

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Senator Thomas E. Towe, Vice Chair, on March 7, 1991, at 3:15 p.m.

ROLL CALL

Members Present:

Thomas Towe, Vice Chairman (D)
Gary Aklestad (R)
Chet Blaylock (D)
Gerry Devlin (R)
Steve Doherty (D)
Thomas Keating (R)
J.D. Lynch (D)
Dennis Nathe (R)
Bob Pipinich (D)

Members Excused: Richard Manning, Chairman (D)

Staff Present: Tom Gomez (Legislative Council).

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

Announcements/Discussion: NONE.

HEARING ON HOUSE BILL 232

Presentation and Opening Statement by Sponsor:

Representative Robert Clark told the Committee House Bill 232 deals with the disciplinary actions for the Highway Patrol giving Highway Patrol officers covered by a collective bargaining agreement "equal footing" with the right to appeal.

Proponents' Testimony:

Tom Schneider of the Montana Public Employees Association spoke in support of House Bill 232 from prepared testimony.
(Exhibit #1)

Opponents' Testimony:

Peter Funk, Assistant Attorney General assigned to represent the Highway Patrol told the Committee they are not "vehemently opposed" to the idea. He explained the standpoint they approach the issue from is the appeal which is reflected in Section 1, an

appeal which occurs after a "full-blown" contested case disciplinary process existing in statute now. These are essentially a trial-type setting with a proposed decision issued by a hearing examiner which is then either accepted or rejected by the Attorney General. All of which occurs before the appeal. He explained the primary point in opposition to this bill is that it is the norm to have the court system review administrative actions. After the Attorney General has made his decision, the existing statute is set for approximately forty years; that the entity which should review those decisions is the court system. House Bill 232 proposes the review of that administrative decision be handled through the collective bargaining process. It would change from the traditional handling on the appellate side of administrative actions. He explained there is no bias against binding arbitration or a collective bargaining process. He commented there is some uncertainty, which is built into the statutory provision, if a collective bargaining process is referenced for appeal. On the cycle now, this particular agreement with the Highway Patrol members is negotiated on a two year basis. The collective bargaining agreement runs for twenty-four month period. The only certain about the appellate process is to the termination date of the current collective bargaining agreement. As the statute is drafted now the appeal procedure is certain; it's a district court review. Under the proposal it is not as certain, because it depends on a collective bargaining process to the end of the current agreement.

Bob Griffith representing the Montana Highway Patrol spoke in opposition to House Bill 232. He explained this would set a duel system for discipline amongst the officers. Not everyone in the Highway Patrol are in a bargaining unit. He commented binding arbitration eliminates appeals, but not with the district court process. He told the Committee the existing statute has existed for 56 years with no problems. He explained he would not like to "think about negotiating discipline" every two years when the union contract is up. He told the Committee discipline should be set by statute and should be above and beyond the negotiation for the uniform officers of the Montana Highway Patrol. A police agency should be governed by state statute rather than a binding arbitration. (Mr. Griffith did not sign the Visitor's Register but his testimony is entered here.)

Questions From Committee Members:

Senator Aklestad asked Representative Clark why House Bill 232 introduced when those people directly involved are opposed to it. Representative Clark explained some recent occurrences were not handled properly. He explained "some people thought they were mislead".

Senator Lynch asked Representative Clark how he would respond to Colonel Griffith's statement that the process has been working for 56 years. He asked what instances have occurred.

Representative Clark deferred the question the Tom Schneider. Mr. Schneider told the Committee all other state employees have the right to grieve through a contract grievance procedure, and ultimately go to binding arbitration. He explained the entire process is determined by the Attorney General. He selects the hearings officer. There were two cases in the last two years, one of which the hearings officer, selected by the Attorney General, recommended a person not be terminated. The Attorney General terminated. The district court did not overrule the Attorney General. They will not overrule unless a specific error is found in the record. The facts are not looked at.

Senator Devlin asked Mr. Schneider about his statement that all other state employees have the right to grieve. He cited the fish and game. Mr. Schneider told the Committee there are statutory procedures for both the Highway Department and the Fish and Game. In both cases, if a procedure is in the contract; the contract procedure is followed, or the statutory procedure is followed at the choosing of the employee. With the Highway Patrol, because the process is defined in statute only; currently without amending the statute, the statutory procedure only can be used.

Closing by Sponsor:

Representative Clark closed on House Bill 232. He told the Committee this bill would not change, and would not interfere with the Attorney General's right to suspend, demote, or discharge. It does not take away his right to appoint a hearings officers. It provides after the Attorney General has made a decision, the Highway Patrol officer will have the right to appeal grievance resolution provision of the collective bargaining agreement.

HEARING ON HOUSE BILL 336

Presentation and Opening Statement by Sponsor:

Representative Dick Simpkins presented House Bill 336 to the Committee. He explained the bill at the request of the Department of Labor and Industry is to clarify procedures in two areas. One in which the DOLI enters a procedure to recover unpaid wages to an employee by an employer; and a priority for bond payments for restaurants, bars, etc. At the present time the law states the department, if it intercedes to recover employee wages, must levy a penalty on the employer at a rate of 5% of the total wages due for a period not to exceed 20 days. He told the Committee this sets up a "deadlock". The employee knows he can receive a 100% penalty and after 20 days, there is no incentive for the employer to settle. The discretion is left to the department with an incentive to both parties to settle as soon as possible. In regards to the default judgement, the

department is allowed to enter a default order to ensure faster settlement. He told the Committee because of a change in workers' compensation, which a mutual fund outside the department, a change has been made. A bond is required by individuals owning taverns, restaurants, bars, etc. The bond will be used to pay wages due employees first, then the payroll taxes due, and no longer used to pay workers' compensation.

Proponents' Testimony:

Mike Micone, Commissioner of the Department of Labor and Industry spoke in support of House Bill 232. He told the Committee the Section the department wishes to address deals with penalty. He explained the law requires a 5% penalty per day be imposed for up to 20 days (equalling 100%). This penalty must go to the claimant. He cited a wage claim case of 93 workers against Centel filed in 1984. While the exact damage is based on the number of workers and hours, the case is still in dispute. The department believes settlement would avoid costly discovery and an extended trial. Several of the claimants have demanded the penalty. He explained the hearings officers attempt to negotiate settlements prior to the hearing. The employers are opposed to paying any penalty; and the employee, upon hearing of the 100% penalty, refused to settle for the wages owed. The process is delayed.

Opponents' Testimony:

Don Judge of the Montana State AFL-CIO spoke in opposition to House Bill 336. He told the Committee they did not aggressively oppose the entire provisions of this legislation in the House. He commented some things about House Bill 336 are very good. The department is given the authority to enter a default order which will speed up to collection of wages in the event the employer fails to respond to the wage claim being filed against him. Mr. Judge told the Committee when employees file wage claims, they file because "they're desperate for that money". He explained if the employee is due those wages; they should receive it as soon as possible. He commented he understood the department's dilemma in not having flexibility in encouraging employers to settle the issue. He stated he disagrees employees wait twenty days for wages due in order to receive a doubling of wages. He suggested rather than allow the department complete discretion in waiving the penalty, the department be allowed a reasonable period of time (first ten days after the wage claim is filed) within which they may elect to waive the penalty; and then the department shall assess the penalty at a rate of 5% per day not to exceed 100%. He explained it would allow the department time and would apply pressure to reticent employers. Mr. Judge suggested amending Page 1, Line 25 by striking the word "may" and reinsert "must"; and to add "no longer than 10 days following filing of the claim assessed against the employer, a penalty of not less than 5% per day not to exceed 100% of the wages due and owing". He told the

Committee the Montana State AFL-CIO opposes the bill in its current form.

Bob Heiser of the United Food and Commercial Workers International Union spoke in opposition to House Bill 336. He told the Committee of his opposition to leaving the penalty up to the discretion of the department. He stated in 20 years he has dealt with many wage claims. No employee has ever "drug his feet trying to get that wage claim settled".

Lars Ericson of the Montana State Council of Carpenters told the Committee no individual has "ever sat in the weeds waiting so they could collect the maximum penalty". He explained these are working people who need their money immediately. He stated he would support the amendments proposed by Don Judge of the Montana State AFL-CIO.

Questions From Committee Members:

Senator Devlin asked Mr. Judge if the Montana State AFL-CIO opposed House Bill 336 in the House. Mr. Judge told the Committee he testified against the bill in the House. He explained the bill as introduced was originally proposed to provide the penalty go to the Department of Labor and nothing was proposed on the interest. In discussion with labor organizations representing individuals involved in wage claims it was decided the legislation did not satisfy the issue even after amendments in the House.

Senator Devlin asked Mike Micone about Mr. Judge's proposed amendments. Mr. Micone told the Committee Mr. Judge had concurred with the amendments from the House. He explained Representative Simpkins offered the amendment for the proposed interest being paid to the claimant. He stated the department has received calls from claimants who have said, "I'm not going to settle that case unless I get the 100% penalty." If the employer is willing to pay the wages and a reasonable interest but will not pay to penalty, and is willing to go to court over it; and the claimant won't settle without the 100% penalty, the department is in a position of not being able to negotiate the case. He told the Committee when organized labor says their members are not "dragging their feet" it may be true. The Centel case has been since 1984 with the department attempting to resolve the case.

Senator Keating asked Mr. Micone if this bill is directed at a certain group of workers. Mr. Micone told the Committee the bill applies to all workers who feel they have not received the wages due and owing. These workers have a right to file a claim.

Senator Keating asked Mr. Micone if numbers of employees are kept as to whether individuals are in bargaining units or not. Mr. Micone told the Committee of the claims filed he could not say how many are from bargaining units and those which do not.

Senator Aklestad asked Representative Simpkins about Page 4 sub (4) in regards to bond payments and workers' compensation. He asked why the payroll "side" is paid and not the premium "side". Representative Simpkins explained the payroll side is under state control; workers' compensation is a mutual insurance company not under the Department of Labor and Industry. Mr. Micone told the Committee the provisions relates to all payroll taxes.

Closing by Sponsor:

Representative Simpkins closed on House Bill 336. He suggested an amendment which would read "at least a minimum of the New York Prime plus 2%". He told the Committee the reason the Department has entered into negotiations to recover wages is because the bargaining unit has failed. He commented the unions are not interested in bargaining. He asked the Committee if they "could turn around and get 100% interest on your money in 20 days, would you wait?" The department is acting as a mediator between the employee and the employer. The mediator needs the "tools to bargain and negotiate an agreement".

HEARING ON HOUSE BILL 342

Presentation and Opening Statement by Sponsor:

Representative Dave Wanzenried presented House Bill 342 to the Committee. The bill would require anyone involved in the construction trades industry to carry workers' compensation. It involves sole proprietors, working members of partnership, corporate officers and dependent members of employees families. Representative Wanzenried was asked to introduce House Bill 342 by the home building industry in Montana. He commented this industry has many injuries. In order to protect all involved it is necessary to require workers' compensation coverage. Currently individuals can claim themselves as independent contractors. An independent contractor by definition under workers' compensation includes two criteria: a) "has been and will continue to be free from control of direction over the performance of the service both under his contract and in fact". (Representative Wanzenried explained the "in fact" is where the problem ensues.) And, b) "is engaged in a independently established trade, occupation or professional business". He commented the problem ensues at the point of injury. He told the Committee the expression: "an employee is an independent contractor who just was injured". In the past individuals wishing to build a home decide to serve as the prime contractor and will sub-contract work out. Because they are not aware of the requirements these individuals do not insure the sub-contractors are covered. A law suit ensues as the result of an injury because in most cases small independent contractors do not carry workers' compensation coverage. The home builder assumes

these are covered. He told the Committee some individuals, purposefully, do not carry workers' compensation.

Proponents' Testimony:

Don Chance spoke on behalf of the Montana Building Industry Association in favor of House Bill 342. He explained the association is comprised of builders, sub-contractors, suppliers; principally small business; "one-man shops" and small sole proprietorships with a handful of employees. Many in the association have taken advantage of the exemption from workers' compensation coverage and, in the past, have spoke in favor of such exemptions. He explained House Bill 342 will eliminate the exemption for construction workers, hold every employer directly responsible for their insurance, including the self-employed, and established an enforcement to ensure compliance. He told the Committee the bill constitutes a joint effort among many groups and is a cooperative venture between elements of the building industry and organized labor. He commented it represents "an agonizing decision" to increase insurance policies. Mr. Chance stated construction costs will increase. This legislation is needed because this is a dangerous industry with a high accident rate and the current exemption system is not working. He commented when the uninsured are injured "law suits fly" with innocent home owners held liable as third party general contractors. Another problem being addressed is legitimate contractors having to compete against those contractors without workers' compensation insurance. Those who pay into the system carry the cost of the entire industry.

Mark Lindsay, a general contractor in the Helena area told the Committee the independent contractor exemption contained in current law is causing serious repercussions throughout the industry with sole proprietors, partners, etc. excluding themselves from workers' compensation. The escalation of workers' compensation premiums has resulted in more contractors claiming this exemption. Many general contractors are now operating without employees to avoid paying the premiums. They exempt themselves as owners and hire sub-contractors with or without exemptions. He commented if an independent contractor becomes injured he is usually awarded workers' compensation benefits because the court systems rules he was an employee. He expressed concern that the enforcement of the current law is put upon the general contractor making them liable for back premiums and medical costs of an injured individual if it is determined the individual is an employee. A home owner can be held liable if they are contracting directly with the injured party. He told the Committee there is dissention within the industry concerning this issue. House Bill 342 will be an additional cost but will not put people out of business. He commented workers' compensation should be a standard cost of doing business. He stated house Bill 342 is an "attempt by the construction industry to clean up it's own act". It eliminates the "gray area" of determining who is an independent contractor, places the burden

of liability on the one responsible for carrying insurance, and ensures all workers in the construction trades are covered.

Gene Fenderson representing the Montana State Building and Construction Trades unions (eleven different international union across the state of Montana) spoke in support of House Bill 342. He commented the construction industry is facing problems. He explained it is "out of hand" and is part of the "underground economy". He told the Committee as times "got tough" everyone became an independent contractor. He stated House Bill 342 is good cooperative legislation from both management and labor.

Bob Ross representing Robert W. Ross Construction, Flathead Building Association told the Committee Robert W. Ross Construction has been in the industry, primarily in the Flathead Valley, for the last 35 years. He explained for 33 years workers' compensation was carried on family members and corporate officers. He commented House Bill 342 will not put someone out of business. During the 33 years all employees were covered. Private insurance is carried on the corporate officers. He told the Committee he would lose the private insurance if the company returns to the state plan. A "sacrifice" he is willing to make. The current exemption system is not working. There are no limit on how far back the claim can go. A worker could be injured on another job and file a claim against a current employer. Individuals working in the industry in partnership may claim an exemption. He explained in reality they are not exempted if it were to be tested in court. He cited an example of a painter in Kalispell (a "five-man operation") who pays 7% of the painting pool in the state workers' compensation fund. Mr. Ross stated costs will be raised. He will have to pay 18%. He commented business and labor have worked hard together on House Bill 342 and urged support.

Chuck Hunter of the Montana Department of Labor and Industry told the Committee the department is responsible for determining who is an independent contractor and who is not. He explained most independent contractor determinations arise after the fact and typically deal with an injured party wishing to claim workers' compensation benefits or an individual losing their employment wishing to claim unemployment benefits. Mr. Hunter stated the department would no longer have to make such determinations after the fact.

Jacqueline Terrell representing the American Insurance Association spoke in support of House Bill 342. She explained the companies she represents are going to (to the extent that a risk is covered by insurance) cover that risk, regardless. She commented the question is whether this is covered by workers' compensation insurance or general liability insurance. She told the Committee every employee has the right to be covered by workers' compensation insurance; and House Bill 342 places the responsibility of obtaining the insurance on the appropriate entity; and places the risk, being insured, in the appropriate

line of insurance. She commented the companies she represents write 30% of the property/casualty insurance in Montana; and 54% of the workers' compensation insurance written by private companies. She cited a technical problem with the definition of construction trades. She explained other legislation being considered which also deal with a definition of a construction trade as it relates to workers' compensation insurance. She suggested all legislation use the same definition.

Tom Tillo, a member of the Helena Home Builders Association told the Committee he would like "to see everybody in the same boat". The exemptions "hold no water". He pointed out the enforcement is the key. He commented he hopes House Bill 342 will be a viable protection for the worker; and if not abused, a tool to assist bona fide contractors to bid on projects on a equal basis.

Jim Carras representing the Missoula Home Builders Association and Carras Cabinet Company told the Committee in the cabinet business a general contractor will contact his company for an individual to install cabinets. He cited a example. A finish carpenter gets assistance in installing the cabinets from a friend. A cabinet falls on the friend who is not covered by workers' compensation, and a law suits ensue. Under the current law a general contractor or home owner is placed in the position of policing whether or not a worker on the job has proper insurance.

Richard Ream of Bozeman and former President of the Home Builders Association told the Committee they represent a 170 members of which the majority supports House Bill 342. Mr. Ream explained he wants to cover his four employees and all others he does business with should be responsible for their own insurance.

Bob Murphy, Business Manager of Local 185 of the International Brotherhood of Electrical Workers spoke in support of House Bill 342.

Frank Armbrrecht of Valley Paint and Glass in Bozeman told the Committee he has been operating as a sub-contractor for 14 years. He spoke in support of House Bill 342.

David Steen, owner and operator of Steen Builders Property Improvement Company in Great Falls and Vice President of the Great Falls Home Builders Association spoke in support of House Bill 342.

Don Judge of the Montana State AFL-CIO spoke in support of House Bill 342 from prepared testimony. (Exhibit #2)

Opponents' Testimony:

Jay Gifford of Gifford Refrigeration spoke from prepared testimony in opposition to House Bill 342. (Exhibit #3)

Dave Raymer, a sole proprietor spoke in opposition to House Bill 342. He told the Committee House Bill 342 would require all in the construction industry be covered by workers' compensation, therefore increasing workers' compensation revenues. He pointed out Montana law "demands workers' compensation coverage is out there", but enforcement at this time is not there. He commented 50% of his peers are not covered with any workers' compensation program. He stated basing the rate on a yearly income is a problem. He questioned who would determine what the quarterly wage is going to be. He told the Committee he excluded himself from coverage approximately two years ago. Every quarter, even electing the minimum (\$2700), his payments were \$320 per quarter for workers' compensation. He explained most of his income is generated during a two-quarter period of the year; and seldom does his annual income match the four-quarter minimum established. He expressed another concern. House Bill 342 will cause a loss of benefits from private disability insurance programs which sole proprietors are entered into. He told the Committee he could not afford two policies. He explained his private disability program is not as good as workers' compensation but costs 1/3 as much. He will receive a full refund on premiums if no claims are made over a period of time. If House Bill 342 becomes law and all sole proprietors are covered, he questioned why should "unjust taxation be allowed when sole proprietors work together". He explained he would be required to cover himself and all sole proprietors he were to hire. As a sole proprietor he works approximately 30% to 40% of the time alone. He explained, from past experience, the witness portion to the accident report has been a problem area.

Buddy Lundstrom, a plumbing and heating contractor from Malta told the Committee not every person injured on the job files a claim against the general contractor. He told the Committee if the system's problems "can be taken care of" and the rates become affordable, he would use the workers' compensation system. He explained he chooses to carry his own insurance. He asked the Committee to consider the "small guy", the person who does not have several employees. He asked how the rates would be determined and differentiated; he "works with the tools" and works in his office.

Brad Kalberer presented the Committee with letters of opposition to House Bill 342 (Exhibit 4(a) through 4(s)). He commented the consumer "doesn't have any more money" if the costs of workers' compensation were to be passed on.

Bernie Connor spoke in opposition to House Bill 342 from written testimony. (Exhibit #5)

Questions From Committee Members:

Senator Devlin asked Representative Wanzenried about Page 9 which refers to cosmetologists and barbers. Representative Wanzenried told the Committee on Page 9, Lines 10 and 11, an

attempt to amend existing law and inadvertently exempted individuals who should be covered. The language was convoluted in the 1985 and 1987 sessions. He explained this is a recodification of that language.

Senator Aklestad pointed out there were no effective date. He commented the Fiscal Note makes an assumption. He asked if the law would go into effect on October 1. Representative Wanzenried told the Committee this was correct.

Senator Aklestad asked why the Fiscal Note did not contain a monetary amount. He suggested if 1068 employers who would possibly be involved; and assuming these were single employers with \$3,000 worth of workers' compensation could be approximately \$3 million. He asked Representative Wanzenried what House Bill 342 would raise (\$5, \$6, \$7, \$8 million). Representative Wanzenried told the Committee, as they are well aware, he was "not sure how any of these fiscal notes were prepared". He commented he was not suggesting he agrees with all the assumptions. He would not refute Senator Aklestad's suggested figures, and was not "in a position to refute what is in the fiscal note either".

Closing by Sponsor:

Senator Wanzenried closed on House Bill 342. He told the Committee House Bill 342 is a major policy decision representing on the part of the industry (perhaps not unanimously in support of the legislation), a effort to "clean up its act". He explained there is not a effort being made to "bail out the fund". House Bill 342 has no bearing on improving the solvency of the fund. He explained in establishing relationships on job sites, they are fluid. Those relationships are clarified in House Bill 342.

HEARING ON HOUSE BILL 356

Presentation and Opening Statement by Sponsor:

Representative Gary Beck told the Committee House Bill 356 would make a simply clarification in Montana law regarding the appointment of labor members to the Board of Personnel Appeals. It would mandate the labor representatives of the board be full-time employees or elected officials of a labor union. It would assure a balance to the Board of Personnel Appeals.

Proponents' Testimony:

Gene Fenderson of the Montana Building and Construction Trades Union spoke in support of House Bill 356. Mr. Fenderson told the Committee the bill would give the Governor clear direction from the Legislature as people serving as employee representatives (either full-time employees or elected officials of a labor union). He explained other amendments being proposed

would say two members from each side have to vote the interest of the organization they are representing. He told the Committee he disagrees. He commented he wishes to have five professional people, two from labor who under the rules, two from management who understand the rules, and a neutral who can hear the cases and facts. If all five wish to vote in any given direction they should be allowed to do so.

Don Judge of the Montana State AFL-CIO spoke in support of House Bill 356 from prepared testimony. (Exhibit #6)

Phil Campbell of the Montana Education Association spoke in support of House Bill 356. He told the Committee it is clear individuals with experience are needed. He explained the most recent appointee to the board representing labor is a retired kindergarten teacher. He commented it is possible a retired kindergarten teacher could be an expert in labor. She was a member of MEA; but being a member does not make one an expert in labor relations.

John Malee of the Montana Federation of Teachers and the Montana State Employees spoke in support of House Bill 356.

Bob Heiser of the United Food and Commercial Workers Union spoke in support of House Bill 356.

Opponents' Testimony:

Laurie Ekanger, Administrator of the State Personnel Division, representing the State Department of Administration told the Committee nothing in the law prohibits union professionals from being put on the board. She explained the language is narrowly written for union professionals on the board. The unions the state deals with do not have large staffs, consequently the union professionals serving on the board are probably the same ones they are having disputes with. She stated in the past this has been the case. Ms. Ekanger proposed an amendment (Exhibit #7) in order to make the language as specific for the management side of the board.

Juanita Kajkowski spoke in opposition to House Bill 356 from prepared testimony. (Exhibit #8)

Barbara Wolfe spoke in opposition to House Bill 356 from prepared testimony. (Exhibit #9)

Bob Mullan of the Department of Labor and Industry spoke in opposition to House Bill 356 and questioned the need for the bill. He commented most decisions are not "border line decisions"; most are 5-4 decisions. (Mr. Mullan did not sign the Visitor's Register but his testimony is entered here.)

Questions From Committee Members:

NONE.

Closing by Sponsor:

Representative Beck closed on House Bill 356 and requested Senator Doherty to carry to the Senate.

HEARING ON HOUSE JOINT RESOLUTION 13

Presentation and Opening Statement by Sponsor:

Representative Mary Ellen Connelly told the Committee House Joint Resolution 13 expresses opposition to the rail roads being included in Montana workers' compensation. These workers are presently covered by the Federal Employees Liability Act (FELA) which has been in existence for over 80 years. Montana workers' compensation could not handle the accountability of the accidents particular to rail road workers. Railroads carry chemicals and hazardous materials. She explained it would be costly. In one year there were 47,000 accidents.

Proponents' Testimony:

Jim Mular, Chair of the Montana Joint Rail Labor Legislative Council spoke in support of House Joint Resolution 13. Mr. Mular presented the Committee with written testimony and handouts. (Exhibit #10)

Don Judge of the Montana State AFL-CIO spoke from prepared testimony in support of House Joint Resolution 13. (Exhibit #11)

Michael Sherwood, representing the Montana Trial Lawyers Association spoke in support of House Joint Resolution 13. He told the Committee he worked on the railroad from 1969 to 1976. He commented "the BN is a company which would be happiest if it only had managers and no employees".

Rick Van Aken, Legislative Representative for Local 728 of the Transportation Communication Union asked by telephone to be entered into the record as in strong support of House Joint Resolution 13.

Opponents' Testimony:

Fred Simpson, Executive Vice President of the Montana Rail Link told the Committee resolutions are often thought to be unimportant. Montana Rail Link feels HJR 13 is "the most important piece of legislation the Montana Legislature is considering this year". He explained it deals with a large amount of money but money is not the issue. The issue is a basic industry problem the resolution addresses: "the war between

labor and management". He commented this has to end. He told the Committee it is an adversary system; a negligent system which forces the employee to prove the railroad was negligent. It is a comparative negligent system which requires the railroad the employee is negligent and contributed to his injury. He explained it is a system which uses the litigation of the federal court system and takes from four to five years to resolve a case. He suggested getting to a system which all of the rest of industry in the United States has gotten to: a no fault system. There would be no need to prove the railroad was negligent to be compensated. The railroad would not need to prove the worker was negligent. He stated a system is needed which says "if a person is injured while working on the railroad he ought to be compensated; and he ought to be compensated right now". He expressed his amazement the AFL-CIO is saying a "negligent system is what they want". He explained this is going backwards. He told the Committee there are technical problems with FELA. It is unpredictable because it is a court system. He explained there are some "horrible decisions". If an individual is badly hurt, goes to trial, and it is discovered he violated a "couple of rules", he "doesn't get a penny" with society paying the costs. Another extreme in which to employee is awarded millions of dollars with the railroad and its rate payers picking up to costs. There are a "bulk of cases in the middle" which go through the adversary process. The problem in these cases is the system is inefficient. The plaintiff's attorney receives 25% to 33%, the railroad's attorneys receive 10% to 15%, and the injured individual receives the balance. He explained there are no problems across states for truckers or airline companies. He commented FELA does not cause railroad to be safe. He suggested the answer may be for workers to be included in a state workers' compensation, or a federal workers' compensation program, or something else. He asked the message that FELA is good system not go to the President and Congress. He stated FELA is a bad system.

Pat Keim, Director of Public Affairs for Burlington Northern told the Committee Mr. Simpkins addressed the subject well and his "sentiments echo" Mr. Simpkins.

Questions From Committee Members:

NONE.

Closing by Sponsor:

Representative Mary Ellen Connelly closed on House Joint Resolution 13. She stated Montana Rail Link has had numerous accidents and have been consistently negligent in handling their equipment. FELA does allow railroad workers who suffer job related injuries to sue for damages. In 1988, Congress wrote to Mr. Robinson, director of Workers' Compensation asking if they objected to being included. Mr. Robinson stated Montana could not afford to have to railroads as part of the program. She

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

March 7, 1991

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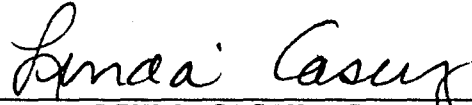
explained this is shifting the workers' compensation administrative costs from the rail industry to the public taxpayers.

ADJOURNMENT

Adjournment At: 5:15 p.m.



SENATOR THOMAS E. TOWE, Vice Chairman



LINDA CASEY, Secretary

TET/llc

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 3/7/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR AKLESTAD	P		
SENATOR BLAYLOCK	P		
SENATOR DEVLIN	P		
SENATOR KEATING	P		
SENATOR LYNCH	P		
SENATOR MANNING			E
SENATOR NATHE	P		
SENATOR PIPINICH	P		
SENATOR TOWE	P		
Senator Doherty	P		

Each day attach to minutes.

PUBLIC

EMPLOYEES

ASSOCIATION

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.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1

DATE 3/7/91

BILL NO. HB-232



HOUSE BILL 232

REMEMBER:

HB 232 does not change or interfere with the Attorney General's right to suspend, demote or discharge. It does not take away his right to appoint who ever he wants as a hearings officer.

It simply provides that after the Attorney General has made his decision, the Highway Patrol Officer will have the right to appeal through " grievance resolution provision " of the collective bargaining agreement. This is the same right and same process every other state employee covered by a collective bargaining agreement has.

The appeal will not go back through the entire grievance process. It will go to the final step which is the " grievance resolution ".

A collective bargaining agreement is the result of bargaining between both parties so the appeal process is not a process that the Attorney General does not have a say in.

Let's relieve our courts and put these kinds of issues where they belong. That's in the collective bargaining process not the district court process,



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 342 before the Senate Labor and Employment Relations Committee, March 7, 1991.

Mr. Chairman and members of the Committee, for the record I am Don Judge, here to testify on behalf of the Montana State AFL-CIO in support of House Bill 342.

As the sponsor has described to you, this bill would mandate workers' compensation coverage for independent contractors engaged in a construction trade.

We find some irony in this bill, as it hasn't been too long ago that independent contractors were vying to remove themselves from the requirements of mandated workers' compensation coverage. The argument used then was that these individuals were people who should be excluded because:

1. They were free from control or direction over the performance of their services, and
2. They were engaged in an independently established trade, occupation, profession or business.

Now we find that these individuals are realizing the necessity of having workers' compensation protection in the dangerous occupations of the construction industry.

Mr. Chairman, members of the Committee, it has always been our belief that workers in any occupation should be afforded the protections of medical costs incurred and stop gap provisions for lost wages as a result of on-the-job injuries. We are highly supportive of the efforts of these independent contractors to mandate workers' compensation protection in this industry.

In addition, we also see a positive impact in passing this legislation on good contractors already providing workers' compensation protection for their workforce. House Bill 342 should level the playing field for these contractors with those contractors who deny this basic protection when bidding for construction jobs.

We urge this committee to give House Bill 342 a do pass recommendation.

Thank you.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 3/7/91
BILL NO. HB342

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 7 day of March, 1991.

Name: Jay D. Gifford

Address: 1058 W 22nd Ave
Haure, MT

Telephone Number: 265-1594

Representing whom?

Haure Area Contractors

Appearing on which proposal?

HB 342

Do you: Support? Amend? Oppose? X

Comments:

See Enclosed Info P

① Personal Statement Sheet

② Signature Sheet From
Hill Co. Contractors

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY
SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 3

DATE 3/7/91

Gentlemen,

When HB342 reached the House floor for the final vote, my Representative told me that it was said to be supported by the contractors in Montana. I don't know which contractors gave testimony at the House hearing, but I'm here to tell you that I've talked to most of the contractors in my area of this great state and NOT ONE.....NOT ONE was in favor of this Bill. (and some of them carried the Optional coverage.)

I'm in the Refrigeration Trade and we've got many problems at the present time trying to keep up with the national changes in regards to our Freons. I'm sure that the other contractors in their respective fields have problems that they have to deal with too. That is why we don't need these additional burdens added to our business lives.

I stopped and calculated that my Deposit to the Fund would be \$3340.00 per year. I don't pay into the program now, but I also don't make claims against it. It's a chance I take, and I take it willingly with my eyes wide open. I can take that \$3300.00 and use it to buy more extensive medical coverage or I can invest it in some sort of retirement plan like an IRA. If I'm forced to buy the States Policy, the only way that I'll ever see that money again is if I get injured. That, in my opinion, is a poor situation at best. That money comes out of my profits and I want a say on how it's spent.

If the larger contractors in the state are having problems with their subs. making claims on their Workmans Comp. coverage, they should work within the laws that already exist and require them to either provide workmans comp. coverage on a job by job basis, or submit a certificate of exemption that will let everyone know that they have no coverage on themselves. If that doesn't keep claims from going against them; that's the LOOP HOLE that needs to be

closed

not strapping the self-employed contractors in the state with mandatory coverage.

Gentlemen... a Self-employed Bussiness person should have control ^{have} over how his/her business is run. We already too many regulations telling us how we should operate. This is a matter for us to decide, and if left as an option, that's where the decision will be made. I'd like to see laws passed that encourage Expansion, Ingenuity, and Ambition, not ones that load us down with more burdens.

Until further notice these are my dollars your trying to take, This is a blatant attempt to bail out this troubled program by throwing more dollars at it. THESE ARE NOT YOUR DOLLARS... THEY'RE MY DOLLARS, AND YOU'RE NOT ENTITLED TO THEM! ~~that is unless this~~
At least not yet it has to become law first.

Thank You for
listening

[Signature]

MCA 39-71-405 Subsect (11)

Could be Amended - so that
Anyone who is exempted is bound
by that Exemption and CAN NOT
Recover under any other Policy

LET IT BE KNOWN THAT THE OWNERS OF THE BUSINESSES LISTED BELOW ARE OPPOSED
 TOTALLY WITH HB342. WE DO NOT WANT THE OPTION TO COVER OURSELVES TAKEN AWAY
 FROM US, SO WE ARE FORCED TO BUY THE COVERAGE THAT IS OFFERED BY THE STATE.
 WE FEEL THAT THE DECISION OF COVERAGEAMOUNT OR TYPE....SHOULD BE OURS
 AS BUSINESS OWNERS.

DATE	OWNER'S SIGNATURE	BUSINESS NAME (PRINTED) or COMPANY STAMP
3-4-91	Don J. M.	Modern Air, Inc. 1521 Highway #2 East Haure, Mt. 59501
3-4-91	Brad Goch	LOTTON Construction P.O. Box 1656 Haure, mt 59501
3-4-91	Brian J. All	DOLL & GLASS 923 1ST HAURE, MT. 59501
3-04-91	Michael S.	Tempo Electric Box 1633 - 210 6th Ave Haure, Mt 59501
3-4-91	Lynda Patrick Hayes	Patrick Construction, Inc. 1725 E. Main Haure, MT 59501
3-4-91	Glenn S. Dittus President	T.P. Construction, Inc. P.O. Box 591 Haure, Mt 59501
3-4-91	Ramona Lokse Sec Treas.	Bear Paw Lumber P.O. Box 950 Haure, Mt 59501
3-4-91	J. J. Sluter Sec.	N M J. Const. & R E P.O. Box 149 Haure, Mt 59501

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3-4-91

John J. Hansen

Hansen's Sheet Metal and Roofing
 Box 390
 Havre - Mont. 59501

3-4-91

Lutern Stuber

P.O. Box 146
STUBER PLBG. & HTO. Inc
 114 W. 2ND ST. PH: 265-9020
 HAVRE, MT. 59501

3-4-91

James K. Nault

NAULT PLUMBING
 P. O. Box 1086
 Havre, MT 59501

3-4-91

Gary D. Gifford
 Pres.

GIFFORD REFRIGERATION INC.
 1058 22nd A/E. W.
 BOX 49
 HAVRE, MONTANA 59501

3-5-91

My C. Inward

Havre Point Ship
 Box 384
 Havre Mt. 59501

To the Honorable

It has come to my attention that House Bill #342 will be going to committee at approximately 1:00 P.M., Mar.7, 1991. This bill will require mandatory carrying of State Workman's Comp on anyone engaged in the Construction trades. I am opposed to this bill for the following reasons:

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2. Many of the small ONE PERSON BUSINESSES, who because of the economy, could be forced to close their doors due to the increased overhead cost, and have to seek employment elsewhere.

Finally, the questions I have are:

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2. Is it a way of increasing revenue to the State Fund? (In essence another hidden tax.)
3. Is there actually a problem with Contractors making excessive claims, or is someone trying to fix something that isn't broke?

Personally, I see this as a great way to force many small business owners out of business, and discourage the formation of new ones! I strongly urge you to vote against this bill.

Sincerely,

Brad Kalberer

Br J Heating

Sidney m t

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4(a)
DATE 3/7/91
BILL NO. HB 342

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Sincerely,

Maurin Kile

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4(6)

DATE 3/7/91

BILL NO. HB 342

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Sincerely,

Greg Connet Co.
Raymond T. Connet Pres

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4(c)
DATE 3/7/91
BILL NO. HR 342

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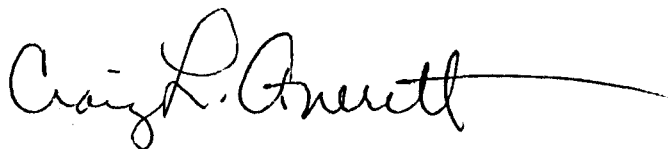
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Sincerely,



SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4 (d)

DATE 3/7/91

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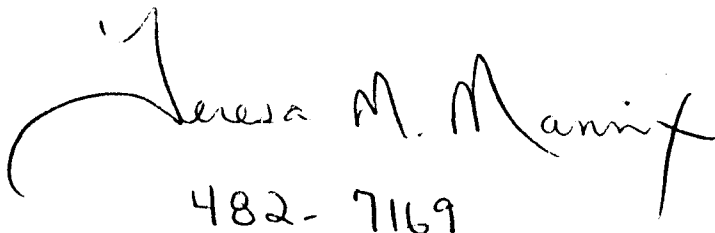
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Sincerely,


482-7169

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(e)

DATE 3/7/91

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Sincerely,

Randy Krueger

2/28/91

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(f)

DATE 3/7/91

BILL NO. HB 342

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Sincerely,



3/1/91

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4(9)
DATE 3/7/91
BILL NO. HB 342

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Sincerely,

Lyle Madison
406-482-4865

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(h)

DATE 3/7/91

BILL NO. HB 342

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Sincerely,

Ed LaRue

482-7169

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(i)

DATE 3/7/91

BILL NO. HB 342

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SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4(j)
DATE 3/7/91
BILL NO. HB 342

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Sincerely,

Tim Laxon
Laxon Const.
Box 2 Box 2621
Sidney, IA 59270

4/82-1928

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4(K)
DATE 3/7/91
BILL NO HB 342

To the Honorable

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Sincerely,

Brenda Jarrow
P.O. Box 2621
Sidney, MT 59270
406-482-1928

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(1)

DATE 3/7/91

BILL NO. HB342

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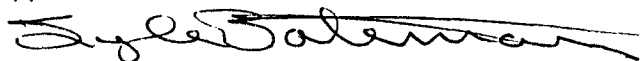
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Sincerely,



SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(m)

DATE 3/7/91

BILL NO. HB 342

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Sincerely,

Roger B. B.
B+B Builders
318 W. Main
Sidney Mt.

982-4038

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(n)

DATE 3/7/91

BILL NO. HB 342

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Sincerely,

Mary Ruth Circle Md.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4 (o)

DATE 3/7/91

BILL NO. HB 342

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Sincerely,

*Bill Laberg Pres.
Laberg Heating + Cooling*

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(p)

DATE 3/7/91

BILL NO. HB 342

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Sincerely,

Graig Loberg U.P.
Loberg Heating & Cooling Inc.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(g)

DATE 3/7/91

BILL NO. HB 342

To the Honorable

It has come to my attention that House Bill #342 will be going to committee at approximately 1:00 P.M., Mar.7, 1991. This bill will require mandatory carrying of State Workman's Comp on anyone engaged in the Construction trades. I am opposed to this bill for the following reasons:

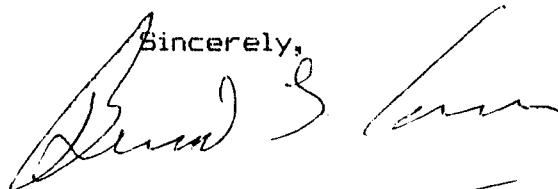
1. The increaed cost would obviously have to be passed on to the customer, and this increase in a recessionary economy would only add to the difficulty many people are already experiencing financially, forcing them to postpone or eliminate needed work.
2. Many of the small ONE PERSON BUSINESSES, who because of the economy, could be forced to close their doors due to the increased overhead cost, and have to seek employment elsewhere.

Finally, the questions I have are:

1. What is the exact purpose of this legislation?
2. Is it a way of increasing revenue to the State Fund? (In essence another hidden tax.)
3. Is there actually a problem with Contractors making excessive claims, or is someone trying to fix something that isn't broke?

Personally, I see this as a great way to force many small business owners out of business, and discourage the formation of new ones! I strongly urge you to vote against this bill.

Sincerely,



SIDNEY M. T.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(r)

DATE 3/7/91

BILL NO. HB 342

Dick Manning
Chairman
Labor & Employment
Relations Committee

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4(s)

DATE 3/7/91

BILL NO. HB 342

We have been told the main reason for writing HB 342 is to protect general contractors from subcontractors who own and operate their own business and have elected to not have workman's comp coverage from applying for coverage under the general contractors policy when injured on the general contractors job.

Administration costs will have to increase due to this bill. To monitor the construction trade and insure that all subcontractors and business owners are covered will take a tremendous amount of manpower. Most business owners work at all phases of operating a business, sales, clerical, delivery, installation, bookkeeping, etc. How will they be fairly rated and who will make the decisions? This will also cause administrative problems and expenses.

Wouldn't it be simpler, more cost effective and much wiser to pass legislation stating that any approved subcontractor or business owner who has elected not to have workman's comp. coverage cannot receive workman's comp. coverage from any general contractor's policy or any other source under any circumstances - period! No questions asked! This may be way too practical, but maybe it's time we start operating our workman's comp. program in a practical manner.

We'll never hear this admitted, but certainly another reason for this HB must be that its author(s) think they have created a revenue generator to help bail out the workman's comp. program. On the contrary, we feel this will have a major negative effect on the

finances of the workman's comp. program. Workman's comp. relies somewhat on the employer's report to verify if, in fact, an employee's injury did occur on the job and if it is a legitimate claim. If we force a business owner to unwillingly buy workman's comp. for himself, we have no one to rely on to verify his claims for himself except him (remember, he's the boss). Do you think he will hesitate to take advantage of his coverages? How about the owner of a seasonal business who has been unwillingly forced to buy workman's comp. coverage for himself, who sees things slowing down and decides to get some of his premiums back by drawing compensation through a false claim during his slow time. This sort of thing will happen and will result in further financial disaster for the State Fund.

Until we trim administrative costs and eliminate litigation from the State Fund program, we will continue to see it operate in the red.

As long as we have lawyer's involved in settling claims, we would still go backwards. Let's set concrete rates for certain injuries and illnesses. Employees can sign waivers agreeing to the rates as set by the State Fund, and if an accident does occur, they're covered under those terms period. No lawyer fees, no administration cost, no litigation. The employee knows where he stand. We, as employers, know where we stand and eventually the workman's comp. mess may be cleaned up.

Please, let's do all we can to see HB 342 fail. It's not for the good of anyone!! By trying to solve one small problem, It creates untold other problems.

Craig L. Averett

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 7 day of March, 1991.

Name: BRAD KALBERER

Address: Box 823 Sydney

Telephone Number: 406 482 4744

Representing whom?

Independent Contractors BrJ H + G

Appearing on which proposal?

HB 342

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

Small Business + Consumers
would be financially hurt

From the Desk of Bernard Connor
Independent Contractor
House Dist 22 / Senate Dist 11

Dear Legislator,

I have arrived in Helena with exciting news for you and your esteemed colleagues!

Through nothing more than diligence and even a little guidance from God, I have created a plan that will cover all of your insurance needs from this point forward until at least the turn of the fiscal quarter.

Specifically, myself and four fellas at the coffee shop evaluated your continuing needs as a governing body and developed something which we call House Bill 342. Our contract can be negotiated later, but here are the highlights:

1. As your potential insurance carrier we are on the brink of insolvency and present this plan as little more than an opportunity to remain in business through the next month.
2. You realize that we are incredibly interested in outside matters including gambling and the University System (all 6 schools). Therefore we will adhere to our past policies of ignoring dead-beats and the ingenious alike who find methods of working around and within the insurance system to their own advantage. We're certain this fact excites you as much as it does us.
3. Likewise, we have taken great pains to assure our policy holders that they will never have to deal with the maddening procedures of questioning the finer points of our coverage. In fact, we go so far as to discourage such insubordination. You'll be pretty hard pressed to find that with any of our competition.
4. As I mentioned earlier, our group is on the brink of insolvency and cannot truly promise that all claims will be either addressed or processed. By purchasing our premium plan, you double your chances of having no redress whatsoever. Like I said, this is indeed a very exciting offer.
5. As your insurance carrier, I'm sure you recognize the fact that we are diligently searching for any quick fix which keeps us afloat. We know you can appreciate these efforts. We hope that you'll go so far as to admire our approach.

We're so convinced, ourselves, that we have the best offer before you that we've gone so far as to relieve you of the agitating need to decide this issue for yourselves. In fact, we have undermined your desires so far as to coerce you into compliance. Beginning with the new fiscal year, you'll be receiving our initial policy complete with an invoice to be paid in full. We can't thank you enough for your blind faith and your continued support.

As always, if you have any questions or comments regarding this issue, be certain to drop me a line at your convenience. But, don't forget about the new postal rates, we'd sure hate to see your greivences arrive with postage due.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 5

DATE 3/7/91

BILL NO. HB 342

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 27 day of MARCH, 1991.

Name: BERNIE CONNOR

Address: 214 7th AVE SE

SYDNEY MT 59240

Telephone Number: 482-2424

Representing whom?

CONNOR MASONRY

Appearing on which proposal?

HB 342

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

SMALL BUSINESSES NEEDS HELP NOT BURDENS

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 7 day of MARCH, 1991.

Name: Buddy Lundstrom

Address: Box 1119 MALTA, MT 59538

Telephone Number: 406 654-1041

Representing whom?

MALTA p/s & HTC

Appearing on which proposal?

House bill 342

Do you: Support? Amend? Oppose? X

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 7 day of MARCH, 1991.

Name: DAVID L. RAYMER

Address: 5820 SUNSET RD
HELENA, MT. 59601

Telephone Number: 442-4901

Representing whom?

LOG STRUCTURES BY RAYMER

Appearing on which proposal?

342 (SELF EMPLOYED MANDATORY WORKER COMP)

Do you: Support? _____ Amend? _____ Oppose? ✓

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



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 356 before the Senate Labor
and Employment Relations Committee, March 7, 1991

Mr. Chairman and members of the committee, for the record I am Don Judge, and I am here today to testify on behalf of the Montana State AFL-CIO in support of House Bill 356.

This bill would make a simple clarification to Montana law regarding the appointment of labor members to the Board of Personnel Appeals. The requirements of House Bill 356 would mandate that the labor representatives on this board be either full-time employees or elected officials of a labor union or association.

Although this somewhat restricts the field of potential appointees, we believe that past history of appointments mandates something be done to return the balance to a board which has significant power to impact and influence labor relations in the state of Montana.

Under current law, two members of this five member board are required simply to have had "experience as a member or employee of an employee organization". This has allowed for board members to come from the ranks of management based upon previous membership or experience in an employee organization, or bargaining unit.

We believe that the drafters of the law providing for the Board of Personnel Appeals never intended for this to happen, and we would urge your support in adopting House Bill 356 to return a balance to a regulatory board so important to workers and their organizations in our state.

Please give House Bill 356 a do pass recommendation.

Thank you.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 6

DATE 3/7/91

BILL NO. HB 356

Amendments to House Bill No. 356
Third Reading Copy

Requested by the Department of Administration
For the Committee on Labor and Employment Relations

Prepared by Laurie Ekanger
March 6, 1991

1. Page 1, lines 22-23.
Following: "two members"
Strike: ", each having management experience involving
collective bargaining"
Insert: "who are full-time management employees in
organizations with collective bargaining units or who
represent management in collective bargaining activities"
2. Page 2, line 7.
Strike: "represented by their experience"
Insert: "of the organizations they represent"

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 7

DATE 3/7/91

BILL NO. HB 356

March 7, 1991

Senators:

My name is Juanita Kajkowski. I am a former Montana Public School teacher of sixteen years. I was raised in Montana in a family of democrats. My first experience with the board of personnel appeals was in 1983 as a religious objector to compulsory union membership and support. Since then I have attempted to keep track of the cases of other such objectors.

I am opposed to House Bill 356 for three reasons:

1. It creates a conflict of interest.
2. It gives an unfair advantage to organized labor for communication and advice on issues and pending decisions.
3. The appeals board presently tends to favor organized labor.

It creates a conflict of interest. Our present law 2-15-1705 is quite sufficient. It clearly states under (b) All members of the board shall serve as impartial decision makers and are not appointed to serve the interests represented by their experience. With House Bill 356 two full-time employees or full-time elected officials of a labor union or association would be appointed. These people would definitely have loyalties and prejudices. They would have a very difficult if not impossible time refraining from serving their unions' interests. Certainly the board members should understand and empathize with the viewpoints, needs, and laws of their experience area but should maintain impartiality. The present law provides for this.

House Bill 356 gives an unfair advantage to organized labor. It would be very easy for the union/association appointee to provide information about opinions, status of appeals, etc. to unions since the appointees would still have an intimate connection with their union. The appointees would also easily get advice from their union on how to rule on issues before the board of appeals.

The board of personnel appeals presently tends to favor organized labor. Although I know the board deals with a multitude of types of cases, I am most familiar with 39-31-204 which deals with an employee's right of non-association. In 1983 I was denied a hearing under this law. In 1985 the wording and intent of that law was changed. The board has treated this law as if there were never any changes.

For these three reasons the people of Montana would be better served by no changes in Montana Law 2-15-1705.

Thank you for your time.

Sincerely,

Juanita Kajkowski
Juanita Kajkowski

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 8

DATE 3/7/91

BILL NO. HB 356

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 7 day of March, 1991.

Name: Juanita Kajkowski

Address: Box 415, Deer Lodge, MT. 59722

Telephone Number: 846-1315

Representing whom?

Juanita Kajkowski

Appearing on which proposal?

HB 356

Do you: Support? Amend? Oppose? X

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

March 7, 1991

Senators:

My name is Juanita Kajkowski. I am a former Montana Public School teacher of sixteen years. I was raised in Montana in a family of democrats. My first experience with the board of personnel appeals was in 1983 as a religious objector to compulsory union membership and support. Since then I have attempted to keep track of the cases of other such objectors.

I am opposed to House Bill 356 for three reasons:

1. It creates a conflict of interest.
2. It gives an unfair advantage to organized labor for communication and advice on issues and pending decisions.
3. The appeals board presently tends to favor organized labor.

It creates a conflict of interest. Our present law 2-15-1705 is quite sufficient. It clearly states under (b) All members of the board shall serve as impartial decision makers and are not appointed to serve the interests represented by their experience. With House Bill 356 two full-time employees or full-time elected officials of a labor union or association would be appointed. These people would definitely have loyalties and prejudices. They would have a very difficult if not impossible time refraining from serving their unions' interests. Certainly the board members should understand and empathize with the viewpoints, needs, and laws of their experience area but should maintain impartiality. The present law provides for this.

House Bill 356 gives an unfair advantage to organized labor. It would be very easy for the union/association appointee to provide information about opinions, status of appeals, etc. to unions since the appointees would still have an intimate connection with their union. The appointees would also easily get advice from their union on how to rule on issues before the board of appeals.

The board of personnel appeals presently tends to favor organized labor. Although I know the board deals with a multitude of types of cases, I am most familiar with 39-31-204 which deals with an employee's right of non-association. In 1983 I was denied a hearing under this law. In 1985 the wording and intent of that law was changed. The board has treated this law as if there were never any changes.

For these three reasons the people of Montana would be better served by no changes in Montana law 2-15-1705.

Thank you for your time.

Sincerely,

Juanita Kajkowski
Juanita Kajkowski

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 8

DATE 3/7/91

BILL NO. HB 356

Barbara R. Wolfe
4750 Valley Drive
Helena, MT 59601
Teacher, Helena Public Schools
March 7, 1991

Testimony in opposition to HB 356

I oppose the proposed changes in Section 2-15-1705 MCA. To insist that two members of the Board of Personnel Appeals be full-time employees or elected officials of a labor union negates another section of the original law which states that all members of the board shall serve as impartial decision-makers and are not appointed to serve the interests represented by their experience.

In a normal court of law a jury of peers is selected supposedly consisting of people who are not biased towards the defendant. To put two elected officials of a labor union on the board would certainly not allow for impartiality.

Why do union interests have to load the deck? What's wrong with two members who just have experience as members or employees of an employee organization?

I am not a member of the Helena teachers' union, but certainly I have experience as a teacher and I could represent our employee organization, probably with more impartiality than those who need the union to help them make their decisions.

If this proposed bill becomes law, appealing to the Board of Personnel Appeals will be an exercise in futility.

Barbara R. Wolfe

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 9
DATE 3/7/91
BILL NO. HB 356

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 7 day of March, 1991.

Name: BARBARA R. WOLFE

Address: 4750 VALLEY DRIVE
HELENA MT 59601

Telephone Number: 227-5730

Representing whom?

SELF

Appearing on which proposal?

HB 356

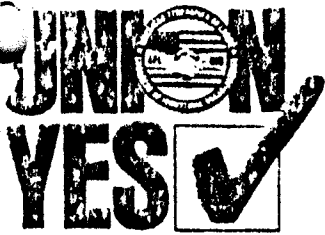
Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

PLEASE SEE ATTACHED COPY OF TESTIMONY

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

AMERICAN FEDERATION
OF LABOR AND CONGRESS
OF INDUSTRIAL ORGANIZATIONS



HJR 13

Executive Council Members

- ane Kirkland
President
- Thomas R. Donahue
Secretary-Treasurer
- Frederick O'Neal
- Robert Shanker
- Edward T. Hanley
- Angelo Fosco
- Kenneth T. Blaylock
- William W. Wimpisinger
- William H. Wynn
- John DeConcini
- Wayne E. Glenn
- Loyce D. Miller
- John J. Sweeney
- James E. Hatfield
- Barbara Hutchinson
- Richard Kilroy
- Vincent R. Sombrotto
- Gerald W. McEntee
- William H. Bywater
- Marvin J. Boede
- Dwight Bieber
- John T. Joyce
- John R. Williams
- Morton Bahr
- Harry Dugan Jr.
- Robert A. Georgine
- Milan Stone
- Gene Upshaw
- Jay Mazur
- Lenore Miller
- Jack Sheinkman
- John J. Barry
- John A. Gannon
- Sigurd Lucassen
- William J. McCarthy

August 21, 1989

Mr. Patrick Sweeney
Administrator
Division of Workers' Compensation
5 South Last Chance Gulch
Helena, Montana 59601

Dear Administrator Sweeney:

As you may know, the American Association of Railroads and the Amtrak Corporation have been seeking changes in the way in which railroad employees are permitted to recover for disabilities suffered from the job. Railroad employees are presently covered by the Federal Employers' Liability Act (FELA).

A proposal has been offered to exempt Amtrak from FELA and to place its employees under state workers' compensation statutes for a three-year trial period. A number of state workers' compensation directors and commission chairmen received letters from Amtrak last year asking for their views and input on this important question.

Some state workers' compensation officials responded to Amtrak's letter by pointing out a number of problems with the proposal. The AFL-CIO is not aware of a single state commission or accident board that has endorsed or supported it. Yet, these words appear in Amtrak's most recent annual report to the President and to the Congress:

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 10
DATE 3/7/91
BILL NO. HJR 13

NOTE: Union "bug" removed for duplication.

"The proposal also has been favorably received by many of the state workers' compensation commissions."¹ (emphasis added)

Senator Robert Kasten introduced an amendment to the Amtrak authorization bill that would have exempted Amtrak from FELA coverage and placed its employees under state workers' compensation statutes. That effort failed in the Senate Committee on Commerce, Science, and Transportation on April 18 of this year.

On August 2, 1989, Senator Kasten reintroduced his Amtrak/FELA amendment and has stated his intention of moving it when the Amtrak authorization bill is taken up by the full Senate sometime after Labor Day. Attached to this letter is a copy of Kasten's proposal.

The AFL-CIO and the unions representing the employees of this nation's railroads are opposed to the Amtrak/Kasten proposal for many reasons. Among them are these:

- FELA promotes railroad safety by protecting not only railroad employees, but passengers and the communities through which trains travel;
- FELA provides more equitable compensation to railroad employees who are disabled or killed on the job than would be available under the inadequate compensation levels that exist in many states;
- There is less litigation and attorney involvement in FELA cases than in most workers' compensation systems.

One of the most disturbing aspects of Amtrak's efforts, aside from the misrepresentation as to its favorable reception by state workers' compensation commissions, is their disregard for the comments they did receive from many administrators. The language of Senator Kasten's "new" amendment does not vary at all from the proposal circulated by Amtrak in its June 1988 letter.

¹ See National Railroad Passenger Corporation, 1989 Legislative Report, February 15, 1989, pp.9.

Among the comments Amtrak ignored were these:

- The amendment's application of jurisdiction to the state in which the worker normally reported for duty at the time of a work-related injury or death is very likely to promote jurisdictional disputes that will delay payment of benefits to injured workers and raise the cost of claims through increased litigation.
- This Commission does vehemently object to Federally mandated acceptance of Amtrak into this State's self-insurance program for workers' compensation coverage. The people of the State of **** vested the authority and responsibility for assuring the continued solvency of **** workers' compensation self-insurance system with this Commission and its staff. This Commission considers the proposed Federal Law, specifically Section 1102(d), to be an intrusion into a State's responsibility and, therefore, strongly opposes its passage.
- We have serious reservations about your proposed legislation. The only way we would agree to the expansion of **** Workers' Compensation jurisdiction to cover Amtrak employees is if they were treated in the same manner as other **** employees under our law. Your proposal does not do that.
- ...coverage for Amtrak workers would not be identical to the coverage for other **** employees. It appears that there would be differences with respect to security for compensation, to the benefits provided, and to the question of jurisdiction for a particular injury. If Amtrak is to be subject to **** laws, its workers should have the complete protection of all of **** laws.
- The current benefit structure in **** is significantly lower than the FELA. Placing these employees under **** law would prove to be a hardship on injured employees of AMTRAK. There are injuries covered under FELA that are not covered by ****.

Note: In all cases, **** refers to a state name.

There are, of course, many other specific criticisms that can be made concerning the effort to remove railroad employees from FELA and to place them under workers' compensation coverage.

Amtrak and the American Association of Railroads continue to ignore the opinions of railroad employees and state workers' compensation commissions on this important question. In light of the Kasten amendment, it would be appropriate for state workers' compensation administrators, directors, commissioners, and board members to indicate their concerns and viewpoints on this proposal in communications with their U.S. Senators and House members.

With best wishes,

Sincerely,



James N. Ellenberger
Assistant Director
Department of Occupational
Safety, Health and
Social Security

Enclosure

JNE/cmt
opeiu2
afl-cio

MONTANA JOINT RAIL LABOR LEGISLATIVE COUNCIL

Post Office Box 642
Livingston, Montana 59047



Council Members

James T. Mular, Chairman
Ray R. West, Vice-Chairman
David B. Ditzel, Secty.-Treas.
Carl J. Knutson, Member

29th September 1989

To: Patrick Sweeney, Administrator,
Workers' Compensation Division,
5 South Last Chance Gulch,
Helena, Montana. 59620

Subj: U.S. Senator Kastens Amendment - Authorizing
AMTRAK participation State IAB planse.

Friend Pat:

The above captioned state rail labor organizations strongly oppose any legislation that would enable the National Rail Passenger Corporation (AMTRAK) to participate in State Workers' Compensation Plans. Senator Kastens will offer an amendment to the Amtrak authorization bill that would enable them to participate in state workers' comp-plans.

This amendment is identical to one offered by him in the last session of congress. The amendment is broad in scope and extends to any railroad employee injured along any right-of-way that Amtrak operates over. As you know Amtrak does not own any railroad right of way - It merely has a contract for trackage rights. ANY railroad employee injured is: B.N. track people, signal maintainers, freight train employees, who are injured by any Amtrak Passenger train incident would have redress only with Montanas' workmens comp plans.

Another distastefull portion of the amendment allows Amtrak to make claims in any forum they choose, or in the forum where Amtraks' supervisors are located, and not the place where the injury occurred. So a North Dakota based Amtrak employee leaving a terminal is injured in ND the claim would come under Montanas' plan. Because the next down track supervisor is located in Havre. Moreover, if a BN employee was injured due to an Amtrak de-railment etc. The employees claim would be handled under Workers Comp instead of F.E.L.A. Due to the amendments language of "any railroad employee. In this state BN is a rail road and Amtrak is a Rail Lessee operator.

We allege that Amtrak should seek Subrogation legislation from the railroad(s) who maintain and operate the righ-of-way.

cy: et/al RR Unions Mont.

Truly yours,

James T. Mular Chairman



Brotherhood of
Locomotive Engineers



Brotherhood of
Maintenance of Way Employees



Transportation - Communications
Union



United Transportation Union

Amtrak

NATIONAL RAILROAD PASSENGER CORPORATION
GOVERNMENT AND PUBLIC AFFAIRS

RECEIVED

JUL 07 1980

**DIVISION OF WORKERS'
COMPENSATION**

Dear Workers' Compensation Commission:

I recently sent to you a request for your views on a proposal by Amtrak to use state workers' compensation to resolve employee injury claims for a three-year test period. I inadvertently failed to include in some requests a copy of Amtrak's actual legislative proposal. I have attached a copy of the proposal hereto.

I apologize for any inconvenience this may have caused and I look forward to your response.

Sincerely,



David J. Carol

400 North Capitol Street, N.W.
Washington, D.C. 20001
(202) 383-3942

DAVID J. CAROL
Senior Director
Government Affairs

DEPARTMENT OF LABOR & INDUSTRY

DIVISION OF WORKERS' COMPENSATION

TED SCHWINDEN, GOVERNOR

MARGARET "PEG" CONDON BLDG.
5 SO. LAST CHANCE GULCH

STATE OF MONTANA

HELENA, MONTANA 59601

September 13, 1988

Mr. David J. Carol, Senior Director
Government Affairs
NATIONAL RAILROAD PASSENGER CORPORATION
400 North Capitol Street, N.W.
Washington, D.C. 20001

Dear Mr. Carol:

We have reviewed the Amtrack proposal for the Three-Year FELA Exemption that would authorize Amtrack to provide workers' compensation coverage as a self-insured employer under the state laws where Amtrack operates. While we have not had an opportunity to compare injured worker benefits due under FELA and the Montana Workers' Compensation Act I believe a no-fault benefit program would be beneficial to all parties as opposed to the present tort-litigation system. However, the organizations representing Amtrack's employees are in a better position to respond to such changes.

I am concerned that Section 1102, paragraph (d), appears to override state authorization and the statutory requirements necessary to be met before self-insurance is permitted. We feel very strongly that Amtrack should meet the same self-insurance requirements that are required of any firm or organization requesting self-insurance authorization.

Montana's Worker's Compensation Act is designed to provide medical care and protect the income of workers injured in the course of their employment. It is the responsibility of this Division to ensure that injured workers receive benefits as established by law. It is, therefore, essential that the self-insurer has the financial resources necessary to guarantee benefit payment. Compliance with Montana's security and financial condition guidelines insures that funds are available to pay claims.

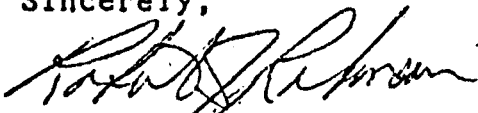
In previous instances the liabilities of a self-insurer that has failed and claimed bankruptcy have fallen on state resources and thus the citizens of Montana. We cannot expose the resources of Montana to that liability. Therefore, before Amtrack, or any other firm, is allowed to

Mr. David J. Carol, Senior Director
Government Affairs
NATIONAL RAILROAD PASSENGER CORPORATION

self-insure, it must possess adequate resources and provide appropriate security to guarantee future payments for its injured workers.

Enclosed are copies of the guidelines and requirements necessary for self-insured certification in the state of Montana. If you have any questions, please don't hesitate to call.

Sincerely,



ROBERT J. ROBINSON
Administrator

RJR/bac

enclosure

(d) Notwithstanding any requirements contained in the workers' compensation law of any state, including requirements for bonding and licensing, the Corporation shall be deemed qualified to self-insure for workers' compensation coverage under the laws of all states, and no state shall deny workers' compensation benefits to an employee of the Corporation based upon a failure of the Corporation to comply with such qualification requirements.

carry when what's now Montana Rail Link (MRL) was under BN owner-ship? None. How many do they carry now? A tremendous number. MRL now has opportunities to get new business and that improves the entire rail system. It would have been better if we had been able to make cost and productivity improvements so that we could go after that traffic. But because of the adversarial relationship growing out of the RLA, we weren't able to make those changes and pursue that traffic.

FELA is a different situation. It ought to be changed, not to put injured people under state workers' compensation plans but to set up a new nationwide workers' comp program, negotiated with the unions, at levels that are fitting and appropriate.

RA: This is an alternative not often heard . . .

GRINSTEIN: When I say we ought to take legislative initiatives, that's the kind of initiative I think we ought to take. It's ridiculous that a person injured in one state should get a different award from someone injured in another state. Maybe it works in other businesses, but in my view, all our people work for the same company and we ought to have a different level of award consistent with the needs. And then, of course, you can't justify some of the FELA awards that are being handed down.

Not long ago, I met a fellow who didn't know who I was, and we got to talking and he said he'd just won the BN lottery. And I thought, what in heaven's name have we got going

be more competitive.

It's ridiculous that a person injured in one state should get a different award from someone injured in another state. Maybe it works in other businesses, but in my view, all our people work for the same company and we ought to have a different level of award consistent with the needs.

If shippers react as I think they may, they could have the best of both worlds, with both modes becoming more productive. That's one way of doing it. I don't kid myself, by the way, that Congress is going to do anything in a hurry. And I don't think that Congress believes that railroads are in a critical condition, even though some railroads may be in more jeopardy than anyone might like to believe.

RA: Not so many years ago, BN proclaimed that it was going to be the low-cost carrier. Not much was said about quality. You're talking about changes in the RLA, which go again to the cost factor . . .

GRINSTEIN: I'm not just talking about cost. It's quality that determines your success in the transportation marketplace. Costs have to be competitive. But if quality is not there, you're going to lose.

People Express and Continental Airlines were low-cost carriers. They

and adapt it to railroad needs. That applies to such things as ARES and Automatic Equipment Identification technology. We have adapted technology that's been proven in other industries, while we have also done some work that's original.

We are at a point where we're concerned about the credit markets, where we're concerned about our ability to get returns. Under those circumstances, you have to decide whether you're going to make your investments where you know you're going to get a payoff or whether you're going to spend on things where you don't know whether you're going to get that payoff. That may cause us to retreat somewhat from the level of R&D spending that we have had.

I hope this will not be for a long time. But we have to look at everything we do and try to figure out, is there another way to handle it and would it be cheaper? Or, do we really need that or could we do without it?

I think that as we move through the early '90s where we have some equipment and roadway improvements that have to be made, we may have to delay some R&D programs. I would hope that some of that slack can be picked up by suppliers. We have had excellent joint ventures and partnerships with a number of them, and we want to expand upon those relationships.

RA: What about your projected capital spending for 1991?

GRINSTEIN: At a minimum, spending will be at a level equal to 1990, and that was \$537 million. As a matter of

several years. What all this does is to make you look very carefully at your investments. It makes you make choices that you might prefer not to have to make.

I don't think it's really handicapped us in what we're trying to do. We'd like to have done more and taken some chances in the marketplace. We've not had that opportunity in some cases. But we're ahead of the schedule we thought we would be on, in terms of debt reduction, and I think that based upon our stock performance over a substantial period of time—not in that recent fuel crisis period—we're meeting Wall Street's expectations.

RA: You and other top officers I've talked with at BN are obviously not thinking just "now," but also long term for BN. Will Wall Street let you do it?

GRINSTEIN: In an economic environment where there are no junk bonds, where there are much more stringent controls and limitations on easy credit, you are not subjected to the same level of takeover potential—which, for me, is the worry. That's where somebody would come in and try to acquire the company and skim the cream off of it.

I think Wall Street will allow us to do what we're trying to do. I don't think we're under some kind of takeover pressure. Our stock may not be as high a price as it might be if we took a shorter-term view. But great railroads are not made overnight. And we're aiming at being a great railroad.



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 JOINT RESOLUTION 13 BEFORE THE SENATE LABOR
AND EMPLOYMENT RELATIONS COMMITTEE, MARCH 7, 1991

Mr. Chairman, members of the committee, for the record my name is Don Judge and I'm appearing here today in behalf of the Montana State AFL-CIO in support of House Joint Resolution 13.

We all know, Mr. Chairman, that legislative resolutions don't carry the weight of law. They can, however, send a strong signal to those individuals and law-making bodies whose actions can create laws which impose requirements upon us, that we would oppose certain such actions.

That is the purpose of HJR 13. We want to send a signal to Washington, D.C. that it would be a tragic mistake for them to remove the protections of the Federal Employees Liability Act (FELA) from workers in the railroad industry.

As has been described to you, there is an effort under way to exempt railroad workers from the coverage of FELA and to force state's to accept these workers under the provisions of their individual Workers' Compensation programs. Proponents of this crazy idea would argue that railroad workers and the industry is no different than any others operating in a state. Hogwash!

The FELA program provides incentives for the railroad industry to avoid negligence and to provide safe operations for serving the public. Those of us who live near the Carroll College site of the railroad tank car explosion here in Helena during the last Legislative Session can full well appreciate the necessity of encouraging safe rail operation. In the rail industry, safety means far more to the general public than in most other industries covered under our state's Workers' Compensation program. Incentives for safe operation, therefore, have a much greater meaning.

It's been interesting to watch this industry as it works to pick and choose between state and federal regulation, in order to select the lowest cost, less restrictive environment. One example of this would be the Montana Caboose Law, in which the industry was successful in exempting those trains which pass through the state. They argued that the prerogative to require trains to have cabooses attached was a federal one, and they succeeded, in part, to overturn our law. It's clear that the Carroll College incident would not have happened if a caboose had been attached to that train.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 11

DATE 3/7/91

BILL NO. 1172 13

Testimony of Don Judge, HJR 13

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The reason that the industry is attempting to remove itself from the coverage of FELA is simple. Workers' benefits are less costly under our state's Workers' Compensation system, therefore, employer taxes are less. And, incentives for safe operation are insignificant under our system as compared to the FELA system.

Workers lives and public safety are far too important to allow such a transfer of responsibility to take place. We urge you to send a signal to Washington, D.C. Say NO to those who would surrender our safety to the worship of profit! Please give HJR 13 a "do pass" recommendation. Thank You.

DATE

3/7/91

COMMITTEE ON

Senate Labor

HB's - 232-336-342-356

HJR 13

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
BERNIE CONNOR	CONNOR MASONRY	342		X
BRAD KALIBERER	BTJ HTG	342		X
PON CHANCE	MT. BUILDING IND. ASSN.	342	✓	
DAVE RAYMER	LOG STRUCTURES BY RAYMER	342		X
RE	NORTHWEST ROCKY Mtn. CONST.	342		X
Stuart Whitaker		342		X
Robert D. Ross	Ross Const	342	✓	
Jay D. Riffel	Gifford Refery Inc	342		X
ERIK MIZIA	West Wind Concrete Service	342		X
Frank Ambrosini	VALLEY PT & GLASS	342	✓	
RICHARD REAM	REAM DESIGN & CONST.	342	✓	
Suddy Lundstrom	MALTA PIG + HTG	342		✓
Karen Jensen	MALTA PIG + HTG	342		X
Barbara L. Wolfe	Barbara Wolfe	356		X
Juanita Kojkowski	self	356		X
Dewey Hall	SELF	336		X
FRED SIMPSON	MONTANA RAIL LINE	HJR 13		X
DEWEY HALL	SELF	356	X	
David A. Steen	STEEN BUILDERS	342	X	
Mark Linker	Linker Const.	342	X	
Tom Tillo	ENTERPRISE FLOORING	342	X	
Leonard Cunningham	Alpine Electric	342		X
Jim Caras	Missoula Association of Carpenters	342	X	
James T. Mullar	MONT ST RAIL LABOR LEGIS COUNCIL	HJR-13	X	
John Carlson	MET. M.F.S.E.	356	X	
David Lund	Alpine Home Builders	342	X	

(Please leave prepared statement with Secretary)

