

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Tom Nelson, on January 21, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Tom Nelson, Chair (R)
Rep. Gary Feland, Vice Chair (R)
Rep. Steve Benedict (R)
Rep. Vicki Cocchiarella (D)
Rep. Jerry Driscoll (D)
Rep. Alvin Ellis (R)
Rep. Pat Galvin (D)
Rep. Sonny Hanson (R)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carolyn Squires (D)
Rep. Bill Tash (R)
Rep. Rolph Tunby (R)
Rep. Carley Tuss (D)
Rep. Tim Whalen (D)

Members Excused: none

Members Absent: none

Staff Present: Susan Fox, Legislative Council
Cherri Schmaus, Committee Secretary

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

Committee Business Summary:

Hearing: HB 195, HB 199
Executive Action: HB 138

ANNOUNCEMENTS/DISCUSSION:

CHAIRMAN NELSON stated that on the 28th of January there will be a ten minute report by **REP. CHASE HIBBARD** about Workers' Compensation. We will hear from **REP. HIBBARD** frequently during the session.

HEARING ON HB 195

Opening Statement by Sponsor:

REP. SCOTT MCCULLOCH, HD 96, Yellowstone, sponsor, opened on the bill by stating that it is a fair bill dealing with the fairness of back pay. This bill does not include wrongful discharge. He referred to the amendments on page 3, section 2, line 19 (EXHIBIT #1). He gave a scenario of himself as a school teacher who is making \$20,000 yearly. He is fired from his job and goes to work somewhere else and makes \$5,000 in interim. The board determined that he was discharged improperly. The school makes money because they can take the \$20,000 - \$5,000 and only pay him \$15,000. He referred to the bill page 3, line 19 and distributed amendments (EXHIBIT #1) The change of the word "board" to "decision" is just to keep everything consistent. He also referred to an amendment on page 4, lines 2 through 6 (EXHIBIT #2)

Proponents' Testimony:

Phil Campbell, Montana Education Association, began his testimony by stating that his organization supports HB 195 and the included amendment because it is a matter of fairness. If a person is improperly discharged, they should be awarded full back pay. This bill only applies if an individual is improperly dismissed or discharged. He referred to McCulloch's scenario and stated that the company saves money by only having to pay \$15,000. He gave his own scenario of a truck full of tomatoes. If the truck was to wreck and damage half of the tomatoes, the whole truckload, should not be declared a loss and turned into the insurance company. The part that can be saved should be saved. He asked the board to pass HB 195.

Russell Hill, Montana Trial Lawyers, stated that his organization would like to be on the record as supporting HB 195.

Don Judge, Montana State AFL-CIO, stated that everyone needs to start getting tough on crime. If an individual is illegally discharged, they should receive full back pay. He stated that this bill is more than just a fairness issue, because the company should look and at the consequences of their actions before taking that action.

Terry Minow, Montana Federation of Teachers and Montana Federation of State Employees, stated that her organization would like to be on the record as supporting HB 195.

Opponents' Testimony:

David Owen, Montana Chamber of Commerce, stated that the main question dealing with HB 195 is defining the word fair. They feel that the employee is restored way beyond what they lost. He stated that it is fair to encourage a person to look for a job.

Bruce Moerer, Montana School Board Association, stated that they is against HB 195 because the current law already reflects what

HOUSE LABOR & EMPLOYMENT RELATIONS COMMITTEE

January 21, 1993

Page 3 of 11

labor does now. If passed, this bill will allow a windfall on back pay. Traditionally any interim pay is deducted. He stated that this bill applies to several employees not just those unemployed for three months in the summer.

Pat Abelin, Bozeman Chamber of Commerce, stated that this bill puts employers at a disadvantage on the already difficult task of firing an employee. Abelin stated that his organization is against HB 195.

Questions From Committee Members and Responses:

REP. ELLIS asked the sponsor how he feels the business could make money by paying the interim when the business has to pay the lost employee and their replacement.

REP. McCULLOCH stated that the business would only lose out if they are found guilty of illegal discharge.

REP. ELLIS then asked **REP. McCULLOCH** to change his scenario so that he was paid \$25,000 while employed somewhere else. He then asked **REP. McCULLOCH** if he thought it was fair to receive \$45,000.

Again **REP. McCULLOCH** stated that the business would only lose out if they were found guilty of illegal discharge.

REP. WHALEN asked David Owen if these employees who were found to be illegally discharged have any other remedies besides back pay.

David Owen stated that he was not sure so he referred Representative Whalen to Mr. Moerer. **Bruce Moerer**, stated that looking at the school situation again, the unfair labor practice can be appealed by the board. The employee could file a grievance.

REP. WHALEN rephrased the question by asking if two years after an employee is fired, and it is determined that they were wrongfully terminated, are these employees eligible for to receive attorney fees. What about if they lose their home or car? What type of remedies are available to these employees?

Bruce Moerer stated that he is not sure of all of the remedies; however, he knows they are usually not paid for attorney fees.

John Manzer stated that there is no way a person can get punitive damages. They can only receive lost wages unless the court decides to award punitive damages.

REP. WHALEN asked who these cases apply to.

Phil Campbell stated that this bill doesn't affect the Wrongful Discharge Act. It normally only affects those cases before the human rights such as discrimination or unfair labor practices.

REP. WHALEN asked if this bill applies only to organized companies.

Mr. Campbell stated that statement is not necessarily true. He stated again that it doesn't affect wrongful discharge, but usually those dealing with human rights. He then referred to page 2, line 6 of the bill. He gave an example of what the board of appeals can do. He stated that the board of appeals can reinstate employees with or without pay. Furthermore, sometimes these employees may get paid interest.

REP. SIMON asked REP. McCULLOCH about his scenario. He asked how the school board could make money if they have to hire someone in your absence and then still have to pay you.

REP. McCULLOCH stated that it would not pay these businesses to fire an employee unfairly.

REP. SIMON stated that you earn money while you are away from the school then you are ahead.

REP. McCULLOCH stated that if a business is found guilty of wrongfully firing an employee, what the employee does after being fired shouldn't mean anything to the business. Furthermore, this could provide these employers with an incentive to rehire.

REP. SIMON asked what would happen if you were to draw unemployment during your dismissal?

REP. McCULLOCH referred him to Mr. Judge. Mr. Judge stated that if a person has been dismissed, they are not eligible to get unemployment benefits.

REP. GALVIN gave an example of himself which related to HB 195. He stated that he was an employee of the same company for 42 years and if the company was found wrong they paid in full and that is how it should be.

REP. DRISCOLL asked David Owen to refer to the new language on page 3 of the bill. He then asked Owen what the reward was for an employee earning minimum wage if this person is fired. He further stated that they don't think much of this because they can always find another minimum wage job.

Mr. Judge stated that there is no monetary award to minimum wage employees.

Don Waldron, Montana Rural Education Association, submitted written testimony, see (EXHIBIT #3).

Closing by Sponsor:

REP. McCULLOCH closed on HB 195 by reiterating that this bill will not provide incentive for people to fire their employees.

He then gave another scenario of himself as a sixth grade teacher. He stated that he teaches his sixth graders that with every decision, whether it is good or bad, there are always consequences. He stated that all he is asking for in this bill is for people to be responsible for their own actions.

HEARING ON HB 199

Opening Statement by Sponsor:

REP. ANGELA RUSSELL, HD 99, Big Horn, sponsor, stated that she believes this bill is an issue of fairness. It affects mostly women and families. Prior to 1985, Montana Unemployment Insurance had to borrow money from the Government. Furthermore, they developed HB 284. This bill was a so called compromise and a way for them to pay back the money. Today the trust fund is able to stand on its own. All this bill will do is give unemployment benefits to those employees who had a good reason to quit. Each case will be considered individually. Don't make these people choose between working and their families.

Proponents' Testimony:

Don Judge, Montana State AFL-CIO, stated that he is in strong support of HB 199. He stated that this bill is similar to HB 284 which was passed in 1991. His statement was similar to Russell's. The only thing he added differently was that good cause needs to be defined. He stated that this bill will only restore one portion of the benefits. If there is a good cause for the employee to quit, they may be eligible for benefits. He then stated the numbers and circumstances of employees who quit there jobs since 1984. He further stated several employees who were laid off in nursing homes around the state. He stated that the UI trust fund was there to be used, not just to sit around. He also provided the committee with written testimony. (EXHIBIT #4)

Terry Minow, Montana Federation of Teachers and Montana Federation of State Employees, stated that her organization would like to be on the record as supporting HB 199.

John Manzer, ATU Local #190, stated that his organization supports HB 199. He stated that employees are being laid off with no where else to go. These employees are forced to take pay cuts to follow their families. Furthermore, most of today's families are double income. This bill will have a strong impact on the needy and no impact on anyone else.

Tom Foley, American Federation of State and County National Employees, stated that his organization supports HB 199 for all of the reasons stated above. He stated that this bill does not make it mandatory, only to consider each case individually.

Francis Marcear, United Transportation Union, stated that this bill is very important to his organization. Furthermore, it will allow a spouse to be considered for benefits if they must relocate.

Eugene Fenderson, Laborers Union, stated that his organization strongly supports HB 199. He again restated the reasons given above. He stated that these employees are forced to take a wage decrease and can't get benefits.

Melissa Case, Montana Hotels and Restaurants, stated that her organization would like to be on the record as opposing HB 199.

Charles Brooks, Executive Vice President of Montana Retailers Association, submitted written testimony, see (EXHIBIT #5).

Opponents' Testimony:

Jim Tutwiler, Montana Chamber of Commerce, stated that he is opposed to HB 199 because it has a strong impact on business people. He understands some of the reasons in the bill; however, he feels this is a bad bill. He turned in written testimony. (EXHIBIT #6)

Chad Smith, Unemployment Compensation Inc., stated that small employers are the ones who suffer from this bill. He referred to the bill lines 13, 14, and 15. These three lines are the heart of the bill. He handed out a graph (EXHIBIT #7). He stated that if the employee is illegally forced off the job, and can justify that their employer was so bad, then they can get benefits. Passing this bill will turn unemployment to welfare. He ended by stating that integrity of the UI Trust Fund should be the number one priority of everyone involved.

Riley Johnson, National Federation of Independent Business, stated that small employers had a black situation in 1979 and 1981 sessions. He stated the above noted facts about the UI trust fund. He further stated that the Federal Government wanted the Department to have \$134 million in reserves. Furthermore, not meeting this obligation could lead to trouble. He stated that insurance is something that a person can control. Small businesses have no control. He asked the committee not to pass HB 199.

Bob Jensen, Department of Labor, stated that he is opposed to all bills that will affect the UI trust fund. He realizes that the trust fund is healthy today, but he is concerned with the difficulties of the information contained in the fiscal note.

Brian Mcculla, Department of Labor, referred to the chart (EXHIBIT #7) about FY94 and FY95 expenditures that are expected and the revenues coming in.

Bruce Moerer, Montana School Boards Association, stated that if

the legislature is concerned with social policy and wants to change it, let them pay for it themselves. This bill will just add costs.

Carl Schwitzer, Montana Contractors Association, wants to be on the record as opposing HB 199.

Don Waldron, Montana Rural Education Association, see (EXHIBIT #8).

Questions From Committee Members and Responses:

REP. WHALEN referred to page 14 and 15 of the booklet (EXHIBIT #9) handed out earlier in the informational briefing by the Department of Labor. He specifically referred to the recommendation of \$130 million in the UI trust fund. He asked **Bob Jensen** when the booklet came out and when the department received it. **Mr. Jensen** stated that the booklet was received prior to the beginning of the 1991 session.

REP. WHALEN asked **Mr. Jensen** if they tried to correct the problem with the UI trust fund at that time.

Mr. Jensen answered that all of the states received a similar booklet; furthermore, the department wasn't under pressure to correct the problem immediately because of the basic history of the claims being filed.

REP. DRISCOLL asked **Mr. Mcculla** how long he has been with the Department of Labor. **Mr. Mcculla** answered that he has been there for approximately eight years.

REP. DRISCOLL stated that this was not part of the compromise of 1985. Do you see any correlation in the trust fund of unemployment rising and workers compensation rising too. **Mr. Mcculla** stated he hasn't thought about the consequences. He further stated that it may be a coincidence. that several other things that he sees correlation with. Some of these things are raising workers compensation and workers compensation going into the tubes.

REP. MILLS referred to page 1, line 14 and 15 and asked **Jensen** to define good cause.

Mr. Jensen stated that prior to 1985, the law changed. Problems at that time were decided if passed by using specific guidelines.

REP. SIMON asked **Mr. Jensen** if we are tapping into the UI Trust Fund decreases, and the total wages remains the same, how far down could we go before reaching the trigger mechanism.

Mr. Jensen answered that the trigger mechanism is reached around the neighborhood of \$5 million or more.

REP. DRISCOLL asked if the increased economy had the same amount paid out, if the wage base would still go up.

Closing by Sponsor:

REP. A. RUSSELL closed on HB 199 by stating that this bill is a fairness issue that affects women and it would keep families together. This bill will allow the departments to decide on a case by case basis. She stated two different situations that she has come across that this bill would help.

The first situation was of a single parent in an abusive situation. This parent's child was in danger because the abuser was still in the community; furthermore, she left the community and received no benefits.

The second situation was of a carpenter who went south to find work. This was during the late fall and early winter. He no longer could stay in the camper because of the cold weather; therefore, he came back without a job and couldn't receive benefits.

EXECUTIVE ACTION ON HB 138

Motion: REP. TUSS MOVED HB 138 DO PASS.

Discussion:

REP. DRISCOLL referred to the handout called the firefighters statistics (EXHIBIT #4 OF 1/14/93 MINUTES).

CHAIRMAN NELSON read the bill's purpose to the committee.

REP. MILLS stated that this properly belongs under the Occupational Health Disease Act.

REP. WHALEN stated that under the Occupational Health Disease Act, a medical doctor will make the determination how much is job related. If the doctor doesn't know, he tends to guess very low. Furthermore, the maximum a person can get from Occupational Health Disease Act is \$10,000.

REP. ELLIS told REP. WHALEN that his statement doesn't jibe with what REP. DRISCOLL stated about the tests performed once a year. He stated that knowing the problems with worker's compensation now, he can't support HB 138.

REP. SIMON stated that the information put out by REP. DRISCOLL at the hearing of HB 138 was that most of these firefighters are self-insured.

Bob Werthington, insurance company owner, by the request of the

committee, further added that out of the 235 claims they have incurred, only two of these were filed under occupational disease. He also stated that only three of these claims were pulmonary related. Two of these three cases were found to be work related. He stated that he feels they are dealing with the problems correctly at the present time.

REP. DRISCOLL asked Mr. Werthington what year he began his insurance company.

Mr. Werthington stated that he started with 13 cities in 1985.

REP. DRISCOLL asked Mr. Werthington if the rest of the firefighters were all insured by the state fund until he came along. **Mr. Werthington** stated yes, that was correct.

REP. DRISCOLL asked how many of the 235 claims had cumulative effects. **Mr. Werthington** stated that he wasn't sure.

REP. SIMON asked Mr. Werthington of the claims settled what percent did these employees get. **Mr. Werthington** stated that he was not sure.

REP. TUNBY agreed with **REP. ELLIS** and stated that he can't vote for anything that will put worker's compensation in trouble.

REP. WHALEN also referred to **REP. ELLIS** and stated that we should keep in mind what is covered under workers compensation. Furthermore, the maximum is 2/3 of the average wage. This is not even close to what an employee would earn on the job. If we don't take care of these people we might as well just scrap this stuff entirely.

REP. SQUIRES told the committee not to be fooled. If these people don't receive benefits through workers compensation, they will be seen at the other end of the system on welfare. The problem is not being fixed, it is just moving it from one system to another. Furthermore, the money is just being displaced.

REP. SIMON stated that he is concerned with the state fund not being valid and the bulk not being in the fund. The effects on the fund would be minimal. He further stated that the secretary will be next claiming carpal tunnel syndrome. If this bill is passed, it will start a movement of all classes of workers to workers compensation.

REP. MILLS stated that Occupational Health Disease should be covered separately. The current laws need to remain in effect or everyone should be put on workers compensation.

REP. TUNBY stated that he would prefer that it stays as it currently is and let it shift to another program. He stated that by passing this bill we would be adding more of a burden to the

Tempoyer and hurting the employment base of the state.

REP. GALVIN asked if we are trading lives for dollars?

Motion/Vote: Question was called. **THE MOTION WAS CHANGED TO DO NOT PASS.** A role call vote was taken. The Motion carried 9 to 7.

ADJOURNMENT

Adjournment: CHAIRMAN NELSON adjourned the meeting at 5:20.



TOM NELSON, Chair



CHERRI SCHMAUS, Secretary

TN/CS

HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

ROLL CALL

DATE _____

1/21/93

[illegible]

HOUSE STANDING COMMITTEE REPORT

January 26, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that House
Bill 138 (first reading copy -- white) do not pass .

Signed: _____
Tom Nelson, Chair

HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

ROLL CALL VOTE

DATE 1/21/93 BILL NO. HB 138 NUMBER

MOTION: Do not pass

NAME	AYE	NO
REP. TOM NELSON, CHAIRMAN		✓
REP. GARY FELAND, VICE CHAIRMAN		✓
REP. STEVE BENEDICT		✓
REP. VICKI COCCHIARELLA	✓	
REP. JERRY DRISCOLL	✓	
REP. ALVIN ELLIS		✓
REP. PAT GALVIN	✓	
REP. SONNY HANSON		✓
REP. NORM MILLS		✓
REP. BOB PAVLOVICH	✓	
REP. BRUCE SIMON		✓
REP. CAROLYN SQUIRES	✓	
REP. BILL TASH		✓
REP. ROLPH TUNBY		✓
REP. CARLEY TUSS	✓	
REP. TIM WHALEN	✓	

7 9

HOUSE LABOR

EXHIBIT

#1

DATE

1/20/93

SB

195

Amendments to House Bill No. 195
First Reading Copy

Requested by Rep. McCulloch
For the Committee on Labor and Employment Relations

Prepared by Susan B. Fox
January 21, 1993

1. Page 3, line 19.
Strike: "board"
Insert: "decision"

LABOR

~~#13~~ #2
EXHIBIT

DATE 1/28/93

#B 195

Amendments to House Bill No. 195
First Reading Copy

Requested by Rep. Simon
For the Committee on Labor and Employment Relations

Prepared by Susan B. Fox
January 21, 1993

1. Page 4, lines 2 through 6.

Following: "instruction."

Strike: "(1)" on line 2 through "(2)" on line 6.

EXHIBIT ~~3~~

HOUSE LABOR 1/24/93
HOUSE OF REPRESENTATIVES

EXHIBIT 2
DATE 1/21/93
HB 195

WITNESS STATEMENT

PLEASE PRINT

NAME DON WALDROW BUDGET HB 195

ADDRESS P.O. Box 5418 - Helena Mt. 59604

WHOM DO YOU REPRESENT? MT. Rural Ed. Assn

SUPPORT _____ OPPOSE L AMEND _____

COMMENTS: _____

We oppose HB 195. Our reason
are 1. "back pay" awards are to make the
employee whole. They were never meant
to be away of making for double income.
This change would greatly increase
the attempts at "back pay" awards
since an employee could work another
job and not worry about winning
or losing a claim. Now the employ only
files if he is sure that he has a
good chance of winning.

2. These fillings & or awards
increase the cost of doing business
which in turn makes employers wonder
if addition employees are worth the
risk.



Montana State AFL-CIO

110 West 13th Street, P.O. Box 1176, Helena, Montana 59624

DATE 1/21/93
HB 199
Donald R. Judge
Executive Secretary

406-442-1708

TESTIMONY OF DON JUDGE ON HOUSE BILL 199 BEFORE THE HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE, JANUARY 21, 1991.

Mr. Chairman, members of the Committee, for the record my name is Don Judge representing the Montana State AFL-CIO, and we are here in strong support of House Bill 199.

Many of you were here in 1991 when a similar bill was passed by the legislature, and subsequently vetoed by then-Governor Stephens, but for new legislators, let me take a few moments to give you some background on this issue.

Prior to the 1985 legislative session, the Montana unemployment insurance trust fund was experiencing a large deficit, forcing it to borrow money from the Federal Government in order to meet obligations to laid-off workers. Several other states experienced similar deficits, some of which had to borrow hundreds of millions of dollars!

The 1985 legislature responded to this problem by enacting House Bill 284, as a so-called compromise to address the fund deficit and to pay off the money borrowed from the Feds. Some of those provisions included:

- (1) Authorizing a surtax on employers not to exceed .3% of payroll.
- (2) Raising the taxable wage base from 75% to 80% of the annual wage.
- (3) Changing an employer's "experience factor" to provide rate relief to good employers who experience low unemployment.
- (4) Providing for 10 rate classes instead of 7, and increasing rate classification for "deficit employers" to capture more money from employers experiencing higher unemployment.
- (5) Making claimants wait a week to qualify for unemployment benefits between benefit years. No UI benefits would be paid during this week, nor for this week.
- (6) Reducing the maximum individual's benefit amount from 50% to 49% of his or her average weekly wage.
- (7) Redefining the "quit for good cause" section of the law to restrict eligibility for benefits only when an individual quit for a good cause which was "related to his/her employment".

One additional bill passed in 1985 to address the fund deficit but was not included in this so-called compromise was to prohibit striking workers for receipt of benefits, even if the employer's place of business continued to operate.

Since 1985, the Montana Unemployment Insurance Trust Fund has paid off its federal debt and employers have experienced at least five reductions in their UI tax rates.

Unfortunately, workers haven't been so lucky. No legislation had passed our legislature which would, in any way, restore some of those cuts endured by Montana's working men and women, prior to HB 729 in 1991. Governor Stephens veto negated that action.

House Bill 199, if adopted, would restore one portion of those benefits to Montana workers. It would grant the Department of Labor and Industry the authority to make decisions about voluntary terminations of workers that they are now prohibited from making. If they find that workers have "good cause" to quit their jobs, and that cause is not attributable to their employment, they may be found eligible to receive unemployment compensation benefits. Representative Russell has given you some excellent examples of the way our current law works versus the way House Bill 199 proposes to change the law.

Now, I'd like to give you some specifics of the impacts of the change on working men and women.

In 1984, prior to the change in our law, the Department of Labor found that 1,002 of 1,393 persons who quit because of personal health reasons were entitled to benefits.

That same year, they found that 1,268 of 1,346 persons who quit to follow their spouse and keep their families together were entitled to benefits.

One-hundred and twelve of one-hundred and thirteen who quit because the job they were hired for was not available, received benefits.

Five-hundred and twenty-six of six-hundred and ninety one received benefits when they quit to seek better job proposals.

And, seventy two of one-hundred and forty five received benefits when they quit because of a sickness or death of a relative.

Were these good reasons for quitting? Apparently, because the Department of Labor and Industry used their discretion to determine if, in fact, these were justified reasons for voluntarily quitting a job. Each case was individually reviewed and a determination made on the circumstances.

House Bill 199 would not grant any automatic extension of benefits to workers, unlike employers who received automatic rate reductions over the previous eight years. It simply provides the Department of Labor the option to decide if favor of such workers.

As you have already heard, too often the workers being denied benefits are women. They quit work to take care of a sick child or parent. They who must, quit work to follow a spouse, often a choice in keeping a family together. In recent weeks, Montanans have experienced and are being forewarned of significant lay-offs in the Cascade County Nursing Home in Great Falls, St. Peter's Hospital in Helena, Deaconess Hospital in Great Falls, AT&T in Kalispell and Billings, US West in Billings and Helena and we're expecting more from the Montana State Hospital at Galen and Warm Springs in Missoula and various state agencies in communities throughout Montana (pending legislative action.) Many employees will be forced to choose to transfer to other communities and their spouses will opt to join them and keep their families intact even though they will have to quit their jobs to do it. Are these the workers we want to deny benefits to?

We do not think so, and we certainly hope that you will agree with us. Please help Montana's working men and women by returning some balance to our state's unemployment compensation system and give House Bill 199 a "do pass" recommendation.

Thank you.

EXHIBIT 5

EXHIBIT 240

DATE 1/21/93

Executive Office
318 N. Last Chance Gulch
P.O. Box 440
Helena, MT 59624
Phone (406) 442-3388

HOUSE LABOR
1/21/93



HOUSE COMMITTEE ON LABOR
TESTIMONY HB 199
JANUARY 21, 1993

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

FOR THE RECORD I AM CHARLES BROOKS, EXECUTIVE VICE PRESIDENT OF THE MONTANA RETAIL ASSOCIATION AND ITS AFFILIATES, THE MONTANA TIRE DEALERS AND THE MONTANA HARDWARE AND IMPLEMENT ASSOCIATION. WE URGE YOU TO GIVE THIS BILL A DO NOT PASS VOTE.

IN 1983 - 85 I SERVED ON THE GOVERNORS ADVISORY COUNCIL ON THE UNEMPLOYMENT FUND, WHICH AT THAT TIME WAS BROKE AND WAS BORROWING MONEY FROM THE FEDERAL EMPLOYMENT FUND TO MEET THE WEEKLY PAYMENT OF CHECKS TO THE UNEMPLOYED IN THE STATE. AFTER MUCH CONSIDERATION THE VARIOUS BUSINESSES IN THE STATE AGREED TO A TAX INCREASE ON WAGES TO BRING THE FUND BACK TO A FINANCIAL SOUND BASIS. THE WAGE BASE WAS TO BE ADJUSTED EACH YEAR, FOR A NUMBER OF YEARS. AS WELL AS A RATE ADJUSTMENT. A COPY OF THESE SCHEDULES ARE ATTACHED TO MY TESTIMONY. I WOULD LIKE TO SUGGEST TO YOU THAT ANY TAX INCREASE ON BUSINESS AT THIS TIME IS NOT IN THE BEST INTEREST OF MONTANA. IF WE CONTINUE TO IMPACT THE FUND WITH THIS TYPE OF LEGISLATION RATE INCREASES WILL SURELY FOLLOW.

THIS BILL WOULD CHANGE THE LONG STANDING PURPOSE AND INTENT OF THE UNEMPLOYMENT LAW IN MONTANA. THIS LAW WAS ESTABLISHED TO PROVIDE FOR THOSE WHO LOST A JOB THROUGH NO FAULT OF THEIR OWN AND ARE ACTIVELY LOOKING FOR EMPLOYMENT.

I URGE YOU TO LEAVE INTACT ONE OF A VERY FEW FUNDS IN MONTANA THAT IS SOUND FINANCIALLY. PLEASE GIVE HD 199 A DO NOT PASS VOTE.

THANK YOU FOR THE OPPORTUNITY TO PRESENT THIS TESTIMONY.

A handwritten signature in cursive script, appearing to read "Charles Brooks". The signature is written in dark ink and is located at the bottom of the page.

MONTANA U.I.D. CONTRIBUTION RATE AND WAGE BASE INFORMATION

	3,4/83	1984	1985	1986	1987	1988	1989
Rate, minimum-maximum	1.8-4.3	1.8-4.3	1.7-6.4	1.7-6.4	1.1-6.4	0.9-6.4	0.5-6.4
Unrated (New Employer Rate)	3.8	3.8	3.8	3.8	3.2	3.0	2.6
Taxable Wage Base	8200	8400	11,900	12,200	12,400	12,600	12,800
Governmental Rates (FY)*	.5-1.1	.5-1.1	.4-1.0	.3-9	.2-8	.1-7	.1-7
AFT Tax-Experience Rated Employers	.1	.1	.1	.1	.1	.1	.1
AFT Tax-Gov & Reim Employers	.05	.05	.05	.05	.05	.05	.05
Assessment for interest due on Federal Loan**		.4	.3	-	-	-	-
Surtax***			.3	-	-	-	-
FUTA Rate	3.5	3.5	6.2	6.2	6.2	6.2	6.2
FUTA Net Percentage	.8	.8	.8	.8	.8	.8	.8
FUTA Wage Base	7000	7000	7000	7000	7000	7000	7000

* FY 1990 Government Rates .1-7 Governmental entities pay contributions on total wages

** First quarter only each year - Experience Rated Employers only

*** Paid on total wages - Experience Rated Employers only

MONTANA U.I.D. CONTRIBUTION RATE AND WAGE BASE INFORMATION

	1986	1987	1988	1989	1990	1991	1992
Rate, minimum-maximum	1.7-6.4	1.1-6.4	0.9-6.4	0.5-6.4	0.3-6.4	0.0-6.4	0.1-6.4
New Employer Rates (Unrated)	3.8	3.2	3.0	2.6	1.2-4.1	1.0-3.8	1.0-4.0
Taxable Wage Base	12,200	12,400	12,600	12,800	13,200	13,400	14,000
Governmental Rates (FY)*	.3-9	.2-8	.1-7	.1-7	.1-7	.1-7	.1-7
AFT Tax-Experience Rated Employers	.1	.1	.1	.1	.1	.1	.1
AFT Tax-Gov & Reim Employers	.05	.05	.05	.05	.05	.05	.05
Assessment for interest due on Federal Loan**	-	-	-	-	-	-	-
Surtax***	-	-	-	-	-	-	-
FUTA Rate	6.2	6.2	6.2	6.2	6.2	6.2	6.2
FUTA Net Percentage	.8	.8	.8	.8	.8	.8	.8
FUTA Wage Base	7000	7000	7000	7000	7000	7000	7000

* FY 1993 Government Rates 0.1 - 0.7 Governmental entities pay contributions on total wages

** First quarter only each year - Experience Rated Employers Only

*** Paid on total wages - Experience Rated Employers Only



EXHIBIT #6
DATE 1/21/93
HB 199

MONTANA CHAMBER OF COMMERCE

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

TESTIMONY BY

JAMES TUTWILER

BEFORE HOUSE LABOR & EMPLOYMENT COMMITTEE

ON HB 199

THURSDAY, JANUARY 21, 1993

Mr. Chairman:

Members of the Committee I am James Tutwiler representing the Montana Chamber of Commerce and businesses in Montana. The Chamber respectfully opposes HB 199 for these important reasons:

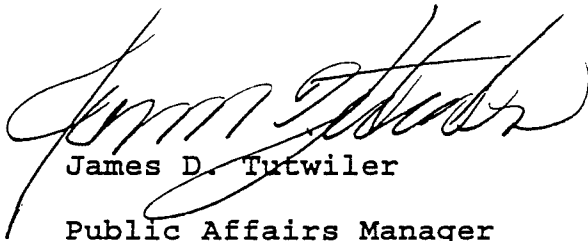
First, the bill proposes fundamental changes in unemployment compensation. Under the current law employers pay into a system that provides compensation to employees leaving the job for good cause related to employments. That's fair. Employees who suffer lack of work because an employer goes out of business should be helped. HB 119 changes all of this by eliminating the requirement that compensation be awarded for good cause related to employment. By making this major change you are asking employers of Montana to compensate, thru increased taxes, compensation for unemployed workers who left employment and became unemployed thru no fault of the employer.

Second, we must raise the issue of cost. The Department of Labor estimates HB 199 will cost employers nearly \$3 million each biennium. We believe that cost is understated in the long term. Nevertheless, a \$3 million plus cost here added to millions more proposed in other unemployment compensation bills before the Committee this session poses a threat to unemployment compensation reserves which are already millions of dollars below guidelines recommended by the Federal Government.

In sum, we are doing damage to the fund and its reserves that is specifically designed to help unemployed individuals who are out of work involuntarily.

A more chilling aspect of HB 199 is its adverse impact on small businesses. Small businesses in particular cannot afford more tax imposed on tax. This session will likely see an increase, perhaps a stiff increase in payroll taxes to bail out old workers compensation claims. Employees may have to bear a similar tax. So, the effect of HB 199 is that it would further diminish employers ability to free up capital to provide wage raises and most importantly to provide new jobs. Unfortunately HB 199 will hurt the people it is designed to help by reducing employment opportunities.

We respectfully urge you to vote no on HB 199.

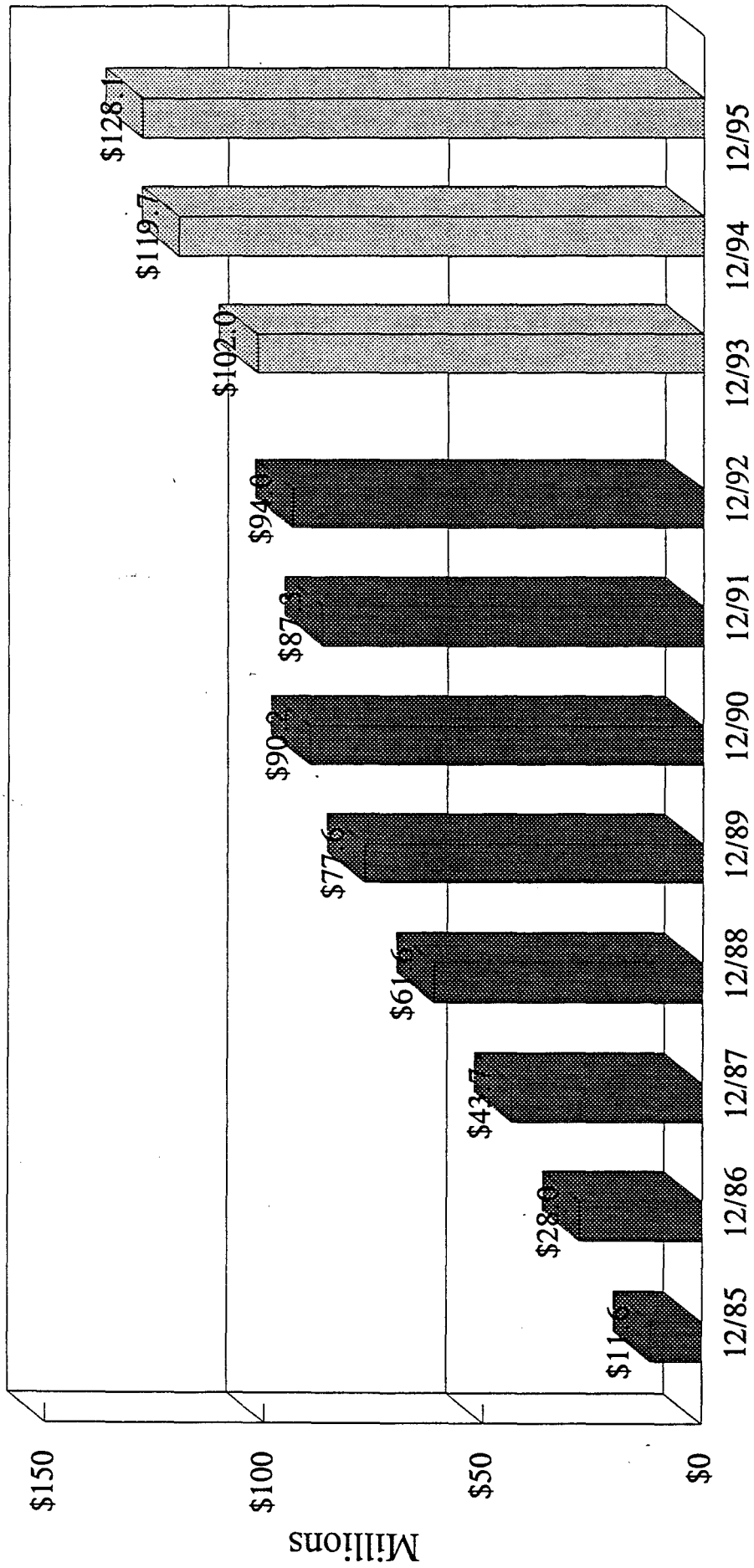


James D. Tutwiler
Public Affairs Manager

Montana Chamber of Commerce

EXHIBIT 3
HOUSE LIAISON 1/21/93

MONTANA UNEMPLOYMENT INSURANCE TRUST FUND
Historical & Projected Balance



Actual Data Through 1992
Projections Through 1995

EXHIBIT 4
HOUSE LABOR 11/21/93
HOUSE OF REPRESENTATIVES

EXHIBIT 442
DATE 11/21/93
HB 199

WITNESS STATEMENT

PLEASE PRINT

NAME DON WALDROW BUDGET HB 199

ADDRESS P.O. Box 3418, Helena, MT 59604

WHOM DO YOU REPRESENT? Mont. Rural Ed. Assn.

SUPPORT _____ OPPOSE L AMEND _____

COMMENTS: _____

We oppose HB 199. Our main
concern is with the removal
of the words on line 15 page 1. This
will open the flood gates for employees
that are looking for a reason to
leave will leave since it would become
much easier to get unemployment
pay.

- Rates will go up without a doubt
- Employee dependability will be reduced
- Employee longevity will be reduced
causing a production drop
- Unemployment should be for those
that are laid off for reason
caused by the employer - NOT AT
employ change of mind.

January 21, 1993

Exhibit 9, "Department of Labor and Industry, Report to Governor, Legislature, and Citizens of Montana, December 1992" is 33 pages long. The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT, 59620-1201. The phone number is 444-2694.

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

COMMITTEE _____

BILL NO. HB 195

DATE _____ SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Don Waldron	Mt Rural Ed Assn.		✓
Russell B Hill	Mt Trial Lawyers	✓	
David Owen	Mt Chamber of Commerce		✓
Patricia Abelin	Bozeman Chamber of Commerce		
Doni Jude	MT STATE AFL-CIO	✓	
Barb Booher	MT Nurses Assoc.	✓	
Phil Campbell	MEA	✓	
Bruce W. Moen	MSDA		x
Carl Schwartz	MCA		x
John Hany	Teamsters	✓	
Tom Foley	AFSCME	x	
Terry Minnow	MT Fed of Teachers	x	

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

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Libor

COMMITTEE

BILL NO. H 15-189

DATE 1-21-93 SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Charles Brooks	Mountain Ret. L		✓
Don Waldron	Mt Rural Ed. Assn.		✓
Jim Twissel	MT Chamber		✓
Ken Olson	Labor & Industry		
CHAD SMITH	UCA, Inc.		✓
Don Judge	MT STATE AFL-CIO	X	
Bobb Doohar.	Mt. Nurses Assoc.	✓	
Bruce W. Moore	BSBA		X
Frank Marceau	UTU	✓	
MELISSA CASE	HERE Hotel Employees Rest. Employ		
Carl Schreyer	Mt. Cont Assoc		✓
Al A Ham	Termsters	✓	
Tom Foley	AFSCME	X	
Bob Jensen	Appl of Labor		✓

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Labor

COMMITTEE

BILL NO. HB-199

DATE _____ SPONSOR(S) _____

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Eugene Fendley</u>	<u>Laborer Union</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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