MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIR CAROLYN SQUIRES**, on January 29, 1991, at 3:00 p.m.

ROLL CALL

Members Present:
Carolyn Squires, Chair (D)
Tom Kilpatrick, Vice-Chairman (D)
Gary Beck (D)
Steve Benedict (R)
Vicki Cocchiarella (D)
Ed Dolezal (D)
Jerry Driscoll (D)
Russell Fagg (R)
H.S. "Sonny" Hanson (R)
David Hoffman (R)
Royal Johnson (R)
Thomas Lee (R)
Mark O'Keefe (D)
Bob Pavlovich (D)
Jim Southworth (D)
Dave Wanzenried (D)
Tim Whalen (D)

Members Absent: Fred Thomas (R)

Staff Present: Eddye McClure, Legislative Council
Jennifer Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 232

Presentation and Opening Statement by Sponsor:

ROBERT CLARK, House District 31, Ryegate, presented written testimony for HB 232. **EXHIBIT 1**

Proponents' Testimony:

Tom Schneider, Montana Public Employees Association, stated his support for HB 232. **EXHIBIT 2**

Opponents' Testimony:

Peter Funk, Assistant Attorney General, Department of Justice, stated the regular grievance process which is available to all state employees is available to highway patrol members after employer action. Highway patrol officers cannot be disciplined without going through a contested case proceeding. The existing statutory process, which is not in this bill, says in order to discipline a highway patrol officer charges must be filed, the agency determines the validity, and then it goes through the regular Montana Administrative Procedure Act Process. That process is the appointment of an impartial hearings examiner, the rendering of a decision, and the acceptance or rejection of that decision by the agency head, the Attorney General. The statute currently says if an employee wants to appeal out of that process, he goes to District Court. The statutory provision is to have judicial review of the agency decision. This appeal only comes about when that officer has gone through a contested case hearing. The proposal is to insert the collective bargaining grievance process in place of that District Court appeal. The collective bargaining agreement grievance process goes from the immediate supervisor, to the district commander, to the bureau chief, to the division administrator, and finally binding arbitration. As an appeal of that decision, an arbitration grievance process is inserted which puts the decision back to the immediate supervisor of the officer, then the district commander...the whole process was designed to move up judicial levels. The bill is taking a huge step backwards. This bill takes an officer back from a contested case hearing to the agency personnel underneath the agency head. Therefore, it would be the officer's immediate supervisor reviewing the decision of the Attorney General. State law says suspensions, demotions or discharges must go through a judicial proceeding not administrative. This bill is the insertion of an administrative proceeding at the end of a judicial one. The collective bargaining agreement is bargained every two years. The existing grievance process expires in June 1991 and will be renegotiated, so inserting the grievance process is certain until that time. Then it will refer to a grievance process which may or may not be detailed in the next collective bargaining agreement. It is an improper characterization to say that the officers do not have a grievance avenue.

Questions From Committee Members:

REP. VICKI COCCHIARELLA asked **Mr. Schneider** to respond to Mr. Funk's comments. **Mr. Schneider** stated a case where a person was discharged without a hearing until the Montana Public Employee's Association demanded one. There are people who receive days off consistently for auto accidents and infractions of the rules and those take place without the judicial proceedings and the appeal process to the district court. All contracts expire in 1991. This bill makes the highway patrolmen equal with other state employees. Suspension, demotion, and discharge goes through this

process, and any other grievance goes through a contract process.

REP. DAVID HOFFMAN asked **Mr. Schneider** if Mr. Funk was correct in stating that the grievance procedure of the collective bargaining agreement would result in binding arbitration. **Mr. Schneider** said currently the law does not mandate arbitration. HB 232 says it will be appealed to the grievance procedure, because it excludes suspension, demotion, and discharge from the binding arbitration procedures in the contract. **REP. HOFFMAN** asked if this provided an additional grievance procedure for the officers. **Mr. Schneider** said no; this would provide an alternate final decision appeal to the grievance process only. It only occurs after the Attorney General has made a decision. Currently, the process is an appeal to District Court after the Attorney General makes a decision. If this bill passes, that appeal would go into whatever the collective bargaining agreement states as being the final appeal of the grievance procedure.

Closing by Sponsor: **REP. CLARK** encouraged a favorable ruling on this bill.

HEARING ON HB 204

Presentation and Opening Statement by Sponsor:

REP. SHEILA RICE, House District 36, stated that HB 204 will include construction workers to receive overtime pay after eight hours. There is an eight-hour classification and a ten-hour. The construction industry is to be compensated after eight hours at 1.5 times the hourly rate, or after ten hours on a four-day schedule. Almost all existing labor contracts with construction industries specify an eight or a ten hour work day. Under Montana law, for example, heavy-equipment operators or flag people can be worked literally as many hours as possible up to the 40 hours before they are given overtime.

Proponents' Testimony:

Gene Fenderson, Montana State Building and Construction Trades Unions, stated the federal regulation in 1985 for overtime after eight hours in the construction industry was removed---at that time contractors became more mobile, and employees started moving from city to city following contractors. Many of the employees wanted the ten-hour work day so they could go home on weekends. The industry, through collective bargaining process, developed the overtime after eight hours on a five-day work schedule and overtime after ten hours on a four-day work schedule. Under overtime laws in Montana, those contracts are probably not within the law. This bill makes the contracts legal and stops those contractors who are exploiting workers.

Martin Becker, Sletten Construction Company, stated on many federal projects in the last five years, the overtime could exceed the forty hours and individuals worked as long as they

wanted on a given day. This was not in the best interest of the industry or safety.

Michael Mizenko, Vice President, Montana State Association of Plumbers and Pipefitters, stated his support for HB 204.

Lars Ericson, Montana State Council of Carpenters, stated his support of HB 204.

Ron James, Ironworkers Local 841, stated his support of HB 204.

Bob Murphy, Business Manager, International Brotherhood of Electrical Workers Local Union 185, stated his support of HB 204.

Don Judge, Executive Secretary, AFL-CIO, stated his support with written testimony. **EXHIBIT 3**

John Manzer, Business Representative, Teamsters, stated his support for HB 204.

Johnny Monahan, Ironworkers Training Program, stated his support for HB 204.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:
REP. RICE stated that it's not often that contractors and labor on the same side of an issue. She urged support for HB 204.

HEARING ON HB 187

Presentation and Opening Statement by Sponsor:

REP. JERRY DRISCOLL, House District 92, Billings, submitted an amendment to HB 187. **EXHIBIT 4** Washington is the only state that pays Workers' Compensation by the hour instead of a percentage of payroll. It works well in Washington, and it will work well in Montana. There are 79 class codes for construction in the State Fund, for example: carpenters in housing are $10.72 per $100 of payroll, plumbers are $6.81 per $100 of payroll, electricians are $5.31 per $100 of payroll, ironworkers three stories and above are $79.09 per $100 of payroll. All contractors keep track of hours for numerous reasons, but mainly for bidding on the next job. If it is estimated that a bridge deck can be poured in 100 hours, and it takes 115 hours and that is consistent, then the contractor better raise his bid or he will lose money. All contractors keep very close track of hours whether they are union or not. In bidding a job, most contractors figure a price per man-hour, which includes wages, fringe benefits, unemployment insurance, workers compensation, FUTA, and FICA. They have to convert this percentage into an hourly rate now. The calculation is eight hours times the rate,

divide it by the percentage that is presently in the class code, and that equals the hourly rate.

Proponents' Testimony:

Gene Fenderson, Montana Building and Construction Trades Unions, stated the current law penalizes employers who are willing to pay a decent wage. He referred to a Heavy & Highway News handout. **EXHIBIT 5.** Oregon did a study of the average weekly wage and the loss ratio for employers. He read from the handout that the employers in the lower paying categories actually paid 25 percent less in premiums ($1.5 million) than the higher paying category ($2 million) while they recorded 54 percent in losses ($450,136 versus $291,610). Highly paid construction workers, mostly union are safest in the industry and productivity is higher. Contractors pay more for coverage per hour for those workers than the employer that is paying a low wage.

Don Judge, Executive Secretary, AFL-CIO, presented written testimony. **EXHIBIT 6**

Ron James, Business Manager, Ironworkers Local 841, stated that contractors do cheat when they turn in compensation rates. They may classify an ironworker as a laborer. The ironworkers have a four-year apprenticeship and training program. They are taught how to work safely in the air. When out-of-state contractors bid jobs in Montana and bring in their people, they don't pay the Montana Workers' Compensation rate but their state's rates. In most cases their rates are lower than in Montana, and it puts the fair Montana contractors at a disadvantage.

Don Chance, Montana Building Industry Association (non-union), stated he had worked under the proposed legislation that is similar in Washington. It is a system that is preferable to the industry. The association members who pay a higher wage to more experienced workers feel discriminated against, and they are hiring more experienced, less accident-prone workers.

Ralph Beltrone, All Steel Building Company, stated that his company isn't as competitive because of the unfairness in the rates. His company did work at the Malmstrom Airforce Base, which required weekly payroll reports with hours worked and the scale. It wasn't hard to compute.

Randy Williams, President, Williams Construction, stated his company is union and average wages are $18 per hour. The Workers' Compensation rate if 15.85 percent, which is $2.85 per hour. Therefore, on a 15,000 man-hour job, the Workers' Compensation is about $42,795. Competitors pay around $10 per hour and their rate would be $1.59 per hour. On the same 15,000 man-hour job they would pay $23,775. There is about a $19,000 difference. If contractors are paying higher wages, they shouldn't have to pay the higher premiums when exposure on the job is the same for both sets of employees.

Mike Mizenko, Vice President, Montana Plumbers and Pipefitters Association, stated his support for the employers throughout the state.

John Allen, National Electrical Contractors Association and owner of Allen Electric, stated that all contractors paying the same classification should be paying the same for medical services. Hospitals or doctors do not discount bills for lower paid employers. Health care is the same; contractors should be paying the same amount of the costs.

Bob Sletton, Sletton Construction Company, stated that safety is first throughout a project. Higher wages are paid to more qualified workers. Having safer ironworkers and paying higher Workers' Compensation rates puts his company at a disadvantage compared to the lower paying contractor.

Dan Hustas, President, Falls Construction, stated workers that have higher skills are safer workers. Employers who employ the highest skilled workers and pay the top wage are penalized by having to pay higher Workers' Compensation rates. He also stated a concern that there has to be integrity within records of the hours kept or there will be worse cheating.

Johnny Monahan, Director, Montana Ironworkers Training Program, stated his support of HB 187.

Lars Ericson, Montana State Council of Carpenters, stated that Workers' Compensation rules are inequities in the law.

Opponents' Testimony:

John Lacy, National Council on Compensation Insurance (NCCI), presented a pamphlet on Workers' Compensation and explained the background. **EXHIBIT 7A.** Workers' Compensation bases a premium as a unit payroll rate per $100 payroll. The premium base in insurance should be able to reflect the exposure of the hazard. Employee's pay is the basis of Workers' Compensation up to the state maximum. Injured workers are compensated on the basis of their pay prior to the accident. Higher paid workers generally would receive higher benefits. Under the classification system, there is a grouping of insureds with similar job categories. The employers are not 100 percent average, so there is a variation. The mandatory experience rating plan tailors the price for the individual employer on the basis on his own loss experience. Insureds who are better than average and have more safety get a reduction in a premium. There is also the mandatory premium discount plan. Switching to a work hour basis for contractors would not be an improvement. Four to five years additional reporting of data would be required if this bill passes. A premium base is the means where the amount of money is collected from the insureds and any change is not going to produce a change in the overall premium. The Washington State Board of Industrial Appeals heard 103 cases in the present fiscal half year where the

majority of concerned disputes were over the intricate workings of the man-hour system. There is a significant dispute over the man-hour assumptions. The vast numbers of employers appear to be satisfied. Total Payroll is not a perfect system. The National Council on Compensation Insurance feels that it is the best system. He presented a handout where the New York Compensation Insurance Rating Board did a study. **EXHIBIT 7B**

Gene Phillips, Alliance of American Insurance, stated that shifting of the premium computation from a payroll base to a man-hour base may decrease premiums for large employers but increase premiums for smaller employers. It would probably be higher for both employers at existing levels. A measurement of exposure to loss is essential to the proper functioning of the insurance process. Work-hour data does not meet the test for availability and verifiability. Employers are not generally required to report detailed information such as work hours. Work hour records may be haphazard or nonexistent. In some cases where employers keep such records, there is no reporting of the record for independent verification. If there was a change, there would be costly efforts by the insurers in order to obtain the necessary verification data.

Jacqueline Terrell, American Insurance Association, stated three reasons of opposition: 1. Man hours worked is not an easily verifiable base for calculating premium. 2. This particular basis for calculating does not keep pace with the increased benefit costs or the benefit levels of the employers that are covered, such as increasing medical costs. 3. The cost of administration, which will be costly to the insurers and the employers. As the economy of a state grows and the cost of living and doing business rises, increased payrolls induce and increase in premium dollars. This happens automatically without an adjustment to rates. Therefore, there is a less dramatic rate adjustment and more predictable rate levels. It will take about five years to make the conversion. There won't be an available data base instantly to start working on premiums on man-hours worked. In Washington, Workers' Compensation premiums are not paid solely by the employer; employees also contribute a portion of those costs. They use a different classification structure, experience rating, premium discounts are not mandatory.

Jim Murphy, Executive Vice President, State Fund, stated that the bill didn't include the State Fund but assumed that it would have to. **EXHIBIT 8**

Questions From Committee Members:

REP. DRISCOLL asked **Mr. Lacy** what the suggested rate was for an ironworker by NCCI for Montana, not the state rate. **Mr. Lacy** stated he didn't know without looking it up in the Workers' Compensation Manual. **REP. DRISCOLL** stated that in a contractors' magazine, the suggested rate for Montana ironworkers above three stories was $152 per $100 of payroll. Is that close to what your

rate is? **Mr. Lacy** said that it might be about $100 per $100 of payroll. He wasn't familiar with the rate.

REP. DRISCOLL said to **Mr. Murphy** the NCCI representative suggested rate is probably about $100, yet the State Fund charges $75. Why doesn't the State Fund use those rates? **Mr. Murphy** said that the rates, as required by the statute, are based and set by the State Fund. It is done with an independent actuary. The rates are set by our experience within Montana.

REP. TIM WHALEN asked **Mr. Murphy** if he said that four years of loss experience would be needed to know how to set rates based on a number of hours worked as opposed to hourly payroll. **Mr. Murphy** said yes. Currently, three years of payroll and accident experience data is used to determine rates. If hours are substituted for payroll, the actuary will want three years of data to set the rate. **REP. WHALEN** said that the actuary knows on a year by year basis what is paid out. Why can't the actuary take what is being paid out in claims and divide it by the number of hours worked instead of the number of dollars of payroll and figure the rate that way. **Mr. Murphy** stated he didn't have the information. **REP. WHALEN** asked if the Department of Labor and Industry kept records on what the average hourly wage rate is in a particular construction industry. **Mr. Murphy** said he didn't know.

REP. ROYAL JOHNSON asked **Mrs. Terrell** to comment on Section 1, Item F. **Mrs. Terrell** said that the American Insurance Association does not object to that amendment because their income is already reported in that manner.

REP. STEVE BENEDICT stated to **REP. DRISCOLL** that the State Fund wasn't in the bill. **REP. DRISCOLL** said there is an amendment to include the State Fund.

REP. RUSSELL FAGG asked **Mr. Murphy** if he was concerned about the solvency of the State Fund if this bill passes. **Mr. Murphy** said yes; if a new system is developed based on hours and those hours accurately reflect, then the bottom line revenue needs are going to be the same. It will possibly be redistributed. The concern is whether the hours can be verified and accurate. The State Fund is going to make sure that the bottom line revenue need is satisfied.

REP. BENEDICT asked **Mr. Murphy** to clarify that employers voluntarily submit the information on per $100 of payroll now. They are trusted now to give the information, so wouldn't it be the same circumstance with the hour basis. **Mr. Murphy** said not necessarily; payroll figures are used for numerous other purposes. Payroll records reported may not show one hour of time spent.

REP. DRISCOLL asked **Mr. Murphy** on reported payroll, "how is the overtime half-time taken off without paying a premium." **Mr.**

Murphy said the premium is paid on a straight time rate. **REP. DRISCOLL** said since the payroll records don't show how many hours worked, how can you tell when it's over 40 hours. **Mr. Murphy** said he didn't know.

Closing by Sponsor:

REP. DRISCOLL stated that the insurance industry said they have been using payroll since the early part of this century. They won't change. The prevailing rate for a laborer is $12.60 per hour, the rate is $11.75, and that equals $1.48 per hour. $240,000 worth of computer time wasn't needed to compute that. Payrolls can be verified now. You do not pay your premium on overtime. For example, if a person makes $12 per hour and works 50 hours the computation is 50 times $12 times the rate, even though the minimum wage and overtime law says time and a half is to be paid after 40 hours. If employers don't know how many hours are worked, how do they know when to take off the half time. The rates of NCCI are highly exaggerated in almost every class code. There are 79 class codes for construction only. The State Fund said that it needs $200,000 to administer the change; the unions have an auditor that audited over 5 million hours last year for seven construction unions with about 100 contractors. He has a computer and office staff and his total bill was less than $60,000. Maybe the State Fund should hire him.

EXECUTIVE ACTION ON HB 204

Motion/Vote: **REP. PAVLOVICH MOVED HB 204 DO PASS.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 21

Motion/Vote: **REP. O'KEEFE MOVED HB 21 BE TABLED.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 152

Motion: **REP. O'KEEFE MOVED HB 152 DO PASS.**

Discussion: **REP. O'KEEFE** stated that the subcommittee proposed an amendment to change the cap for businesses with an annual gross income of $250,000 to $110,000. Rep. Dolezal got statistics from Dunn's Marketing Data which identified gross sales for all the retailers in the state. The subcommittee looked at the percentages of businesses that would be fair to exempt from minimum wage. About 1/3 of the businesses would be exempt from the minimum wage requirement. That would cover 3,013 retailers who have annual sales of less than $110,000.

Motion: **REP. O'KEEFE** moved to amend HB 152.

REP. HANSON asked if an organization normally runs about $100,000 per year and has a good year with annual sales of $120,000, would

they have to back pay. How does that section read? **Ms. McClure** stated that it would be the same if the cap was set at $250,000. The Department of Labor would figure how to deal with it. She stated that she wasn't sure what the exact procedure would be.

Vote: Amend HB 152. Motion carried unanimously.

Motion: REP. O'KEEFE made a substitute motion that HB 152 DO PASS AS AMENDED. Motion carried 17 to 1 with Rep. Lee voting no.

EXECUTIVE ACTION ON HB 232

Announcement: CHAIR SQUIRES stated that Tom Schneider said **REP. COCCHIARELLA** could answer any questions for him.

Motion: REP. BENEDICT MOVED HB 232 DO PASS.

Discussion:

REP. WHALEN stated that on line 21 it provides for 10 days after the decision to appeal it to District Court; that is not enough time and should be increased to 30 days. He asked **REP. COCCHIARELLA** if she had any objection. **REP. COCCHIARELLA** said she wasn't sure and would have to ask Rep. Clark, sponsor of HB 232. **CHAIR SQUIRES** stated that **REP. CLARK** could make the amendment on the floor.

Motion: REP. WHALEN moved to amend HB 232 to include 30 days on line 21.

REP. HANSON stated to **REP. WHALEN** that it wasn't in the title of the bill. The direction of this bill deals with accepting the grievance procedures within the agreement. The Court Appeals is not in the discussion.

REP. KILPATRICK stated that Tom Schneider and Rep. Clark went over this, and the committee is not justified to change it to 30 days.

REP. WHALEN stated that 10 days wasn't enough time to get a lawyer to evaluate the problem or do the necessary paperwork.

REP. COCCHIARELLA stated to **REP. WHALEN** that there is a process in place where a person ends up in District Court if he chooses to. That is the appeal process that is in place. This allows appeal through the grievance procedure which is not the right of the patrolmen now. The first step is not District Court. There is already a process that a patrolman goes through with the Attorney General's office and then appeal to the District Court. This bill is to allow highway patrolmen to pursue another avenue. There isn't a problem with the 10 days.

Ms. McClure said in the existing law the appeal must be made within ten days. That is the process now. **REP. WHALEN** stated

that in the current law maybe the time is not adequate either.

Vote: Motion to amend failed 5 to 13. **EXHIBIT 10**

There was further discussion. **CHAIR SQUIRES** deferred Executive Action until Thursday.

ADJOURNMENT

Adjournment: 5:40 p.m.

Carolyn Squires
CAROLYN SQUIRES, Chair

Jennifer Thompson
Jennifer Thompson, Secretary

CS/jt

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL

DATE 1/29/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JERRY DRISCOLL	✓		
REP. MARK O'KEEFE	✓		
REP. GARY BECK	✓		
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. ROYAL JOHNSON	✓		
REP. THOMAS LEE	✓		
REP. BOB PAVLOVICH	✓		
REP. JIM SOUTHWORTH	✓		
REP. FRED THOMAS		✓	
REP. DAVE WANZENRIED	✓		
REP. TIM WHALEN	✓		
REP. TOM KILPATRICK, V.-CHAIR	✓		
REP. CAROLYN SQUIRES, CHAIR	✓		

CS05COM.man

HOUSE STANDING COMMITTEE REPORT

January 30, 1991

Mr. Speaker: We, the committee on Labor report that House Bill 204 (first reading copy -- white) do pass .

Signed: _____
Carolyn Squires, Chairman

TABLED BILL

~~Employment Relations~~ Committee

January 30, 19 91
Date

The following bill HB 21

TABLED, by motion, on ~~January 29~~, 19 ~~91~~.

~~Linda Thompson~~
~~the~~ Committee

J.D. Bachman
For the Chief Clerk

8:45
Time

1-30-91
Date

-04
1

HOUSE STANDING COMMITTEE REPORT

January 30, 1991

Mr. Speaker: We, the committee on Labor report that House Bill 152 (first reading copy -- white) do pass as amended.

Signed: _____
Carolyn Squires, Chairman

And, that such amendments read:

1. Title, line 6.
Following: "LAW;"
Insert: "TO PROVIDE AN EXCEPTION FOR CERTAIN BUSINESSES;"

2. Title, line 8.
Following: "AN"
Insert: "IMMEDIATE"

3. Page 1, line 12.
Following: "rates"
Insert: "-- exception"
Following: "."
Insert: "(1)"

4. Page 1, line 14.
Following: "that"
Insert: ", except as provided in subsection (2),"

5. Page 1, line 17.
Following: line 16
Insert: "(2) The minimum wage rate for a business whose annual gross sales are $110,000 or less is $4 an hour."

6. Page 1, line 20.
Following: "effective"
Strike: "July 1, 1991"
Insert: "on passage and approval"

EXHIBIT 1
DATE 1/29/91
HB 232

HB 232

HB 232 amends 44-1-901 MCA to allow a Highway Patrol Officer who has been suspended, demoted or discharged to appeal the action through the grievance procedure of a collective bargaining agreement if the officer is covered by a collective bargaining agreement. Officers who are not covered by a collective bargaining agreement will continue to appeal such action to the district court.

This bill would provide Highway Patrol Officers with the same rights as all other state employees covered by a collective bargaining agreements and take away the confusion of which procedure is used for which grievances. At the present time all grievances except suspension, demotion or discharge are subject to the contract grievance procedure.

Another advantage of the passage of this bill would be the possible relief of some of the overworked courts.

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EXHIBIT 2
DATE 1/29/91
HB 232

January 29, 1991

House Labor Committee

Subject: HB 232

I am Tom Schneider, representing the Montana Public Employees Association. House Bill 232 was submitted by our Association on behalf of the 162 members of the Montana Highway Patrol who are represented by MPEA.

MPEA represents 6200 members of which 4500 are state and university employees. The 162 members of the Montana Highway Patrol are the only state employees out of the 4500 who cannot use the grievance procedure of the collective bargaining agreement to appeal a suspension, demotion or discharge.

The current law, which sets up the procedure to appeal to the district court was in place at the time the Collective Bargaining Law passed and was not amended. The reason for the change now is that we have found the process to be bulky, expensive, time consuming both for the appellant and the courts. The best way to alleviate these problems is to allow these employees the same right that all other state employees have and that is to use a process which has been the product of negotiations between management and the employees.

I respectfully request your support for HB 232. Thank You.

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MPEA

EXHIBIT 3
DATE 1/29/91
HB 204

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

Testimony of Don Judge on HB 204 before the House Labor and Employment Relations Committee, January 29, 1991

Madam Chair, members of the committee, for the record, I'm Don Judge, Executive Secretary of the Montana State AFL-CIO, here today to present testimony on House Bill 204.

The Montana State AFL-CIO joins the Montana State Building and Construction Trades Council and construction industry unions in support of House Bill 204. This legislation brings state law up to speed with changes in the construction industry already recognized by employers and unions alike in many collective bargaining agreements.

The changes proposed by this legislation point to the benefits of collective bargaining, and present the positive aspects of management and labor working together. Many unions and contractors responding to the need for efficient construction timelines, and in an effort to improve productivity, have agreed to the provisions outlined in House Bill 204.

Working 4 day weeks, 10 hours per day has become an acceptable option in the construction industry with overtime provisions spelled out in the collective bargaining agreement.

House Bill 204 seeks to align state law with these collective bargaining agreements, and we are supportive of that.

As always, we need to be mindful of the need for an aggressive enforcement mechanism and encourage the Department of Labor to fulfill its obligation to police the law requiring the payment of overtime. In that vein, we also support the penalties for violation of this law as provided for in new section 2, subsection (3) on page 2 of the bill.

Organized labor urges you to support House Bill 204 and give it a "do pass" recommendation.

Thank you.

EXHIBIT 4
DATE 1/29/91
HB 187

Amendments to House Bill No. 187
First Reading Copy

Requested by Representative Driscoll
For the House Committee on Employee and Labor Relations

Prepared by Eddye McClure
January 29, 1991

1. Title, line 11.
Following: "39-71-116,"
Insert: "39-71-402, 39-71-426,"

2. Page 8, line 4.
Following: "2"
Insert: "and plan No. 3"

3. Page 8, line 9.
Following: line 8
Insert: "**Section 4.** Section 39-71-402, MCA, is amended to read:

"39-71-402. Extraterritorial application and reciprocity -- exception. (1) If a worker employed in this state who is subject to the provisions of this chapter temporarily leaves the state incidental to that employment and receives an injury arising out of and in the course of such employment, the provisions of this chapter shall apply to such worker as though he were injured within this state.

(2) If a worker from another state and his employer from another state are temporarily engaged in work within this state, this chapter shall not apply to them:

(a) if the employer and employee are bound by the provisions of the workers' compensation law or similar law of such other state which applies to them while they are in the state of Montana; and

(b) if the Workers' Compensation Act of this state is recognized and given effect as the exclusive remedy for workers employed in this state who are injured while temporarily employed in such other state.

(3) A certificate from an authorized officer of the workers' compensation department or similar agency of another state certifying that an employer of such other state is bound by the Workers' Compensation Act of the state and that its act will be applied to employees of the employer while in the state of Montana shall be prima facie evidence of the application of the workers' compensation law of the certifying state.

(4) The department may, with the approval of the governor, enter into agreements with workers' compensation agencies of other states for the purpose of promulgating regulations not inconsistent with the provisions of this chapter to carry out the extraterritorial application of the workers' compensation laws of the agreeing states.

(5) The provisions of this section do not apply to the construction industry as defined in 39-71-116.""

Section 5. Section 39-71-426, MCA, is amended to read:

"**39-71-426. Reciprocal agreements with Canadian provinces -- exception.** (1) Subject to the conditions provided in 39-71-427 and subsection (2) of this section, the governor may enter into agreements with duly authorized representatives of any Canadian province, granting reciprocal application of the workers' compensation laws of this state to Montana employers and workers if they are temporarily engaged in work in that province.

(2) Subsection (1) does not apply to the construction industry as defined in 39-71-116."

Renumber: subsequent sections

Heavy & Highway NEWS

EXHIBIT 5
DATE 1/29/91
HB 187

NATIONAL JOINT HEAVY AND HIGHWAY CONSTRUCTION COMMITTEE

111 MASSACHUSETTS AVENUE, N. W. • WASHINGTON, D. C. 20001 • (202) 842-2713 Vol. 5, No. 4 December, 1989

Workers' Compensation

THE HIDDEN NON-UNION ADVANTAGE

We've been asleep at the switch! There is a major cost factor in construction that prohibits union contractors from being competitive, yet most of us know little about it. More surprising, the labor movement has done practically nothing to change this problem even though it constitutes a greater competitive disadvantage to union contractors than wages, fringes and working conditions combined. It directly affects every construction worker in the United States, and quite possibly, is the single most important issue union contractors and unions face today. For this reason we are presenting this article on Workers' Compensation insurance in hopes that by making you aware of the problem, you can join with us in making changes to the current laws.

History

In the early 1900's, prior to any Workers' Compensation laws, personal injury suits were filed in the courts and employees had to prove employer negligence in order to collect damages. As the United States grew from an agricultural economy to an industrial economy the number of personal injury suits increased and, as you might imagine, was a slow and uncertain legal process for the employer and the injured employee.

In 1911, the first Workers' Compensation laws were enacted in the United States. Today, all 50 states have Workers' Compensation laws which serve to relieve employers of liability from common-law suits involving negligence. While these laws do provide workers with "reasonable income" and medical benefits for job-related injuries, let there be no mistake that Workers' Compensation laws have provided a greater benefit to employers.

In 1976, a government task force studying Workers' Compensation laws found that unless changes were made, Workers' Compensation would become more expensive, less equitable, and less effective. Guess what? No changes have been made and, as you will see, the system is now bordering on a total collapse in many states. The U.S. Department of Health and Human Services estimated that employers spent over $34.1 billion on Workers' Compensation insurance in 1986. This was $4.8 billion or 16% higher than 1985, and another 16% higher than

The Problem

Rates for private Workers' Compensation insurance are universally based on a certain cost per each $100 of payroll depending on the classification of work. This means that a union employer paying a higher wage rate has a higher Workers' Compensation insurance cost even though studies show that higher paid union workers work safer than their non-union counterparts. This is true even though each contractor has a "modifier" which is supposed to adjust costs according to accident rates. It is true that certain classifications of work are more dangerous than others, but left unchecked, the non-union contractor will cheat by reporting workers in lower cost classifications. As you will see, the higher cost of the insurance because it it based on payroll costs, coupled with the non-union contractor's ability to cheat, can and does give unions a disadvantage that is impossible to make up through wages, fringes, and working conditions. If you think Davis-Bacon cheaters have an unfair cost advantage, get a load of this.

Premium rates vary from state-to-state as well as classifications. Costs can range from 7% to more than 100% of payroll costs, and average an estimated 30%. For example, rates per $100 of payroll can be as low as $2.27 for interior electrical wiring in New Jersey to an unbelievable $162.26 for structural steel erection in Montana. Moreover, in Montana the spread based on classification ranges from $8.30 to $162.26 per $100 of payroll. You'd be pretty naive to believe that Montana contractors are properly classifying their employees.

If it's not bad enough that they cheat, non-union contractors have found myriads of ways to beat the system entirely. One of the easiest ways with little likelihood of getting caught is known as "employee leasing." This system, which is heavily practiced in Florida, works like this: A developer carries the Workers' Compensation insurance on a project, but has no employees. If a contractor's employee gets injured, he/she is placed on the developer's payroll, a minimum premium is paid and presto, the employee is qualified for benefits. With all the money going out and little coming in, it is easy to understand why Florida insurers were asking for a 47.7% increase in rates.

(continued on back page)

(Workers' Compensation continued)

Another scam to eliminate paying Workers' Compensation is so-called independent contractors such as dump truck drivers. With virtually no enforcement, contractors are paying dump truck drivers a fixed fee for their truck which is supposed to cover the driver's wage plus an amount for the truck leasing. In this way, the contractor most likely is paying below Davis-Bacon wages, withholding no income taxes, paying no payroll taxes, and paying no Workers' Compensation insurance. We're surprised that anyone has a legitimate trucking business anymore.

The bottom line is that legitimate contractors who properly classify workers are being forced out of business or forced to cheat. The result is that 21 states have approved rate increases during a six-month period. Florida and Texas, states with a high concentration of non-union employers, have asked for rate increases of 47% and 35%, respectively. Unless changes are made, rate increases will continue which will further reduce the number of legitimate paying contractors and exacerbate the problem. Workers' Compensation is on a collision course!!!

Oregon Study

To prove that the system is "bass ackwards" in that higher paid workers are safer and yet must pay a higher premium, a study was done in Oregon that graphically demonstrates this fact. Mandated by the Oregon legislature, the study involved a year-long survey of the state's rating system conducted by the National Council of Compensation Insurance (NCCI) and an independent market research firm. "The data indicates that the system at the front end does have inequities with regards to the high wage union employers," said the NCCI's Director of National Affairs. This can be seen by looking at the premium and loss data shown below:

Average Weekly Wage	*Number of Employers*	*Premium*	*Total Losses*
Less than $101	59	$ 184,976	$ 89,325
$101-200	151	$ 419,834	$ 287,496
$201-300	381	$ 1,545,600	$ 450,136
$301-400	505	$ 3,198,836	$ 1,027,442
$401-500	409	$ 5,352,771	$ 2,013,625
$501-600	221	$ 4,008,245	$ 860,254
$601-700	151	$ 2,349,297	$ 595,415
$701-800	55	$ 1,973,052	$ 291,610
Over $801	51	$ 678,731	$ 111,692

For example, compare the data from employers that pay average weekly wages of $201 to $300 with those paying $701 to $800. The employers in the lower paying category actually paid 25% less in premiums ($1.5 million) than the higher paying category ($2 million) while they recorded 54% more in losses ($450,136 versus $291,610).

The study also looked at the modifier to see if it adjusted the premiums based on the loss experience of contractors and found "the modified loss ratio leads to the same conclusions . . ."

Possible Solutions

The most logical solution to the problem of unfairly penalizing higher paying employers is to change the premium computation method from $100 of payroll to hours worked. After all, an employee's exposure to having a work-related accident is just as great no matter how much he/she is paid. Another solution would be to change the premium based on type of work being performed instead of classifications. In other words, why is a bridge iron worker charged a higher premium than the carpenter working alongside him? These are simple solutions to a complex problem which may prove very difficult to change.

We believe the most logical and equitable way to solve the problem is to pass federal legislation that sets forth minimum guidelines. Certainly, given the disparity of premium costs and benefits between the various states, we wouldn't have to look very far to find justification for a federal Workers' Compensation program. Tackling the problem on a state-by-state basis may be the least effective route to take, but it would certainly be worth the effort.

Finally, in case our readers are not convinced that the current Workers' Compensation system is biased toward non-union contractors, the Maryland Chamber of Commerce had this to say: "Calculating Workers' Compensation rates on hours worked rather than current practice of basing them on payroll removes the cost advantage that non-unionized labor firms have on the Workers' Compensation rates."

That's the final word to prove our point.

National Joint Heavy and Highway Construction Committee
111 Massachusetts Ave., N.W.
Washington, D.C. 20001

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EXHIBIT 6
DATE 1/29/91
HB 187

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

TESTIMONY OF DON JUDGE ON HOUSE BILL 187 BEFORE THE HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE, JANUARY 29, 1991

Madam Chair, members of the committee, for the record my name is Don Judge and I'm here today representing the Montana State AFL-CIO in support of House Bill 187.

In 1987, the Montana State AFL-CIO supported a similar measure introduced by Representative Driscoll. Unfortunately, for workers and construction contractors, the measure failed. That has meant four more years of unnecessary, inequitable and unfair competition in the construction bidding process in Montana.

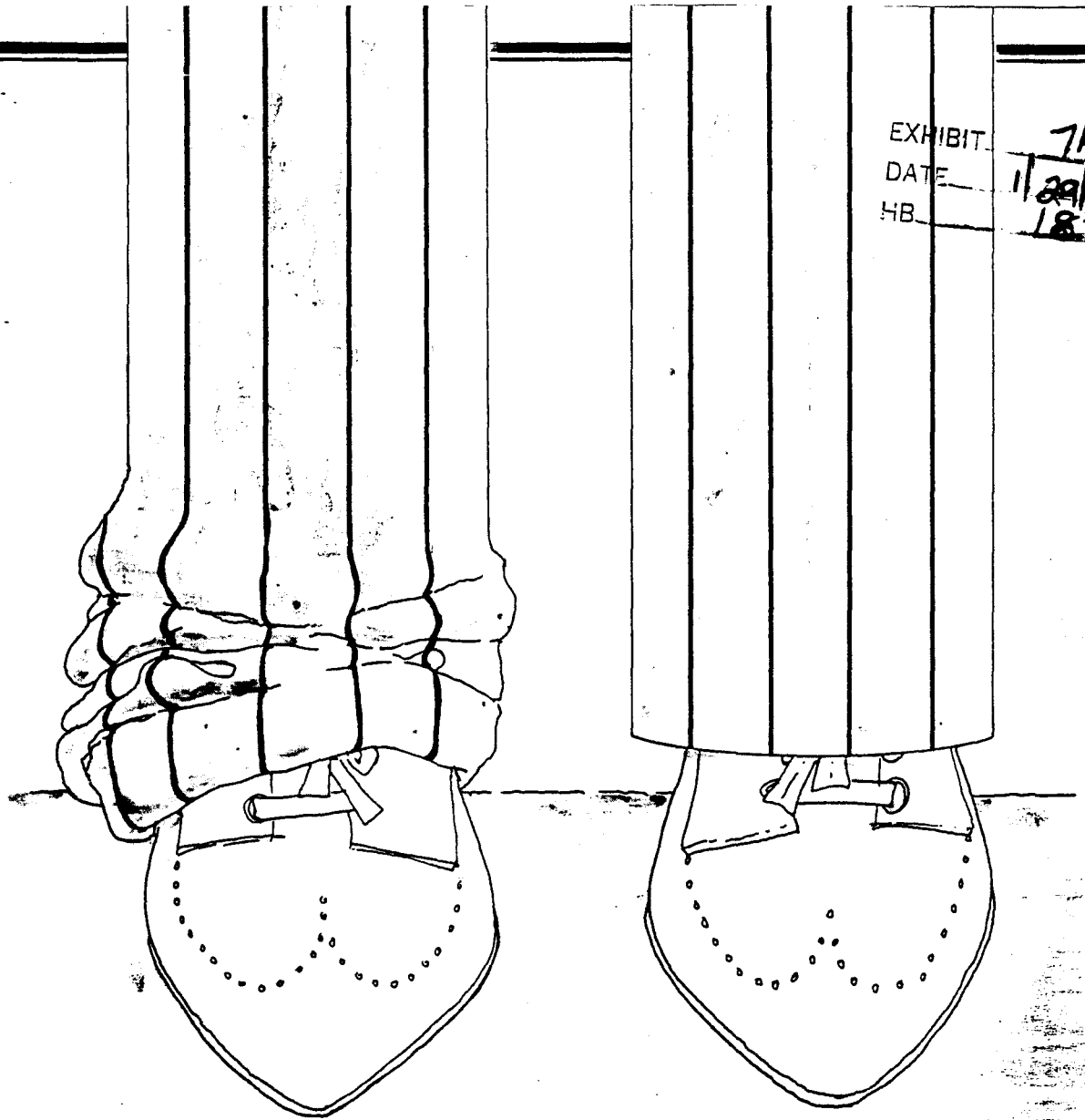
Employers who pay higher wages to their workers have, as result of the failure of this legislation in 1987, been forced to pay higher workers' compensation premiums and to compete against employers who pay substandard wages. Under current law, employers who pay lower wages also pay lower workers' compensation premiums -- even though work place accidents and injuries on their jobs exceed those of the higher paid union workers.

That's right -- union workers are safer workers, and because they generally pay higher wages, union contractors are forced to subsidize the less safe non-union contractors workers' compensation coverage!

The November, 1990, Journal of Occupational Medicine published a study entitled, "Safety Performance among Union and Nonunion Workers in the Construction Industry" by Dr. Dedobbeleer, et al. The study bluntly states: "... that by far the best variable for classifying workers as union or nonunion construction workers was the exposure to safety training." The study further shows that construction workers' safety performance is significantly related to union membership.

According to the January 1991 issue of Safety Spotlight, published by the National Erectors Association, the New Mexico State Legislature recently enacted a law reforming the state's workers compensation reporting requirements. As of January 1, 1991, workers' compensation rates will still be determined by payroll figures, but hours worked must also be reported. According to their Senate Bill 1, the legislature found that "... calculating workers' compensation premium rates strictly on the basis of an employer's wages paid discriminates against and penalizes higher-paying employers."

EXHIBIT 7A
DATE 1/29/91
HB 187



Workers Compensation Premium

Finding The Perfect Fit

NEW YORK COMPENSATION INSURANCE RATING BOARD
200 East Forty-Second Street, New York, New York 10017
Telephone (212) 697-3535 Fax (212) 972-1393

EXHIBIT 7B
DATE 1/29/91
HB 187

Expressly Prepared For:
General Building Contractors
of New York State, Inc

Subject: Basis of Premium

At the request of the General Building Contractors of New York State, Incorporated, a study was undertaken by the Rating Board to review the proposal for introduction of a premium determination method which would exclusively use hours to measure exposure to hazards.

General

In connection with this review, several hundred employers were subjected to physical audits whereby their accounting records were examined to establish whether complete and verifiable records of "hours worked" were available. Our study showed that 53% of the employers did have some form of hourly records. However, it is of significance that the balance did not keep any hourly records at all. And it is also important to mention that none of the employers that maintained hours worked records had their hours summarized or broken down by categories of work, e.g., concrete construction, factory, clerical, outside sales, etc.

It is of note that the availability of "hours worked" records changed rather dramatically when certain categories in the construction industry only were reviewed. This part of the study disclosed that over 90% of the higher paying employers did have hours worked records available, and about 60% of the lower wage paying employers in that industry had hours worked records available.

Background of Current System

The present system involves premium charges based on a uniform rate per hundred dollars of payroll for each employee, subject to the type of work involved. If the payroll method was replaced with the number- of- hours worked per employee, we must all ask ourselves how would this affect the current pricing system as it relates to an employers premium?

The current rate per each $100 of payroll for workers compensation premium is predicated on the anticipated *total payrolls* for each industry and the expected losses for that industry. This system must produce a sufficient amount of premium to cover the *actual* losses for each industry. *It is important to note that this premium "need" to pay actual losses and expenses does not change regardless of the basis of premium; e.g., payrolls, hours, etc.* If the Basis of Premium was changed to other than payroll, then it is expected that there would be a redistribution of the needed premium among the employers in each classification.

Hours Worked V. Use of Payrolls

How would that redistribution be made? Well it would come about naturally, based upon the reported exposure to operations (hours.) However, this system would be affected considerably by the fact of whether an employer did or did not keep records. And of course, whether the records were maintained accurately, and whether the "hours" could be verified somehow.

In theory, the hours-worked method would appear to be the most reasonable way of developing workers compensation premiums. But there is a most serious negative downside in relying solely on hours-worked that must be considered. And the risk is that hours-worked will indeed be subject to inaccuracies, discrepancies, and abuses.

What would be the difference between an hours-worked system and the use of payrolls? The difference involves verification, because payrolls are physically paid to employees, checks are drawn on banks, and multiple tax reports must be completed by employers and filed with governmental agencies who periodically audit these filings. These verification capabilities generally assure that the payrolls used are the payrolls expended, and therefore, are the proper payrolls to be taken by insurance company auditors. This is not the same scenario with the use of hours-worked because as already stated, in too many cases the hours are not available and are not verifiable. Yet, the loss *need* remains the same. Consequently we believe that those employers who maintain good records will pay a greater portion of the premium need than those who do not keep accurate and verifiable records.

As an incidental concern, the auditing of hours by insurance carriers will become more expensive and necessarily generate higher expenses to be added to the "rate". For example: if an employee earned $24,000 per year, this would currently involve (240) $100 units of payroll. Translating this into units of hours-worked would mean that, without overtime, we might be dealing with about 2000 hours of actual working time per employee, to "verify" per year. Our study revealed a 26% increase in auditing expense to "audit" hours-worked records..

How would an employer check the accuracy of the insurance carrier's billing of hours? With substantial difficulty, we believe. In a 200 employee firm, for example, this could represent 400,000 hours which have to be extracted from unsummarized records provided the hours are available. And what about the problem of trying to separate this by the type of work done; e. g., clerical, outside sales, inside sales, and the whole gamut of contracting classifications? What checks and balances are there for both the insurance company auditor in developing a billing, or the policyholder who wishes to check the charges? This will likely generate more questions and controversies concerning the accuracy of billings. And there would be difficulties when charges for uninsured subcontractors were required where no hours whatsoever are recorded. Inaccurate estimating of non-recorded hours worked would become prevalent, and seriously affect the accuracy of billings as well as the data base used by a rate service organization and the rates it produces. Think about this; will both carriers and policyholders physically go through a set of records independently to add hours, employee by employee, and classification by classification, if the hours are recorded? Would an insurance auditor be able to accept a computer print-out prepared by the insured? No, because the carrier "audit" would then be a meaningless process. And unlike payrolls, when an "hours" audit is completed, there is no way to reconcile this mass of hourly figures with any summary records, such as the employer's disbursements book, general ledger and quarterly and annual payroll tax returns. With

such a system it would not take long before some very creative and imaginative hours-worked records, or reportings, would be made available " *For the insurance company's use only*".

While no system, or method, is perfect, on balance, the use of payrolls for premium determination purposes is far superior, and more reliable as a measuring tool for developing equitable premium charges from employer to employer. Additionally, it is far less vulnerable; initially to serious auditing difficulties, and subsequently, to improper ratemaking, than an hours-worked method would be.

Review of Ironworkers' Experience

As part of our review, the G.B.C. was requested to provide the Rating Board with a comprehensive listing of their members who are the" higher paying" employers in the State. Ultimately, we were furnished through various sources, including the G.B.C., names of employers engaged in several contracting activities. This list was culled to extract those employers involved with iron & steel erection, because this subject was originally raised with concern for the iron and steel erection employers. The Board then conducted a review of the available experience collected for the three classification codes which comprise the iron and steel erection industry. This experience revealed the following:

1. The high paying employers' payroll and losses for each of the classification codes accounts for a sizable portion of the total experience available for both categories of employers. The actual percentages for each class are shown below:

		High Paying Employers	
Class		% of Payroll	% of Losses
5040	Iron or Steel Erection-Frame Structure	95.0	87.0
5057	Iron or Steel Erection-Frame Structure N.O.C.	95.2	99.4
5059	Iron or Steel Erection-Frame Structure Up to 2 Stories	77.1	88.5

1. The above statistics were based on the data provided to us. There was an "unknown" portion of total experience for these codes, but we believe the unknown experience would likely project to develop similar proportions. Based upon this assumption, it is clear that the experience of the high paying employers is basically responsible for the rate of each classification shown above.

2. In two of the three categories shown (codes 5057 and 5059), the loss experience of the high paying shops is somewhat worse than that of the open shops. If, in fact, a disproportionately higher amount of payroll is presently collected from the high paying employers, then it is reasonable to expect that the ratio of losses to payroll should be lower for the high

paying segment. However, based on the above loss ratios, the higher paying employers incur a disproportionately higher percent of the total losses.

3. Since most of the classification payroll belongs to the higher paying employers, a change to hours worked as a basiss of premium will have little or no significance on the total premium paid. Regardless of the premium basis, a specific amount of premium is needed to cover losses and expenses for each industry. Because the experience composition of these classes is largely derived from higher wage paying employers, the bulk of the premium would still come from the higher paying employers, and any new rate structure would self-correct for this regardless of the basis of premium.

Conclusion

We are emphatically opposed to the substitution of "hours worked" as the basis of premium, because it would completely destroy the establishment of equitable premium charges from employer to employer.

It is understandable that the G.B.C. may view the "hours worked" theory as a simplified approach to handling the perceived problem, but we submit that their posture does not recognize the serious pitfalls that are masked within an hours worked system. As already stated, we believe that higher paying members of the G.B.C., under an hours worked basis of premium, would be subjected to paying a substantially higher percentage of the premium needed to cover the losses and expenses for the iron and steel erection classifications than at present.

Members of the G.B.C. may believe that they are presently paying a higher percentage of the needed premium per classification, and support that view with their estimates of a 1/3 disparity in hourly wages. Actually, after application of an improved experience rating and premium discount which high paying employers enjoy, the difference is narrowed considerably.

EXHIBIT 8
DATE 1/29/91
HB 187

Testimony HB 187
By James J. Murphy
Executive Vice President, State Fund

First I would like to provide you with some statistical data to demonstrate the impact of HB 187 on the State Fund. The class codes under which we would consider part of the construction industry using NCCI designations generated about $19,600,000 in premium during fiscal year 1990. This represents about 79 class codes which could effect an estimated 3000 employers.

One technical matter, is the definition of "construction industry" in HB 187. The definition does not agree with the designation used by NCCI to classify codes. We would be in a never ending battle with employers as to whether they should or shouldn't be within the definition. If the bill passes, we suggest the definition merely refer to the definition or designation as used by NCCI.

A second technical matter concerns the premium basis for sole proprietors, partners or corporate officers. Presently these individuals are covered based on a set dollar amount for both premium and benefit purposes. HB 187 is silent on this matter. The bill may need to be amended to require an hourly basis for these coverages and section 39-71-118 may need to be amended for sole proprietors and partners.

We would like to raise three concerns with HB 187 and the requirement to use hours as opposed to payroll as a basis for premium even though we do understand the reasons for submitting this legislation.

First - the possibility raised concerning the impact on rates and whether such a system will provide proper rates for the class codes effected. This argument revolves around the concern as to whether the "hourly" data would be accurate and whether it could be verified. Verified being the key word. We must rely on the actuarial experts and both the actuarial experts from the National Council on Compensation Insurance

The New York state rating organization

and our own actuary oppose this legislation. ~~NCCI~~, at the request of the General Building Contractors of New York, did a study regarding this very issue. The study showed 53% of the construction industry employers had some form of hourly records and significantly, the balance of the employers did not keep any hourly records. More important, none of the 53% had hours by class code. Wages or gross payroll can be verified because such information must be maintained and reported to other governmental agencies. The difficulty with verification raises the question of equitable premium charges from employer to employer.

The second concern deals with the additional cost to the State Fund. We estimate it would cost us $100,000 to $200,000 depending on in-house or contracted services to develop a system to record, track and report on an hourly basis. It could also cost us operational costs of $340,000 in the first year and $240,000 thereafter for underwriting and auditing and it would undoubtedly increase actuarial costs by an undetermined amount. And based on the experts' testimony, we would incur these costs without assurance that the rates would be any more equitable and in fact may be less than equitable.

Our third concern deals with the effective date. The bill is effective July 1, 1992. This may give us enough time to develop and implement a computer system using contract services to record and track the data but does not allow us the time to collect the data. Presently our actuary uses three years data for rate calculation. We do not have any hourly data at this time. We would need to require employers to start submitting both payroll and hourly data possibly starting July 1, 1991. After we collect the data for FY 1992, 1993 and 1994 we could request our actuary to use only hourly data for the rates effective July 1, 1995. We also would have to perform extended audit services in an attempt to assure the data is accurate.

In summary, we are concerned about the reliability of the hourly data for rate making, the additional costs to the State Fund and the effective date if the bill passes.

James J. Murphy

EXHIBIT 9
DATE 1/29/91
HB 152

Amendments to House Bill No. 152
First Reading Copy

Requested by House Labor and Employee Relations Subcommittee
For the Committee on House Labor and Employee Relations

Prepared by Eddye McClure
January 26, 1991

1. Title, line 6.
Following: "LAW;"
Insert: "TO PROVIDE AN EXCEPTION FOR CERTAIN BUSINESSES;"

2. Title, line 8.
Following: "AN"
Insert: "IMMEDIATE"

3. Page 1, line 12.
Following: "**rates**"
Insert: "**-- exception**"
Following: "."
Insert: "(1)"

4. Page 1, line 14.
Following: "that"
Insert: ", except as provided in subsection (2),"

5. Page 1, line 17.
Following: line 16
Insert: "(2) The minimum wage rate for a business whose annual gross sales are $110,000 or less is $4 an hour."

6. Page 1, line 20.
Following: "effective"
Strike: "July 1, 1991"
Insert: "on passage and approval"

EXHIBIT 10
DATE 1/29/91
HB 232

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL VOTE

DATE 1/29/91 **BILL NO.** 232 **NUMBER** _____

MOTION: Rep Whalen - Amend ~~Appeal~~ from 10 days to 30 days.

NAME	AYE	NO
REP. JERRY DRISCOLL	✓	
REP. MARK O'KEEFE	✓	
REP. GARY BECK	✓	
REP. STEVE BENEDICT		✓
REP. VICKI COCCHIARELLA	✓	
REP. ED DOLEZAL		✓
REP. RUSSELL FAGG		✓
REP. H.S. "SONNY" HANSON		✓
REP. DAVID HOFFMAN		✓
REP. ROYAL JOHNSON		✓
REP. THOMAS LEE		✓
REP. BOB PAVLOVICH		✓
REP. JIM SOUTHWORTH		✓
REP. FRED THOMAS		✓
REP. DAVE WANZENRIED		✓
REP. TIM WHALEN	✓	
REP. TOM KILPATRICK, VICE-CHAIRMAN		✓
REP. CAROLYN SQUIRES, CHAIR		✓
TOTAL	5	13

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Labor & Employment Relations **COMMITTEE** **BILL NO.** 187

DATE 1/29/91 **SPONSOR(S)** Jerry Driscoll

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ron H. James 110 N. Warren - Helena	Ironworkers Local 841	✓	
Ralph Beltrone 2260 3rd Ave No - Gt. Falls	Montana Steel Erectors / Allsteel Buildings	✓	
Martin Becker PO Box 8467 Goat Falls	Sletten Construction	✓	
Bob Sletten	Sletten Const Co	✓	
Gene Vuckovich	Anaconda/Deer Lodge	✓	
Johnny Monahan	Mont. Ironworkers Training Prog	✓	
John C Caldwell	Local 400 I.U.O.E.	✓	
Lars Ericson	Mont. St. Carpenters	✓	
Randy Williams	Williams Const.	✓	
~~Jack Kaiser~~	~~Mt. Dept of Highways~~		
John Lacy	Nat. Council on Comp Ins		✓
John R. Allen	Montana Chapter National Elec. Contractors	✓	
Robert K. Murphy 1621 Karmen Rd. Helena	LU 185 IBEW	✓	
Craig Kuchler 1420 Cdl. Gulch Helena	Carpenters Local #153	✓	

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

LABOR & EMPLOY COMMITTEE

BILL NO. 187 SPONSOR ______ DATE 1-29-91

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Michael S. Mizenko 3232-8 TH AV. SO. GT. FALLS	Plumbers + Fitters #139	187	✓	
Kiri Mizenko 2301 14TH AVE. SO. GREAT FALL	Laborer	187	✓	
Jacqueline Terrell	Am. Ins. Assoc	187		✓
Gene Phillips	Alliance of Amer Ins	187		X
Dewey Hall	Bricklayers Local 10	187	✓	
Jim Murphy	State Fund	187		X
Don Chance	MT. Bldg Ind. Assn.	187	✓	
[illegible]	Teamsters	187	✓	
[illegible]	Mt St Bldg Trades	187	✓	
Don Judge - Helena	MT STATE AFL-CIO	HB187	✓	
Joe Wolfe	Polar Elec	HB187	✓	
Rick Abraham	Montana Metal	HB187	✓	

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Labor & Employment Relations COMMITTEE BILL NO. 204

DATE 1/29/91 SPONSOR(S) Sheila Rice

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ron H. James 110 N. Warren - Helena	Ironworkers Local 841	✓	
Martin Becker PO Box 2467 Great Falls	Sletten Construction	✓	
Bob Sletten	Sletten Const	✓	
Don Judge Helena	MT State AFL-CIO	✓	
Johnny Monahan	Ironworkers Training Prog.	✓	
Dewey Hall Helena	Bricklayers Local 10	✓	
Lars Ericson	Mont. St. Carpenters	✓	
John C Caldwell	Local 400 I.U.O.E	✓	
Jack Holstrom	MT. Dept. of Highways		
John R. Allen	Montana Chapter National Elec. Contractors Assoc	✓	
Robert K. Murphy. 1621 Karmen RD Helena	L.U. 185 I.B.E.W.	✓	
Craig Kuchler 1420 Col. Gulch Helena	Carp local 153	✓	
Rick Abraham Box 908 MAR Clancy	Montana Metal Bldgs.	✓	
Michael S. Mizenko 3233-8TH AV. SO. GT Falls	Plumbers & Fitters #139	✓	
Kurt Mizenko 2301 14TH AVE. SO. G.F.	Labour	✓	

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John A Manz P.O. Box 2648 G.F 59403 — Teamsters ✓

E Fenderson - MT St Blg Trades

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

LABOR & EMPLOY. COMMITTEE

BILL NO. 204 SPONSOR _____ DATE 1-29-91

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NAME AND ADDRESS	REPRESENTING	BILL	SUP-PORT	OPP-OSE
Joe Wolfe	Polar Elec	204	✓	

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Labor & Employment Relations **COMMITTEE** **BILL NO.** 232

DATE 1/29/91 **SPONSOR(S)** Robert Clark

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Steve Johnson	State Labor Relations		✓
Tom Schneider	MFEA	✓	
Dana Hughes Chair MT HR Commission	Exec Govt Gp	✓	
Peter Funk	Dept. of Justice		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.