

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 2nd SPECIAL SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By CHAIR RUSSELL, on May 21, 1990, at 2:00 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure, Attorney, Legislative Council
John MacMaster, Attorney, Legislative Council
Terri Dore, Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 2

Presentation and Opening Statement by Sponsor:

Rep. Bill Glaser, House District 98, testified that HB 2 provides a funding method to pay the unfunded liability. The \$300 million debt cannot be retired under the present plan. This bill restructures the debt over the next 20 to 30 years and sets the payroll tax at .28 percent. It also allows for a reporting system to determine how well the restructuring is working and provides for a report to each subsequent legislature to determine if any adjustment to the system is necessary. The bill has strong rights for public input and legislative oversight and provides that the fund be administered according to sound business practices. Exhibit 1 is a bill summary prepared by staff outlining the basic purposes of the bill. Exhibit 2 is the results of a survey conducted by the Workers' Compensation Division.

Testifying Proponents and Who They Represent:

Rep. Jerry Driscoll, House District 92

Rep. Hal Harper, House District 44

Ben Havdahl, Executive Vice President, Montana Motor Carriers Association (MMCA)

Keith Olson, Executive Director, Montana Logging Association (MLA)

Dave Lewis, Executive Director, State Board of Investments

Proponent Testimony:

Rep. Driscoll stated that in the 1987 legislative session when workers' compensation was addressed, workers' benefits were cut by at least 25 percent. The private insurance companies and the self-insurers received an immediate benefit because they did not have an unfunded liability. During the last regular legislative session, the fund was moved to the Department of Administration for administrative purposes and called the State Mutual Insurance Company. This bill would impose a lower payroll tax than is currently used for one year and then the rate would be set as needed. The present payroll tax will sunset on July 1, 1990. The state fund is required by law to notify all employers thirty days in advance of any rate increase. He asked that the committee consider an amendment providing for an exemption to this provision. This bill is the most painless way to fix the problem.

Rep. Harper testified that constituents have expressed one common theme which is that everything possible must be done to get Montana's economy moving. One of the biggest problems is the unfunded liability. It is a millstone that threatens to drown our economy. The last special session band-aided the fund with a \$20 million appropriation. In his opinion, this bill is the most painless way to fix the problem.

Ben Havdahl stated that his organization supports the concept outlined in HB 2 for establishing supplemental funding of the unfunded liability of the state fund. MMCA supported the assessment of .3 percent tax on all employers in Montana when it was enacted and their position has not changed. They support the issuance of \$220 million in bonds for the repayment of the liability of the fund. MMCA is fully aware of the increased premium needed for the unfunded liability if the alternative outlined in HB 2 is not enacted.

Keith Olson testified that workers' compensation insurance is a major cost of doing business in the logging profession. Their rate is currently 37 percent which equates to about \$740 per employee per month. Another major rate increase would be difficult to absorb and the present rate is adequate due to legislative reforms and an aggressive logging safety program. Their support for the payroll tax concept is not without reservation because they empathize with those that feel they are being forced to retire a debt that is not theirs. On the other hand, the MLA is seriously considering an alternative workers' compensation program and may leave the state fund. Should they elect to do so, they believe it is only fair that they continue to help retire the state fund's debt. He urged the committee's support of HB 2.

Dave Lewis spoke only to the bonding portions of the bill which empowers the Board to issue the debt to refinance the

unfunded liability. The language in the bill would provide a marketable bond. However, they are concerned with page 6, line 2 of the bill that defines the process to be used when selling the bonds. The Board asked that "shall" be changed to "may". They are prepared to sell the bonds in good faith and could be in a position to consider short term financing. However, there are rare circumstances when bonds could not be sold and the Board did not feel it should be bound to make a loan to cover the unfunded liability. In fact, the Board of Investments only manages funds for other agencies and can only lend the money to prudent investors.

Testifying Opponents and Who They Represent:

Jim Tutwiler, Public Affairs Manager, Montana Chamber of Commerce
Roger McGlenn, Executive Director, Independent Insurance Agents Association
Dennis Burr, Montana Taxpayers Association
Alec Hansen, Executive Director, Montana League of Cities and Towns
George Wood, Executive Secretary, Montana Self-Insurers Association
Riley Johnson, National Federation of Independent Businesses
Gene Vucovich, City/County Manager, Anaconda-Deer Lodge County and a board member of the Montana Municipal Insurance Authority
Bridget Holland, Montana Retail Association, Montana Hardware & Implement Association and the Montana Tire Dealers Association
Bruce Moerer, Montana School Boards Association
John Lahr, Montana Power Company

Opponent Testimony:

Jim Tutwiler presented written testimony (Exhibit 3) opposing HB 2 and the manner in which the bill addresses the unfunded liability problem. The organization thought the solution proposed in HB 2 premature based on present knowledge. The state should not be committed to a long term debt until a second opinion is received.

Roger McGlenn expressed opposition to HB 2 and submitted written testimony (Exhibit 4). He also distributed "Success in Texas" for committee members' information. (Exhibit 5)

Dennis Burr testified in opposition to HB 2 and suggested that the present system be "patched" until the 1991 legislative session.

Alec Hansen stated that the cities and towns of Montana have an annual payroll of \$75 million. A .3% surcharge costs them \$225,000 per year and a .28% surcharge would cost \$210,000 per year. Because I-105 is in effect, services will have to be cut to raise these funds. The unfunded liability was at \$81 million in 1986 when the cities and towns became self-

insured. The organization is responsible for a portion of that liability but is unconvinced that they should be required to repay the liability that has accumulated since that time. Clerical workers are a low risk occupation and would be hit extremely hard by the imposition of this tax. Before tax dollars are committed for thirty years the organization must be convinced that the bill will be the fairest and final answer to the unfunded liability.

George Wood testified in opposition to HB 2 and presented written testimony (Exhibit 6).

Riley Johnson stated that his organization opposed the 1987 payroll tax and opposed this tax as well. It is a tax on jobs and is being paid by low risk workers. The organization views HB 2 as a quick fix and would support a more reasoned solution in the 1991 Legislative session.

Gene Vucovich opposed the method of funding in HB 2. The Montana Municipal Insurance Authority realizes that they have an obligation to help reduce that portion of the unfunded liability that they helped to create. However, when the League of Cities and Towns withdrew from the fund, the unfunded liability was approximately \$80 million and has virtually tripled since that time. They also question the use of the payroll tax to subsidize the administration of the state fund because of artificially low rates. Many cities cannot recover the money because of the restrictions of I-105. He recommended another temporary fix until the next legislative session.

Bridget Holland appeared in opposition to HB 2. She requested that short term funding be provided until July 1, 1991 and asked that a long term solution be addressed in the 1991 legislative session. Long term funding should be delayed until an independent actuarial evaluation of the unfunded liability can be conducted by a qualified actuarial firm. She urged the committee to give a Do Not Pass recommendation.

Bruce Moerer stated that his organization shares many of the concerns expressed earlier but the chief concern was the lack of a revenue source to pay the payroll tax. Like the municipalities, the school districts do not have the ability to recover the cost of the payroll tax, requiring that services be cut to meet the expense.

John Lahr testified in opposition to HB 2. He was not convinced that the data used was accurate enough to justify the passage of a bill of such magnitude. Their current payroll tax payments are \$350,000 per year, which is passed on to the customer. He asked that a band-aid approach be used until the next legislative session.

Testifying in an Informational Capacity

Susan Witte, Montana State Insurance Commissioner's Office
Char Maharg, Department of Revenue

Susan Witte appeared in an informational capacity, neither as a proponent nor an opponent to HB 2. The Insurance Commissioner's office suggested technical amendments (Exhibit 7). When SB 428 was passed in 1989, it gave the Commissioner the authority to regulate the new state fund as an insurance company. The amendments address inconsistencies with present statute that would be created.

Char Maharg distributed suggested amendments (Exhibit 8) regarding the collection of the payroll tax by the Department of Revenue and explained the effects of each.

Questions From Committee Members:

Rep. Driscoll stated that SB 315 of 1987 saved employers at least 25% in costs to injured workers. He asked Mr. Wood how much was saved by his organization with the passage of SB 315 and how much was paid in payroll taxes by members. Mr. Wood replied that if the 25% estimate is correct, it would have saved members of his organization about \$2 million per year. About \$2 million per year is paid in payroll taxes.

Rep. Driscoll remarked that present statute provides that the fund be actuarially sound. Mr. Wood stated that there are viable alternatives that would make the fund sound.

Rep. Smith asked Mr. Wood for a suggestion on what can be done to solve the problem. Mr. Wood responded that he believes that SB 428 of 1987 should have been given time to work. The directors of the fund should have had more than five months to make proposals. There are solutions to the problem ranging from rate increases to spreading the liability to the general fund with income tax increases. Because of time restraints, no specific alternatives can be offered but can be developed for future use.

Rep. Pavlovich asked Mr. Burr if he could offer a solution to the unfunded liability problem. Mr. Burr responded that he did not have a long term solution but he suggested that the base of the payroll tax be broadened for a short term solution.

Rep. Simpkins asked Ms. Witte if she felt that administrative rule procedures would have to be followed when making rate changes. Ms. Witte replied that other companies are not required to submit changes to administrative procedures and the amendment would not require the state fund to make such changes through administrative procedure either. Rep. Simpkins asked what procedure would be followed when making rate changes. Ms. Witte responded that other companies file rates and supporting data.

- Rep. Rice asked Rep. Glaser if he was sure that this bill would solve the unfunded liability problem. Rep. Glaser responded that if the old obligation is separated from the new obligation, the problem will become manageable.
- Rep. Rice asked Rep. Glaser to review the provisions of this bill that prevent another unfunded liability. Rep. Glaser explained that he has a great deal of confidence in the board that has been appointed. The board has already made it clear that if this bill does not pass, there will be a 25% increase in rates. If the problem is not solved, he would expect that the Legislature would assign the old obligation to the department for oversight. The remainder of the insurance program would be let for bid to private management and the bureaucracy would no longer be involved.
- Rep. Thomas asked Rep. Glaser if a higher payroll tax could be required to fund the bonds. Rep. Glaser responded that the bill caps the bonding at \$220 million and sets the payroll tax at .28 percent. The Department of Revenue and the Board of Investments will then advise each succeeding whether the revenue stream is adequate and the rate could then be adjusted.
- Rep. Thomas asked if there was language in the bill addressing bonding limits. Rep. Glaser said the bill caps the bonding ability at \$220 million and provides a revenue stream to service the bonds.
- Rep. Thomas asked if it was necessary to identify the state fund as a state agency. Rep. Glaser replied that there is no question that the state fund is a state agency. There would be no need for the legislature to address the problem if it was not a state agency.
- Rep. Whalen stated that he understood that if lump sum payments were made in some cases, there is a possibility that \$50-\$60 million could be cut from the unfunded liability. He then asked Rep. Glaser if that was considered when the bill was drafted. Rep. Glaser responded that lump sum settlements are a tool that are used in private companies far more than in state settlements. The state does not have the money for lump sum settlements. Rep. Whalen thought that the possibility should be pursued because it would cut the unfunded liability. Under current law, lump sum settlements cannot be given. Rep. Glaser added that HB 2 is not a result of committee work but is a result of staff work with direction from himself and Rep. Harper.

Closing by Sponsor: Rep. Glaser stated that in 1989 the state fund took in excess funds of \$4 million which implies that in the past, funds have not been reserved as they should have been. There should be no more band-aid approaches to the problem. It should be fixed now. He will not vote for any more band-aids.

The committee recessed until 6:00 p.m.

DISPOSITION OF HOUSE BILL 2

Motion: Rep. O'Keefe moved HB 2 DO PASS. Rep. Squires seconded the motion.

Discussion : John MacMaster explained that the amendments will have to be rewritten by Legislative Council staff after adoption to be put in correct form.

Amendments, Discussion, and Votes: Rep. Thomas moved the amendments submitted by the State Insurance Commissioner (Exhibit 7).

Mr. MacMaster explained that Amendment 1 submitted by the State Insurance Commissioner provides that premiums paid after July 1 can only be used for claims made after July 1. If any dividends result from the new premiums, they must be paid to the unfunded liability.

Rep. Driscoll moved adoption of amendment 1 submitted by the Insurance Commissioner. The motion **CARRIED** unanimously.

Mr. MacMaster explained that Amendment 2 proposes to strike "financial and" from line 17, page 8, in the provision of the code that would state that the Legislative Auditor shall, every year, conduct a financial and compliance audit of the state fund. He is to audit the unfunded liability and the new business. It specifies certain aspects that the audit must contain. The effect of the amendment would be that the Legislative Auditor would only conduct a compliance audit. The auditor must already conduct a financial and a compliance audit of every state agency under current law.

Rep. Thomas asked Scott Seacat, Legislative Auditor, for his opinion on the amendment. Mr. Seacat stated that under state and federal law, a financial audit must be performed if the fund is going to sell bonds.

Mr. MacMaster thought the intent of the amendment was to prevent duplication of the audit because the insurance commissioner will perform an audit also. However, the audit performed by the Legislative Auditor is not the same as the audit performed by the Insurance Commissioner. He thought there was a misunderstanding in the types of audits required by the different agencies.

Rep. Simpkins suggested the section be left alone for simplicity reasons and that the committee reject the amendment.

Rep. Simpkins made a substitute motion of **DO NOT PASS** on State Insurance Commissioner's Amendment 2.

Rep. Rice asked Mr. Seacat if the section of law would require him to do anything that he does not already do. Mr. Seacat responded that a financial and compliance audit is already required and this new section would require that the auditor look at the claims reservation process and actuary assumptions.

Rep. Thomas withdrew his **DO PASS** motion on Amendment 2. Rep. Simpkins' substitute motion of **DO NOT PASS** is in effect. The motion **CARRIED** unanimously.

Rep. Driscoll moved Amendment 3 **DO PASS**.

Mr. MacMaster explained that Amendment 3 states that the Commissioner of Insurance would conduct a biennial financial examination of the state fund.

The motion **CARRIED** unanimously.

Rep. Thomas moved Amendment 4 **DO PASS**.

Mr. MacMaster stated that this amendment would substitute "surplus" for "reserve" on page 10, line 13. Mr. MacMaster explained that the amendment is a result of the Insurance Commissioner's interpretation of Title 33, Chapter 2, part 5, talking about surplus requirements rather than reserve requirements. Legislative Council staff felt that part 5 dealt with reserve requirements. Susan Witte agreed, after discussion with Legislative Council staff, that part 5 does talk about reserve requirements. Mr. MacMaster thought the amendment may be in error. He thought that perhaps the Insurance Commissioner was trying to subject the fund to certain requirements that money would be set aside in case of cash flow problems. He advised the committee that it is a policy decision for the committee to decide if the state fund should be exempt from an extra assets requirement. Presently, there is a requirement in insurance statutes that provides that a mutual insurer who starts a new business must have initial reserves. Exemptions have been given in the past and this bill, and particularly this provision, would allow it again. If the committee decides to allow the exemption the bill should continue to say "reserve".

Rep. Driscoll stated that he understood "reserve" to mean money in the bank for losses incurred but not yet paid to the claimant, or, losses incurred but not yet reported; and surplus meant capital that is not yet committed but is used to prevent fluctuations in cash flow. He asked Ms. Witte if "reserve" remained in the bill, would that mean that the new insurance company would not have to reserve money for claims incurred and still owed? Ms. Witte responded that that was correct. Rep. Driscoll remarked that that would be creating

another unfunded liability. Ms. Witte stated that she did not know why there should be an exemption from reserve requirements.

Rep. Driscoll commented that when this bill was being drafted, he asked the Insurance Commissioner's office how much money he would need to write \$100 million in business per year in Montana. The response was that he would need \$600,000 as an insurance corporation and another \$600,000 because it is a new company. In addition, for every \$3 in premiums written, \$1 in surplus would be required. If the new state fund is not exempt from the surplus requirements, it would have to have \$33 million in the bank by July 1, 1992, to comply with this bill and the requirements of the Insurance Commissioner. If they are not exempt from the surplus requirements, by July 1, 1992, the Insurance Commissioner would have to shut the fund down. The fund cannot be exempt from reserve requirements because it would create another unfunded liability.

Rep. Glaser stated that he asked staff to contact the Insurance Commissioner's office about exempting the fund only from the surplus reserve requirements. He asked that staff and the commissioner's office prepare the amendment accordingly.

Rep. Thomas asked that action be delayed on this amendment. He then withdrew his motion.

Rep. Whalen moved Amendment 5 DO PASS.

Rep. Rice questioned the second sentence of the amendment and asked Ms. Witte to explain. Ms. Witte said that the language is directly from 33-2-701(1). It simply states that annual statements must be in a form that is approved by the Insurance Commissioner. Rep. Whalen asked if there was any reason that why the amendment could not read "as required in 33-2-701(1) MCA". Ms. Witte said there was no reason it could not read that way.

Rep. Whalen moved Amendment 5 with the exception of the second sentence and that "as required in 33-2-701(1) MCA" be substituted.

Rep. Simpkins asked if that amendment was already in statute. Ms. Witte responded that it was, with the exception of the section dealing with alien insurers.

Ms. Witte remarked that the date is changed by this amendment from March 1 to September 1 for the state fund only to accommodate the close of the state's fiscal year.

Rep. Rice asked if the amendment gave sufficient time to file the required report. Jim Murphy, State Compensation Mutual Insurance Fund, responded affirmatively.

Rep. Driscoll asked if the state fund has officers as listed in the amendment. Mr. Murphy said the fund did not. Mr. MacMaster stated that there is no president, vice-president or secretary to the state fund but there is an executive director.

Rep. Whalen withdrew his motion and offered a substitute motion that included his original motion (Amendment 5 with second sentence changed) and also changed the language on officers to read "executive director".

Mr. MacMaster suggested that section 4 of Amendment 5 also be changed. He also suggested that "fine" be changed to "civil penalty" in subsection 6.

Rep. Whalen asked that Mr. MacMaster's suggestions be incorporated into his substitute motion.

The motion **CARRIED** unanimously.

Rep. Driscoll moved Amendment 7 **DO PASS**.

Rep. Glaser made a substitute motion of **DO NOT PASS**. He remarked that the section cited was requested by the Administrative Code Committee. Basically, this portion of the bill states that procedure, formulas and factors used in setting rates would be subjected to public scrutiny through the Montana Administrative Procedure Act.

Rep. Driscoll asked how long it takes to go through the MAPA process. Rep. Glaser said that the actual rates are not included but only the rate making process. Rep. Driscoll pointed out that that is not how the section reads: "classification and premium rates may only be adopted and changed using the process, procedures, formulas and factors set forth in rules". There is another section of law that says the state fund must tell the employers at least thirty days prior to changing their rates. Rep. Glaser disagreed and stated that only the procedure is subject to MAPA and not the rate itself.

Rep. Whalen asked if SB 428 in the last session stated that the state fund must follow the NCCI rate setting process. Rep. Driscoll said that SB 428 said that the fund can vary from the rate but there is also a provision that says that rates cannot increase more than 100%.

Rep. Glaser stated that the bill in the last session clearly states that the NCCI rates are the starting point and the Board can then do as they wish as long as the rates remain actuarially sound.

Rep. Whalen asked Rep. Glaser the intent of the provision. Rep. Glaser replied that he was not comfortable with dealing with a \$385 million problem without public input.

- Rep. Thomas felt that the suggested language was restrictive and cumbersome and encouraged the committee to delete the language from the bill. Rep. Glaser remarked that the state fund is already subject to MAPA and this provision is less restrictive than current law. The state fund does not believe that they are presently subject to MAPA but others feel that they are.
- Rep. Thomas remarked that if the fund is already subject to MAPA, this provision would not dilute what is already in law. Mr. MacMaster agreed that the statute would not be diluted by this provision. He added that he agreed with Rep. Glaser that current law provides that state agencies are subject to MAPA and the state fund is a state agency. The state fund does not believe that it is subject to MAPA. In the past they have abided by MAPA with respect to some rules but not to others. This provision tells the state fund that they are indeed subject to MAPA.
- Rep. Simpkins asked Mr. MacMaster if he interpreted this provision as saying that the state fund is only subject to the process, procedures and formulas used to determine rates and not for the rates themselves. Mr. MacMaster said that was the way he interpreted the provision. As staff attorney for the Administrative Code Committee, he advised the state fund in the past that they are subject to MAPA and that they should adopt procedures to be followed when setting rates and that they would not have to go through the rulemaking process each time a rate was changed. He advised the committee that the issue is a policy decision on whether the state fund is exempt. No statutes can be cited where the state fund is exempt.
- Rep. Thomas stated that the state fund should be allowed to run as a business and the provision should be deleted. Rep. Glaser said it was not his intention to try to micro-manage the state fund or state government with this provision.
- Rep. Driscoll said that there are other state laws from which the state fund is specifically exempt such as personnel policies. The state fund should be run as closely as possible to a private corporation.
- The **DO NOT PASS** motion **CARRIED** with 9 voting for the motion and 7 opposed.
- Rep. Driscoll moved Amendment 7 **DO PASS**. Rep. Glaser made a substitute **DO NOT PASS** motion.
- Rep. Simpkins asked if anyone checks to insure that state agencies are complying with state law. Mr. MacMaster replied that no state agency checks on another agency. He reminded the committee that this amendment is suggested by the Insurance Commissioner who is charged with insuring that insurance laws are abided by in Montana.

Roll Call Vote was taken. The DO PASS motion FAILED by a vote of 6 to 10. Rep. Whalen moved to reverse the vote to DO NOT PASS. It CARRIED unanimously.

The committee then considered the Department of Revenue's suggested amendments.

Mr. MacMaster stated that Amendment 1 amends the title of the bill. He said he will amend the title to comply with other amendments that carry. The committee agreed.

Rep. Simpkins moved Amendment 2 DO PASS.

Mr. MacMaster explained that the Department of Revenue presently collects withholding taxes. HB 2 makes DOR responsible for collecting the payroll tax as well and this amendment provides that they can collect it in the same manner as withholding taxes.

The motion CARRIED unanimously.

Rep. Driscoll moved Amendment 3 DO PASS.

Mr. MacMaster stated that Amendments 3, 4, and 5(3) a, b, and c may be considered together because Amendments 3 and 4 delete some provisions and Amendment 5 rebuilds the deleted provisions. He pointed out that this amendment also provides that if an employer does not pay his entire bill, the funds are applied to the withholding tax first.

Rep. Driscoll made a substitute motion that Amendments 3, 4, and 5(3) a, b, and c DO PASS. The motion CARRIED unanimously.

Rep. Driscoll moved Amendment 5(4) DO PASS. Rep. Thomas made a substitute motion DO NOT PASS.

Rep. Thomas stated that he did not think that the employees or officers of a company should be responsible for payment of corporate taxes. Rep. Kilpatrick remarked that the officer must "willfully" not pay the tax which implies that he did so with the intention of defrauding the state.

Rep. Whalen made a substitute motion that Amendment 5 (4) DO PASS with the word "willfully" being replaced with "purposely and knowingly".

Rep. Thomas asked if there was a penalty in the bill for nonpayment of the tax. Denis Adams, Director of Department of Revenue, stated that the amendment makes the wording for the collection of the payroll tax identical to the wording for the collection of the withholding tax. If it is not included in the bill, DOR cannot pursue the collection of the tax.

Rep. Whalen withdrew his substitute motion. The motion reverts to Rep. Thomas' substitute motion of **DO NOT PASS**.

Rep. Thomas asked Mr. Adams if DOR was currently pursuing employees for actual taxes due by the corporation. Mr. Adams responded affirmatively, adding that if the employees willfully fail to pay when due, a personal debt to the employees can be incurred.

Roll Call Vote was taken. The motion **FAILED** 4 to 12. Rep. Whalen moved to reverse the vote to a **DO PASS** motion. The motion **CARRIED** unanimously.

Rep. Driscoll questioned Amendments 5, 6(b) and (c). He pointed out that Workers' Compensation Division is no longer in existence. Because all employers in Montana are supposed to pay the tax, he did not understand the reason for the request for information. Mr. Adams replied that presently there are many employers in Montana, primarily agricultural employers, that are not required to pay withholding income tax on wages. However, they are required to have workers' compensation insurance. Unless DOR receives the information from the state fund, they will not be able to bill those employers.

Mr. MacMaster stated that the payroll tax is an employer tax on all employers required to carry workers' compensation insurance. The amendments in question require the state fund to give the names of those employers to the Department of Revenue to enable them to collect the tax.

Rep. Driscoll moved **DO PASS** on Amendment 5, 6(a), (b), and (c).

Rep. Thomas asked Mr. Adams if current law provided that the state fund give the list of their clients to DOR. Mr. Adams responded that there is a provision that prevents agencies from exchanging information. Mr. MacMaster added that state agencies exchange information in many instances. Rep. Glaser stated that if you owe taxes, then pay them. If you don't like them, get them changed.

The motion **CARRIED** with Rep. Thomas opposing.

Mr. MacMaster stated that Amendment 6 relates to the administration of the tax, remedies that can be used by DOR in the collection of the tax, and enforcement of the tax.

Rep. Kilpatrick moved Amendment 6 **DO PASS**. The motion **CARRIED** unanimously.

Mr. MacMaster explained that Amendment 7 provides that if, when DOR takes over collection of the tax from the Department of Labor, DOR has a past due account over 720 days (2 years overdue), the State Auditor will collect the account rather

than DOR. This method is used in the collection of other taxes.

Rep. Driscoll moved Amendment 7 DO PASS.

Rep. Pavlovich moved to amend 7, (2), by removing "State Auditor for collection and inserting "State Attorney General".

Rep. Pavlovich moved DO PASS AS AMENDED on Amendment 7. The motion CARRIED 9 to 7.

Mr. MacMaster stated that Amendment 8 changes the effective date of the change to DOR and the State Auditor to begin on July 1, 1991 instead of July 1, 1990.


Rep. Driscoll moved Amendment 8 & 9 DO PASS.

Rep. Glaser commented that he will not vote for these amendments because it extends the collection problem for one more year.

The motion CARRIED 11 to 5.

ADJOURNMENT

Adjournment At: 8:00 p.m.


REP. ANGELA RUSSELL, Chairman

AR/TD

09052190.MIN

DAILY ROLL CALL

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE _____

5/21/90

NAME

PRESENT

ABSENT

EXCUSED

REP. COCCHIARELLA

✓

REP. COMPTON

REP. DRISCOLL

✓

REP. GLASER

✓

REP. KILPATRICK

✓

REP. LEE

✓

REP. O'KEEFE

REP. PAVLOVICH

REP. RICE

✓

REP. SIMPKINS

REP. SMITH

✓

REP. SQUIRES

✓

REP. THOMAS

✓

REP. WHALEN

✓

REP. McCORMICK, VICE-CHAIR

REP. RUSSELL, CHAIR

BILL SUMMARY FOR HB 2
(First Reading, white, copy)

Prepared by John MacMaster, drafter, and Staff Attorney,
Montana Legislative Council, for Reps.
Harper and Glaser

House Bill No. 2 has three basic underlying purposes:

--Separate the unfunded liability from future claims and liability on the basis of whether an accident occurred before July 1, 1990 (the unfunded liability), or occurred on or after July 1, 1990 (future business).

--Fund pre-July 1, 1990, claims (the unfunded liability) by a method, and with money from sources, that are different than and separate from the funding of post-July 1, 1990, claims (future business). The employers' payroll tax will be extended to the year 2020 and used to pay off the unfunded liability either directly or by using the tax to finance bonds or loans that will in turn be used to pay off the unfunded liability. The costs of future business will be paid for solely by insurance premiums on the future business.

--Provide increased legislative oversight of the future business, ensure that premiums charged for future business will be adequate to cover costs, and clarify the duties of the state fund.

Section 1: States the problem and the purposes of the bill, and is also designed to help ensure that the interest paid on bonds sold will be exempt from the federal income tax.

Section 2: Provides that premiums on wages due before July 1, 1990, may be used only to pay off the unfunded liability and premiums paid on wages due after that date may only be used to fund future business. The premium money will be placed in separate accounts for this purpose and a separate accounting kept by the state fund of the employee time and other costs allocated to work on the unfunded liability and work on future business.

Section 3: Allows the state fund to borrow up to \$12 million from the unfunded liability account to pay for the costs of the first few months of the future business. This money will be needed until sufficient future business premiums are collected to finance the future business. The money must be repaid to the unfunded liability account by July 1, 1991, with interest.

Sections 4, 5, 15, and 16: Provide a method and money source for paying off the unfunded liability.

The employers' payroll tax will be lowered from .3% to .28% and extended to the year 2020. The tax money may only be used to pay off the unfunded liability, including claims administration costs.

The tax proceeds will be used to pay off the unfunded liability until the state fund determines that the tax proceeds will be insufficient for that purpose and a cash flow problem will soon arise and last one or more years. If the Governor's budget director agrees, he will certify to the Board of Investments the dollar amount needed by the state fund during the one or more years of predicted inadequate tax revenue. The Board of Investments will issue bonds and give the bond sale proceeds to the state fund. The board may also loan the state fund money. In either case, the bonds or loans may be short or long term and may cover one or more years of projected cash flow shortages. Also in either case, the board will give the state fund the money it needs only as it needs it. For example, if \$100 million in bonds is issued to cover a projected five-year cash flow shortage the board will periodically give the state fund the bond money, not give the state fund the whole \$100 million at once.

Bond money and loans given the state fund will be repaid with the employers' payroll tax. All such money must be repaid by the year 2020.

The total amount of bond and loan money combined that can be given to the state fund over the life of the program (the whole tax-bond-loan program terminates in the year 2020) is \$220 million. It is projected that an employers' payroll tax of .28% will be at least enough to pay off up to \$220 million over 30 years. See the Legislative Auditor schedule, at the end of this bill summary, of projected unfunded liability payments and employers' payroll tax proceeds and other projections.

No bond or loan money will be given the state fund unless the projected tax revenue will be sufficient to repay money already given plus money proposed to be given the state fund.

During each regular session the legislature must adjust the tax rate to ensure that the revenue will be sufficient for the total debt service. This could result in a lowering of the rate one or more times in the future.

Section 13: Switches collection of the tax from the Department of Labor to the Department of Revenue.

Section 14: A clean-up amendment that makes it clear that for the purposes of the bill the unfunded liability refers to pre-July 1, 1990, accidents.

Section 6: Ensures legislative oversight through biennial Legislative Auditor audits of both the unfunded liability operation and the future business of the state fund.

Section 7: Clarifies the state fund's duty to make premiums for future business match costs. If a given cost cannot be adequately projected, the part of the premium that reflects that cost must be calculated to be more, rather than less, likely to cover the cost. If this results in a surplus, the surplus may be refunded to the future business policy-holders through a dividend.

Section 8: Exempts the state fund's future business from certain asset and reserves requirements the law places on private insurance companies. This amendment reflects the fact that the state fund is a state agency and has been monetarily backed by the legislature in the past, is monetarily backed by this bill, and will probably, if necessary, be monetarily backed in the future by the legislature.

The current law that the unfunded liability cannot be used to declare the state fund insolvent is amended by adding a provision that neither may the future business be declared insolvent due to an initial future business start-up loan under section 3.

The fact that the state fund is a state agency and is thus subject, as are other state agencies, to such laws as the Administrative Procedure Act, the Legislative Audit Act, and the freedom of information and public participation acts, is made clear.

Section 9: Prohibits the sale of bonds directly by the state fund, its board of directors, or its executive director.

Section 10: Provides that employer premium classifications and rates must be set and changed in accordance with a process, procedure, and formulas and factors, that are in an administrative rule adopted under the Administrative Procedure Act and published in the Administrative Rules of Montana.

Provides that if the future business reaches a point at which dividends can be declared the money must instead be placed in the account that funds the payoff of the unfunded liability. Once the unfunded liability is paid off, dividends go to the future business policy holders.

Section 11: Amends 39-71-2321 to provide that money now going into the state fund must be separated into two accounts, one for the unfunded liability and one for future business. Only premiums on post-July 1, 1990, insurance coverage will go into the future business account. Money now in the account, whether from premiums, the employers' payroll tax, or other sources, will go into the unfunded liability account. The employers' payroll tax revenue will go into the unfunded liability account after July 1, 1990. However, the tax revenue will first, under section 16, go into a separate bond debt service account to the extent needed to service bond debt, with any remaining money going into

the 39-71-2321 unfunded liability account. Bond and loan money from the Board of Investments will also go into the unfunded liability account. Loans must be repaid from the unfunded liability account.

Section 12: Clean-up amendment needed because of other parts of the bill.

Section 17: This extends from 1991 to 2020 the year in which the employers' payroll tax terminates.

Sections 18 through 23: These are self-explanatory standard sections of the type often seen at the end of a bill. However, note that under section 21 the bill needs a 2/3 vote of each house. Section 23 terminates the tax-bond-loan program on July 21, 2020, but the parts of the bill aimed at legislative oversight, clarification of state fund duties, and ensuring adequate premium rates, are not terminated.

OFFICE OF THE LEGISLATIVE AUDITOR
 SCHEDULE OF PROJECTED LIABILITY PAYMENTS AND CASH NEEDS
 ANALYSIS OF GLASER/HARPER PROPOSAL

90L-10L.WK1
 04:34 PM
 05/16/90

PAYROLL TAX (ANNUAL)
 COVERED PAYROLL

\$13,283,000
 \$4,427,666,667

| FISCAL YEAR | TOTAL PROJECTED LIABILITY PAYMENTS | PROJECTED ADMIN EXPENSES | PROJECTED DEBT SERVICE EXPENSES | TOTAL PROJECTED LIABILITY + EXPENSES | PAYROLL TAX INCOME | PROJECTED END OF YEAR CASH | PROJECTED INTEREST EARNINGS | |
|-------------|--|--------------------------------|---------------------------------------|--|--------------------------|-------------------------------|-----------------------------------|-----------------------------------|
| 1991 | \$86,672,000 | \$3,000,000 | \$0 | \$89,672,000 | \$12,871,707 | \$138,199,707 | \$10,364,978 | THIS SPREADSHEET PREPARED WITH |
| 1992 | \$67,660,000 | \$2,700,000 | \$11,250,000 | \$81,610,000 | \$13,364,088 | \$80,318,773 | \$6,023,908 | THE FOLLOWING ASSUMPTIONS: |
| 1993 | \$47,912,000 | \$2,430,000 | \$11,250,000 | \$61,592,000 | \$13,875,305 | \$38,625,986 | \$2,896,949 | |
| 1994 | \$32,686,000 | \$2,187,000 | \$11,250,000 | \$46,123,000 | \$14,406,077 | \$44,806,012 | \$3,360,451 | COST OF CAPITAL--> |
| 1995 | \$20,915,000 | \$1,968,300 | \$13,875,000 | \$36,758,300 | \$14,957,153 | \$26,365,315 | \$1,977,399 | PAYROLL INFLATION RATE--> |
| 1996 | \$14,869,000 | \$1,486,900 | \$13,875,000 | \$30,230,900 | \$15,529,308 | \$13,641,123 | \$1,023,084 | PAYROLL TAX OF--> |
| 1997 | \$11,278,000 | \$1,127,800 | \$13,875,000 | \$26,280,800 | \$16,123,351 | \$39,506,758 | \$2,963,007 | BEGINNING CASH BALANCE--> |
| 1998 | \$9,214,000 | \$921,400 | \$16,500,000 | \$26,635,400 | \$16,740,118 | \$32,574,482 | \$2,443,086 | |
| 1999 | \$8,177,000 | \$817,700 | \$16,500,000 | \$25,494,700 | \$17,380,477 | \$26,903,346 | \$2,017,751 | BOND PROCEEDS-->1991 |
| 2000 | \$7,352,000 | \$735,200 | \$16,500,000 | \$24,587,200 | \$18,045,333 | \$22,379,230 | \$1,678,442 | BOND PROCEEDS-->1994 |
| 2001 | \$6,609,000 | \$660,900 | \$16,500,000 | \$23,769,900 | \$18,735,621 | \$19,023,393 | \$1,426,754 | BOND PROCEEDS-->1997 |
| 2002 | \$5,940,000 | \$594,000 | \$16,500,000 | \$23,034,000 | \$19,452,315 | \$16,868,462 | \$1,265,135 | |
| 2003 | \$5,339,000 | \$533,900 | \$16,500,000 | \$22,372,900 | \$20,196,424 | \$15,957,121 | \$1,196,784 | TOTAL BOND PROCEEDS |
| 2004 | \$4,797,000 | \$479,700 | \$16,500,000 | \$21,776,700 | \$20,968,998 | \$16,346,203 | \$1,225,965 | |
| 2005 | \$4,310,000 | \$431,000 | \$18,250,000 | \$22,991,000 | \$21,771,125 | \$16,352,293 | \$1,226,422 | |
| 2006 | \$3,920,000 | \$387,900 | \$19,518,750 | \$23,826,650 | \$22,603,936 | \$16,356,000 | \$1,226,700 | THIS SPREADSHEET CALCULATED THE |
| 2007 | \$3,608,000 | \$349,110 | \$20,732,500 | \$24,689,610 | \$23,468,604 | \$16,361,694 | \$1,227,127 | FOLLOWING FINANCIAL RELATED DATA: |
| 2008 | \$3,359,000 | \$314,199 | \$21,937,500 | \$25,610,699 | \$24,366,349 | \$16,344,471 | \$1,225,835 | INTEREST EXPENSE |
| 2009 | \$3,159,000 | \$282,779 | \$23,076,250 | \$26,518,029 | \$25,298,435 | \$16,350,712 | \$1,226,303 | YEAR LOAN PAID OFF |
| 2010 | \$2,999,000 | \$254,501 | \$24,245,000 | \$27,498,501 | \$26,266,176 | \$16,344,690 | \$1,225,852 | |
| 2011 | \$2,840,000 | \$229,051 | \$25,432,500 | \$28,501,551 | \$27,270,936 | \$16,339,926 | \$1,225,494 | |
| 2012 | \$2,680,000 | \$206,146 | \$26,677,500 | \$29,563,646 | \$28,314,131 | \$16,315,905 | \$1,223,693 | |
| 2013 | \$2,520,000 | \$185,531 | \$27,965,000 | \$30,670,531 | \$29,397,231 | \$16,266,298 | \$1,219,972 | |
| 2014 | \$2,381,000 | \$166,978 | \$29,230,000 | \$31,777,978 | \$30,521,763 | \$16,230,055 | \$1,217,254 | |
| 2015 | \$2,201,000 | \$150,280 | \$30,611,250 | \$32,962,530 | \$31,689,312 | \$16,174,091 | \$1,213,057 | |
| 2016 | \$2,041,000 | \$135,252 | \$31,986,250 | \$34,162,502 | \$32,901,524 | \$16,126,169 | \$1,209,463 | |
| 2017 | \$1,882,000 | \$121,727 | \$33,240,000 | \$35,243,727 | \$34,160,106 | \$16,252,011 | \$1,218,901 | |
| 2018 | \$1,722,000 | \$109,554 | \$34,915,000 | \$36,746,554 | \$35,466,832 | \$16,191,189 | \$1,214,339 | |
| 2019 | \$1,562,000 | \$98,599 | \$27,412,500 | \$29,073,099 | \$36,823,545 | \$25,155,974 | \$1,886,698 | |
| 2020 | \$4,863,000 | \$88,739 | \$0 | \$4,951,739 | \$0 | \$22,090,933 | \$1,656,820 | |
| 2021 | \$0 | \$50,000 | \$0 | \$50,000 | \$0 | \$23,697,753 | \$1,777,331 | |
| | \$375,467,000 | \$23,204,148 | \$586,105,000 | \$662,966,277 | | | | |

THIS SPREADSHEET CALCULATED THE
 FOLLOWING FINANCIAL RELATED DATA:
 INTEREST EXPENSE \$366,105,000
 YEAR LOAN PAID OFF 2019

IR Oct. 26, 1989

MONTANA

Study: Work comp benefits are low

The Associated Press

Workers' compensation insurance benefits in Montana continue to lag behind the national average, and the state ranks no better than 35th in its payment of six major types of benefits, a new federal report shows.

The U.S. Department of Labor report is based erroneously on benefits rates that the 1989 Legislature blocked from taking effect. However, when the correct figures are substituted, the mistake does not alter Montana's ranking among the 50 states.

The result is that Montana's position has changed little since a similar report was released by the agency last March. The state lost ground in four benefit categories, improved in one and remained the same in another.

"This should put to rest any talk about Montana rolling out the red carpet for injured workers," said Jim Murry, executive secretary of the Montana State AFL-CIO. "We don't have the highest benefits and we don't have the highest premium rates, but what we do have is a high injury rate."

The issue of how Montana's benefits and premium rates compared to those in other states has long been argued in the debate over altering the workers' compensation system in Montana.

A study by the state last year showed Montana's premiums did not rank in the top 10 among Western states for most occupations.

The new federal report, released last week, contained maximum weekly benefit rates that would have taken effect July 1 had a special legislative not continued a freeze on benefits for another two years.

However, the error did not change Montana's national rankings, which ranged from 30th to 43rd for the various types of benefits. In comparison, the March report gave Montana rankings between 29th and 46th.

Here is a summary of the state's position using the correct rates:

■ For temporary total disability benefits, Montana ranks 35th with a maximum weekly payment of \$299. The national average is \$367.89. Montana ranked 33rd in March.

■ For maximum weekly permanent total disability benefits, the state ranks 32nd at \$299. The U.S. average is \$362.34. Montana ranked 1st in March.

■ For maximum weekly permanent partial disability benefits, Montana comes in 42nd at \$149.50. The national average is \$303.15. Montana ranked 46th in March.

■ For maximum weekly benefits to a surviving spouse and children, the state finishes 30th at \$299. The national average is \$360.40. Montana ranked 29th in March.

■ For maximum total benefits for permanent partial disability, the state is 38th at \$74,750. Montana was ranked the same in March.

■ For burial allowance, the state ranks 43rd at \$1,400. The U.S. average is \$2,507 and Montana ranked 42nd in March.

"It's clear that Montana's workers' compensation benefits are not high compared to the rest of the country," Murry said.

DEPARTMENT OF LABOR & INDUSTRY
DIVISION OF WORKERS' COMPENSATION

STAN STEPHENS, GOVERNOR

MARGARET "PEG" CONDON BLDG.
3501 LAST CHANCE GULCH

STATE OF MONTANA

HELENA, MONTANA 59601

WORKERS' COMPENSATION DIVISION
Inter-Office Communication

December 6, 1989

In November of 1988, the Workers' Compensation Division contacted the state compensation insurance funds and large private insurers in 20 states west of the Mississippi to update the survey conducted in May of 1988. The purpose of the survey is to provide an accurate comparison of the actual rates used by other insurers for occupations that are common in the Montana workplace. The survey is updated semiannually to account for rate changes that take place on July 1 and on October 1 by many of the insurers.

Again, the survey confirms that Montana State Fund rates are not among the highest in the region. In fact, in the majority of the occupations surveyed, the Montana State Compensation Insurance Fund rates rank in the lower half. In 13 of the 20 occupation classifications, the Montana State Fund rates are lower than the majority of the insurers in other states. Only one rate falls in the top quarter of the rates surveyed. The average ranking overall for the Montana State Fund is 28th out of 29 insurers rated.

The Job classifications surveyed are representative of the Montana economy and were selected based on the amount of payroll reported annually as well as some additional occupations common in Montana. A ranking of "1" indicates the highest rate among the 29 insurers surveyed. In no case, either the comparison of private insurers or with state compensation insurance funds, does the Montana State Fund rate rank as "Number One." The highest ranking Montana State Fund has is "7" in the classification "Nursing Home Employees" when all insurers are ranked. That is the only classification that the Montana State Fund ranks in the top 25%.

Six classifications rank in the second quarter; 6 rank in the third quarter; and 7 rank in the lowest quarter.

The table below shows the distribution of Montana State Fund rates.

Distribution of
MONTANA STATE COMPENSATION INSURANCE FUND RATES
Compared to All Insurers Surveyed

| | Rank | Number of State Fund Rates | % in October |
|-----------------|-------|----------------------------|--------------|
| Highest Quarter | 01-07 | 1 | 05% |
| Second Quarter | 08-14 | 6 | 30% |
| Third Quarter | 15-21 | 6 | 30% |
| Lowest Quarter | 22-29 | <u>7</u> | <u>35%</u> |
| | | 20 | 100% |

Sixty-five percent (65%) of the Montana rates fall in the lower half of all insurers surveyed. Only one rate, or 5%, fall within the top quarter and 6 rates, or 30%, fall within the second quarter.

The rates used in the survey are the actual rate charged--not a filed or guideline rate.

Table Two of the survey compares Montana State Fund rates to those charged by private insurers in each of the 20 states. As the table illustrates, Montana State Fund rates are lower than the rates charged by the private insurers in Montana and in the majority of other states. It should be noted that the Montana private insurer reported in this survey is a different insurer than that reported in the May survey. The private insurer reported in this survey uses the National Council of Compensation Insurance guideline rates.

Thirteen of the 20 states surveyed have state compensation insurance funds. Survey Table Three compares the state fund rates. The results are nearly identical when only state fund rates are

compared. Again, in 13 of the 20 classifications, Montana State Fund rates rank in the lower half of the state funds surveyed.

The state funds fulfill several needs. They are the insurer of last resort ensuring that any business can obtain coverage and provide an insurance alternative for the small and high risk employer. In addition, state funds provide a competitive rate alternative to the private insurance companies. This competition seems to be working well in Montana. In the previous survey, the private insurer pegged its rates at 17 1/2 percent (17.5%) above the State Compensation Insurance Fund rate. The insurer reported in this survey does not use the Montana State Fund rate as its guideline but used the rate recommended by the National Council on Compensation Insurance (NCCI).

In summary, the survey demonstrates that Montana State Fund rates for workers' compensation are near or below the median, for all occupations surveyed--both in the comparison to other state funds and private insurers.

PJS/bac

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11/28/88

**WORKERS' COMPENSATION INSURANCE RATE SURVEY
PRIVATE INSURERS & MONTANA STATE FUND**

| STATE - SURVEYED | FARM DRIVERS | LOGGING TRUCK | LOGGING LUMBERING | FLOORS | ELECTRICAL WIRING | RESIDENTIAL CARPENTRY | OIL & GAS | | | | RETAIL | YARDS | AUTO REPAIR | PROPS- STALLS | CLERICAL OFFICE | HOUSING | | HOSPITAL PROP. | SCHOOL TEACHER | MOTEL DODG RAMU | RESTAURANT BAR | | | |
|---------------------|--|---|---|---|---|---|--|--|--|--|--|--|---|---|--|---|---|--|-------------------|--------------------|-------------------|----------|--|--|
| | | | | | | | WELL | DRILLING | TRUCKING | STOCK | | | | | | BOILING | BOILER | | | | | EMPLOYEE | | |
| ALASKA | 10 21 10 21 30 22 15 05 a)14 30 a)10 03 a)87 91 a)45 50 | 6 17 4 30 10 42 19 39 24 73 16 59 1 17 0 11 5 33 0 90 0 37 9 71 1 57 0 28 5 08 3 44 | 12 45 0 53 23 15 40 15 33 50 32 30 3 08 12 41 0 34 1 66 1 05 15 67 2 90 0 60 10 52 7 16 | 11 64 14 02 44 24 11 06 8 23 16 65 16 51 20 54 19 43 2 97 12 14 7 06 1 05 0 64 8 06 2 12 0 62 5 71 4 55 | 8 58 12 61 15 96 7 08 17 06 21 20 22 51 13 62 2 25 9 03 5 51 0 72 0 40 8 42 2 76 0 53 6 22 4 30 | b)11 99 22 00 27 41 27 41 c) 9 22 d) 7 01 c)20 34 c)20 34 24 10 17 44 4 43 11 59 e) 5 96 1 30 0 70 11 25 3 66 2 21 10 39 6 65 | 11 46 17 30 61 35 61 35 8 70 5 20 21 00 16 92 20 63 13 35 1 77 10 09 6 30 0 94 0 44 9 60 1 84 0 59 6 44 3 03 | 11 55 15 67 102 85 102 85 7 27 9 98 22 67 32 61 13 99 12 15 10 30 1 50 6 52 5 00 f) 0 79 0 41 7 47 2 59 0 44 5 39 3 89 | 7 50 11 22 20 41 20 41 4 09 4 70 12 34 13 99 20 79 10 49 1 11 4 50 3 50 0 60 0 23 3 19 0 70 0 31 2 24 1 92 | 7 55 6 63 31 63 31 63 6 77 4 02 6 00 11 50 20 79 10 49 1 11 4 50 3 50 0 60 0 23 3 19 0 70 0 31 2 24 1 92 | 5 94 6 76 19 28 19 28 4 01 3 47 9 06 6 60 12 01 9 33 1 37 4 24 3 07 0 55 0 24 3 25 0 91 0 27 2 59 2 21 | 16 31 16 31 36 81 36 81 10 19 6 05 10 14 30 96 24 00 24 14 2 09 15 51 13 27 1 30 0 40 9 30 3 14 0 80 4 20 4 20 | 4 92 7 39 67 46 45 20 10 20 10 70 20 00 29 58 25 40 2 43 12 00 8 74 1 41 0 81 11 36 3 30 0 68 8 05 6 22 | 11 67 11 26 41 80 41 80 10 09 5 95 14 37 19 31 20 57 16 53 3 01 10 91 6 27 1 00 0 54 5 61 2 59 0 68 5 91 4 78 | 8 22 11 02 26 91 26 91 5 35 4 41 10 60 11 24 14 49 13 26 1 72 7 74 3 57 0 86 0 40 6 82 1 64 0 42 6 10 4 37 | 13 90 19 42 35 50 35 50 8 50 5 57 25 58 22 44 41 81 10 72 3 10 0 82 0 29 1 00 0 56 13 39 2 21 0 64 10 16 5 45 | b)10 13 10 59 31 00 31 00 6 12 3 67 7 11 12 00 9 02 10 34 1 37 5 66 3 36 0 77 0 30 3 42 0 95 0 42 2 57 1 91 | 4 04 6 93 16 29 16 29 3 77 3 40 0 31 0 31 0 00 9 04 0 01 5 50 3 24 a) 0 60 0 20 2 97 0 56 0 23 1 85 1 80 | | | | | | |

[illegible]

11/28/88

WORKERS' COMPENSATION INSURANCE RATE SCHEDULE
STATE FUNDS ONLY

| STATE | FARM | CATTLE | LOGGING | LOGGING | LOGGING | ELECTRICAL | RESIDENTIAL | COMMERCIAL | OIL & GAS | TRAILER | DETAIL | YARDS | AUTO | PROFES- | CLERICAL | HOSPITAL | SCHOOL | MOTEL | RESTAURANT |
|------------------|---------|---------|---------|-----------|---------|------------|-------------|------------|--------------|---------|--------|--------------|---------|---------|----------|-----------|---------|-------------|------------|
| SCHEDULE | DRIVERS | LOGGING | TRUCK | MACHINERY | WIRING | PLUMBERS | CARPENTRY | CARPENTRY | WELL | TONING | STORE | BUILDING | REPAIR | SIGNALS | OFFICE | EMPLOYEES | TEACHER | DODGE RANCH | BAR |
| NORTH DAKOTA | 10.21 | 10.21 | 38.22 | 15.45 | 8.17 | 4.38 | 19.49 | 24.73 | 16.59 | 1.17 | 8.11 | 5.33 | 0.98 | 0.37 | 9.71 | 1.67 | 0.28 | 5.08 | 3.44 |
| ARIZONA (2) | 8.58 | 12.61 | 15.96 | 15.86 | 5.69 | 7.88 | 21.28 | 22.51 | 13.62 | 2.25 | 9.03 | 5.51 | 0.72 | 0.46 | 8.42 | 2.76 | 0.53 | 6.22 | 4.30 |
| CALIFORNIA | b)11.99 | 22.08 | 27.41 | 27.41 | c) 9.22 | d) 7.01 | e)20.34 | 24.18 | 17.44 | 4.43 | 11.59 | e) 5.96 | 1.38 | 0.78 | 11.25 | 3.66 | 2.21 | 10.39 | 6.65 |
| COLORADO | 11.46 | 17.30 | 61.35 | 61.35 | 8.78 | 5.20 | 21.08 | 28.63 | 13.35 | 1.77 | 10.09 | 6.38 | 0.94 | 0.44 | 9.68 | 1.94 | 0.59 | 6.44 | 3.80 |
| IDAHO | 7.50 | 11.22 | 20.41 | 20.41 | 4.09 | 4.78 | 13.39 | 12.15 | 18.38 | 1.58 | 6.52 | 5.00 | f) 0.79 | 0.41 | 7.47 | 2.99 | 0.44 | 5.39 | 3.89 |
| MINNESOTA | 13.60 | 13.60 | 30.68 | 30.68 | 8.19 | 5.94 | 15.12 | 25.88 | 20.74 | 1.74 | 12.93 | 6.34 | 1.15 | 0.40 | 7.75 | 2.62 | 0.67 | 3.50 | 3.50 |
| NEVADA | g) 9.85 | 20.98 | 12.00 | 12.00 | h) 9.66 | 5.83 | i)14.67 | 10.60 | 5.97 j) 2.40 | 8.03 | 8.03 | 5.97 k) 0.44 | 0.51 | 0.51 | 7.20 | 3.05 | 1.07 | 1) 5.05 | m) 3.40 |
| NORTH DAKOTA (3) | 8.95 | 8.95 | 13.31 | 13.31 | 7.56 | 2.60 | 7.46 | 12.51 | 13.40 | 0.83 | 3.32 | 4.75 | 1.41 | 0.25 | 1.80 | 1.80 | 0.47 | 2.18 | 1.43 |
| OKLAHOMA | 8.55 | 12.02 | 28.01 | 28.01 | 5.50 | 4.17 | 10.61 | 14.72 | 13.49 | 1.75 | 8.05 | 3.63 | 0.88 | 0.40 | 6.92 | 1.66 | 0.41 | 6.30 | 4.43 |
| OREGON (4) | 15.05 | 21.03 | 38.45 | 20.28 | 9.20 | 6.03 | 27.72 | 45.29 | 20.28 | 3.45 | 5.18 | 8.98 | 1.17 | 0.61 | 14.51 | 2.39 | 0.69 | 11.01 | 5.90 |
| UTAH | 3.63 | 5.20 | 12.22 | 12.22 | 2.83 | 2.61 | 6.23 | 6.07 | 7.23 | 0.61 | 4.13 | 2.43 | n) 0.45 | 0.21 | 2.23 | 0.42 | 0.17 | 1.39 | 1.41 |
| WASHINGTON (5) | 11.23 | 22.15 | 40.06 | 16.01 | 8.65 | 5.05 | 17.10 | 12.43 | 18.53 | 3.28 | 5.97 | 5.17 | 0.54 | 0.92 | 9.54 | 4.50 | 1.21 | 9.99 | 6.14 |
| WYOMING (6) | 1.54 | 1.54 | 3.80 | 3.80 | 3.80 | 3.80 | 3.80 | 3.40 | 3.80 | 0.61 | 1.61 | 1.12 | 0.39 | 0.11 | 0.90 | 0.90 | 0.70 | 1.70 | 0.75 |
| BY STATE FUND | 6/13 | 10/13 | 4/13 | 9/13 | 8/13 | 10/13 | 10/13 | 5/13 | 6/13 | 10/13 | 6/13 | 7/13 | 5/13 | 10/13 | 3/13 | 10/13 | 12/13 | 8/13 | 9/13 |
| RANKING | | | | | | | | | | | | | | | | | | | |
| Rank/Total | | | | | | | | | | | | | | | | | | | |
| 1 = Highest Rate | | | | | | | | | | | | | | | | | | | |

- (1) The rates reported this period are from a different carrier
- (2) Annual rates are same for all carriers but carriers may offer deviations to guaranteed cost policyholders
- (3) The payroll base for all classifications is limited to \$3600 annually
- (4) SAIF utilizes a 3-tier rate system
- (5) Rates reported are standard rate
- (6) State Fund utilizes an hourly rate. Rate per \$100 was calculated using 1988 Montana average wage per industry.
- (7) Classification system has only been in use a few years. Does not use NCCI codes.

- a) These rates apply to a minimum \$750 premium
- b) Average crop class
- c) Rate for Wages < \$17.00/hr
- d) Rate for wages < \$10/hour
- e) Auto dealers only
- f) Attorneys : \$ 27
- g) \$14.71 = combination - Field crop = \$9.85
- h) \$9.68 wages < \$15/hr - \$8.32 > \$15/hr
- i) \$14.67 wages < \$15/hr - \$12.63 > \$15/hr
- j) Classed by type of store - Range to \$5.52
- k) Classed by type of professional/house to \$4.4
- l) Dude ranch = \$20.38
- m) Bar = \$3.10
- n) Attorney = \$ 10 State Fund
- o) Attorney = \$ 13 Private

A Bulletin for ALEC Leaders About State, Federal and Local Issues

November 17, 1989

STATE ISSUES

Workers' Compensation Crisis Escalates: Skyrocketing medical costs and increasing costs of litigation are forcing state governments to confront dramatic increases in the cost of workers compensation insurance. The rate increase will mean billions of dollars in additional costs for industry and could severely damage the economies of many states. At the same time benefits have actually decreased for many workers. Among the states facing major rate increases:

COLORADO: Colorado insurers have asked for a 30% rate increase next year, on top of 51.3% increases over the past three years. Governor Roy Romer, noting that the legislature has passed 39 workers compensation bills over the past six years, has called for comprehensive reform and warned "Colorado can not afford to have a workers' compensation system that drives people out of business or keeps new businesses from locating here."

FLORIDA: State Insurance Commissioner Thomas Gallagher has granted Florida insurers a 36.7% increase in workers' compensation premiums. Recent studies have shown that insurers were paying \$1.58 in claims for every \$1 collected in premiums. Mr. William Herrle, Florida Director of the National Federation of Independent Business, warned that the rate hike could cripple small businesses, saying, "This rate hike is a clear message that substantive improvement {in the workers' compensation system} cannot wait."

KANSAS: The State Insurance Commissioner is currently considering a request for a 22.6% rate increase.

MASSACHUSETTS: Insurance companies that provide workers' compensation insurance in Massachusetts are asking the state for a 42.6% rate hike, which is expected to cost employers an extra \$600 million per year. Coming at a time when the Dukakis Administration is seeking new business taxes, the rate increase could prove particularly devastating for business in the Bay State.

NORTH CAROLINA: North Carolina insurance companies have announced plans for a an increase of 16.8% in rates for workers' compensation insurance.

OHIO: The Ohio Industrial Commission earlier this year approved a 9.5% increase in workers' compensation premiums. Although the overall average increase was only 9.5%, some industries will face much steeper



Select Committee on Workers' Compensation

A Joint Committee of the 51st Montana Legislature

SENATE MEMBERS

GARY C. AKLESTAD
CHAIRMAN
PAUL S. SVRCEK
GENE THAYER
BOB WILLIAMS

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PAUL E. VERDON
RESEARCHER
MARY KELLY MCCUE
JOHN MACMASTER
ATTORNEYS

March 2, 1990

TO: Members of Select Committee on Workers' Compensation
FROM: Mary McCue
RE: Survey of surrounding states to compare state funds

NORTH DAKOTA 79% rate increase over past 4 years

North Dakota operates as an exclusive state fund and has since the inception of workers' compensation laws in that state. All workers' compensation insurance is written through the state fund. The fund presently has an unfunded liability of about \$18.5 million. In the early 1980s, premium rates were reduced for a number of years. Since 1986, the rates have steadily increased; in 1989, they increased an average of 60%, to approximately the 1981 levels.

As to ratesetting, North Dakota does not belong to the National Council of Compensation Insurance (NCCI). The executive director of the state fund, upon the advice of a private ratemaker, sets the rates. The state's insurance commissioner has no authority over the workers' compensation system in North Dakota.

Recently new actuarial approaches have revealed serious deficiencies in the rate levels. The state fund projects that it will take about 5 years of rate increases and cost containment measures to put the fund back in a solvent position. The fund

projects it will need a 20% to 30% average rate increase next year. The state fund's only sources of income are from premium and investment income on its reserves. It presently is considering, but has not implemented, a surcharge on all premium to help fund the unfunded liability.

Claims costs have increased dramatically over the same period as a result of expanded utilization of benefits and increased medical costs. Cost containment measures the fund has implemented include increased claims staffing, audits of medical bills, case review of medical cases, and limitations on the payment of attorney fees upon appeal.

WYOMING

Wyoming does not have a compulsory workers' compensation law as to nonextrahazardous employees and occupations as most other states do. Only hazardous employments must be covered. However, employers may provide coverage to their nonextrahazardous occupations through the state fund. The state legislature has been responsible for setting the state fund premium rates, and the rates have been set too low in recent years to adequately fund the insurance system. For the past 2 years, the state fund has been phasing in rate increases, although presently there is a 5 1/2% rate cap that may be removed in 1990.

The state fund presently has a projected unfunded liability of \$130 million. Last year it experienced a cash flow problem and on July 1, 1989, placed a 12% surcharge on all premiums to help fund the unfunded liability. It also borrowed \$32 million from the mineral resource severance tax fund and other sources. Under the terms of the loan, certain amounts are forgiven and other amounts must be repaid by the state fund by 1997.

IDAHO 41% rate increase over past 5 years

Idaho has a three-part workers' compensation system similar to Montana's. The state fund is not required to insure any

employer; however, it does have a monopoly on public employers. There is no assigned risk pool in Idaho at this time.

About 50% of Idaho's employers insure with the state fund; those 50% pay about 36% to 38% of the insurance premium paid in the state. The state fund spends about 12% of net premium to operate its fund.

Rates in Idaho are promulgated by the NCCI. The rates are submitted to the director of the department of insurance for approval. The regulated rate prevails with all carriers.

In the past 5 years in Idaho, rates have risen 41%. In 1990, there was an overall increase of 7.2%. This amount was approved by the director after NCCI recommended an increase of 9.2%. The state fund voted against any increase because it felt it did not need one.

According to the Idaho state fund bureau chief of underwriting, the current financial condition of the Idaho state fund is excellent. There are no unfunded liabilities, and the unobligated surplus ratio is slightly less than 1 to 1, premium to surplus. The Idaho state fund has never had an unfunded liability. In the dividend year that was distributed in January 1990, 63% of state fund policyholders had zero claims.

The director of the Idaho department of insurance examines the state fund every 3 years as is done for private insurers. The state fund is also examined every 2 years by the legislative auditor. The state fund pays for both audits.

Idaho, like nearly every other state, has experienced accelerated claims trends in the 1980s. Medical costs have risen dramatically. The Idaho state fund has four registered nurses on its staff who audit medical provider bills and assist in rehabilitation work. In December 1989, the fund disallowed

\$1,880 per day in undocumented medical provider charges.

In Idaho, there is a separate insurance company, the Associated Loggers' Exchange, that insures most of the employers in the logging industry. It is a nonassessment reciprocal company that is owned by its member policyholders. Although it is exempt from the requirement that other workers' compensation insurers in Idaho belong to a ratesetting organization, Associated joined NCCI several years ago and uses its rates, with some deviation. Presently, Associated's rate for logging is \$25.11; the Idaho state fund's logging rate is \$29.54.

COLORADO 150% rate increase over past 8 years

Colorado also has a three-part system similar to Montana's. The state fund uses NCCI rates, and premium rates are virtually the same for all insurance companies writing workers' compensation policies in Colorado. This has always been the case. The state fund offers a 3-year loss ratio discount to all employers that ranges from zero to 38% off standard rates. The state fund's rates are regulated by the state insurance commissioner.

Presently the state fund is solvent. All revenue derives from premium and investment income. Over the past 8 years, the state fund has increased its rates an average of 150%.

Although the state fund has experienced a gradual decrease in its number of claims, the average cost per claim is rising at a rate of about 10% per year. Although the state fund has instituted medical cost containment measures that include internal case management by doctors and nurses, hospital utilization review, and automated medical fee scheduling, its medical costs are still rising 11% to 13% per year.

C&B CONSULTING GROUP

19 1/2 % increase
Exhibit # 2
5/21/90 HB 2

November 30, 1989

Mr. Paul E. Verdon
Staff Researcher
Select Committee on Workers' Compensation
Room 138
State Capitol
Helena, Montana 59620

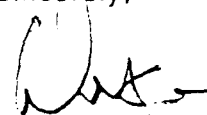
Re: Response to Committee Member Questions

Dear Mr. Verdon:

In response to your letter of October 30, 1989, attached you will find my answers to the questions raised by members of the Select Committee. As discussed in our telephone conversation, I have responded to all questions that I felt were directly applicable to State Fund actuarial issues, and have ignored those questions which address issues of which I have incomplete or limited knowledge.

I plan to attend the December 7 meeting in Helena. If at all possible, I would greatly appreciate receiving, in advance of the December 7 meeting, copies of the written answers to the Committee members' questions prepared by the other respondents.

Sincerely,



← Drew James, FSA
Vice President and
Senior Consulting Actuary

cc: Mr. Pat Sweeney, Division of Workers' Compensation

RESPONSE TO QUESTION RAISED BY SELECT COMMITTEE ON WORKERS' COMPENSATION

In the 1985 report to the Division of Workers' Compensation, C&B Consulting Group estimated unfunded liability at \$29 million. That figure was audited by Peat Marwick. Because of the \$29 million estimate, the Governor called together a study committee. By the time of the 1987 legislative session, the unfunded liability had grown to \$81 million which caused cuts in benefits. When the 1989 legislature convened, the unfunded liability was estimated at from \$157 million to \$215 million. What caused the great difference? Are the rates now in effect adequate?

Answer to the first question:

The method used to determine the claims liabilities and reserves of the Fund is largely dependent upon claims patterns exhibited in prior years. To the extent that there is an undetected shift in claims patterns, the method slowly reacts as this shift emerges through claims experience.

It is now evident that there were significant accelerations in incurred claims trends in the early 1980's that continued through 1986. The most dramatic increase took place with respect to accidents that occurred in 1983 and 1984; claims (per dollar of covered payroll) increased almost 50% over that two year period alone. Over the seven accident years ending with 1986, compensation claims increased 134% and medical claims increased 155%, when expressed per dollar of covered payroll. The substantial increase in the unfunded liability from \$29 million as of June 30, 1985 to \$217 million as of June 30, 1989 is as a direct result of the slow emergence of this shift in claims trends over that four year period.

In addition to Peat Marwick's review which confirmed C&B Consulting Group's (then Coates, Herfurth & England's) \$29 million unfunded liability estimate as of June 30, 1985, another independent actuary reviewed our June 30, 1986 calculation of the unfunded liability. This review confirmed our results as well. We are therefore confident that the slow emergence of this shift in claims trends was not unique to our methodology.

Answer to the second question:

During the 1989-90 Fiscal Year, about 27% of the Fund's revenue will be derived from temporary non-premium sources. Of this total, 17% is from the supplemental revenues allocated by the legislature during the 1989 session which are available this year only. The remaining 10% is from the payroll taxes pursuant to HB 884 which is scheduled to sunset on June 30, 1991. As these temporary revenues run out, premiums will need to be adjusted accordingly. It should also be added that the present freeze on both the Average Weekly Wage and physician's fee schedule is scheduled to come off effective July 1, 1991. When this happens, premiums will need to be adjusted by 5% to provide for the resulting higher benefit levels.

It should be stressed that a major determinant of the future financial position of the Fund is the success or failure of SB 315 to attain the 20% to 25% reduction in claims levels presently expected.

11/30/89

One main question for workers' compensation fund actuary: What recommendations has he made that the state has not followed?

Since 1985 there have been two occasions at which the State Fund has elected not to follow our advice. The first was in October 1986 when we recommended that a special rate increase of at least 34.4% be made effective as of January 1, 1987. The Fund elected to hold this rate increase to 17%. The second occasion was in April 1987 when SB 315 and HB 884 were enacted. We recommended a rate increase of 1.1% be made effective as of July 1, 1987 in addition to an experience rerate as of that date. The experience rerate would have realigned premiums rates by class codes to reflect claims experience over the prior twelve months. The State Fund decided to forego the rate increase and hold off on the experience rerate until 1988.

If we could wipe out the unfunded liability entirely and could start from zero, how would the rates compare? Give some representative examples.

As mentioned in a previous answer, during the 1989-90 Fiscal Year, about 27% of the Fund's revenue will be derived from temporary non-premium sources. This supplemental revenue will amount to approximately \$33,381,000 during this year. During this same year approximately \$31,714,000 is needed to amortize the unfunded liability. Thus, assuming that these supplemental revenues would not be available in the absence of an unfunded liability, the present premiums are really unaffected by the presence of the unfunded liability. However, as also pointed out in a previous question, the disappearance of these revenues over the next two years will require rates to be increased. As of July 1, 1990, premiums will be about 20% higher than they would have been in the absence of the unfunded liability. As of July 1, 1991, premiums will be about 32% higher than they would have been in the absence of the unfunded liability.

It should be stressed that a major determinant of the future Fund premium rates is the success or failure of SB 315 to attain the 20% to 25% reduction in claims levels presently expected.

When did the State incur the workers' compensation debt and what has been done to make it better or worse?

The unfunded liability was first identified during the July 1, 1985 ratemaking process in April 1985. Inadequate premium rates caused the unfunded liability to increase until June 30, 1987 when reform legislation was passed (SB 315). At that point the unfunded liability levelled out and remained relatively constant over the next two years. The levelling out was due in part to a decision to delay building the amortization of the unfunded liability into the premium rates until July 1, 1988. It is now anticipated that the unfunded liability will be fully amortized by June 30, 1997.

It should be stressed that a major determinant of the future financial position of the Fund is the success or failure of SB 315 to attain the 20% to 25% reduction in claims levels presently expected.

11/30/89

If workers' compensation insurance rates are increased by 20% for two years as the actuary recommends, how much will be raised to service the debt?

The rate increases are expected to raise the following amounts to amortize the unfunded liability:

| <u>Fiscal Year Ending in:</u> | <u>Revenue Raised to Amortize Unfunded Liability</u> |
|-------------------------------|--|
| 1991 | \$32,665,000 |
| 1992 | 33,645,000 |
| 1993 | 34,655,000 |
| 1994 | 35,694,000 |
| 1995 | 36,765,000 |
| 1996 | 37,868,000 |
| 1997 | <u>39,004,000</u> |
| Total | \$250,296,000 |

11/30/89

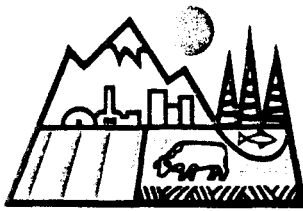


EXHIBIT 3
DATE 5/21/90
HB 2

MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730

• HELENA, MONTANA 59624

• PHONE 442-2405

Testimony of the
Montana Chamber of Commerce
by
Jim Tutwiler, Public Affairs Manager
on House Bill (Workers Compensation)
in the Special Session
May 21, 1990

For the record my name is James Tutwiler representing the Montana Chamber of Commerce. The majority of our some 1,000 members are small businesses located throughout Montana.

Our purpose in appearing here today is not to oppose solving the State Fund's liability problem but to oppose the manner in which the bill before you addressed that problem.

Of utmost concern to many Montana businesses is the imposition of a payroll tax. As we are all well aware, a temporary payroll tax was enacted in 1987 to June 30, 1991. Since enactment employers have been paying about 13 million a year. The bill here in question would authorize the payroll tax for an additional 30 years and cost employers in this state as much as 662 million dollars. We believe such a tax is unwise and unwarranted. A payroll tax adds significantly to existing business taxes in Montana that, today, are among the highest in the nation. A payroll tax is an inequitable tax because it

requires all employers, whether or not they subscribe to the state fund, to pay. And most certainly a payroll tax is a tax on jobs. It forces employers who pay the best wages to pay the most tax. We should be moving, and the legislature made a start in 1989, to bring Montana's business taxes in line with taxes in competing states. Adding a 30 year payroll tax now in this Special Session moves us in the wrong direction.

Montana businesses are understandably skeptical of reports of the amount of the unfunded liability and what that liability represents.

We must confess to our own frustration and lack of expertise regarding the unfunded liability's true size, why it continues to grow, and how and when and who should pay the bill. We did the best we could by asking Ernst and Young, a nationally recognized firm experienced in workers compensation actuarial and management matters, for their advice and assistance. After examining current reports on the State Fund, Ernst and Young concluded that the latest calculation of funding requirements does not appear to employ generally accepted casualty actuarial techniques appropriate to workers compensation insurance. The firm also cautioned that there is considerable uncertainty surrounding unfunded liability projections and that we ought to be aware of this uncertainty in deciding any long term funding plan.

Our point here is that neither our own statewide business community nor experts in the field are convinced the state fund truly knows the size of the unfunded liability and payment patterns.

Under these circumstances we urge this committee not to

approve a bill which commits the state to a long term funding plan that costs employers over 600 million dollars for a debt of undeterminable size.

(A complete account of Ernst and Young's observations and suggestions is attached to this testimony.)

Members of the committee, we should also point out the bill before you purposely and significantly expands the state's direct control of the Fund's operation. Specifically, Section 8 of the bill would require the Fund's management to follow the Montana Administrative Procedures Act in setting premium rates. Such a degree of oversight is excessive and possibly detrimental to timely and responsive decision making we can and should expect from the Fund's directors. While there has been severe criticism of workers compensation past management, the new management team has given every indication it can and is correcting the problems that have continued to plague the workers compensation system. We believe they ought to have that opportunity to succeed.

The business community believes this bill will channel a lot of employer payroll tax dollars to a liability whose dollar amount is unknown. However, the alternative of taking no action and allowing premium rates to rise on the average of 24% this year and next are equally devastating. Is there another alternative? We believe there is.

It is the business community's hope and our recommendation that this committee consider an alternative which

- (1) Postpones the imposition of a long term payroll tax and the issuance of bond authority.
- (2) Provides for the continued

solvency of the State Fund through June 30, 1991 by making a combined use of General Fund appropriations, Fund Reserves, payroll tax and premium rate adjustment. (3) Requires the immediate undertaking of a comprehensive analysis of the Fund by a casualty actuary so that the legislature and the business community of Montana can by early 1991 have a sound estimate of the Fund's true liability upon which a funding strategy can be devised.

Members of the Committee, we thank you for the opportunity to express our views on this extremely important issue.

Ernst & Young

277 Park Avenue
New York, New York 10172
Telephone: (212) 773-3000
Fax: (212) 773-1996 / 1997
Telex: 177704

May 19, 1990

Montana Chamber of Commerce
P. O. Box 1730
Helena
Montana 59624

Re: Emergency Funding for
State Compensation Mutual Insurance Fund

Dear Sirs:

Thank you for contacting Ernst & Young for actuarial assistance in your evaluation of the proposed funding for the Montana State Compensation Mutual Insurance Fund. Based on the information available for review and the urgency of the issues, I conclude as follows:

1. Whether measured in terms of a present value in excess of \$200,000,000 or future payments on the order of \$400,000,000, a substantial commitment by the people of Montana is proposed. Accordingly, it is important to consider all aspects and weigh alternatives.
2. Available information on funding needs, risks and alternatives is limited.
 - a. The latest calculation of funding requirements does not appear to employ generally accepted casualty actuarial techniques appropriate to workers' compensation insurance. The presentation resembles a pension evaluation.

There are various areas of specialization within actuarial science. Workers' compensation falls within casualty actuarial science, not pension.

Although there are no statutorily binding standards for rates used by the State Compensation Mutual Insurance Fund, evaluations using generally accepted casualty actuarial techniques are important information that should be available to the Montana legislature.

Montana Chamber of Commerce - May 19, 1990 - Page 3

Relevant sources of Fund revenues are (A) premiums, (B) payroll tax, (C) investment income, and (D) potential supplemental revenue provided by the legislature analogous to the \$20,000,000 in supplemental revenue appropriated for the 1990 fiscal year. Assuming the accuracy of the projections, any combination of funds from these four sources will enable the State Compensation Mutual Insurance Fund to achieve its financial objectives for 1991.

Relative to estimated premium of \$95,994,000 and payroll tax of \$13,283,000 for 1990, the target of \$135,161,000 represents an increase of \$25,884,000.

Countrywide increases in workers' compensation rates have averaged approximately 7.5% per year. (Available data does not permit analysis of a rate level increase based on Montana data. The latest National Council on Compensation Insurance filings should be consulted.) Because there was no increase in Fund rates at July 1, 1989, an increase of 15% in current Fund rates would not be out of line with national benchmarks.

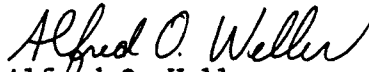
Using values from the latest Fund projections, a 15% increase would generate approximately \$13,343,000 in additional collected premiums, leaving \$12,541,000 to be generated from other sources. By way of comparisons, the latest Fund projection requires a 24.34% rate increase without benefit of additional revenues other than incidental increases in payroll tax.

These are not the only possible funding strategies. A variety of alternative approaches is available and should be considered.

To sum, a long-term financing commitment at this time would be based on weak actuarial foundations. There are alternative financing strategies that would facilitate a decision based on better information.

Ernst & Young is pleased to have been of service in your request for objective appraisal of financing alternatives. We enjoyed working with you and look forward to working with the Montana Chamber of Commerce again.

Sincerely,



Alfred O. Weller
Senior Manager, FCA, FCAS, MAAA

enc.: Summary of Reviewed Information

ERNST & YOUNG

ALFRED O. WELLER**ERNST & YOUNG**

=====

Alfred O. Weller joined Ernst & Young as a Senior Manager in November 1987. His responsibilities have included management and casualty actuarial consulting, risk management services, and audit support. Among his clients are large and small companies; self-insurers, primary insurers and reinsurers; new ventures and established companies.

Before joining Ernst & Young, Al Weller was Vice President and Chief Actuary of the Risk Management Division of Fred. S. James & Co., Inc. From 1983 to 1985 he was a Vice President of BRI Coverage Corporation. From 1981 to 1983 Vice President of Casualty Actuarial Services Division of Frank B. Hall and Company, Inc. From 1978 to 1981, Director of Actuarial Services at Continental Insurance Companies. From 1971 to 1978, Mr. Weller rose to the position of Senior Actuary on the Executive Staff of the National Council on Compensation Insurance.

Al Weller is a Fellow of the Conference of Actuaries in Public Practice, a Fellow of the Casualty Actuarial Society, and a Member of the American Academy of Actuaries. He has been active in the Committee work and professional activities of these organizations. Currently, he serves on the Board of Directors of the Conference of Actuaries and various Committees. He has been a speaker at the Casualty Loss Reserve Seminar, RIMS meetings, and other professional societies, and he has published articles in the various actuarial publications. He is also a past President of Casualty Actuaries of Greater New York.

Al Weller is a graduate of Swarthmore College and holds a masters degree in mathematical statistics from Indiana University.

OUTLINE FOR HB-2 TESTIMONY 5-21-90

NAME & REPRESENTATION

THE IIAM MUST RISE IN STRONG OPPOSITION TO HB-2

I REGRET NOT BEING ABLE TO PROVIDE WRITTEN TESTIMONY,
BECAUSE WE HAVE JUST RECEIVED A COPY OF THE FINAL BILL

HB-2 CONTINUES TO MOVE THE STATE FUND FROM THE CATEGORY OF
BEING A PROPRIETARY FUNCTION TO ONE OF BEING A GOVERNMENT
FUNCTION. WE BELIEVE THIS IS WRONG AND A DANGEROUS
COURSE.

WE BELIEVE THAT HB-2 ONLY DEALS WITH THE SYMPTOMS OF THE
PROBLEMS WITH W/C AND NOT THE UNDERLYING CAUSES OF THESE
PROBLEMS.

WE URGE THE LEGISLATURE NOT TO DEAL WITH THIS MAJOR
PROBLEM BY SIMPLY THROWING MONEY AT THE PROBLEM IN THIS
HURRIED, QUICK-FIX MANNER.

BEFORE THE MONTANA LEGISLATURE VOTES ON THIS BILL, OR
VARIATIONS OF THIS BILL, WE BELIEVE THAT THERE ARE MANY
QUESTIONS THAT MUST BE ASKED AND ANSWERED.

HERE ARE A SAMPLE OF SOME OF THESE QUESTIONS.

*mb
for
all*
In the last two fiscal years, the State Workers' Compensation
Fund has collected nearly \$24 million from an Employer's Payroll
Tax. In addition, the June, 1989, Special Session of the
legislature appropriated \$20 million from the state general fund
to the State Workers' Compensation Fund. Despite this "infusion"
of money, the negative surplus (unfunded liability) position of
the State Fund had grown to about \$200 million by 12/31/89.

IT
**Remembering that the payroll tax and general fund appropriation
were to allegedly reduce the unfunded liability, why has it
continued to grow?

**Won't additional and continued subsidies of the state fund in
the form of taxpayer dollars simply serve to perpetuate and
possibly increase the problem of not collecting enough premium
to pay costs and push these deficit problems more and more onto
the Montana taxpayer in the future?

The Montana Workers' Compensation State Fund reported a deficit
of over \$60 million in fiscal year 1989.

**What is the accurate condition of the program? Does anyone
really know?

Unlike the premium classification system of Workers' Compensation, which charges a higher premium for more hazardous occupations and a lower premium for less hazardous occupations, the payroll tax is a flat ~~rate~~ of 1% (~~0.03~~) of each and every employer's payroll. 28

****Does not this flat payroll tax place a disproportionately high burden on those employers in low hazard occupations, such as teachers and clerical, while placing a disproportionately low burden on those employers in high hazard occupations, such as logging, roofing contractors trucking and mining, whose employees often use the system the most?**

****With employers such as school districts state and local governments, isn't the Montana state taxpayer further burdened with the payroll tax?**

****Since some private employers are able to pass this payroll tax along to consumers, doesn't the payroll tax act as another hidden sales tax?**

Montana law requires that, "The State Fund must be neither more nor less than self-supporting. Premium rates must be set at a level sufficient to fund the insurance program, including the cost of administration, benefits, and adequate reserves for the purpose of keeping the State Fund solvent, . . ." (39-71-2311, MCA).

****Why has state run workers' compensation been allowed to violate Montana law?**

****Since it seems obvious that present premium levels are inadequate to pay all costs, does that mean that rates will need to increase anyway?**

AS YOU ARE ALL AWARE, THIS IS A GROWING NATIONAL PROBLEM

MANY STATES AND NATIONAL COALITIONS HAVE RECENTLY DEALT WITH THESE W/C PROBLEMS ON A BROAD RANGE. SEVERAL STATES HAVE PASSED BROAD COMPREHENSIVE LEGISLATION WITHIN THE LAST YEAR.

THE IIAM COMMENDS THE MONTANA LEGISLATURE FOR W/C LEGISLATIVE EFFORTS IN THE LAST THREE YEARS. WE REGRET THAT, IN MANY CASES, THESE LEGISLATIVE ACTIONS HAVE NOT ACHIEVED THE DESIRED EFFECT.

WE BELIEVE THE ONLY RESPONSIBLE COURSE OF ACTION IS TO ADDRESS THE COMPLETE WORKERS COMPENSATION SYSTEM. TO FIX THOSE PARTS OF THE SYSTEM THAT ARE BROKEN AND STRENGTHEN THOSE PARTS THAT ARE NOT.

1988
Lag F.A.
Report

THE FUNCTIONS AND SYSTEMS OF W/C PROGRAMS ARE FAR TO COMPLEX AND VARIED TO DISCUSS IN THIS HEARING. AS A BRIEF EXAMPLE OF THE AREAS WE SUGGEST, I OFFER THE FOLLOWING:

PROVISION OF ADEQUATE BENEFITS TO INJURED WORKERS WHILE ADDRESSING THE ISSUE OF MALDISTRIBUTION OF BENEFITS.

STRONGLY ENCOURAGING EMPLOYER PARTICIPATION IN PREVENTATIVE SERVICES

WORKERS' COMPENSATION EDUCATION (these include)

*APPROPRIATE HIRING PRACTICES EDUCATION

*EFFECTIVE AND ONGOING SAFETY TRAINING

*COMPENSATION AND INCENTIVES TIED TO A SAFE WORK ENVIRONMENT

*EDUCATION OF EMPLOYERS AND EMPLOYEES ON THE STATE'S W/C LAW

*EARLY INTERVENTION OF MEDICAL MANAGEMENT AND/OR VOCATIONAL REHABILITATION

MEDICAL COST CONTAINMENT

VOCATIONAL REHABILITATION

THESE ARE ONLY A VERY FEW OF ^{THE} MANY AREAS OF THIS SYSTEM THAT SHOULD BE REVIEWED AND POSITIVE CHANGES IMPLEMENTED.

THE IIAM HAS BEEN INVOLVED WITH THE MONTANA W/C PROBLEMS FOR MANY YEARS AND WE RENEW OUR PLEDGE TO WORK WITH THE LEGISLATURE AND FELLOW MONTANANS TO ACHIEVE EFFECTIVE AND LONG LASTING SOLUTIONS TO THE WORKERS' COMPENSATIONS SYSTEM.

WE BELIEVE THE MONTANA EMPLOYERS, EMPLOYEES, AND THE GENERAL MONTANA TAXPAYER DESERVE A COMPLETE REVIEW AND REPAIR OF THIS SYSTEM RATHER THAN CONTINUED PATCH WORK SOLUTIONS.

WE URGE A DO NOT PASS ON HB-2

SUCCESS IN TEXAS!

Workers compensation insurance reform eluded the Texas legislature through the 1989 regular and first special session, but one day before the second special session concluded the Senate voted 18 to 13 in favor of S.B. 1, a legislation reform package. Governor Bill Clements (R) signed the bill into law on December 13, 1989. As of January 1, 1991, employers, employees, and insurers will officially be working under the reformed law.

Workers compensation reform was finally achieved in large part due to the mobilization of the business community. During the Second Special Session, the entire business community acted in concert under the coalition "Jobs for Texas." This coalition operated phone banks and generated thousands of letters to Senators. Insurance companies involved employers by encouraging policyholders to ask legislators to support meaningful workers compensation reform.

A business community representative addressed the Texas Compensation Insurance Association's (TCIA) Board of Directors on December 14, 1989, and thanked the insurance industry for its support in the reform effort. The representative commented that TCIA's decision not to enter into a public debate with trial lawyers was a decisive factor in achieving meaningful reform. The representative also indicated the letters and phone calls generated by insurance companies and agencies had an impact on Senate members.

Last month, the Alliance Workers Compensation Department held a briefing for its member companies on Texas' new workers compensation law. Speakers included House sponsor Representative Richard Smith (R-Bryan), Industrial Accident Board Chairman Joe Gagen, State Board of Insurance board members JoAnne Howard and Dick Reynolds, and Texas Workers Compensation Assigned Risk Pool Manager Chuck McKay.

"The Alliance knows that changes in laws -- even good ones -- can be complicated and confusing," said Steven D. Millikan, Alliance vice president and director of workers compensation. "I feel this orientation was successful in providing valuable information which will make the reform process a little bit easier for those who attended."

The following are highlights of S.B. 1 prepared by Representative Smith's Office:

1. Workers compensation insurance continues to be voluntary; there is no mandatory coverage.
2. The Industrial Accident Board is reorganized, its power greatly expanded, and it is renamed the Texas Workers' Compensation Commission. The Commission consists of three members representing employers and three members representing wage earners. The members serve on a part-time basis.
3. A Legislative Oversight Committee is established to oversee implementation of the Act and to assure compliance with legislative intent.
4. Self-insurance is allowed for large, financially stable employers. Self-insurance is backed up with strict requirements including security deposits and a strong guaranty fund to assure that all self-insurer obligations are met.
5. Attorney's fees are limited to reflect the attorney's time and effort on behalf of the claimant.
6. Loans by attorneys are prohibited. However monetary advances and acceleration of benefits to alleviate hardship are permitted.
7. An ombudsman program is created to inform employees and employers of their rights under the system and to assist with information on claims.
8. The method used to compute wages (which are the basis of employee income benefits) are changed to eliminate the artificial benefit enhancement from the 300-day rule.
9. The agency has greatly improved oversight over health care providers and their treatments and charges. Sanctions are provided for physicians or hospitals that exceed guidelines or charge more for workers compensation services than other services.
10. The basis for benefits for permanent disability is changed. The subjective "loss of wage earnings capacity" is eliminated in favor of an objective impairment system.
11. The impairment benefit is supplemented by Supplemental Income Benefits which are based on actual economic losses. This more accurately directs money to those who actually suffer losses.
12. Maximum benefits are increased from \$238 per week to \$416 per week; lifetime income beneficiaries receive a 3 percent per year adjustment.
13. "Doctor-shopping" is eliminated. Claimants may select a treating doctor (including a chiropractor). Changes in treating doctors may

MONTANA SELF-INSURERS ASSOCIATION

DATE 5/21/90

GEORGE WOOD, Executive Secretary

For the record, my name is George Wood, Executive Secretary of the Montana Self-Insurers Association. I arise in opposition to House Bill 2. The bill transfers the liabilities of the State Fund to the State of Montana and then provides for payment of these liabilities by a tax on employers only.

The Concept is Flawed. The tax is placed on employers only and further the tax is levied on employers other than those insured by the State Fund to pay State Fund liabilities. The tax is a tax on jobs collected by a payroll tax as an income tax is a tax on income collected, in great part, by a withholding tax on wages and salaries.

The Collection of the Tax is Flawed. The employer who pays a higher wage pays more in taxes than one who pays a lesser wage. This is compounded because an employer who hires a greater number of employees will pay a higher tax. The tax paid by an employer who pays \$10 per hour will be 2½ times as much as one who pays \$4 per hour.

The Disbursement of the Tax is Flawed. The primary purpose of this bill at this time is to avoid an announced State Fund premium rate increase of 24% on July 1, 1990, and 24% premium rate increase on July 1, 1991. This would provide a rate subsidy of 24% to employers insured by the State Fund. The employers with a premium rate of \$1 per hundred dollars of payroll with a subsidy of .24 per hundred dollars of payroll and an employer whose premium rate is \$30 per hundred dollars of payroll with a subsidy of \$7.20 per hundred dollars of payroll. The premium rate

paid represents the usage of and costs to the State Fund of each code classification. The more usage and the higher the costs, the greater the premium rate. The bill provides, as previously indicated, the higher the rate the greater the subsidy.

The bill appears to have "equal protection" problems. The use of the state's taxing power to tax employers to subsidize the premium rates of other employers. The approximate initial tax, by plan would be:

| | | |
|--------|-----------------|---------------|
| Plan 1 | 45 employers | \$2,000,000.+ |
| Plan 2 | 4700 employers | \$4,000,000. |
| Plan 3 | 27000 employers | \$6,500,000+. |

The non State Fund employers, who would receive no rate subsidy, will pay 45 to 50% of the tax.

The figures issued for the State Fund deficit are truly awesome. From the figures, I have received, the discounted unfunded liability is now \$207,000,000. This represents a State Fund liability which will require "total projected liability payments of \$375,467,000 which will require a payroll tax income of \$662,966,277. To use the words in the bill "it may increase."

The figures are awesome and leaves one with doubts of their validity. When State Fund legislation was passed during the session in 1989, we heard a figure of \$157,000,00; since then we have heard \$197,000,000 then \$217,000,000 then \$197,000,000 and now \$207,000,000. These are the discounted figures. The actual projected liability figures would also vary before settling now at \$375,467,000.

How accurate are the present figures? We won't know until we have had an independent claim audit by knowledgeable adjusters who set

reserves on Montana claims and a review of these figures by a Certified Casualty Actuary. We would be more comfortable in advising on solution if we were sure of the monetary size of the problem. Remember, the discounted figure has risen despite employer tax payments to date of about \$35,000,000 and general fund appropriation of \$20,000,000.

This bill is ~~probably~~ premature.

The bill needs some amendments in addition to the problems previously cited.

1. The separation date is July 1, 1990, the new State Fund went into operation January 1, 1990, and the Reform Act of 1987 went into effect July 1, 1987. A date of separation other than July 1, 1990, is probably needed.

2. The State Fund is an insurer of last resort, yet provisions still remain in the bill for an assigned risk pool. If there is an assigned risk pool, the State Fund is not the insurer of last resort.

3. The bill speaks to transferring the liabilities for injuries resulting from an accident and doesn't mention the transfer of liabilities due to occupational diseases.

4. The bill is unclear as to whether the State Fund or the Board of Investments is to manage the liabilities. Are the adjusting services to be contracted or assigned the State Fund? The difference in costs may be great.

5. The bill indicates that legislative oversight should be increased but doesn't specify how this is to be done and the possible conflict with the Board of Directors. The bill should make the State Fund truly independent.

6. The bill doesn't indicate why a loan is necessary. If all State Fund assets, amounts unknown, are transferred then, of course, start-up money is needed and should be paid from premium rates.

7. The bill removes all liabilities from the State Fund but gives them a book of business of \$90,000,000 to \$100,000,000 which has value which should be assigned and payments made to the liability fund created.

8. New Section 5 has unclear language of the amount of money that can be transferred annually from tax and bond revenue to the liability fund.

9. The bill limits the bond issues to \$220,000,000 when liabilities are projected at \$375,467,000.

10. Page 7 (5) unproofed draft--"all loan and bond proceeds given to the State Fund must be deposited to the credit of the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, and may be used only for the administration and payment of those claims and for the costs of giving the loan proceeds and issuing the bonds. This is unclear--why would loans and bond proceeds given to the State Fund be used for the costs of giving the loan proceeds and issuing the bonds?

11. Section 7 Amendments to 39-71-2311 has some wording that is unclear and some that is difficult to reconcile.

(a) The State Fund is a nonprofit, independent public corporation--not a state agency, required to insure any employer requesting coverage unless an assigned risk plan is in effect. Is it an employer of last resort or not?

(b) "Unnecessary surpluses" created by the imposition of premiums--what is an "unnecessary surplus"--who makes that judgment?

(c) "For the purpose of keeping the fund solvent, it must implement variable pricing levels within individual rate classifications" It is difficult to understand how variable pricing levels are to be used to keep the fund solvent. Are these variable pricing levels to be something in addition to those provided by accepted national standards? If so, how are these variable rates to be determined?

12. The relationship between the State Fund as a domestic mutual insurer controlled by the laws relating to the regulation of domestic mutual insurers and the duties of the Commissioner of Insurance to enforce these laws becomes more unclear.

13. Section 7 - The State Fund is a nonprofit, independent public corporation -

Section 8 (4) - The State Fund is a state agency. Can it be both?

14. Section 9 gives the Fund's Board of Directors full power, authority and jurisdiction over the State Fund. This is in conflict with other sections of the bill which limit full power, authority and jurisdiction of the Board.

15. Rules necessary to comply with the Administrative Practices Act in setting rates for 400 classifications could be difficult to implement and, if tried, very costly to the Fund.

16. **Appears** new State Fund can declare dividends but not pay them to individual employers until the liabilities incurred prior to July 1, 1990, are funded--not paid. No procedure for requiring money that can be

declared a dividend be transferred to liabilities fund. It could be used for rate reductions.

17. The term "reasonable" surplus is used. How much is reasonable?

18. "The burden of this unfunded liability should not be borne by those employers who have insured with the State Fund because the availability of insurance to all employers through the State Fund has benefited all employers who have Workers Compensation Coverage." How?

19. The job tax starts at 0.28% but doesn't provide this is the maximum. In fact, it allows increases in the tax. Shouldn't it be up to 0.28%. The bill allows confrontations on payroll tax each legislative session.

20. Confusion in use of Department. Does it mean Department of Labor and Industry part of the time and Board of Investments part of the time?

21. The bill provides:

(a) "This act is effective on passage and approval and terminates June 30, 2020."

(b) "[Sections 1 through 14 and 16 through 23] are effective July 1, 1990."

(c) "[Section 15] is effective October 1, 1990, and applies to wages payable on or after July 1, 1990." These 3 sections when read together seem to be contradictory.


22. What is the effect of the severability clause on this bill? It appears that the failure to obtain an affirmative vote of 2/3 of members of each house somehow allows passage of bill. If this can be done, what happens to be job tax?

This bill has innumerable problems in concepts, potential legal problems and drafting. It asks us to fund a deficit, amount undetermined, whose creation created no benefit to us, with a moveable tax rate for a period of 30 years.

That really asks us to buy a pig in a polk.

The bill should be reported

DO NOT PASS



George Wood
Executive Secretary

Amendments to House Bill No. 2
Introduced Bill Copy
Prepared by the Commissioner of Insurance
May 21, 1990

EXHIBIT 7
DATE 5/21/90
HB 2

1. Page 3, line 21.
Following: "[section 3]"
Insert: "and 39-71-2316(9)"

2. Page 8, line 17.
Following: "a"
Strike: "financial and"

3. Page 8, line 23.
Following: "."
Insert: "In addition, the commissioner of insurance shall biennially conduct or have conducted a financial examination of the state fund, pursuant to 33-1-401."

4. Page 10, line 13.
Strike: "reserve"
Insert: "surplus"

5. Page 10, line 19.
Following: "(2)"
Insert: "The state fund shall annually on or before September 1 file with the commissioner of insurance a full and true statement of its financial condition, transactions, and affairs as of the June 30 preceding. The statement shall be in such general form and context/as if required or not disapproved by the commissioner of insurance, as is in current use for similar reports to states in general with respect to the type of insurer and kinds of insurance to be reported upon, and as supplemented for additional information required by the commissioner of insurance. The statement shall be verified by the oath of state fund's president or vice-president and secretary. The commissioner of insurance may, in his discretion, waive any such verification under oath."

(3) The commissioner of insurance may refuse to accept the fee for continuance of the state fund's certificate of authority, as provided in 33-2-117, or may in his discretion suspend or revoke the certificate of authority of the state fund if it fails to file its annual statement when due.

(4) Any director, officer, or employee of the state fund who subscribes to, makes, or concurs in making or publishing any annual statement or any other statement required by law knowing the same to contain any material statement which is false shall be punished by a fine of not more than \$1,000.

(5) At time of filing, the state fund shall pay to the commissioner the fee for filing its statement as prescribed in 33-2-708.

(6) The commissioner of insurance may impose a fine not to exceed \$100 a day for each day after September 1 that the state fund fails to file the annual statement referred to in subsection (1). Such fine may not exceed a maximum of \$1,000.
Renumber: subsequent subsections.

6. Page 13, line 1.

Following: "."

Strike: "Classifications and premium rates may only be adopted and changed using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4."

7. Page 13, line 8.

Following: "."

Insert: "The commissioner of insurance shall have the authority to enforce the provisions of this subsection."

DEPARTMENT OF REVENUE
PROPOSED AMENDMENTS TO H.B. 2
(INTRODUCED COPY)

1. Title, line 21
Following: "June 30, 2020;
Insert: "TRANSFERRING ADMINISTRATION OF THE WORKERS'
COMPENSATION PAYROLL TAX AND CERTAIN ACCOUNTS RECEIVABLE TO THE
DEPARTMENT OF REVENUE; REQUIRING THAT REPORTS OF THE NAMES OF
EMPLOYERS TO BE MADE TO THE DEPARTMENT OF REVENUE; TRANSFERRING
CERTAIN ACCOUNTS RECEIVABLE TO THE STATE AUDITOR;"
2. Page 17, line 17.
Following: "39-71-401"
Insert: "except when the employer is subject to
the provisions of 15-30-204(2), in which case, the payroll tax is
an amount equal to 0.28% of the employer's payroll during the
preceding week for all employments covered under 39-71-401"
3. Page 18, lines 9 through 15
Strike: Subsections (1)(b) and (1)(c) in their
entirety.
Renummer: subsequent subsections
4. Page 18, lines 20 through 22
Strike: Subsection (1)(e)
5. Page 19,
Following: line 1
Insert: "(3) (a) On or before the last day of
April, July, October, and January, every employer subject to the
provisions of this part shall file a return in such form and
containing such information as may be required by the department,
and except as provided in (3)(b) shall pay therewith the amount
of tax required by (1)(a) to be paid on the employer's payroll
during the preceding quarter. Quarterly returns for employers
paying weekly shall be used to summarize and adjust payments and
request refunds of overpayments.
(b) An employer subject to the provisions of 15-30-204(2)
shall remit a weekly payment along with their weekly withholding
tax payment to the department for the amount required by (1)(a).
(c) The payment required by (1)(a) shall be made along with
the payment required by 15-30-202. The department shall first
credit any payment to the liability due pursuant to 15-30-202,
and thereafter to the worker's compensation tax account provided
in 39-71-2504.
(4) The officer or employee of a corporation whose duty it
is to collect, account for, and pay over to the state amounts due
under (1)(a) and who willfully fails to pay over the tax is
liable to the state for the amounts so due and the penalty and
interest due thereon.
(5) The return due under subsection [3] and any other
information obtained by the department by audit shall be subject
to the provisions of 15-30-303, provided that the department may

disclose such information to the department of labor and industry under such circumstances and conditions which will insure the confidentiality of any such information.

(6) (a) It is the responsibility of the department of labor and industry, worker's compensation division, and the state compensation mutual insurance fund to provide to the department upon the effective date of this act or as soon thereafter as is possible a list of all employers having coverage under any of the plans administered by the department of labor and industry, worker's compensation division, and the state compensation mutual insurance fund.

(b) Thereafter, the department of labor and industry, worker's compensation division, must on a weekly basis provide to the department the names all employers having coverage under any of the plans administered by the department of labor and industry, worker's compensation division, and the state compensation mutual insurance fund.

(c) The department of labor and industry, worker's compensation division, and the state compensation mutual insurance fund must provide to the department access to their computer data bases for the purpose of administering the tax provided in (1)(a)."

Renumber: subsequent subsections

6. Page 19, lines 2 through 3.

Following: "Sections"

Strike: "15-35-112 through 15-35-114, 15-35-121, and 15-35-122"

Insert: "of chapter 30, title 15 not in conflict with the specific provisions of this part"

Following: "regarding"

Insert: "administration, remedies, enforcement, collections, hearings, interest,"

7. Page 20.

Following: line 9

Insert: "NEW SECTION. SECTION 17. Transfer of accounts receivable. (1) The department of revenue shall not assume responsibility for collection of any accounts receivable which are more than 720 days past due and the accounts of any employers which are no longer engaged in business.

(2) All accounts which are more than 720 days past due and the accounts of any employers which are no longer engaged in business shall be transferred to the state auditor for collection."

Renumber: subsequent sections

8. Page 21, line 11.

Following: "Sections 1 through"

Insert: "9, 11 through"

Following: "14"

Insert: ", 16"

Following: "and"

Strike: "16"

Insert: "18"

9. Page 21,
Following: line 12
Insert: "(2) [Section 10 and 17] are effective
July 1, 1991.
Renumber: subsequent subsections.

VISITORS' REGISTER

House Labor

COMMITTEE

BILL NO. HB-2DATE 5/21/90

SPONSOR _____

| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
|----------------------|-----------------------------|--------------|--------|
| Char Maharg | Revenue | neither | |
| Roger McGowan | IIAM H. H. H. | | ✓ |
| George Ward | Mt. St. James Assoc | | ✓ |
| Borah Morris | MAA | ✓ | ✓ |
| Susan Witt | W/amenemedia | ✓ | |
| Jim T. Twister | State Ins. Depart | | |
| | MT CHAMBER | | ✓ |
| —Bridget Holland | Mt Retail Assn. | | ✓ |
| (for Charles Brooks) | | | |
| John Delano | | | |
| Rep. Boharski | Kallispell | | |
| Rep. Lem Owens | Kalispell | ✓ | |
| John Fine | Montana Legislative Auditor | | |
| Shari Heffelfinger | Log. Council | | |
| Bruce W. Moerer | MT. School Bds Assn | | ✓ |
| Ruby Johnson | NFIB | | ✓ |
| Leon Skelton | Mont Restaurant Assoc | | x |
| KEITH OLSON | MT. Logging Assn | ✓ | |
| Ben Haddon | MT Motor Carriers Assn | ✓ | |

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

House Labor COMMITTEEBILL NO. HB 2DATE 5/21/90

SPONSOR _____

| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
|---------------------|------------|---------|--------|
| <i>Denis Allen</i> | <i>DOR</i> | | |
| JOHN LAHR | MPC-BONE | | ✓ |
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DNP
#5(4)

| DATE | BILL NO. | NUMBER |
|----------------------------|----------|--------|
| NAME | AYE | NAY |
| REP. COCCHIARELLA | | ✓ |
| REP. COMPTON | ✓ | |
| REP. DRISCOLL | | ✓ |
| REP. GLASER | | ✓ |
| REP. KILPATRICK | | ✓ |
| REP. LEE | | ✓ |
| REP. O'KEEFE | | ✓ |
| REP. PAVLOVICH | ✓ | |
| REP. RICE | | ✓ |
| REP. SIMPKINS | | ✓ |
| REP. SMITH | ✓ | |
| REP. SQUIRES | | ✓ |
| REP. THOMAS | ✓ | |
| REP. WHALEN | | ✓ |
| REP. McCORMICK, VICE-CHAIR | | ✓ |
| REP. RUSSELL, CHAIR | | ✓ |

TALLY

4

12

SECRETARY

CHAIRMAN

MOTION:

Whalen - reverse motion

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

State Insurance Commission

DATE 5/21 BILL NO. 7 ^{*amend*} NUMBER

| NAME | AYE | NAY |
|----------------------------|----------|-----------|
| REP. COCCHIARELLA | | X |
| REP. COMPTON | X | |
| REP. DRISCOLL | | X |
| REP. GLASER | X | |
| REP. KILPATRICK | | X |
| REP. LEE | X | |
| REP. O'KEEFE | | X |
| REP. PAVLOVICH | | X |
| REP. RICE | | X |
| REP. SIMPKINS | X | |
| REP. SMITH | | X |
| REP. SQUIRES | | X |
| REP. THOMAS | | X |
| REP. WHALEN | X | |
| REP. McCORMICK, VICE-CHAIR | | X |
| REP. RUSSELL, CHAIR | X | |
| TALLY | <u>6</u> | <u>10</u> |

Daniel Dora
SECRETARY

CHAIRMAN

MOTION: _____

Wheeler reverse votes - unanimous
