at this level.

BRANT QUICK, opponent. We oppose this bill.

C. B. PEARSON, opponent. We oppose this bill. Submitted written testimony, attached hereto as Exhibit #7.

Questions From Committee Members:

DRISCOLL: Question for Sen. Brown. Since this bill could result in a number of people being replaced, but not leaving government, and new people coming on, shouldn't there be a fiscal note with the bill?

BROWN: I don't think so, because the testimony that came before the State Administration Committee in the Senate was that the governor already had the authority to replace the department directors, so there would be one for one replacement there. He didn't anticipate replacing too many deputy directors or division administrators, but he wanted the legal authority to be able to do so if he ever thought he needed to. He looked upon this, and testimony before the Senate State Administration Committee was to the effect, as the kind of thing he wanted the right to be able to do in order to have key people on his team in place should he need them.

PAVLOVICH: Question for Mr. Phillips. We were talking about the governor's policy. What is his policy now pertaining to deputy administrators and deputy directors testifying on bills? Are they allowed to come on their own, or how are we doing it?

PHILLIPS: The policy is that they either come through the governor's office with testimony they would like to give, or they appear at the request of a representative or a senator.

PAVLOVICH: What happens if they come on their own?

PHILLIPS: If they come on their own I guess they are violating that policy.

PAVLOVICH: Are they allowed to use government stationary to pass out among the other employees throughout the capitol, to

actually have them sign a statement to testify against a bill. Is that allowed?

PHILLIPS: I don't understand what you are saying.

PAVLOVICH: Hypothetical. Suppose there is a bill in there and a certain group of people who are working for the governor now oppose the bill. They take government stationary, print it, actually as an opponent to that bill, and send it out to other members in the government asking them to sign it so they can use it as testimony against the bill. Is that allowed?

PHILLIPS: What you are talking about is grievance procedures and reprimands and I just don't have the authority to make those kind of decisions. I can get back with the committee on responses to Rep. Pavlovich's questions.

PAVLOVICH: May I direct that to Mr. Micone, he has his hand up, maybe he can answer it.

MICONE: I can only speak for the Department of Labor and Industry. If I had information and proof that an employee of the Department of Labor and Industry had, in fact, utilized government stationary and obtained signatures to present to this legislature, it doesn't matter whatever side, I would take disciplinary action.

Closing by Sponsor:

SEN. BROWN: This is a sensitive matter because it involved people, not just titles. It involves careers and it involves those who have job protection. If the bill passes, they wouldn't have that same protection. I recognize that and I think perhaps in light of that you might consider what Sen. Mazurek proposed. If you were to pass the bill as it is before you from the Senate, remember it would apply to division administrators as well as to deputy directors. If you were to take his advice perhaps you would just end the application of the bill with deputy directors. I suppose there is a question about whether a division administrator is a policy maker or not. You can make a case that a division administrator is or isn't, but I think it is pretty clear that the directors and the deputy directors are in the policy realm. You have to recognize that each new governor is going to have a desire to have his own team, and that is understandable. I don't think we go far enough now when you allow a governor to just appoint the members of his cabinet. Perhaps you ought to at least extend that authority to the deputy directors who fill in for the directors when they are out of town and sometimes even fill in at cabinet meetings. I think you ought to at least consider Sen. Mazurek's proposed amendment.

RUSSELL: This closes the hearing on SB 165.

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HEARING ON SB 235

Presentation and Opening Statement by Sponsor:

SEN. HAGER: SB 235 just makes Montana's law consistent with federal law in the payment of fringe benefits to employees for construction work.

Testifying Proponents and Who They Represent:

ROBERT BROWN, Attorney, works with the Montana Contractors Association Health Care Trust.

BILL WICKS, Employee of Pioneer Ready Mix in Bozeman, member of Operating Engineers Local 400.

PAUL MEYERS, Employee of Quality Concrete.

ROBERT BROWN, JR., Employee of Hilde Construction Company.

JAMES TUTWILER, Montana Chamber of Commerce.

JIM ROBINSON, Employee of Western Materials, Missoula.

CLIFFORD HARDY, Employee of Pioneer Ready Mix, Bozeman.

JERRY JOCKENSON, Employee of Western Materials, Missoula.

DAVE ORBE, Employee of Western Materials, Missoula.

LLOYD LOCKREM, Montana Contractors Association.

ROSANA SKELTON, SK Construction, President of the Montana Contractors Health Care Trust.

JACK MORGENSTERN, Owner of Century Paving, Lewistown, and Chairman of Montana Contractors Political Action Committee.

DAVE HILDE, Hilde Construction, Great Falls.

Proponent Testimony:

ROBERT BROWN, proponent. I have been asked to briefly respond to some of the issues that have been raised by the Building and Construction Trades Council in their flyer with regard to the application or the effect of SB 235, if it should be adopted in the state of Montana.

It is important to remember that 235 is basically a bill that does away with discrimination in the state of Montana. Presently under the Davis-Bacon Act it requires that contributions be made either to the employee for fringe

benefits or to a union trust. This amendment will expand the statute to allow contributions to be made to any ERISA approved trust. What this means is that now there is a penalty paid by those employers who attempt to give fringe benefits to non-union workers. By expanding the scope of the statute to include all workers it will make it economically much more feasible for employers to provide that benefit. Currently, an employer who provides benefits for a little Davis-Bacon work in the state of Montana who is non-union pays up to a 33% penalty on those fringe benefits because the state does not allow credit to be taken for that work.

The first myth contained in the union's flyer is the suggestion that union contractors pay more money for their work than non-union contractors do on little Davis-Bacon work. The unions know that simply is not true, because in Montana the little Davis-Bacon wage rate is the union rate. There is occasionally some lag time between adoption by the Department of Labor of that wage rate, but it ultimately becomes the effective wage rate.

Second, the unions are concerned that there is not an equal number of employer and employee representatives on the trusts. The MCA is willing to reach out to the union and say we will accept equal representation of hourly employees and management employees on trusts if that is their problem. It will not be like most union trusts that have business agents, not hourly employees, representing the employees and management. So we are willing to have equal representation to both.

A major concern addressed throughout the document is who governs this. The reality is, pension contributions are governed by the federal government, not by the states. Section 401 of the IRC controls retirement; Section 505 controls health and welfare contributions; and Section 89 of the 1986 Amendments to the Internal Revenue Code prohibit discrimination. In essence, the IRS, the ERISA statutes, and the Department of Labor make it virtually impossible for an employer to not comply with the Act without experiencing severe repercussions, including loss of the Davis-Bacon fringe benefit deduction, as well as tax consequences. For example, noncompliance can lead to a 5% immediate penalty and continued noncompliance results in 100% penalty, including the payment that hadn't been made.

The third issue raised by the union relates to transferability from one jurisdiction to another. The trusts have attempted to address that effectively. First, a person who comes under the trust, if they have been a new employee under the health and welfare trust and the employer has converted, if there is insurance coverage already in place, that employee continues without a waiting period or an eligibility period for pre-existing. Once an employee

has been accepted under the Montana Contractors Association Health Care Trust and has met his eligibility requirements, if he or she were to leave that particular trust and go into the work force for another employer, then in the future return, that person would have already met his or her eligibility period and would come under the trust.

Further, there is the COBRA requirements of 18-month continuous coverage.

The fourth point raised deals with auditing and collection. There are two facets to this: first of all, the Montana Contractors Association has an internal mechanism in its trust that provides for the auditing of its employers and for the management of collections. It is important to note that the Montana Contractors Association Trust is very controlling as to who gets into it. Unlike other trusts that must accept anyone who signs a contract, the trustees must first ratify and accept, under the Montana Contractors Association Trust, the application of the enrolling employer. Under the trust, it is important to understand also, that it is the liability that flows back to the employer if the trust is not a bona fide trust. Contributions can only be deducted if they are made to a trust accepted by the IRS and by the Department of Labor.

The fifth point addresses assets of plans are not protected. This is simply erroneous. Section 401 A-13 of the Internal Revenue Code prevents creditors from reaching into the plan to attach any of the assets. Section 401 A-12 prevents, in the case of a consolidation or merger, any reaching into the assets. Section 4975 of the Internal Revenue Code limits what the employer can and cannot do with the trust. Virtually, the employer can do nothing. Under the health and welfare plan, there is the same IRS considerations that control tax exempt status, any of which violation would jeopardize the status and destroy the viability of the plan for deduction purposes.

Finally, and perhaps the most mystifying of the concerns raised by the Building and Construction Trades, is that ERISA, the Employee Retirement and Income Security Act, enacted by congress is some how inadequate. It is the scheme that runs all retirement programs and health and welfare programs in the United States. It is the framework which we all must answer to whether we create a small one or whether we are a multi-national trust. The statute has a framework that the state of Montana could not begin to replicate if it wanted. The statute has been tested and tried and, where necessary, amended on a number of occasions. It is an effective protection of the working person who has accrued benefits for health and for pension.

One important difference between union trusts and the MCA Health Care Trust deals is with vesting. A person who has

benefits under the MCA Health Care Trust, the pension trust, accrues those benefits immediately. If you work for one or two years and then leave, those benefits are yours. They follow you. In order to accrue benefits under a union plan, you must work for ten years. A person who works as a laborer for eight years and then moves to an operating engineers position for five years, would have no vested benefit if he or she did not stay with that craft for ten years. Under our plan they have immediate vesting.

Finally, there is the matter of preemption. Section 514 of ERISA preempts any state involvement in the control over how funds are managed, once they exist. There is a serious question and we have a strong belief that Section 405 of the current statute, as it exists, is in violation of 514; it is preempted by the federal government and as such, these amendments will go a long way towards resolving the preemption issue.

Also submitted written testimony, attached hereto as Exhibit #8.

BILL WICKS, proponent. About a year or two ago the employees of Pioneer Ready Mix decided to decertify from the union because we weren't getting any representation. This last year there was over \$2,000 placed in my retirement under this new plan, and I don't have to wait and the money is mine when I want it.

PAUL MEYERS, proponent. The point I want to make is that I work eight to nine months out of the year and we have our insurance dropped while we are off. When we come back to work our insurance doesn't take effect until about three months later, so we only have insurance for about six months out of the year.

ROBERT BROWN, JR., proponent. I was in the Operating Engineers for five years and I accrued about \$10,000 into the pension plan. When Hilde Construction Company went non-union I lost the \$10,000. As of September of 1988 to the present time in the Hilde Construction Company's pension plan I have accumulated about \$1,200. I have four children and I have used the health and welfare program and it seems to be acceptable to me and many of my fellow employees.

JAMES TUTWILER, proponent. We go on record in support of SB 235 and in particular the testimony given by Mr. Bob Brown.

JIM ROBINSON, proponent. I have worked for Western Materials for about ten years. We have a very good retirement plan and excellent insurance. I support SB 235.

DAVE HILDE, proponent. Submitted written testimony, attached hereto as Exhibit #9.

(The other proponents just gave their names, who they represented

or worked for and where they are from.)

Testifying Opponents and Who They Represent:

GENE FENDERSON, Montana Building and Construction Trades Union.

JIM MURRY, Executive Secretary of the Montana State AFL-CIO.

DAN EDWARDS, International Representative with Oil, Chemical and Atomic Workers Union.

MIKE MIZENKO, Vice President of the Plumbers and Pipe Fitters State Association representing Local 30 in Billings, Local 41 in Butte, 459 in Missoula, and Local 139 in Great Falls.

JACK BALL, Business Manager of Local 400 of the Operating Engineers.

BOB HEISER, United Food and Commercial Workers.

LEN BLANCHER, Montana Heavy Highway and Construction Workers Council.

DON HALVERSON, Business Manager of Plumbers and Pipe Fitters Local 459 in Missoula, also Financial Secretary-Treasurer of the Western Montana Building Trades Council, AFL-CIO.

MARVIN ELLIS, United Food and Commercial Workers, Local 1981, Missoula.

JOHN MANZER, Business Representative for Teamster Local 45 in Great Falls, on behalf of the Joint Council of Teamsters, Local 19 in Billings, Local 2 in Butte.

DON WILKINS, Business Agent, Production and Industrial Workers Local 2581, Libby.

Opponent Testimony:

GENE FENDERSON, opponent. Read from a written statement, attached hereto as Exhibit #10.

JIM MURRY, opponent. Read from a written statement, attached hereto as Exhibit #11.

DAN EDWARDS, opponent. While this bill has no direct impact on the employees that I represent, I stand with Gene Fenderson and Jim Murry and urge you to defeat this bill.

JACK BALL, opponent. We strongly oppose this bill. We feel "if it isn't broken, don't fix it."

MIKE MIZENKO, opponent. We wish to oppose SB 235.

BOB HEISER, opponent. We are adamantly opposed to this bill and urge you to do not pass.

LEN BLANCHER, opponent. We oppose SB 235.

DON HALVERSON, opponent. I urge you to give a do not pass to SB 235.

MARVIN ELLIS, opponent. We oppose the bill.

JOHN MANZER, opponent. We represent approximately 1,500 construction workers and we ask that you please do not pass this bill.

DON WILKINS, opponent. I support the Montana Building Trades Construction Workers position and urge you to do not pass this bill.

Questions From Committee Members:

DRISCOLL: Question for Bob Brown. Does your firm still represent the laborer's AGC trust in Montana?

BOB BROWN: I haven't done anything for them for some time.

DRISCOLL: Are you still the attorney of record?

BROWN: I don't know because I haven't dealt with the trust for so long.

DRISCOLL: Under the plan that you represent, the health insurance plan, is it still a fact that an employee must work 125 hours a month in order to be covered?

BROWN: On the details of the plan I would defer to the plan administrator.

DRISCOLL: You spoke about ERISA and that plans were controlled by ERISA. Was the Chevron Oil plan controlled by ERISA? Are all employer plans controlled by ERISA?

BROWN: Since the amendments of 1986 the Internal Revenue Code, Section 89 which expanded the discrimination effect that used to be under 505 of the IRC, it is virtually impossible to create a plan in 1989 that would be exempt from ERISA control. Yes, the Department of Labor also has the power to go in an audit all plans, whether they be union or private, under the discrimination statutes. Further, the IRS has the ability under Section 401-505 in Section 89 to audit any plan to insure that the particular plan complies. Failure to comply is subject to very onerous penalties and the employer loses all of his deductions.

DRISCOLL: Under ERISA, if it is an employer-controlled plan as in the case of Chevron and the investment earnings from that

plan exceed needs for full funding, they can shut the plan down as long as they buy annuity for all the employees, take the excess earnings, in the case of Chevron it was \$600 million, put it back in their treasury and not violate any laws as long as they reopen the plan the next day, as Chevron had done. What stops you from doing that in your plan?

BROWN: Can you please tell me, Rep. Driscoll, when this Chevron plan was in effect and when this occurred?

DRISCOLL: Chevron plan started in the 1960's and this happened in 1987, when they shut down and took the profits.

BROWN: I'm not familiar with it so I cannot speak to it. All I can tell you is that under our plan there would be no accrual of benefits. Under the pension plan the benefits would accrue to the employees benefit immediately. An employee who works for two or three years, upon leaving that plan, would be entitled to that money, plus interest, unlike the union plans where they would have nothing to show for it. There is nothing to take back by the employer. Furthermore, the Internal Revenue Code as amended precludes the employer from having any access to those funds or controlling them. That would undermine the plan and destroy the value of the deduction and subject the employer to all sorts of penalties.

DRISCOLL: Is the Administrator of the trust present? Is your health insurance plan still 125 hours a month, 1,500 hours a year in order to be covered year around? What percent of your employees in the plan work 1,500 hours?

RICK LARSEN: I have no idea.

DRISCOLL: Do you also administer the pension plan?

LARSEN: No, we do not.

DRISCOLL: Is the person who administers the pension plan present? Sonny Lockrem, please. Sonny, being in construction for quite a few years you know that sometimes you pick up a person and only work them 40 to 100 hours and you never see them again. You make the contribution for that person, but they never show up to take their money back out, what happens to that money?

LOCKREM: With our plan the four qualifying events to receive the money are retirement, disability, death and termination. Within our plan, termination is defined as less than 500 hours in a given year. If an employee did not work the 500 hours in a year, the following year if his account has less than \$3,500 in it, it is an automatic disbursement. If the account has over \$3,500, then it is the employee's choice whether he leaves it in or takes it out. There is an

immediate disbursement upon termination.

DRISCOLL: What happens if the person doesn't request the money?  
Who do you disburse it to?

LOCKREM: It is disbursed to the employee based on his enrollment card and his last employer. In the construction industry, having been a contractor for 30 years, starting around the first of January those people are getting their change of addresses to you for their W-2 forms. We haven't run into that problem yet.

DRISCOLL: Under the present law, I understand you contribute \$1.25 an hour and \$1.00 an hour to the pension. If this bill was to not pass, could you still make those contributions and still be within the law?

LOCKREM: Our trust document requires that each employer make a contribution for every hour worked to our plan in the amount of \$1.25 for the health care and a minimum of \$1.00 an hour for the pension. If that employer was on our program, had a Davis-Bacon job, he would have to make the contribution to us in addition to paying the employee in cash. He would have to make two payments. The answer is yes to that question.

DRISCOLL: So, if the bill does not pass the employees will still have their health insurance and still have their pension?

LOCKREM: As a practical matter, most of those employers who are subjected to that double payment, as competitive as the construction industry is, simply are not coming on our plan. They can't afford to.

THOMAS: Question of Lockrem. What are other states doing in this area of legislation?

LOCKREM: I can't answer that question. I do know the investigation that we did to bring our plans on line. We went to Wyoming and Idaho. The Idaho program is similar to our pension and encompasses Washington, Idaho, Oregon and Alaska. Those states are allowed to make fringe payment benefits and provide health care for their employees. Beyond that I can't answer.

THOMAS: In the area of vesting, testimony has been that this would require automatic vesting. What is that compared to with what is available for workers now out in the market?

(Lockrem requested that he restate the question)

As I understand it, vesting is automatic for benefits required in this bill.

LOCKREM: It is not required in the bill. Our program is instant vested.

THOMAS: What does the bill do and what is available now for workers in Montana who are unionized?

LOCKREM: I might state that I am vested in Local 400 Operating Engineers Pension Plan. To give you an example of a normal progression of a person improving himself and his wages: six years as a laborer, moves to a teamster for three years, and then six years as an operating engineer. You run a period of time of 16-17 years. When I was a contractor I made a contribution for every hour that the employee worked and he received not one dime of it.

THOMAS: Question for Dave Hilde. Dave, I don't know your situation. Are you union or non-union as a contractor and how does this bill effect you?

HILDE: At this time we are non-union. We were a union contractor for 41 years. This past summer we were struck by one of the unions after lengthy negotiations. In order to complete our work and satisfy our contracts for the state of Montana, we went non-union. At that time, in order to compete on little Davis-Bacon work in the state of Montana, it would cost us between 14% and 21% in addition to what we would pay as a union contractor. We would also like to be able to pay our fringe benefits, health and welfare and pension to our employees, particularly all the ones who stayed with us.

THOMAS: Dave, in the payment of the benefits we are talking about here, I don't know if you have discussed this with your employees, would they rather receive the benefits in cash or would they rather receive them in benefits in lieu of cash, considering the tax implications of receiving those as cash.

HILDE: I have never asked that question, but most employees would rather receive those benefits as fringe benefit payments rather than cash.

THOMAS: And that is why?

HILDE: Because of the tax disadvantages to not receiving them in the form of a fringe benefit. All employees would have to pay income taxes on it.

SIMPKINS: Question for Lockrem. Sonny, a typical contractor that you represent would have different unions involved, I assume. I have heard that maybe you would have a Teamsters, Operating Engineers, is this correct?

LOCKREM: Yes. When you are talking about union trust funds or union pension funds, or union health and welfare, those are jointly administered by my organization; in other words, it is the Operating Engineers, AGC Laborers, Rep. Driscoll's

AGC, those are jointly administered funds by our association and the crafts. This program is simply another trust that we brought on line to provide a service for the employees who are working for our contractors, no more, no less. There are a number of crafts, in answer to your question.

SIMPKINS: Sonny, talking about transferring from job to job, let's say a man is working for Hilde in Great Falls and transfers to Western in Missoula. Would he be able to keep this plan?

LOCKREM: Absolutely. The governor in vetoing SB 103 that Mr. Fenderson represented. The fact that the plan is available on the market did not cover all work and there were large early withdrawal penalties on the pension. As a result of that veto, and I will put these in the record, these are the summary plan descriptions, and because of the product that was on the market, we created these two trusts and we did it because of the veto. We feel we responded to government and very simply we are asking government to respond in kind.

SIMPKINS: The 125 hours that was brought up. I don't quite understand that. Are you saying that a person has to work 125 hours a month in order to be eligible for the health insurance?

LOCKREM: Our plan calls for 130 hours. First of all, the qualifying event is once his hour bank accumulates 260 hours the first day of the month following that he and his family are covered under the health care -- dental, vision and life insurance. We charge his account back, or his hour bank, 130 hours per month for the coverage. Our plan with Rep. Driscoll only charges 100 hours back. One of the criticisms in this veto message was that all work was not covered. Our plan covers all work, private and Davis-Bacon work. You can't turn it on and off even if ERISA allowed it. So, simply, insurance costs \$160 a month, you divide \$160 by 130, it's \$1.25, that is what our plan costs. We had to keep the cost down because we expanded to meet the objection of the veto. Another thing, in evaluating it, the 130 hours represents those people who work nine to ten months, what we call our old hands, and we very simply wanted to make sure that they had the coverage. The 100 hours tends to subsidize a person who only works three months. For those two reasons, we arrived at 130 hours.

SIMPKINS: I understand that you can build up to about 1,000 hours in this plan and that would be your carry over. That would take everybody through the summer and through the time that they are not working until they went back to steady work again, so the plan is continuous, is that correct?

LOCKREM: That is correct. We have increased it so that their hour bank can accommodate eight months of coverage when they are not working.

SIMPKINS: It does have the 18-month provision as well?

LOCKREM: Yes. If an employee's hour bank expires or gets down below the 130 hours, then that employee, under COBRA, is entitled to self-pay at 102% of our cost. That premium, incidently, is \$155 a month for those employees. We are hoping that those costs, if they are laid off, could keep the premium at least within one unemployment check so they could keep that health care coverage for their families.

SIMPKINS: If a person works for you 500 hours he has 500 times the amount you contributed?

LOCKREM: Instant vesting, starting with hour one.

SIMPKINS: Question for Gene Fenderson. How many years does a person have to be in your union in order to vest his rights to the money that was put in by the contractor?

FENDERSON: I can't answer that fast and I'm not going to. The fact of the matter is most industry in this country under ERISA and under federal laws are now required vesting after five years. That's 10,000 hours of work. That is the auto industry, the tire industry, whatever industry you want to talk about, that's what it takes, 10,000 hours. Under our union plan it takes ten years, that's 20,000 hours. Under our plan, you only have to work 435 hours per year, less than 5,000 hours, to be vested. It's the best deal there is. There is no plan in this nation that you can vest in at 435 hours a year and get vested less than 5,000 hours.

SIMPKINS: I understand that unions are exempted from this ERISA that required five hours for industry and, therefore, unions are still up to ten hours. We have also heard a plan here that they only have to work one hour to have vested rights in their plans. So let's get to another question. What happens to the money when a person leaves your union after seven years of work? What happens to the money the employer put in for that employee?

FENDERSON: He has seven years to come back to our industry and that is held for him; if not, it goes back to all the other workers who have contributed to that when they draw their pension. It stays within the industry. One of the things I would like to point out is that we are talking about a generic bill here. We are not talking about the AGCs, health and welfare and pension plans tonight. This bill allows every contractor to go out and build their own plan. The AGC plan may be a little mediocre plan out here, but they are creating a monster. These folks are going to get this bill passed, or try to get it passed, and then half of their members are going to leave them to go out and create their own plans for a rip-off. That's what's happening.

SIMPKINS: If an employee works for a contractor for ten years, for three years of which he might have to belong to a teamsters union, and then he gets to a different job and he might have to join the operator engineers union. He worked basically for the same contractor for maybe up to ten years, but he has lost his pension rights in those three other unions unless he comes back. Is that what you are telling me?

FENDERSON: My father did not own a construction company. I'm not like Sonny Lockrem. When I went to work in construction I went to work in one trade and I planned on staying in that trade the rest of my life. I did not have the liberty to be a truck driver one day, an operator another day, a laborer another day. We go into our industry as craftsmen and we stay there. That is where we vest and that is where we get our insurance. If I moved from craft to craft I guess I would have a problem.

SIMPKINS: I want to clarify this. This bill allows the laborer to take a better job and still maintain his pension plan and his health insurance. This plan offers an opportunity for a laborer to better himself without having to lose his pension plan. Is that correct?

FENDERSON: What this bill offers is for employers to make a great deal of money off their employees because of the way you are trying to structure the law.

Closing by Sponsor:

SEN. HAGER: I would like to point out that the reason for the Davis-Bacon law is to have so much money paid to the employee in cash and so much in fringe benefits. Those benefits are in there for the benefit of the employees. I think by passing this bill you will allow all employees working on both federal and state projects to enjoy those benefits.

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HEARING ON SB 405

Presentation and Opening Statement by Sponsor:

SEN. DEVLIN: SB 405 is one of the bills requested by the governor to assist in solving problems associated with the workers' compensation system. The purpose of this bill is to provide a source of revenue which will help eliminate the unfunded workers' compensation liability as soon as possible. We need to get this problem behind us in order to create a better business climate for Montana and a better business image for the businesses that may want to come to Montana. The bill continues the 3/10 of 1% payroll tax

imposed on all employers in the 1987 legislature. The original tax on the employers was to terminate on June 30, 1991. This bill continues to tax until June 30, 1994, a three-year extension. The bill also imposes the same tax on all employees for the same period of time. The combination of the two taxes is designed to eliminate the unfunded liability in as short a time as possible. The employee portion of the tax will also be paid by the employer and the employer will withhold the tax from the employee wages. If you will look at the third spread sheet (attached hereto as Exhibit #12), it could be paid off by about January 1, 1994 if this was to be enacted. If the tax is continued on the employer only, we are looking at something in the neighborhood of 1997, January. So the reason for the bill is to get the unfunded liability set aside, pay it off so we can not only have a solvent insurance system for employees in this state, but perhaps won't scare all the people that might want to come and set up a business in this state, or discourage them from doing so. We might even keep some of the ones we have.

The amendments I passed out are amendments to have the collections of these taxes stay with the Department of Labor (amendments attached hereto as Exhibit #13). By the time you moved it to the Department of Revenue it would be costly. The amendment leaves it with the Department of Labor.

Testifying Proponents and Who They Represent:

MIKE MICONE, Commissioner of the Department of Labor and Industry.

JAMES TUTWILER, Montana Chamber of Commerce.

CHRIS STOBE, Save Montana Jobs.

RILEY JOHNSON, National Federation of Independent Business.

Proponent Testimony:

MIKE MICONE, proponent. I am testifying in support of SB 405 and I think it would benefit all Montanans and I urge your support of SB 405. Submitted written testimony, attached hereto as Exhibit #14.

JAMES TUTWILER, proponent. I represent the Montana Chamber of Commerce which has about 90% of its statewide members are categorized as small businesses. We rise in support of SB 405. Submitted written testimony, attached hereto as Exhibit #15.

CHRIS STOBE, proponent. I come from Sanders County and we were just recently in the news for being the county with the highest unemployment rate in the state, at 15%. We lost

1,231 jobs in the last three years. We wonder why that's happening. Is workers' comp higher in Montana than it is in our surrounding states? Yes. Substantially higher. For an example, a sawmill located in Wyoming that would employ 100 people at an average hourly rate of \$8.00 per hour for a 40-hour week, would pay \$400,000 per year less in Wyoming than in Montana. We see truck loads of logs going down the highway from Thompson Falls, Kalispell, Libby, St. Regis, all going to Idaho to be processed. I don't pretend to like the idea of a 3/10 of 1% tax on employees, but I think it is something that we have to think about. I think that Gov. Stevens in his state of the state message offered to give 5% of his salary. That would amount to about \$10,000 over the course of his four-year term of office. That's a fair amount of money. There are probably other people in the state who might want to do that same thing. There are some workers I have talked to who think it is an important enough problem for them to give their 3/10 of 1%; however, I admit that there are a lot of them who don't think that. I think it is such an important problem for our jobs in the state of Montana that we have to address it.

RILEY JOHNSON, proponent. We strongly support SB 405

Testifying Opponents and Who They Represent:

NORM GROSSFIELD, Attorney in Helena.

COLLEEN RODGERS, Montana Federation of Teachers, Montana Federation of State Employees, AFT, AFL-CIO.

RICHARD MANNING, United Food and Commercial Workers, Local 8, Great Falls, over 900 members, and also as Senator Richard Manning, Senate District #18.

TOM SCHNIEDER, Montana Public Employees Association.

DAN EDWARDS, International Representative with the Oil, Chemical and Atomic Workers, Billings.

TERRI BOMAR, Employee of Workers' Compensation.

DON WILKINS, Business Agent for the Lumber Production and Industrial Workers at Libby, Montana.

MICHAEL SHERWOOD, Montana Trial Lawyers Association.

WYATT FROST, Bozeman, Mt, self.

JOE ZITO, Local 3038, Bonner, Mt.

BOB HEISER, United Food and Commercial Workers.

JIM MURRY, Executive Secretary of the Montana State AFL-CIO.

JOHN MANZER, Business Representative for Teamster Local 45,  
representing Joint Council of Teamsters, State of Montana.

LEN BLANCHER, Montana Heavy Highway and Building Construction  
Workers Council.

JACK BALL, Business Manager, Local 400, Operating Engineers,  
state branch.

DON HALVERSON, Business Manager, Plumbers and Pipe Fitters,  
Missoula, and Western Montana Building Trades Council.

MIKE MIZENKO, Vice President, Montana State Association of  
Plumbers and Pipe Fitters.

GENE FENDERSON, Montana State Building Construction Trades Unions

DOYLE PRUITT, Deer Lodge Miners Union.

Opponent Testimony:

NORM GROSSFIELD, opponent. My practice primarily involves workers' compensation and I do both claimant and defense work. I would like to quickly set forth some history. The Workers' Compensation Act in its basically present structure was passed in 1915 and it has been in existence for about 74 years. During that time the employer has paid the premiums. In every other state in the United States except I think Washington, and in all the provinces of Canada, it is the employer who pays the premium. It is a concept that is well recognized in American jurisprudence. I don't agree with the primary premise that the employees created the problem. I think the legislature created some of the problems, employers created some of the problems, courts created some of the problems, attorneys have, physicians have, and insurance companies and the division of workers' compensation have. The employees are the ones who get injured and they should have the protection. They have not created the problems. Therefore, I think the primary premise for this is wrong. I think it would be going against the basic concept of workers' compensation and the quid pro quo that was entered into in the early part of this century to require employees to participate in the workers' compensation coverage. Workers' compensation, by its very nature, is a system whereby you add an amount to the employer and it is added into the product. That is the concept. Employees can't do that, they can't add on something whereby people will buy, etc. I have a basic philosophical problem with taxing employees. The other problem I think that industry should be concerned about is the exclusive remedy. It has been suggested here that the state of Washington does this and they have not had a problem with their exclusive remedy. The reason you have a problem in this state with it is that we have a very unique constitutional provision that specifically provides that the

employee shall be protected under the exclusive remedy law if the employer provides workers' compensation insurance. I think the exclusive remedy provisions of the law are very important and I'm talking as an attorney who does a lot of claimants work, but I don't think claimants should be allowed to sue their employer in tort and receive workers' compensation at the same time. That would basically destroy the very system we have. I can assure you that about twice a year there are attempts to evade the exclusive remedy law. (tape turned over here) ... chance to evade the exclusive remedy by providing that the employee pay a part of the premium.

There is also a great concern about the \$157 million liability, and there should be. All of us have cooperated in efforts to take care of that, but you don't have to take care of the unfunded liability immediately. State funds throughout the United States operate on a cash-in-cash-out basis. The state fund of Ohio has been billions of dollars in debt, in a paper debt, and they have come out of it. The state of Oregon right now is in an unfunded liability basis. The present employer payroll tax, along with the benefit provisions and benefit reductions in the workers' compensation law in 1987 are sufficient to provide the needed cash-in-cash-out for the state fund to operate and to take care of its unfunded liability.

COLLEEN RODGERS, opponent. We wish to be placed on record as opposing SB 405.

RICHARD E. MANNING, opponent. I am strongly opposed to this bill and the main reason I am is because I was opposed to the bill that created part of this problem last session, 315, that was supposed to solve a lot of problems. This is a bad bill. First off, this fund was originally put in place to protect the employers and the employees, but mainly the employers so the employees couldn't sue the employer for everything he had. I am beginning to wonder if we aren't turning this into an insurance policy -- it isn't supposed to be. Sometimes employees are required to work under very unsafe conditions and I have worked in a lot of different places in my life so I know. I have worked for Montana Power, Great Northern, contractors, fire service, you name it. I think we are on the wrong track here. I would sincerely hope that you can see a do not pass for this bill.

TOM SCHNIEDER, opponent. We represent 6,500 workers who don't want to pay the 3/10 of 1% and we don't feel they should. As an employer, I employ ten people, we have been in business for twenty years and we have never had a workers' comp claim and I don't think my employees should have to pay the 3/10. I have dealt with actuarial figures for 32 years now, been involved as an actuary, and I just can't image that three years will make that much difference in the

future of this fund.

DAN EDWARDS, opponent. I have to say something about this bill. It just flies in the face of the whole concept the speakers before me have talked about. Early in this century there was a major trade-off of employees being guaranteed help in case they were injured on the job without having to go through all of the requirements in common law. Nowhere, with the exception of the state of Washington, and I think under different circumstances, has anybody had the gall to ask employees to pay a share of this cost.

Another thing that concerns me greatly is we are led to believe that when the deficit in the fund is paid off then this is going to go away. I can't conceive of anybody believing that. If the concept of employees paying part of the cost towards their workers' comp coverage is ever acceptable in this state, I can't help but believe it will never go away. They will find some reason to continue with those payments.

It would appear that we have two bills to give to the victims. SB 430 cuts the benefits and now we turn around in SB 405 and we want them to help pay the costs for reduced benefits. I urge you strongly to do not pass on this bill.

TERRI BOMAR, opponent. I work at Workers' Comp and so I know that this system is not good, but I don't think that taxing people is the answer, especially the people who aren't making very much money now as it is because they have had their wages frozen. I strongly oppose it.

DON WILKINS, opponent. At our complex there are about 630 full-time employees; in the summer they run about 700 employees. In 1986 we were involved with some very drastic and major wage concessions that put our wage levels back to the 1971 level. Since 1986 we have been working on what amounts to a freeze because we have had no increase in wages or benefits since that time. Perhaps if Gov. Stevens had suffered a comparable wage reduction he wouldn't be so willing to donate part of his salary toward this deficit.

First of all, this tax is not needed. We have several people at Libby who have 25, 35 and 40 years of service who have never suffered a lost-time accident. We are going to tax those individuals the same as those who have had accidents.

The other part is that we are told that the employers' payroll tax will pay off the unfunded liability in a matter of seven or eight years, or somewhere in that time frame. It appears to me that someone in Montana is trying to make themselves look good and tax workers to pay off the unfunded liability earlier than it is already projected. To have workers pay their share to rid Montana of the deficit is

simply silly. Workers in Montana are already paying their share. Every time an employer hires somebody they take into consideration the fixed costs that they have for unemployment insurance, workers' comp insurance, whatever costs that they have and they pay that individual accordingly. So workers are already paying part of that. Every time an employer negotiates a contract with the union they take into consideration what that employee costs them and they bargain wage and benefit increases accordingly. This bill and SB 444 go hand in hand and I would urge this committee to do not pass on both bills.

MICHAEL SHERWOOD, opponent. We urge you to please do not pass this bill.

WYATT FROST, opponent. Taxation without representation. Where I work we are under a private funded workers' comp so we can't collect, we are just going to have to pay if this goes through.

JOE ZITO, opponent. In 1986 our employer forced upon us wage cuts of \$1.25 to \$1.65 an hour. We took that and we have survived. In 1988 we went on strike for three months and we took that and we have survived. Most of the workers will not get a raise until July 1989 and we have to take that. I don't think that we could take any more.

JIM MURRY, opponent. Submitted written testimony, attached hereto as Exhibit #16.

(The rest of the opponents just gave their name, address and who they represented.)

Questions From Committee Members:

RICE: For Sen. Devlin. Do I understand the bill correctly that in the event it would not pass then the payroll tax currently on employers would expire in 1991.

DEVLIN: In 1991 it expires at the end of the fiscal year.

RICE: Also, according to this spread sheet that you handed out, at that time the unfunded liability would be less than \$100 million?

DEVLIN: If it is on the second page of the spread sheet that should be right.

RICE: I'm looking at the first page that I guess assumes that the payroll taxes sunset on ....

DEVLIN: Okay, the first page just goes on with the 3/10 of 1% until 1991, and if you look down at the unfunded liability you'll see it does make a difference until 1991.

SIMPKINS: Questions for Mike Micone. (1) SB 428 separated the liability from the fund;

(2) If we pass SB 444 we are going to take the fund and no way is any of this money, the .3% considered to be premiums for the fund, is that correct?

(3) Technically, that unfunded liability, \$157 million is an obligation to the state, is that correct?

(4) Regarding the debt that was built up on this, did the employers pay their premiums as they were billed or are there employers out there who have failed to pay their bills?

(5) It really boils down to either we pay it through some type of tax like cigarette tax, employee tax, employer tax, or general fund; that would be the idea, correct?

MICONE: (1) That is not quite correct. SB 428 separates the fund from the division. SB 444 separates the liability.

(2) That is correct.

(3) I believe so.

(4) To my knowledge, all the employers have paid their premiums as they were due.

(5) I hope it is general fund.

Closing by Sponsor:

SEN. DEVLIN: We can talk about taxation, etc. and what we do with an unfunded liability; other states survived with an unfunded liability. If you are a private insurance company you don't operate with an unfunded liability, you are kicked out of the game, the insurance commissioner does that. So in order to run a business like a business, and insurance like an insurance business, I think it is a must that we get rid of the unfunded liability and run it like a business. An actuarially sound workers' insurance is not only just as important to the employer but it is also just as important to the employee.

I'm sure that this bill is shortlived in this committee, but I will close.

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HEARING ON SB 444

Presentation and Opening Statement by Sponsor:

SEN. AKELSTAD: SB 444 has been mentioned with SB 405, the employer/employee tax. We felt it was important enough to assure the employers and the employees that the unfunded liability of \$157 million not be co-mingled in with the premium tax and with the other potential of any other unfunded liabilities. That is why we have SB 444 before us. It was mentioned also that SB 428 of a previous session did this and it did it to a degree, but we felt not to the degree that we need the assurance and the guarantee to the employers and the employees that we are going to set this fund off to the side, this unfunded liability, off to the side. The only moneys that will flow into that to pay that off will be through the payroll tax and then the wage tax. I would like to emphasize none of the payroll tax or the wage tax that the employee would pay or the employer would go into the other side into the premium tax which pays for the injuries to the employees. I cannot emphasize that enough. That is why we are setting up this bill. You can see on page 2, line 21, is really the thrust of the bill. It shows the unfunded liability on page 1, line 20.

I just remind the committee on page 3 also, the new section, that would be the coordinating instruction clause with SB 405, if that bill should pass.

Testifying Proponents and Who They Represent:

MIKE MICONE, Commissioner of the Department of Labor and Industry.

JAMES TUTWILER, Montana Chamber of Commerce.

JIM MURRY, Executive Secretary of the Montana State AFL-CIO.

BOB HEISER, United Food and Commercial Workers.

Proponent Testimony:

MIKE MICONE, proponent. We rise in support of SB 444. As was mentioned, this is the companion bill to SB 405. It was determined that in order for 428 to be fully implemented and to maintain rates at a reasonable level, it was necessary to remove this unfunded liability from the operation of the fund. For that reason, you have before you these two bills.

I think it is important that we look at this bill as what it is and that is creating a separate fund and looking at 405 as a mechanism to pay that. We hope you will support it.

JAMES TUTWILER, proponent. We have previously testified on 405 and also 444 and our written testimony has been submitted,

attached hereto as Exhibit #14.

JIM MURRY, proponent. We want to make it clear that we are not standing in opposition to this legislation.

BOB HEISER, proponent. We do support this bill and urge a do pass.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members:

DRISCOLL: For Jim Tutwiler. Last session in front of the Business and Labor Committee when SB 315 came before us after being worked over by the Senate, the Chamber of Commerce and every other business group said to pass this bill without any amendments. Now, it still isn't working. What went wrong? You all testified for that bill.

TUTWILER: I can't comment on the testimony that was given on SB 315, but I would like to reiterate in our testimony tonight that we have taken the position that we are not in favor of any taxing program on employees, that is on a sustained, continuing basis connected with workers' compensation.

We view this as a special situation and not a continuing, sustaining program.

Closing by Sponsor:

SEN. AKELSTAD: We think it is very important to have SB 444, especially with SB 405, I would like to emphasize just one more time, we are setting this off to the side separately and those funds from the employees and the employers that are going from the payroll tax and the wage tax will pay only that part -- none of that money will be used to go into the premium tax portion that pays for injuries and what the employer's obligation is. It will go only into this unfunded liability to pay that off.

With that, we hope you will look favorably on SB 444.

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ADJOURNMENT

Adjournment At: 9:50 P.M.

  
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REP. ANGELA RUSSELL, Chairman

AR/mo

6509.MIN

DAILY ROLL CALL

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3-21-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Angela Russell, Chairman	✓		
Rep. Lloyd "Mac" McCormick, VC	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Duane Compton			✓
Rep. Jerry Driscoll	✓		
Rep. Bob Pavlovich	✓		
Rep. Bill Glaser	✓		
Rep. Tom Kilpatrick	✓		
Rep. Thomas Lee			✓
Rep. Mark O'Keefe	✓		
Rep. Jim Rice	✓		
Rep. Richard Simpkins	✓		
Rep. Clyde Smith	✓		
Rep. Carolyn Squires	✓		
Rep. Fred Thomas	✓		
Rep. Timothy Whalen	✓		

Proxy

Proxy

MONTANA MOTOR CARRIERS ASSOCIATION, INC.

Statement on SB 430 Before the House Committee  
on Labor and Employment Relations  
by Ben Havdahl, Executive Vice President

Madame-Chair, members of the committee, for the record my name is Ben Havdahl, and I'm the Executive Vice President of the Montana Motor Carriers Association. MMCA supports SB 430.

MMCA has 325 carrier members and 125 supplier members, all of whom are employers and the carriers range in size from one truck operators to companies operating fleets of trucks of 400 or more. 97% of the Montana based carriers operate under ICC authority in several states, some in as many as 48 states. All are in severe competition with trucking companies in all states and the costs of doing business is a prime problem. The high cost of Montana's Workers' Compensation for a truck driver and mechanic for example, is a prime cost of doing business.

At the hearing on Senate Bill 315 in the 1987 session, MMCA testified strongly in favor of that bill and all the bills that were passed, and some that were not passed dealing with Workers' Compensation .... all aimed at Workers' Compensation reform. We considered the reform action taken by the last session to be a positive step. With Senate Bill 315 as the cornerstone, the Senate passed 7 reform bills and the House 16. Among them, they modified definitions of "injury", "accident", "wages", "benefits", "attorney fees", "reformed liberal interpretation of the law", "resolved disputes first through mediation" and provided for financial incentives for employers who institute formal safety programs.

And lastly, the legislature funded the unfunded liability by enacting a three tenths of one percent tax on all employers. We strongly support legislation before this committee to extend that tax on employers and to include employees as proposed in SB 405.

Basically, the reforms adopted in 1987 changed the manner in which benefits would be paid rather than changing or reducing the benefits themselves.

Because many motor carrier employers now feel they must see the costs savings begin to reflect themselves in premium reductions, perhaps it's now time for the Legislature to take a hard look at the benefits. SB 430 is a step in that direction. We support this bill, not because we are opposed to adequate compensation for workers who are injured on the job .... but simply because carriers in our industry simply cannot afford continued escalating costs of Workers' Compensation. We have to turn the tide .... We have to start somehow. SB 430 offers a reduction in costs, small though it may be, it is a beginning.

Many motor carriers in Montana are "mobile" employers and when they look around at our surrounding states' rates for Workers' Compensation .... particularly truckmen rates, they begin to make overtures in their direction, that is they

Page 2

begin thinking in terms of reemploying drivers in those states or even moving to those states in order to cut high costs of doing business. For many carriers that is not a practical move, however, for others that operate all over the country, in truckload irregular route operations, they do not have to locate in Montana .... they can be anywhere and we have seen evidence of this happening over the past years. However, petroleum haulers, log haulers, wood chip haulers and livestock haulers, operating solely within Montana face an economic situation that borders on disaster and have to remain in the state or close their doors. We've seen evidence of this also.

MMCA membership was polled when the 1987 rate was increased by 25% from 11.86 to 14.80 per \$100 of wages. Some 51% of the carriers responding indicated that they would consider plans to move operations out of Montana.

In February, 1987, when MMCA testified on SB 315, the truckmen rate which had increased by 50% two years before, experienced another 25% rate hike January 1, 1987, making it \$14.80 per \$100 of wages. The Workers' Compensation premium cost in Montana for a truck driver earning \$30,000 per year was \$4,440 per year. In North Dakota, the cost for that same driver earning the same wage was \$389 per year. In Utah, the cost was \$2,076. In Wyoming, the cost was \$1,140. In Washington, the cost was \$1,920.

In June of 1988, some of these state rates nudged upward slightly, the most notable was North Dakota's which increased from \$389 to \$434 per year. On July 1, 1988, Montana's rate for a truckman went up another 12% to \$16.59 per \$100 plus 30 cents per \$100 to \$16.89 costing \$5,067 per year.

For example, a large carrier now based in Montana with 400 drivers, Workers' Compensation costs are \$2,026,800 per year. He can move to North Dakota and the cost for the same number of drivers is an incredible \$173,600 per year. That's a savings of \$1,853,200 per year.

Where a trucking company has a net profit in the 1.5% to 2% range, additional operating costs such as high Workers' Compensation costs in Montana and low costs in surrounding states can be a determining factor as to whether or not the trucking company can stay in business along side competition from truckers in neighboring states or be forced to move to one of these states.

Motor Carriers Workers' Compensation costs are the largest single expense items which are specifically tied to being domiciled in Montana that is affecting their ability to stay in business here. This is due to their inability to compete in such a labor intensive market, where their competitor based in a neighboring state enjoys an additional profit margin of 5 to 8.5% based on savings in Workers' Compensation costs alone.

For these reasons, MMCA supports SB 430. Thank you.



EXHIBIT #2  
DATE 3-21-89  
HB SB 430

Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF JIM MURRY ON SENATE BILL 430 BEFORE THE HOUSE LABOR AND EMPLOY-  
MENT RELATIONS COMMITTEE, MARCH 21, 1989

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Madam Chair and members of the Committee, for the record, I am Jim Murry, Executive Secretary of the Montana State AFL-CIO and am here tonight in opposition to Senate Bill 430.

Montana workers have born the burden of rebuilding our state's Workers' Compensation program from the disrepair it has suffered over the years. This disrepair was caused by inattention to safety in the workplace and artificially low premium levels dictated by political accommodations.

Rather than assess premiums that would have funded the Workers' Compensation Program, the state discarded the advice of their own actuaries and established artificially low premium levels which nearly bankrupted the system.

Two years ago, the legislature passed Senate Bill 315 which reduced total benefit levels for workers by approximately 30 percent. Under the redefinition of injury, most workers suffering from heart, lung or stress related ailments are no longer covered, and repetitive trauma has also been excluded. Death benefits to surviving spouses and their children were drastically curtailed, and in our opinion, this legislation set back the cause of injured workers by at least 30 years.

Tonight, working men and women are being asked to pay a new tax to help pay off the unfunded liability and to suffer more benefit cutbacks at the same time. All of this is simply unfair and unjustified.

Senate Bill 430 reduces and limits workers' compensation benefits. The reductions passed by the last Legislature did not go into effect until July 1, 1987, and we have yet to see how these so-called reforms will impact the workers' compensation system and the unfunded liability.

The proponents of this bill said in the Senate that they were relying on a recommendation by the Governor's Advisory Council to justify this legislation. The Advisory Council was operational over two years ago -- before the current reductions were in effect. The costs of permanent/partial disability compensation benefits before the restrictions imposed two years ago are simply not comparable with the costs now.

The recommendation of the Governor's Advisory Council from two years ago is simply not relevant now. It's like comparing apples to oranges. We consider this proposal a serious breach of faith to call for more cuts for injured workers when the existing law has not been in effect long enough to determine its outcome on the system or on injured workers.

We believe that injured workers have sacrificed enough. We believe that there is a basic responsibility for employers to fund a system that is fair to workers. All of our efforts should be directed toward making workplaces more safe, not to further reductions and restrictions.

Senate Bill 430 is simply unfair, unjust and unnecessary. We urge its defeat.

Thank you.

EXHIBIT #3  
DATE 3-20-89  
HB SB165

MARCH 21, 1989

CHAIRMAN RUSSELL AND MEMBERS OF THE COMMITTEE, MY NAME IS JOHN EHEND OF THE MONTANA FEDERATION OF STATE EMPLOYEES. I AM SPEAKING ON BEHALF OF THE MONTANA ASSOCIATION OF FISH AND WILDLIFE BIOLOGISTS. I URGE YOU TO VOTE AGAINST SB-165. THIS LEGISLATION WILL NEGATIVELY AFFECT HOW STATE GOVERNMENT OPERATES, AND EQUALLY IMPORTANT, HOW NATURAL RESOURCES WILL BE MANAGED IN THE FUTURE.

THE FOLLOWING ARE WAYS THAT WE FEEL THIS BILL WILL AFFECT THE STATE, ITS PEOPLE, AND ITS NATURAL RESOURCES:

FIRST: BROADENING THE NUMBER OF POLITICAL APPOINTMENTS WILL PLACE MANY PEOPLE IN DECISION MAKING POSITIONS WITHOUT THE NECESSARY TRAINING OR COMMITMENT IN NATURAL RESOURCE MANAGEMENT. THESE INDIVIDUALS MAY BE TOO POLITICALLY SENSITIVE TO SERVE IN THE LONG-TERM, BEST INTEREST OF THE RESOURCE, AND SUBSEQUENTLY, ITS USERS.

SECOND: QUALIFIED INDIVIDUALS WILL BE LESS LIKELY TO GO TO WORK FOR THE STATE IF THEIR CHANCES FOR CAREER ADVANCEMENT ARE BLOCKED BY POLITICS. IN ADDITION, THE CAREER LADDER WITHIN STATE GOVERNMENT IS ALREADY SHORT, AND WITHOUT MUCH OPPORTUNITY FOR ADVANCEMENT. SB 165 WILL FURTHER TRUNCATE WHAT OPPORTUNITIES THERE ARE, AND WILL CONTRIBUTE TO POOR MORALE AMONG GOVERNMENT EMPLOYEES. WHEREAS THIS BILL WILL ONLY DIRECTLY EFFECT 90-100 POSITIONS, THOSE PEOPLE SUPERVISE PRACTICALLY EVERYONE ELSE IN STATE GOVERNMENT.

THIRD: THE GOVERNOR ALREADY APPOINTS THE DIRECTOR, AS WELL AS THE COMMISSIONERS, THAT RUN THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS, THE DEPARTMENT OF NATURAL RESOURCES, AND THE DEPARTMENT OF STATE LANDS. THIS SHOULD ALREADY GIVE THE GOVERNOR'S OFFICE AMPLE INFLUENCE IN POLICIES AND MANAGEMENT OF THESE DEPARTMENTS. IF SB 165 PASSES, SEVERAL MORE STEPS IN THE "CHECKS AND BALANCES" PRINCIPLE OF DEMOCRACY WILL BE ERODED.

FOURTH: SB 165 WILL LEAD TO MANAGEMENT DISCONTINUITY AND INSTABILITY. THERE WILL BE HIGHER TURNOVER IN MANAGEMENT PERSONNEL. IT WILL BE VERY DIFFICULT FOR THESE INDIVIDUALS TO BECOME FAMILIAR WITH THIS ENORMOUS STATE'S RESOURCES OR THE GROUPS THAT HAVE A KEEN INTEREST IN THE WISE USE OF THOSE RESOURCES.

FIFTH: SB 165 GUARANTEES JOBS, AT THE SAME PAY LEVEL, FOR THOSE EMPLOYEES DISPLACED BY APPOINTMENTS. WHERE WILL THEY BE PLACED? CURRENTLY, THERE ARE FEW, IF ANY, ADDITIONAL POSITIONS AT THOSE LEVELS. CREATION OF NEW JOBS WILL JUST ADD TO BUREAUCRACY AND "BIG GOVERNMENT". MOREOVER, WITHOUT ADDITIONAL APPROPRIATIONS, THEIR SALARIES WOULD FURTHER ERODE THE MEAGER OPERATIONS BUDGETS OF ONGOING PROJECTS.

THE MONTANA ASSOCIATION OF FISH AND WILDLIFE BIOLOGISTS IS THE COLLECTIVE BARGAINING UNIT REPRESENTING FISH AND WILDLIFE

EXHIBIT #3

DATE 3-21-89

HB SB 165

Page 2

BIOLOGISTS EMPLOYED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS. AS THE ASSOCIATION REPRESENTING THESE EMPLOYEES, THEY ARE DEEPLY CONCERNED ABOUT THE PROPER MANAGEMENT OF THE STATE'S NATURAL RESOURCES, AS WELL AS ITS PERSONNEL.

AGAIN, I URGE YOU TO VOTE AGAINST SB 165. THANK YOU FOR YOUR CONSIDERATION . IF YOU HAVE ANY QUESTIONS, PLEASE CALL SHAWN RILEY, PRESIDENT, MONTANA ASSOCIATION OF FISH AND WILDLIFE BIOLOGISTS AT 752-5501.

To: Representative Angela Russell, Chairman  
Representative Mac McCormick, Vice-Chairman  
House of Representatives Labor Committee

From: John R. Fero  
Re: Senate Bill 165  
Date: March 21, 1989

EXHIBIT H4  
DATE 3-21-89  
HB SB165

As a member of the Helena community and a citizen of the State of Montana, I am opposed to SB 165. I urge you to give this Bill a do-not-pass recommendation for the following reasons:

1. It is extremely important that the Division Administrator and those serving under this person have professional expertise in their field. Most jobs are technical in nature; therefore, specific academic backgrounds are necessary to provide the needed expertise to deal with technical areas. In addition, a Division Administrator must be an expert when dealing with people from other public agencies and private industry.
2. State government, as in all professional fields, must be able to attract Montana college and university graduates. We always hear about our college graduates having to go out of state. This law would only add to that exodus. Why would any college graduate who is a top graduate in a field want to go to work for the state knowing that the top that they would ever make is \$30,000 to \$40,000?
3. Division Administrators, as well as those below them, must assure that there is continuity of programs from year to year. Most programs have a history behind them. A change in the top positions in any division would greatly disrupt programs and take a great deal of time for a new administrator to become somewhat knowledgeable in the workings of the division.
4. There is a misconception that a new Division Administrator is necessary to carry out the policies of a new governor. Each employee of state government is bound by the laws of Montana and directives of the Department Director. All employees carry out these directives regardless of level or are subject to dismissal through the state government evaluation procedure if they do not.
5. If all Division Administrators were political, there would be a tendency to base some decisions on what makes the governor look good and not necessarily good management policies of a department. These political appointments would begin working more and more on the reelection of a governor as the end of term approaches to save their jobs. The decisions would be based on job survival rather than sound professional management.

6. Most of the people that would be affected by this bill made their decisions to take the positions as a career step knowing that they wouldn't be subject to dismissal every four years. These people earned the positions by career advancement and professional expertise in their field. They have already proven themselves experts and are subject to evaluation if they do not carry out their responsibilities in accordance with the law and the job description.
7. By law, the individuals currently in these positions are protected from a arbitrary loss of jobs and loss of salary. Where is the Governor going to get 82 FTE's, let alone find positions for those that are already in these positions? Financially, our state or budget cannot absorb this type of position change. This is not to mention the morale problem that will exist when you have a person making \$50,000 doing the same or equal job as the person next door making \$30,000 a year.
8. There is already difficulty in finding competent persons who will take four years out of their lives to serve in state government at the department head positions. Persons that would be selected as Division Administrators would be selected for political patronage reasons and not sound government management reasons.

There are times when the general public feels that state employees are of poor quality and overpaid blights on society. Usually this feeling comes when a taxpayer doesn't get his or her way. These feelings also come when the taxpayer cannot get a state employee to bend the laws, that you the legislature, make. I too have been disgruntled from time to time, but that does not mean that we have incompetent state employees.

I attest to you that we have outstanding state employees who are dedicated to their positions and are professionals in their fields. I believe that incompetent employees should be removed through the appropriate evaluative, legal methods, as in all positions public or private. We as Montanans need to strive to attract competent professional employees and then work to encourage our best to seek the top positions and then hold them. It would be an educated guess that the employees that you are talking about in this bill could certainly make more money in the private sector than in state government. However, they have selected to work for the State of Montana and do a find job of it.

I would urge you to support these dedicated employees with a do-not-pass recommendation and help to not create a morale problem by placing them in a position of worrying about their job security every time we get a new governor.

EXHIBIT #5

DATE 3-21-89

~~HB~~ SB 165

Testimony by Colleen Rodgers on Senate Bill 165 before the House Labor and  
Employment Relations Committee

Madam Chair and members of the House Labor and Employment Relations Committee,  
I am Colleen Rodgers, President of the Federation of S.R.S. Workers, Local  
4447, Montana Federation of Teachers.

We urge you to vote no on Senate Bill 165.

This bill destroys all incentives for career goal oriented employees to move  
into, stay in or move forward in key leadership positions in state government.  
The large numbers of specialized programs require qualified, knowledgeable and  
competent administrators. These programs are complicated, detailed ones  
requiring an administrator to have a thorough knowledge of the laws, regula-  
tions and programs at both the state and federal levels. This is not a knowl-  
edge that is gained through political appointments. Program administrators  
dedicate many years to gaining the knowledge and experience necessary to  
operate these programs with skill and competence.

Making a campaign contribution or working on a political campaign does not  
insure that a person is qualified to run such a program. Political patronage  
has no place in specialized program leadership within state government. The  
Governor has adequate opportunities to effectuate his ideology through the  
appointment of department directors and members of boards and commissions.  
These are the people who are responsible for seeing that his policies are  
carried out.

By making the positions of division administrators and deputy department directors subject to the whims of political preference, you take away important career ladders for state employees. I believe that state government loses when its employees have limited opportunities for advancement.

Career state employees spend years becoming experts in their fields. It is the career state employees who provide the continuity of program policies implemented within the boundaries of state and federal laws.

For these reasons, I urge you to oppose a return to the spoils system and to defeat SB 165. Thank you.

EXHIBIT #6  
DATE 3-21-89  
HB SB 165

TESTIMONY IN OPPOSITION TO SENATE BILL 165

by George Holton  
March 21, 1989

I am George Holton, I live in Helena where my wife and I have a gallery and gift shop.

I have a long history of state employment. After receiving my master's degree in fish and wildlife management from Montana State College in 1952, I worked two years for the State of West Virginia, three years for Wyoming, and then thirty years for Montana--always in the fisheries division of the fish and wildlife agency. In Montana I was Chief Fisheries Biologist, and, for the last years of my career, Assistant Fish Division Administrator.

I have no problem with the governor appointing the director of the various departments, for he was elected governor to set the course for the state. But I believe strongly that personnel below the director should be the best qualified as designated by established selection processes. Otherwise the state will lose the services of top professionals. The pay is too low for them to risk taking, or remaining in, jobs that are subject to the whims of political change.

I am confident when I say Montana has the best Fish, Wildlife and Parks Department in North America. SB 165 could deny the highly trained, dedicated personnel the career opportunities they deserve to have.

The deputy directors and division chiefs are doing technical work that requires specialized knowledge--stability is imperative. But sooner or later a governor, republican or democrat, will name a director with the stipulation that certain persons be named deputy director and division chiefs, all on the basis of patronage. Then the state's priceless resources and Montana's people will lose.

An article in last Sunday's Great Falls Tribune seems pertinent. A blue-ribbon commission, assembled to assess the needs of the National Parks, recommended that Park Managers be trained as professionals and specialists to meet the complex demands of preserving natural and cultural resources instead of relying on persons with comparatively general knowledge.

In my opinion SB 165 would be a step backward. I ask that you vote against it.



# COMMON CAUSE/MONTANA

P.O. Box 623  
Helena, Montana 59624

(406) 442-9251

EXHIBIT # 7  
DATE 3-21-89  
HB SB 165

## TESTIMONY OF COMMON CAUSE IN OPPOSITION TO SENATE BILL 165

Madame Chairwoman and members of the House Labor and Employment Relations Committee, for the record, my name is C.B. Pearson, executive director of Common Cause/Montana. On behalf of the members of Common Cause, we would like to go on record in opposition to Senate Bill 165.

In our opinion SB 165 is not good policy.

We have three immediate concerns with SB 165. The first concern would be the issue of patronage. This proposal would open up Montana's highest level of bureaucracy to the question of political patronage. We do not believe such a change is good government nor good for public confidence in state government.

Second, we should, to the best of our ability, limit political influences on the state bureaucracy. It is important for good government that administrators have confidence to speak out on the efficiency of government without the fear of reprisal. We do not want to have timid administrators when the public good is at stake. Ideally, bureaucrats should be a well-trained, public spirited career service. Directors should set policy and other administrators, as experts, should carry out the policy.

Third, we are concerned about the constitutional questions that could arise with the implementation of this legislation. Article II, Section 4 of the Montana Constitution provides for the right of individual dignity. The provision that could be tested here is: "Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the

EXHIBIT #7  
DATE 3-21-89  
HB SB 165

exercise of his civil or political rights on account of race, color, sex, culture, social origin, or conditions, or political or religious ideas." We can imagine situations where Article II, Section 4 of the constitution could come into conflict with this bill. Therefore, the state of Montana could find itself embroiled in legal battles over individual rights.

For these reasons we urge you to give SB 165 a "not concurred in" recommendation.

Thank you.

WHAT SB 235 DOES

- > Does make Montana's law consistent with federal law and most other states-laws that have been on books for years and that have worked well.
- > Does allow Montana's non-union contractors to pay benefits required under state little Davis Bacon into an approved benefit program instead of cash only.
- > Does protect State Davis Bacon hourly wages-simply allows prescribed benefits to be paid in the same manner as on Federal Davis Bacon projects.
- > Does allow non-union contractors to provide decent health and pension plans and to give workers the advantage of group benefit plans and coverage.
- > Does require all benefit plans to be federally approved by U.S. Department of Labor or IRS.
- > Does require that all approved plans be governed by the Federal Employment Retirement Income Securities Act (ERISA)-placing tight restrictions on what can and cannot be done with employee funds.
- > Does secure all pension contributions for each employee that can be withdrawn when an employee retires, terminates, dies, or is disabled.
- > Does require annual reports and accounting statements under ERISA. The costs are not funded by the State. All plans, Union and Non-Union, are subject to audits by the IRS and The Department of Labor.
- > Does provide for at least one hourly employee on the committee responsible for fiduciary administration of the plans.
- > Does, as a practical matter, require plans to provide 100% vesting. The MCA plan does even better than Federal requirements -provides 100% vesting the first hour of work. The employee has the right to all contributions in his name-union employees not 100% vested until they have worked 9 years.
- > Does allow employers to set up plans so that benefits follow the employee- The MCA plan provides that any employee working for any employer belonging to the plan can take benefits from job to job-If he leaves the plan, he has the right to 100% of the benefits held in his name. The benefits are never lost. The MCA plan covered over 1,000 employees last year, working in all parts of the State and Wyoming.
- > Does eliminate discrimination against non-union employers in competitive bidding for State, Local, School District jobs-eliminates the taxes paid by employer and employee on fringe benefits paid in cash-these taxes are not paid by union or non-union contractors or employees building federally funded

SB 235  
Page 2

- > Does eliminate the likely Federal Court determination that Montana's Law is not valid because of ERISA preemption language.

WHAT SB 235 DOES NOT DO

- > Does not apply to workers governed by collective bargaining agreements.
- > Does not allow employer access to either pension or health funds-specific employee accounts are established belonging to the employee.
- > Does not allow creditors access to individual pension accounts or plan assets-ERISA specifically prohibits.
- > Does not increase cost to state to monitor and collect employer contribution already being done-see fiscal note.
- > Does not solve all problems with health and pension plans-does not prevent all ills associated with both non-union and union plans but is a major step forward in bringing the same kind of federal government approval and control to non-union benefit programs as is applied to union plans.

TESTIMONY: SENATE BILL 235

MADAME CHAIRMAN AND FELLOW COMMITTEE MEMBERS MY NAME IS DAVE HILDE AND I AM PRESIDENT OF HILDE CONST CO. OF GREAT FALLS. I WOULD LIKE TO ADDRESS THE IMPACT OF THE CURRENT LITTLE DAVIS-BACON LAW ON NON-UNION CONTRACTORS. THE PRESENT MONTANA LITTLE DAVIS-BACON LAW DISCRIMINATES AGAINST NON-UNION CONTRACTORS AND SENATE BILL 235 ADDRESSES THIS ISSUE. THERE ARE MANY NON-UNION MONTANA CONTRACTORS THAT CANNOT COMPETE OR PROVIDE FRINGE BENEFITS TO THEIR EMPLOYEES BECAUSE OF THE DISCRIMINATION IN THE PRESENT LAW. THE LAW REQUIRES NON-UNION CONTRACTORS TO PAY ALL FRINGE BENEFITS THAT ARE NOT PAID INTO A JOINTLY-ADMINISTERED TRUST FUND TO BE PAID IN CASH. THESE FRINGE BENEFITS ARE MORE THAN \$3.00/HOUR FOR MOST JOB CLASSIFICATIONS. . BY PAYING THE FRINGE BENEFITS IN CASH THEY THEN ARE SUBJECT TO THE NORMAL FRINGE BENEFIT TAXES WHICH FOR OUR COMPANY IS 33%. THIS IS AN ADDITIONAL \$1.00/HR IN PAYROLL COSTS. WE ALSO MUST PAY ANY FRINGE BENEFITS SUCH AS RETIREMENT AND HEALTH AND WELFARE IN ADDITION TO THE PREDETERMINED FRINGE BENEFITS. THE IMPACT OF THE EXISTING LAW TO OUR FIRM IS THAT ON STATE OR LOCALLY FUNDED WORK WHICH IS COVERED BY LITTLE DAVIS-BACON WE HAVE A WAGE/COST DISADVANTAGE OF BETWEEN 14% AND 21% DEPENDING UPON THE JOB CLASSIFICATION. SB 235 ADDRESSES THIS ISSUE AND ALLOWS LOCAL NON-UNION CONTRACTORS TO COMPETE ON THE SAME BASIS AS UNION CONTRACTORS AND TO ALSO PROVIDE FRINGE BENEFITS TO OUR EMPLOYEES. OUR COMPANY HAS BEEN A LOCAL CONSTRUCTION COMPANY FOR THE PAST 42 YEARS AND UNTIL LAST YEAR WAS A UNION COMPANY. WE WERE STRUCK BY THE UNIONS AND FORCED TO BECOME A NON-UNION COMPANY. I WOULD HOPE THAT WE BE

p92

EXHIBIT # 9  
DATE 3-21-89  
HB 5B 235

ALLOWED TO COMPETE ON AN EQUAL BASIS WITH UNION COMPANIES AND THAT WE BE ALLOWED TO PROVIDE TO OUR EMPLOYEES THE SAME FRINGE BENEFITS THAT UNION COMPANIES PROVIDE AND THAT WE WILL NOT BE DISCRIMATED AGAINST.BECAUSE OF OUR DECISION TO BECOME A NON-UNION COMPANY. THANK YOU FOR YOUR CONSIDERATIONS.



**MONTANA STATE BUILDING & CONSTRUCTION TRADES COUNCIL**  
IN AFFILIATION WITH  
**THE NATIONAL BUILDING & CONSTRUCTION TRADES DEPARTMENT**  
AMERICAN FEDERATION OF LABOR — CONGRESS OF INDUSTRIAL ORGANIZATIONS

President \_\_\_\_\_

Secretary-Treasurer \_\_\_\_\_

Madam Chair and members of the Committee, for the record, my name is Gene Fenderson, representing the Montana Building and Construction Trades Unions.

Two years ago, I appeared before this committee to talk with you about Senate Bill 103. As you know, Governor Schwinden vetoed that bad bill. Tonight you have before you Senate Bill 235 which is virtually identical to Senate Bill 103, and we believe that this bill should receive the same treatment which Governor Schwinden gave SB 103.

The contractors have maintained that this legislation offers more protection to workers than it did two years ago. We believe that this is simply not true and that it does not offer workers any more protection. Let me explain.

Two years ago, the proponents of this legislation brought in a company named National Western Life Insurance as an example of how fringe benefit programs could and should be handled. You will also recall that this company was approved under ERISA. At the time, we cautioned you to be wary because the Laborers International Union was involved in court action against National Western Life over their handling of fringe benefit programs. The Laborers prevailed and, this company is no longer in the fringe benefit program business.

Let's take a close look at this bill. The contractors state that the plans are protected by the Senate amendment on page 2, line 2 which requires plans to be "governed by the Employee Retirement Income Security Act". This protection was not relevant for National Western Life and would not provide any better protection now.

We'd call your attention to page 1, line 25 of the bill which reads: "(b) make an irrevocable contribution to a trustee or to a third person pursuant to a fringe benefit fund, plan, or program governed by the Employee Retirement Income Security Act...". The wording and sentence structure of that provision with the comma and the word "or" make the entire provision meaningless. A contractor could pay their father or their next-door neighbor giving no protection to the worker.

The addition of "at least one hourly employee who is a beneficiary" to the committee is also meaningless because there is no requirement that a trust be established. Payments can be made to a third person. The addition of one worker to a board of trustees is almost laughable anyway. What is wrong with requiring equal representation?

Members of the Committee, the AGC has said that they have a good plan. I don't happen to agree, but even if their program was sound, this bill is generic. It will allow any fly-by-night outfit to set up their own training fund or vacation plan under the authority of no one but themselves.

There are many other problems which we have with this bill, but the one issue which needs a response is the arguments you have heard tonight about fairness. The contractors say that they only want to be fair and give their workers fringe benefit programs. Let's talk about fairness.

Is it fair that they will only have to contribute to the plans when working on public works so that their employees are only covered then?

Is it fair that they pay \$2 to \$3 less per hour than the prevailing wage that union contractors pay?

Is it fair when they provide no minimum work guarantee to their workers when they must report to work like union contractors do?

Is it fair that they are not required to pay overtime after 8 and 10 hour shifts like a union contractor must?

Is it fair that they do not need to guarantee a lunch break at midday like union contractors?

Is it fair that they can pay lower wages on private jobs unlike a union contractor?

Madam Chair and members of the Committee, all things being considered, fairness is not a word which fits into their vocabulary. We urge you to table this bill. Thank you.



EXHIBIT #11  
DATE 3-21-89  
HB SB 235

Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF JIM MURRY ON SENATE BILL 235 BEFORE THE HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE, MARCH 21, 1989

Madam Chair and members of the Committee, for the record, I am Jim Murry, Executive Secretary of the Montana AFL-CIO and am here tonight in opposition to Senate Bill 235.

Every so often, legislation is introduced which to all appearances seems fair and just, but which upon closer examination, is actually harmful to workingmen and women in Montana. Senate Bill 235 is this kind of wolf-in-sheep's-clothing approach which we hope you will reject.

Let me begin by stating that the Montana State AFL-CIO stands squarely behind the proposition that all working men and women deserve adequate health, welfare and pension benefit programs. We have continually and consistently voiced our support for national health insurance; we have fought for better unemployment and workers' compensation benefits for all workers; and we have steadfastly defended our nation's social security program from attack.

Proponents of Senate Bill 235 would have you believe that their goals are similar. To that, we say nonsense. Where were they on every other issue of concern to workers? They did not stand with workers on all of these other issues, and we submit to you now that they are not standing with workers today.

The establishment of non-union contractor benefit programs is meant to do one thing -- to increase their profit margins at the expense of their workers. That is their sole motivation, and make no mistake about it, the end result will harm Montana's working men and women.

Over the years, union employer/employee benefit programs have evolved through the collective bargaining process with detailed, significant safeguards to protect everyone involved. These safeguards include equal representation on boards of trustees, the ability to carry coverage from one job to another, complex and complete auditing and collection systems, and oversight and governance of the plans by the US Department of Labor.

Senate Bill 235 contains none of these protections. The bill provides for token representation on boards of trustees, no systems to insure that employers pay their full obligations on time, no enforcement mechanism to assure that the plans are protected from mismanagement and abuse, and no ability to carry coverage from one employer to another. If enacted, this bill actually

would be a disincentive to workers who want to carry their coverage from one job to another. Today, they are paid a cash differential when working for non-union contractors which, in turn, allows them to pay to continue their benefit programs. Under SB 235, they would not have a choice. They would be forced to accept the contractor's program or pay to continue their own out of their own pockets.

When you consider this legislation, ask yourselves who will benefit from its passage and who will pay. The contractors will benefit by establishing their own plans without adequate safeguards for their workers. The workers will pay by losing their cash equivalents. When you consider this bill in this manner, there is no question that it is a bad bill for workers and should be defeated.

Thank you.



EXHIBIT #12  
DATE 3-21-89  
# 38 405

UNAUDITED  
OFFICE OF THE LEGISLATIVE AUDITOR  
STATE INSURANCE FUND FINANCIAL ACTIVITY PROJECTION

Assumptions:  
after FY 89  
PAYROLL TAX OF .3% DOES NOT SURET

REVENUE  
Tax Revenues (Cash)  
Premiums Collected  
Investment Earnings  
Misc. Income

	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999
Tax Revenues (Cash)	\$70,361,068	\$10,552,370	\$12,560,399	\$12,686,003	\$12,812,863	\$12,940,991	\$13,070,401	\$13,201,105	\$13,333,116	\$13,466,448	\$13,601,112	\$13,737,122	\$13,874,199
Premiums Collected	\$5,259,307	\$85,855,028	\$85,194,536	\$85,194,536	\$86,906,946	\$88,776,016	\$90,700,776	\$92,680,314	\$94,715,717	\$96,800,074	\$98,935,717	\$101,116,009	\$103,345,009
Investment Earnings	\$529,333	\$3,578,523	\$3,002,002	\$3,515,650	\$3,405,016	\$2,871,723	\$2,492,653	\$3,448,810	\$4,415,097	\$5,546,331	\$6,774,134	\$8,108,191	\$9,597,556
Misc. Income	\$529,333	\$41,642	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

TOTAL INCOME

TOTAL INCOME	\$77,155,708	\$100,437,663	\$100,756,937	\$102,248,134	\$103,124,823	\$103,588,731	\$104,216,830	\$106,190,229	\$108,183,930	\$110,352,853	\$112,628,720	\$115,101,323	\$117,779,92
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EXPENSES (paid)  
Prior FY88 Benefits  
Comp Benefits  
Med Benefits  
Other Expenses  
Bad Debt Expenses

Prior FY88 Benefits	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Comp Benefits	\$53,790,023	\$63,238,309	\$60,408,380	\$61,818,633	\$62,075,772	\$62,704,939	\$63,333,002	\$64,000,000	\$64,715,000	\$65,473,070	\$66,278,000	\$67,125,000	\$68,015,000
Med Benefits	\$25,760,015	\$27,319,541	\$10,989,128	\$17,133,122	\$22,656,185	\$28,807,948	\$36,243,149	\$45,000,000	\$55,000,000	\$66,000,000	\$78,000,000	\$92,000,000	\$108,000,000
Other Expenses	\$6,150,248	\$8,009,266	\$8,100,000	\$8,300,000	\$8,300,000	\$8,500,000	\$8,500,000	\$8,500,000	\$8,500,000	\$8,500,000	\$8,500,000	\$8,500,000	\$8,500,000
Bad Debt Expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

TOTAL EXPENSES

TOTAL EXPENSES	\$85,710,288	\$98,567,116	\$93,497,507	\$103,907,777	\$110,823,236	\$109,084,789	\$90,639,002	\$92,468,520	\$92,106,646	\$92,996,658	\$92,512,785	\$92,194,556	\$93,292,40
INCREASED:	\$75,116,185	\$75,116,185	\$74,170,620	\$77,441,833	\$78,216,232	\$78,998,414	\$79,788,396	\$80,586,282	\$81,392,145	\$82,206,086	\$83,028,127	\$83,858,408	\$84,695,99
Loss Ratio:	0.88	0.88	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90

RESERVES (CHAF Repts)  
Cash & Investments  
Past Liability  
Unfunded Liability

Cash & Investments	\$35,310,185	\$35,047,188	\$42,306,618	\$40,646,975	\$32,948,544	\$27,482,485	\$41,030,313	\$54,752,022	\$70,829,305	\$88,285,301	\$108,401,236	\$131,308,004	\$155,794,52
Past Liability	\$136,598,638	\$206,427,946	\$195,201,059	\$177,025,115	\$152,728,110	\$131,141,733	\$128,791,131	\$123,408,893	\$123,354,391	\$121,603,600	\$121,218,942	\$122,182,755	\$123,085,38
Unfunded Liability	(\$149,158,488)	(\$157,332,639)	(\$129,894,441)	(\$113,388,140)	(\$96,779,566)	(\$80,689,250)	(\$64,760,818)	(\$47,656,871)	(\$29,585,086)	(\$10,318,300)	(\$10,182,294)	(\$2,125,209)	(\$5,708,14)

FISCAL YEAR

FISCAL YEAR	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
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MARKET (Montana)  
Total 1/11/1111 Payro  
Plan III Payroll  
Plan III X of Mkt

Total 1/11/1111 Payro	\$3,995,800,249	\$4,155,632,363	\$4,197,188,687	\$4,239,160,573	\$4,281,552,179	\$4,324,367,701	\$4,367,611,378	\$4,411,287,492	\$4,455,400,367	\$4,499,954,370	\$4,544,953,914	\$4,590,403,453	\$4,636,307,488
Plan III Payroll	\$1,907,994,667	\$2,227,579,931	\$2,140,566,230	\$2,161,971,892	\$2,183,591,611	\$2,205,427,528	\$2,227,481,803	\$2,249,756,621	\$2,272,254,187	\$2,294,976,729	\$2,317,926,496	\$2,341,105,761	\$2,364,516,816
Plan III X of Mkt	47.75%	53.60%	51.00%	51.00%	51.00%	51.00%	51.00%	51.00%	51.00%	51.00%	51.00%	51.00%	

Avg. Rates  
X Change in Premium

Avg. Rates	\$3.40	\$3.85	\$3.85	\$3.98	\$3.98	\$3.98	\$3.98	\$3.98	\$3.98	\$3.98	\$3.98	\$3.98	\$3.98
X Change in Premium	26.27%	13.24%	3.38%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

24-Jan-89  
02:14 PM



Amendments S.B. 405 (third reading blue copy)

1. Title, line 11, following line 10.  
Following: "OF"  
Strike: "REVENUE"  
Insert: "LABOR AND INDUSTRY"
2. Page 2, line 4 through line 5.  
Following: "2-15-1701"  
Strike: "revenue provided for in 2-15-1301"  
Insert: "labor and industry provided for in 2-15-1701"
3. Page 6, line 5.  
Following: "Applicability."  
Strike: "(1)"
4. Page 6, line 8 through line 11.  
Strike: subsection (2) in its entirety

Amendments to Senate Bill No. 405  
Third Reading Copy

Requested by Senator Devlin  
For the House Committee on Labor and Employee Relations

Prepared by Eddy McClure  
March 21, 1989

1. Title, line 11.  
Following: "OF"  
Strike: "REVENUE"  
Insert: "LABOR AND INDUSTRY"

2. Page 2, lines 4 and 5.  
Following: "~~2-15-1701~~"  
Strike: "revenue provided for in 2-15-1301"  
Insert: "labor and industry provided for in 2-15-1701"

3. Page 6, line 5.  
Following: "Applicability."  
Strike: "(1)"

4. Page 6, lines 8 through 11.  
Strike: subsection (2) in its entirety

DEPARTMENT OF LABOR AND INDUSTRY

COMMISSIONER'S OFFICE

EXHIBIT #13

DATE 3-21-89

HB SB 405



STAN STEPHENS, GOVERNOR

P.O. BOX 1728

STATE OF MONTANA

(406) 444-3555

HELENA, MONTANA 59624

TESTIMONY BEFORE THE HOUSE LABOR AND EMPLOYMENT RELATIONS  
COMMITTEE ON SENATE BILL 405

BY MIKE MICONE, COMMISSIONER OF LABOR & INDUSTRY  
March 21, 1989

Mr. Chairman and members of the committee, my name is Mike Micone, Commissioner of Labor and Industry. I'm testifying in support of Senate Bill 405 to continue the workers' compensation payroll tax for employers and to extend it to employees.

First of all, I will say that there is one universal truth -- no one likes taxes. No one wants to pay them, create them, continue them or increase them.

Yet we -- tax creators and taxpayers -- do all of those things with taxes. But the public will only accept taxes if they're fair, reasonable and if they accomplish a purpose that is supported by the public.

Senate Bill 405 makes the payroll tax more fair. Both employers and employees benefit from the workers compensation system, but right now only employers pay to help make the insurance fund solvent.

Both employers and employees, as well as state law and court decisions, have played a part in creating the unfunded liability. It only makes sense that both play a part in reducing the liability.

The current and proposed extension of the payroll tax is reasonable -- three-tenths of one percent, or just 30 cents on every 100 dollars of payroll or wages.

But most of all, the payroll tax for employers and employees accomplishes a purpose the public supports -- reducing the unfunded liability.

Many people, both Montanans and out-of-state people who might be thinking about coming to Montana, see the unfunded liability in workers' compensation as a major deterrent to a good business climate. Just as you don't want to carry a large debt in your own

home or business, Montanans don't want to continue a large debt in the workers' compensation system.

Montanans want to reduce and eventually eliminate the unfunded liability. And it's not just business or employers that want to reduce the debt. Workers also perceive the workers' compensation unfunded liability as a threat to the well-being of the system that is supposed to help pay their medical expenses and replace lost wages in case of injury. They want the system to succeed as much as employers do.

Workers and employers are concerned about the impact of the unfunded liability on future economic development in the state. We must do all we can to make Montana more attractive to out-of-state business -- that means more business for Montana employers, and more jobs for Montana employees.

The last Legislature made dramatic changes in workers' compensation law. You saw the problems, and made considerable reforms. But that reform -- while going a long way towards helping get the workers' compensation fund back on its feet and anchored in reality -- needs to continue.

When Senate Bill 405 was before the Senate, testimony in opposition to it suggested that when the original Workers' Compensation laws were passed in 1915, the employers agreed to pay the premiums for the workers. In exchange the employees gave up the right to sue the employer for injuries received on the job. The essence of this concept is embodied in what is known as the "Exclusive Remedy Rule".

No legal precedent exists to determine whether employee contributions for workers compensation insurance invalidates the trade off between employees and employers.

~~IN~~ <sup>IN</sup> the State of Washington, where an exclusive remedy rule exists similar to ours, employers and employees make equal contributions to what is called the "medical aid fund".

Senate Bill 405 does not require employer and employee contributions to pay for the current operation of the fund, but is dedicated solely to reduce the unfunded liability.

As I noted in the beginning, no one really likes taxes. But time and time again, studies have shown that the public is willing to continue to pay taxes, and even to increase what they pay, if they see a real benefit.

Eliminating one of Montana's major stumbling blocks to an improved economic climate will benefit all Montanans. I urge you to support Senate Bill 405.

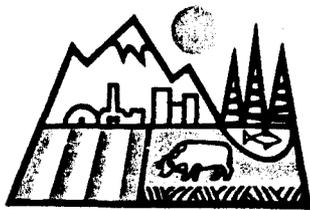


EXHIBIT #15  
DATE 3-21-89  
HB SB 405

## MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730 • HELENA, MONTANA 59624 • PHONE 442-2405

TESTIMONY BY JAMES TUTWILER

MONTANA CHAMBER OF COMMERCE

BEFORE THE HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

SENATE BILL 405 and SENATE BILL 444

MARCH 21, 1989

Madam Chair, members of the committee, I am James Tutwiler representing the Montana Chamber of Commerce. We are here this evening to support SB 405 and a companion bill SB 444.

SB 405 provides for sharing of the state Workers Compensation Insurance Plan's unfunded liability for a specific and limited period by employers and employees. The reasons for the unfunded liability can and have been thoroughly debated. Certainly escalating medical and rehabilitation costs, unpredictable court rulings and suspect fund management decisions have contributed to a liability estimated at 157 million dollars. Significantly, neither employers or employees are directly responsible for this deficit. Yet failure to solve the problem and to expeditiously eliminate the unfunded liability jeopardizes the solvency and credibility of the largest workers compensation insurer in the state.

As you know, employers have been paying on this debt through a point three per cent tax on payroll enacted by the previous legislature. We should note, too, that all Montana employers,

not just those enrolled in plan number three, are required to pay this tax.

As a matter of fairness, we believe it is time now employees share in the effort to put the insurance program that serves their vital needs as well back in order. Failure to act decisively to broaden the tax means dragging the deficit onward for years and risks thwarting business expansions and business start ups that offer jobs for Montanans.

Passage of the companion bill, SB 444, insures that payroll taxes are used exclusively to retire the unfunded liability. While accomplishing this, SB 444 will also, in our opinion, impact the rate making process in such a way as to raise premiums for those employers insured under plan three. Thus employers, already committed to a continuing payroll tax, will be required to bear additional costs, costs not shared by the employees, until such time as the unfunded liability is eliminated.

We have not in the past nor do we now advocate taxing employees as a means of sustaining on a continuing bases a viable workers compensation program in Montana. We do feel the unfunded liability does most urgently call for special measures and that the employers of this state ought not be required to shoulder the burden alone.

For these reasons, we urge your support of SB 405 and SB 444.



EXHIBIT #16  
DATE 3-21-89  
# SB 405

Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF JIM MURRY ON SENATE BILL [REDACTED] BEFORE THE HOUSE LABOR COMMITTEE,  
MARCH 21, 1989

-----

Madam Chairman, members of the committee, for the record my name is Jim Murry and I am executive secretary of the Montana State AFL-CIO. I'm here today to oppose Senate Bill 405.

Most of the proposed solutions to the unfunded liability in the state Workers' Compensation system fall squarely on the backs of the workers that are supposed to be protected by the system. The discussion in the Legislature, by the governor and by a sadly misinformed press has failed to focus on the real problem with the system: on-the-job accidents.

Let me share with you a few facts we've compiled from official state and federal government reports:

- The number of workers who are hurt or made sick on the job in Montana is **higher** than the national average, and is increasing **faster**.
- The increase in work-place injuries in Montana from 1986 to 1987 is nearly **triple** the national rate, and the state's increase in workdays lost due to injuries is **five times higher** than the national average.
- Accidents at private-sector jobs in Montana increased by nearly 4,000 in 1987, even though there were 1,000 **fewer** persons employed.

Workplace injuries are clearly a serious problem in Montana, not only for the workers who suffer, but also for the Workers' Compensation system that must pay the damages. We cannot continue to have these kinds of injury rates and still expect a solvent fund with affordable premium rates.

We think a strong case can be made for a court challenge to the tax, based on the Montana Constitution.

The Montana Constitution (Section 16 of the Declaration of Rights) clearly defines the employer-employee bargain that is at the heart of workers' compensation in Montana. The Constitution states that workers give up their right to sue over work-place injuries in exchange for an employer-provided compensation plan. We think that forms a serious constitutional question for this bill.

For almost three quarters of a century, Montana's employers have honored this deal with workers. This deal has given them a strong shield against lawsuits by injured workers. The question arises now: If employers are

essentially breaking the deal by making employees pay for part of the insurance, does that bring employers out from behind the shield and expose them to liability above and beyond the cost of the insurance?

We say yes. If employers no longer "provide" the insurance, which we believe to mean fully paid, then they are no longer covered by the constitutional shield. That puts employers in a dangerous position of potential liability. That calls into question the bill's entire purpose, which is to get the deficit paid off so businesses will be encouraged to locate or remain in Montana. What business will locate in Montana if there is a serious possibility that they will be held personally liable for workplace injuries?

We think even Montana's conservative Supreme Court would be hard-pressed to uphold the exclusive remedy principle under the terms of this bill. And if they were to do so, it likely would be appealed to the U.S. Supreme Court.

In the end, think for just a minute about the absurdity of what this bill asks workers to do: to **PAY** for the injuries they suffer on the job. That's like fining the victim of a mugging. And that's how workers will feel if this passes: they'll feel mugged.

We urge you to give Senate Bill 405 a "do not pass" recommendation.

## Foster Higgins

Mr. Gene Fenderson

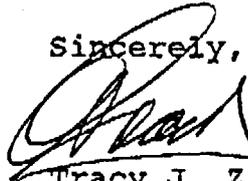
March 10, 1989

Page Two

The point is that the bill does not require the contributions be made to an E.R.I.S.A. plan and therefore the protection of E.R.I.S.A. would not be present if contribution is made to a third person (who, it appears, could be anyone) pursuant to a benefit fund plan.

Hopefully this provides the answers to the questions you posed. If not please do not hesitate to let us know.

Sincerely,



Tracy J. Zickuhr

TJZ:zkrfend

A. Foster Higgins & Co., Inc.  
1215 Fourth Avenue  
Seattle, Washington 98161-1095  
206 296 0474

Pg 2 of 3

EXHIBIT #16  
DATE 3-21-89  
HB SB235

## Foster Higgins

March 10, 1989

Mr. Gene Fenderson  
Laborers AGC Trust of Montana  
Laborers Local 254  
P.O. Box 702  
Helena, Montana 59601

Re: Senate Bill No. 235

Dear Gene:

This is in response to your request for our comments regarding Section 1(b) of Senate Bill No. 235.

Regarding the Pension Reform Act of 1974 (E.R.I.S.A.) this comprehensive Pension Reform Act of 1974 was probably the most sweeping overhaul of pension and employee benefit rules in history. The rules were both tax and non-tax in scope and affected practically all health and welfare and pension plans. It substantially affected vesting and funding provisions of pension plans as well as substantial impact in health and welfare plans. E.R.I.S.A. provides important protection to participants in health and welfare and pension plans.

Responsibility for administering the very complex act is shared by the U.S. Treasury and Labor Departments.

We note that Section 1(b) of Senate Bill No. 235 states "make an irrevocable contribution to a trustee or to a third person pursuant to a fringe benefit fund, plan, or program GOVERNED BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT that has received a favorable determination by the United States department of labor or the internal revenue service of the United States department of the treasury; or".

It appears that contributions can be made to either:

1. A trustee, or
2. Any third person pursuant to a benefit plan, or
3. Program covered by E.R.I.S.A.

### No more sky-high payroll taxes and insurance costs.

Let's say you're adding the base hourly rate to the hourly fringe rate and paying the total to your employees in cash wages. This means you are charged 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.

If you pay a percentage of compensation as fringes, 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 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 have.

**A. A Money Purchase Pension Plan.** You can contribute up to 25% of an employee's non-taxable income on prevailing wage work only. (Overtime pay must be paid at 1½ times basic hourly rate in cash. Only 1 times the fringe rate is required.)

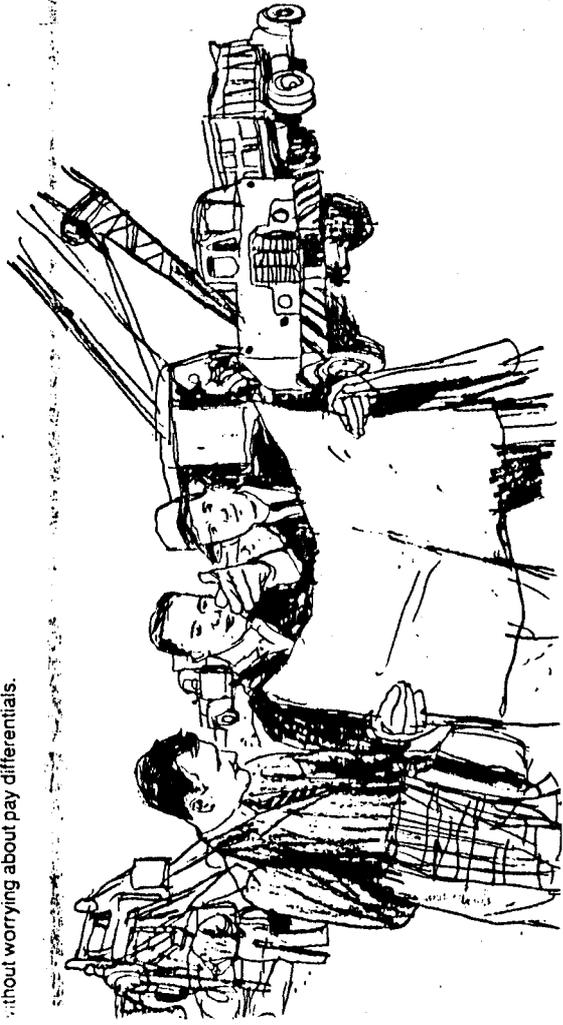
This pension plan provides each employee with a portable plan that he can take with him and retain throughout his working years. It lets him build a sizable retirement income on before-tax dollars. This is a very important benefit in today's economy—one that is not well-received by workers in the construction 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 breakdown for your employees. The rest is taken care of for you . . . by professionals who understand and are responsive to your needs.



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

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



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

## YOUR PROBLEM:

How to bid competitively on Davis-Bacon/State Prevailing Wage Projects.

## YOUR SOLUTION:

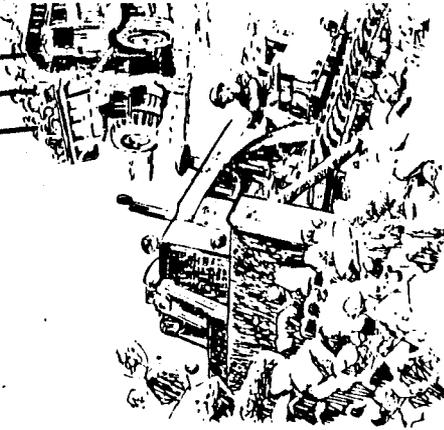
The Builders, Contractors and Employees Retirement Trust.

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.

pg 3 of 3  
EXHIBIT #16  
DATE 3-21-89  
HB 53 235



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

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

VISITORS' REGISTER

HOUSE LABOR

COMMITTEE

BILL NO. SB. 165

DATE 3/21/89

SPONSOR Robert Brown

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
JAY REARDON	USWA Local 72 Helen T+L Council		✓
Jerome F. Verbur...	USWA Local 72		✓
MIKE King	USWA Local 72		✓
John Fero	myself		✓
Colleen Rogers	FED. OF SRS WORKERS LOCAL 4447		✓
John C. Brand	MT Fed of State Employees MT ASSOC of Biologists		✓
Robert Carroll	self		✓
George HOLTON	Self		✓
Michael S. MIZENKO	Plumbers + Fitters #139		✓
Don Halverson	Plumbers + Pipefitters 454 Western Montana Bldg Trades		✓
Jack Bell	Operating Eng 400		✓
Arnold Lewis	Self		✓
Alida Lewis	Self		✓
Don Ingeles	MT Chamber of Commerce	X	
Harold Farmer	Local 2319 Bacteriologists		✓
Reb Alford	Office of Juvenile	X	
Jim Jensen	MEIC		X
Michael G. Casey	USWA Local 72		✓
Chris Murphy	Local 3-38 Bonner		✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE \_\_\_\_\_

BILL NO. SB 165

DATE \_\_\_\_\_

SPONSOR \_\_\_\_\_

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Kim Wilken	Sierra Club		X
Janet Ellis	Audubon Society		X
Brant Pick	Northern Plains Resource Council		X
Jim Mockler	MT. Coal Council	✓	
B. Pearson	Common Cause		X
Stan Bradshaw	Trout Unlimited		X
Dennis Burr	MONTAX	✓	
Mike Mean	Dept of Labor & Industry	X	
Riley Johnson	NFIB	X	
DRANE WESTERBULTER			X
Herb Wilson			X
William Knutson	LDORS		X

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

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VISITORS' REGISTER

HOUSE LABOR

COMMITTEE

BILL NO. SB 235

DATE 3/21/89

SPONSOR Tom Hager

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Jay Reardon	USWA Local 72 <sup>Helena T &amp; L Council</sup>		✓
Jerome F. Verbanac	USWA Local 72 <sup>Helena T &amp; L Council</sup>		✓
MIKE KING	USWA Local 72 <sup>Helena T &amp; L Council</sup>		✓
Colleen Rodgers	F.S.R.S.W. Local <sup>Excl 17 / MFT</sup>		✓
Michael Mizeuko	Plumbers & Pipefitters <sup>Local #39</sup>		✓
Don Halverson	Plumbers + Pipefitters <sup>459</sup> Western Montana <sup>Dist Bly Trade</sup>		✓
Jack Ball	Operating Eng <sup>400</sup>		✓
F.H. Larson	CA Billings	X	
Mike Young		X	<del>✓</del>
Len Blancher	Highway Workers Council		✓
Randy [unclear]	Operating Engineer		✓
Dan Edwards	Chemical Atomic Workers		✓
Walter [unclear]	Self		✓
Richard J. Caskey			✓
Chris Murphy	Local 303 <sup>Bonnes</sup>		✓
Bill K. Kerscher	Carpenters Local 15		✓
Don Ingers	Mr. Chamber of Commerce	X	
John Hanger	Teamsters Local #45 <sup>Dist 2</sup>		✓
Ernie Fend	Met Dist Bly Trade		X

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VISITORS' REGISTER

COMMITTEE

BILL NO. SB 235

DATE \_\_\_\_\_

SPONSOR \_\_\_\_\_

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
R. Madigan Jensen	AFSCME		X
Sony Lockrem	Mont. Const. Assoc.	X	
DAVE HILOE	HILOE CONST	X	
JACK HOPPEL	UNITED INDUSTRY	X	
ROBERT BROWN	Hilde CONST	X	
RICH ALLISON	PIONEER READY MIX	X	
Robert C. Brown	MCA	X	
Agnes Sulban	Anderson Brown MCA	X	
<del>Jack Nor...</del>	<del>Concrete...</del>	X	
GARY WICKS	United Industry	X	
Bill Wix	Pioneer Ready Mix	X	
Dave Orbe	United Industry	X	
Cliff Hardy	PIONEER READY MIX	X	
PAUL J. MEYERS	Quality Concrete	X	
ROSANA SKELTON	SK CONSTRUCTION	X	
DUANE WESTERBUHR			X
HERB ADAMS			X
William Fryton	LABORS		X
JIM MURPHY	Mont. AFL-40		X

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VISITORS' REGISTER

HOUSE LABOR

COMMITTEE

BILL NO. SB 405

DATE 3/21/89

SPONSOR Gerry Devlin

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Jay Beardon	USWA Local 72 Helman Tol Council		✓
John F. Verbanne	USWA Local 72 Helman Tol Council		✓
MIKE KING	USWA Local 72		✓
Calleen Rodgers	F.S.S.W./MFT-MISE Local 4447		✓
Jim Tutwiler	MT CHAMBER CODE	✓	
Don Halverson	Plumbers + Pipefitters 459 Western Montana Bldg Trades		✓
Michael S. MIZENKO	Plumbers + FITTERS #139		✓
Jack Bell	Operating Eng 400		✓
Randy Rude	Operating Eng 400		✓
Dan Edwards	Bldg Contractors Assoc		✓
Wayne J. Frost	Self		✓
Doc 2140	Local 3038 Bonner		✓
DON W. WILKINS	Lincoln Co. Trades & Labor Council		✓
Chris Murphy	Local 3038 Bonner		✓
Tom Schauder	MPEA		✓
Myrtle G. Casey	Local 72		✓
Ben Gordon	MT Motor Courier Assn	✓	
Jim Mockler	MT Coal Council	✓	
Bill K. Kowalski	Carpenters 153		✓

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VISITORS' REGISTER

HOUSE LABOR

COMMITTEE

BILL NO. SB 405

DATE 3/21/89

SPONSOR Devlin

Page 2

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
MARVIN ALERS	UFCW 1981		✓
Bob Heiser	UFCW		✓
John Hanger	Joint Council #2 Teachers		✓
Malcolm Sheewood	MTLA		✓
Dennis Buser	MONT-AY	X	
Mike McCreary	Lab - Labor & Industry	X	
Emy Fenz	Mt Bly Trade Union		✓
R. Norman Johnson	AFSCME		✓
Riley Johnson	NFIB	X	
Bill Knutson	Leaders		X
John Osborn	USWA 72		✓
Jim Murray	Mont AFL-CIO		X
Senator Richard Manning	Senate Dist 18		X
Richard E. Manning	Vice Pres - UFCW #8		X
LEN BLANCHER	Mont. Heavy Highway Council		X
CHARLES BROOKS	MT. RETAIL ASSOC	X	
HOWARD ARMON			✓
Stanley Yeechong			✓
Norm Grosjean	Attorney - Helens		✓

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VISITORS' REGISTER

HOUSE LABOR

COMMITTEE

BILL NO. SB 430

DATE 3/21/89

SPONSOR Gene Thayer

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
JAY REARDON	USWA Local 72 Helena T+L Council		✓
<del>Jerome F. Verboorn</del>	<del>USWA Local 72</del>		<del>✓</del>
MIKE KING	" USWA Local 72 "		✓
Colleen Rodgers	F.SRSW / MET Local 4447		✓
Don Halverson	Plumbers & Pipefitters 459 Western Montana Bldg Trades		✓
Jack Bell	Operating Eng 400		✓
Michael A. Mizenko	Plumbers & Pipefitters #139		✓
Don Edwards	Oil, Chemical & Petroleum Workers		✓
Walter Leonard	Self		✓
Don W. Wilkins	Lincoln Trades & Labor Council		✓
Joe Zito	Local 3038 Bonner		✓
Michael J. Casey	Local 72 E Helena		✓
Chris Murphy	Local 303 E Bonner		✓
Ben Hardul	MT. Motor Vehicle Assn	✓	
Jim Mockler	MT. Coal Council	✓	
Bill K. Kimmel	Carpenters Local 153		✓
Bob Heiser	UFCW		✓
MARVIN ALVES	U.P.C.W 1981		✓
Michael Sherwood	MTLA		✓

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VISITORS' REGISTER

COMMITTEE

BILL NO. SB 430

DATE \_\_\_\_\_

SPONSOR \_\_\_\_\_

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
R. Madison Jensen	AFSCME		✓
Ruby Johnson	NFIB	X	
WILLIAM KAUTSON	LABORS		X
John Osborne	USWA 72		✓
Jim Murray	Mont. AFL-CIO		✓
Charles Brooks	MT. RETIRED ASSOC	X	
Howard Harmon			✓
Stanley A. [unclear]			✓
Tom [unclear]	Attorney - Helms		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE LABOR

COMMITTEE

BILL NO. SB 444

DATE 3/21/89

SPONSOR Aklestad

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
JAY REARDON	USWA LOCAL 72 Helena T+L Council		✓
Jerome F Verbanac	USWA Local 72		✓
MIKE KING	USWA Local 72		✓
Colleen Rodgers	MESE/MET		✓
Jim Tutwiler	MT CHAMBER COM	✓	
Don Halverson	Plumbers + Pipefitters 459 Western Montana Bldg Trades		✓
Jack Ball	Operating Eng 400		✓
MICHAEL S. MIZENKO	Plumbers + FITTERS #139		✓
Doyle PRUITT	STEELWORKERS 834		✓
Joe Zito	LOCAL 3038 BONNER		✓
DON W WILKINS	Linden Co. Trade & Service Co.		✓
Chris Murphy	Local 3038 Bonner		✓
Nickel & Cashy	Local 72		✓
Bert Handewil	MT Mtnn Connors Assn	✓	
Jim Mockler	MT Coal Council	✓	
Bill Korsch	Carpenters local 153		✓
Bob Heiser	UFCW	✓	✓
Mike Meenan	Dept Labor & Industry	X	
DuANE WESTERBUHR			X

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

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VISITORS' REGISTER

COMMITTEE

BILL NO. SB-444

DATE \_\_\_\_\_

SPONSOR \_\_\_\_\_

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
<i>Eugene Fender</i>	<i>Int St Bly Trade</i>		<input checked="" type="checkbox"/>
<i>Debbie Teamento</i>	<i>AFSCME</i>		<input checked="" type="checkbox"/>
<i>R. NAZZEAN TENSEN</i>	<i>AFSCME</i>		<input checked="" type="checkbox"/>
<i>Herb Oelsem</i>			<input checked="" type="checkbox"/>
<i>Bill Knutson</i>	<i>LADORS</i>		<input checked="" type="checkbox"/>
<i>John Osborne</i>	<i>USCWA 72</i>		<input checked="" type="checkbox"/>
<i>Joseph Richard Manning</i>	<i>Senate District # 18</i>		<input checked="" type="checkbox"/>
<i>MARVIN ALBERTS</i>	<i>UACW 1981</i>	<input checked="" type="checkbox"/>	
<i>Charles Brooks</i>	<i>MITRPTN/ISSOC</i>	<input checked="" type="checkbox"/>	
<i>Howard Hurman</i>	<i>MYSELF</i>		<input checked="" type="checkbox"/>
<i>Stan Vetterling</i>			<input checked="" type="checkbox"/>

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