

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Tom Nelson, on January 28, 1993, at 3:05 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: Rep. Steve Benedict

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 260 & HB 261
Executive Action: HB 195, HB 199, HB 231 & HB 286

HEARING ON HB 261

Opening Statement by Sponsor:

Rep. Whalen, HD 93, Yellowstone, sponsor, opened on HB 261 by stating that this bill is just a repeat of past sessions. He stated that the public policy has been, if both sides suffer economic hardship, they are not entitled to benefits. If the employer continues to work and make money there is no incentive to come to a bargaining table with the employee. He referred to

the strike of Missoula Champion International and how they came to the bargaining table. The workers were told, at the table that this is what is offered, and if they didn't like it they could starve.

Rep. Whalen stated that it will never be like it was because the amount of benefits an employee can receive is so low today. A strike is no longer an incentive for an employee.

Rep. Whalen brought our attention to several of the strikes around Montana recently. Some of these strikes occurred in Laurel, East Helena, and Anaconda. He stated that these people came to their senses and came up with a compromise that was very equitable.

This bill will establish better attitudes between employers and employees.

Proponents' Testimony:

Darrell Holzer, Montana State AFL-CIO, stated that he supports HB 261 because it will return the balance between workers and employers. Furthermore, this bill will reverse the 1985 decision to deny benefits to strikers. These benefits are not automatic, the employee must be actively seeking work to receive them. This bill will also encourage both sides to work harder at reaching an agreement. These employees are threatened with losing their jobs if they exercise their right to strike. (EXHIBIT #1)

The fiscal note in 1989 through 1990 was \$40,000. This year all employer taxes will rise. They are using this rise as a scare tactic. Nobody likes strikes. The bottom line is that it is a fairness issue between labor and management.

Phil Campbell, Montana Education Association, stated that he is in support of HB 261 because it will level the playing field. He repeated that it is not automatic to get the benefits. The employee must be actively seeking work. He mentioned that the recent strikes in Montana have been very short in comparison to those a while back. This bill will reinforce this briefness.

John Malee, Montana Federation of Teachers and Montana Federation of State Employers, stated that he is in support of HB 261 for the same reasons mentioned by Phil Campbell above.

Opponents' Testimony:

Rex Manuel, Cenex Petroleum in Laurel, stated some of the background of the 1985 session. He mentioned HB 81 which allowed strikers to get benefits. He stated that the 1984 strike cost a half a million dollars to the insurance companies. He further stated that these strikers commented about liking the strike because it was a paid vacation. Mr. Manuel stated that 15 percent of the work force are union employees. He mentioned the

UI Trust Fund and the current balance of \$94 million and the goal of \$135 million. He stated that he is opposed to HB 261 and recommends that the committee DO NOT PASS this bill. (EXHIBIT #2)

Chad Smith, Unemployment Compensation Advisor, stated that to pay benefits to strikers is a disappointment. He stated that from 1937 through 1978, there was no question of the interpretation of the Workers Compensation Law. The strikers did not receive benefits under these laws. However, in 1978 the term work stoppage was questioned. States ruled that a stoppage of work was caused when a company could not operate because of a strike.

He stated that the state has to be neutral during a strike. He also stated that if a striker receives benefits during a strike, this would provide incentive to strike. The companies must continue to work; therefore, they are forced to hire someone in the absence of the strikers.

Charles Brooks, Montana Retail Association, stated that he is opposed to the forced support of strikers. He referred to 39-51-208, section 2 and stated that a picketer is not available for work, nor does he want to work. He referred to 1983-85 when the department was broke and had to borrow money from the government. He stated that we should keep the fund solid by not passing HB 261. (SEE EXHIBIT #3)

James Tutwiler, Montana Chamber of Commerce, presented the secretary with written testimony. (SEE EXHIBIT #4)

Bruce Moerer, Montana School Board Association, gave an example of striking teachers. He stated that the school must be open 180 days of the year and these school employees are guaranteed 180 days annually on their salary.

Don Waldron, Montana Rural Education Association, presented written testimony. (SEE EXHIBIT #5)

Steve Turkiewicz, Montana Auto Dealers Association, referred to the 13 month strikes in 1988 and 1989. He stated that a franchise may be closed down if they are closed 7 to 9 days and the business is not allowed to work or bring in money.

Riley Johnson, National Federation of Independent Businesses, stated that this bill is unfair to the employees who are not union members.

Fred Happel, Montana Citizens for the Right to Work, wanted to be entered on the record in opposition of HB 261.

John Fitzpatrick, Pegasus Gold Corporation, stated that he is not directly affected by this bill. He stated that if this bill passes, the employers must be prepared to deal with the costs. He stated that this bill does not level the playing field because

the employer pays whether the employee works or not.

Questions From Committee Members and Responses:

REP. SQUIRES asked Bob Jensen from the Department of Labor, if all employers pay into the UI Trust Fund.

Mr. Jensen stated that in some form or another that most of them do. He then directed the question to Olsen.

Mr. Olsen stated that there are some limits. If the department is determined to be subject to taxation, they have no choice but to pay. The choice is only available to non-profit organizations.

REP. SQUIRES asked again if all employers pay in to the UI Trust Fund. **Mr. Olsen** stated that there are a few exceptions.

REP. SIMON asked **REP. WHALEN** to refer to line 6 of the bill. He asked what the government would do because they are not considered a business.

REP. WHALEN stated that he doesn't have an answer for him at this time. He stated that not many Representatives wanted to carry this bill.

REP. SIMON referred to a stoppage of work and gave a scenario of an electric company that was affected by a lightning strike. However, services were still provided to the public even though the linemen didn't work. He asked if this scenario would be a stoppage of work.

REP. WHALEN stated that it is usually a large company and it has to experience a substantial loss of work. Then he referred the question to Bob Jensen.

Bob Jensen stated that prior to 1985, there were several investigations to determine what substantial meant. However, the term has still not been clearly defined.

REP. SIMON asked the question about stoppage again. **REP. WHALEN** told him they could sit down at a later date and discuss it because he is not prepared to give a definitive answer today.

REP. GALVIN asked **REP. WHALEN** to refer to lines 19 through 23 of the bill. He asked if this bill refers to those persons not striking who can't work because of the strike. In other words it's not the striker who wants money, but the non-striker who won't cross the picket line.

REP. WHALEN stated yes, that is how he reads that section.

Mr. Jensen stated that section A, applies to office secretaries and professional employees who are not part of the dispute and

not involved with the boycott.

Closing by Sponsor:

REP. WHALEN closed on HB 261 by referring to the handout by Rex Manuel from Cenex. He stated that it looks exactly like the handout two years ago. He again stated that the striker must actively be seeking work to receive benefits. He also stated that this may affect the employees ability to go back to work for the previous employer. Furthermore, these strikers can be replaced permanently which is not fair to the striker.

REP. WHALEN stated that no effort was made to find out the potential cost. Furthermore, if both the employer and employee use good faith, no money will be paid out. The major reason for strikes are work rules and benefits. People don't enjoy strikes nor do they benefit from them.

HEARING ON hb 260

Opening Statement by Sponsor:

REP. DRISCOLL, HD 92, Yellowstone, sponsor opened on HB 260 by referring to page 2 and stating that after five years if an employee is unable to continue to work it is considered to be Occupational Health Disease. However, the process is very lengthy. Within the first 40 to 60 days the claim may be denied, then they send the investigation to the doctor. The doctor determines the percentage caused on the job.

He stated that the fiscal note usually has approximately 6 cases per year costing a total of \$338,000. The maximum amount that can be received for lost time is \$18,148. This leaves \$320,000 for doctors and hospitals. He stated that this fiscal note is not worth the paper it is printed on. These doctors determine the portion caused by employment.

He stated that if there were 20 cases per year, the entire field of firefighters would be wiped out in 18 years. He again stated that these fireman are the first at the site. Furthermore, today there are many more contagious diseases than in the past years.

Proponents' Testimony:

Tim Bergstrom, Montana State Firefighters Association, stated that he is also concerned about the funds available; however, this legislation is necessary.

He stated that technology has provided harmful chemicals which produce toxic gases when burned. The lungs are more sensitive than the skin when these toxic gases are inhaled. When these technological things burn, they give off more than just poisonous gases. Many of these gases cause cancer and increase the risk of leukemia. Furthermore, sometimes the symptoms don't show up for many years.

Some of the protective equipment that the firefighters wear are carcinogenic and some are made of asbestos. Firefighters today must respond to chemical spills and fires of all types to save lives and property.

He referred to January 20, 1993 Missoulain. Hepatitis Hits Missoula, Montana.

Every one in seven fireman are exposed to communicable diseases. The reason for the frequent exposure is because they respond to uncontrolled situations where there has been possible use of drugs and alcohol. He stated that they have a higher risk of exposure than patrolmen or hospital emergency staff because they usually don't know who they are working on.

Bergstrom asked the committee to give consideration to these firefighters and support HB 260.

Opponents' Testimony:

Alec Hansen, Montana League of Cities and Towns, referred to section 2 of the bill. He stated that the bill contradicts proximate cause and whether it is work related or not. He stated that the bill will be replacing the test of proximate cause. Furthermore, he stated that this is already covered under Occupational Health Disease Act. If the disease is barely traced, it will still be considered proximate cause. These standards apply to all other types of work. If this bill is considered, you must amend it to add health care workers. Furthermore, they should see if the State Fund can afford it.

He stated that the fiscal note is not always on target, but regardless of the correctness of this fiscal note, it will raise the premiums in the cities. He stated his concern for the stability of the fund and stated that the cities and counties can't be exposed to these charges.

Jacqueline Lenmark, American Insurance Association, considered Hansen's proximate cause and stated that it may be creating a problem if found compensable.

The problem that she sees with workers' compensation is that it will not invite private market to Montana. She asked the committee to give HB 260 a DO NOT PASS and asked them to refer it to the select Workers Compensation Committee.

Oliver Goe, Montana Association of Counties and Municipal Insurance Authority, gave a follow-up to Hansen's statement. He stated that this bill will allow these firefighters to be covered under both. Furthermore, the distinction between volunteer and paid firefighter is hard. We are not sure where these volunteers fit in because they are usually paid a small fee for each fire they respond to.

He stated that issuing these benefits to firefighters could create a discrete class of workers. He referred to the meaning of Occupation Disease as one that has caused harm, damage or death over a period of time. To presume compensability after five years of work it will be considered work related. There will be no provision to check if it is truly work related or not.

The insurer pays 100 percent and the benefits received are not insignificant. These benefits include 100 percent medical, temporary or permanent disability and death benefits. He stated that the number of firefighters who contract the HIV virus is very low and he urged the committee to vote DO NOT PASS on HB 260.

Ray Barnicoate, Montana Association of Counties, stated that he is opposed to the bill because it will handicap workers' compensation by broadening the definition of work related injury. The long term effect is that it will encourage other occupations to broaden their expectations of workers' compensation also.

Pat Sweeney, State Fund, stated that firefighters deserve benefits; however, there is not enough money to expand their benefits at this time.

Questions From Committee Members and Responses:

REP. COCCHIARELLA asked **Alec Hansen** how many claims since he began his coverage and how much has been paid out since 1990.

Mr. Hansen referred to HB 138 and restated that there have been three claims that he knows of and two of these were excepted and only one was denied. He referred her to **Mr. Barnicoate**.

Mr. Barnicoate stated that he couldn't answer her question at this time.

REP. MILLS asked **REP. DRISCOLL** why the decision to assume after five years and not seven?

REP. DRISCOLL stated that it has to start somewhere and if he has other suggestions he should amend the bill.

REP. MILLS asked about the percentage of prostate cancer caused from work-related incidences. He was referred to **Mr. Bergstrom**.

Mr. Bergstrom stated that he could not remember the exact numbers in his testimony; however, he will get the information to him by tomorrow afternoon.

REP. SQUIRES in reference to **REP. MILLS** question stated that prostate cancer is caused by the PCB's that come into contact with the body. These PCBs gravitate to specific areas of the body such as the bladder, liver, and the lungs.

REP. GALVIN asked Mr. Goe how expensive the HIV virus is to firefighters as compared to the Insurance companies.

Mr. Goe stated that he could not weigh it in dollars and it is almost impossible to determine.

REP. GALVIN stated in the end the firefighter will die regardless.

REP. MILLS stated if these firefighters need to be covered under workers compensation then the doctors and nurses also need to be covered under this compensation.

Vern Erickson stated that when these firefighters are called they have no idea of their surroundings because they must react instantaneously.

REP. SIMON asked Mr. Erickson if these firefighters are exposed to hazards, how do we separate the fact that their lifestyles are not conducive to good health? Do we assume just because they are firefighters, it is caused on-the-job?

Mr. Erickson stated that he knows this is just an honest question and referred to a study conducted a few years ago. The study dealt with the level of fitness firefighters must maintain. If there is no current Standard Operating Procedure for fitness, there should be one established soon.

REP. SIMON asked Mr. Erickson to assume he knows a guy who has had bad habits and he is diagnosed with having heart disease. With the current presumptions, do we assume all of this disease is work-related and should it be covered under the Occupational Health Disease Act.

REP. MILLS asked if firefighters exclude gays from their ranks so they are absolutely positive the HIV virus is not caused by the gays in this line of work.

Closing by Sponsor:

REP. DRISCOLL closed on HB 260 by stating that this bill will determine the percent caused by the job. If an individual smokes three packages of cigarettes per day, this will be taken into consideration.

He stated that today during the hearing on HB 260 there were three lawyers present for the companies, eight administrators who are wondering where to get the money; however, there were no proponents for the workers. He further stated that the SRS budget is up by \$60 million, but they still like to hire administrators.

EXECUTIVE ACTION ON HB 231

Motion: REP. GALVIN MOVED HB 231 TABLE.

Motion/Vote: The question was called for on HB 231. The motion to TABLE CARRIED unanimously.

EXECUTIVE ACTION ON HB 195

Motion: REP. SQUIRES AND REP. DRISCOLL MOVED HB 195 DO PASS.

Motion/Vote: REP. SQUIRES MOVED THE AMENDMENTS BY REP. MCCULLOCH. The question was called for. A voice vote was taken. The motion to DO PASS the amendments CARRIED 15 to 1 with REP. HANSON voting no.

Discussion:

REP. HANSON moved that the amendment be tabled. He stated that he is against HB 195 because of the term quasi-judicial. He stated that this means that the groups can't make a decision without the board.

REP. WHALEN explained quasi-judicial to the committee. He said it is a special action taken by a board. He commented with Hanson that the amendment doesn't expand the bill the way it look as if it does.

REP. HANSON stated that Highways is currently a quasi-judicial board, though it can't make certain decisions.

REP. WHALEN stated that the issue has to be put in front of the board by the Director. Whatever decision is made is quasi-judicial.

REP. HANSON stated that this was specific when the reorganization took place in 1981. They called it quasi-judicial, but left off the duties.

CHAIRMAN NELSON asked Whalen if it was fair to say we have effective law in a board sense.

REP. WHALEN stated that it doesn't become binding unless there is an appeal.

REP. GALVIN told a personal story of his life working with a wrongful discharge clause. He stated that he has worked all his life under these conditions and feels it is only fair for the companies to pay all of their money back in the case of wrongful discharge.

REP. MILLS stated that this bill does not deal with wrongful discharge and stated that the real problem is either to make someone whole or more than whole.

Motion/Vote:

REP. TUNBY MOVED HB 195 TABLE. He also added that this does not deal with wrongful discharge. The motion CARRIED 9 to 7.

EXECUTIVE ACTION ON HB 199

Motion: REP. DRISCOLL MOVED HB 199 DO PASS.

Discussion:

REP. MILLS stated that the major reason given was to keep families together. No company is responsible to keep spouses together. He stated that women wanted equal rights and now they have got them under the law.

Motion/Vote:

REP. SQUIRES called for the question. A roll call vote was taken. REP. MILLS MOVED HB 199 TABLE, then substituted a motion to DO NOT PASS. The motion CARRIED 9 to 7. HB 199 was not passed.

EXECUTIVE ACTION ON HB 286

Motion: REP. SIMON MOVED HB 286 BE POSTPONED INDEFINITELY.

Vote: The question was called for. The motion to POSTPONE INDEFINITELY CARRIED unanimously.

ADJOURNMENT

Adjournment: CHAIRMAN NELSON adjourned the meeting at 5:40 p.m.

TOM NELSON, Chair

CHERRI SCHMAUS, Secretary

TN/CS

ADJOURNMENT

Adjournment: CHAIRMAN NELSON adjourned the meeting at 5:40 p.m.



TOM NELSON, Chair



CHERRI SCHMAUS, Secretary

TN/CS

HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

ROLL CALL

DATE

1/28/93

[illegible]

HOUSE STANDING COMMITTEE REPORT

January 29, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that House
Bill 199 (first reading copy -- white) do not pass.

Signed: _____
Tom Nelson, Chair

Rep Squires

HAS My Proxy ~~abled~~
NO

HB - 195 - YES

HB do not pass
199 ~~YES~~ NO

231 - WHAT EVEN ~~YES~~ - ~~abled~~

Rep. [unclear]

H.S. Hanson has my proxy
to vote for the CA
all executive action votes
and any amendments, on
Thursday 1/28/93

Stu Benedict

HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

ROLL CALL VOTE

DATE 1/28/93 BILL NO. HB 195 NUMBER

MOTION: TABLE

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		✓

9 7

HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

ROLL CALL VOTE

DATE 1/28/93 BILL NO. HB 199 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		✓

Rep I
Ann NO

9 7

HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

ROLL CALL VOTE

DATE 1/28/93 BILL NO. HB 231 NUMBER _____

MOTION: Table

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		

all in favor

HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

ROLL CALL VOTE

DATE 4/28/93 BILL NO. HB 286 NUMBER _____

MOTION: PERM. TABLE

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	✓	



Montana State AFL-CIO

Donald R. Judge
Executive Secretary

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

406-442-1708

EXHIBIT 006

DATE _____

EXHIBIT #1

DATE 1/28/95

HB 261

TESTIMONY OF DARRELL HOLZER BEFORE THE HOUSE LABOR AND EMPLOMENT RELATIONS COMMITTEE ON HOUSE BILL 261

Mr. Chairman, members of the committee, for the record my name is Darrell Holzer and I'm here today representing the Montana State AFL-CIO to testify in support of House Bill 261.

House Bill 261 would return the balance between Montana's workers and their employers as it relates to our state's unemployment compensation system. It would reverse a tragic decision made by the Legislature in 1985 to deny striking workers unemployment benefits when their employers used strikebreakers to subvert the collective bargaining process.

Previous to 1985, striking workers would not automatically receive unemployment benefits, nor would they be automatically denied such benefits. If a business shut down during a strike, workers would have been denied UI benefits. If an employer used strikebreakers so that the business could continue to operate, the striking workers could have been found eligible to receive such benefits. Even then, as under the provisions of HB 261, striking workers had to apply for benefits, be seeking other work, be available to accept other work, and accept such work, if offered.

That system provided an economic balance between the employer and his workers. If one was to lose money, then both would lose money. If one was to continue to receive an income, then both would continue to receive an income. This balance generally meant that both parties involved in negotiations would work hard at reaching a settlement, either before or during a strike.

In 1985 the situation changed. We don't have to look far to see the impact on Montana's workers and our economy. Since 1985, workers have been much more inclined to submit to the "give-back" attitude of their employers. Their concern for feeding their families, making payments on homes, cars and college tuition for their kids, and realizing that they would automatically be denied unemployment benefits during a strike has boxed them in.

Employers, on the other hand, have become much more aggressive in their negotiations. Recognizing that they hold the upper hand, economically, they have engaged in massive concessionary bargaining.

Mr. Chairman, the last time this unfair situation was addressed, the fiscal note indicated that providing benefits to eligible striking workers from January 1989 to December 1990 would have amounted to approximately \$40,000 per year... This time the fiscal note merely states that if this proposed legislation is adopted, all employers' taxes will rise. From where we sit, this is purely a scare tactic.

Testimony of Darrell Holzer, HB 261
Page Two
January 28, 1993

Some would argue that not all employers should be charged for the cost of providing UI benefits to some striking workers, and we agree! As you know, the Unemployment Insurance system is an experience-rated tax structure whereby those employers who force a strike on their workers would absorb most of the cost in increased taxes. In addition, we are firmly convinced that Mainstreet businesses are already paying a unfair burden through the loss of purchasing power when workers are forced to go on strike.

Mr. Chairman, no one likes a strike. Not workers, not employers, not communities. But no one likes economic tyranny either. Passage of House Bill 261 will help us avoid both.

For these reasons, we encourage you to vote in favor of House Bill 261. Thank you for your consideration of our position on this important measure.

EXHIBIT # 2
DATE _____
SB _____

EXHIBIT _____
DATE _____
HB _____

January 28, 1993

Mr. Chairman -- members of the House Labor and Employment Relations Committee.

My name is Rex Manuel and I represent CENEX Petroleum Division headquartered at Laurel, Montana.

Once again a bill to restore unemployment benefits to strikers has raised its head to face the Legislature.

In the 1985 session of the Legislature SB 81 was passed because of a loud public outcry against the practice of allowing strikers to receive unemployment benefits. For example, the five month strike in 1984 against the CENEX refinery in Laurel cost the insurance fund over a half million dollars. This certainly helped subsidize the workers during this very long strike. Some workers commented to the press that they enjoyed the strike and likened it to a paid vacation. This situation certainly contributed to prolong the settlement of this costly strike.

Employers doing business in Montana are paying into the unemployment insurance fund for 296,313 workers (based on June 30, 1992 figures). A union official estimates that 26,000 workers belong to the Montana AFL-CIO and other Labor Unions, trade associations -- teacher groups have a membership of approximately 20,000, thus a total of 45 to 50 thousand members. It appears that union members make up approximately 15% of the Montana workforce.

Montanans can and do question if 85% of the workforce should subsidize the strikers (15%) out of the unemployment insurance funds.

Since SB 81 passed in 1985, strikers were paid over one million in insurance benefits due to a ruling that grants benefits if the employer is guilty of an unfair labor practice.

If SB 81 had not been in effect a potential eight million in insurance would have been paid out.

The insurance fund through increased payments by employers has made a creditable increase in the reserve since 1985, and has now reached 94 million. Federal guidelines suggest that the reserve should be 130 million, so it has a long way to go.

Do Montanans want strikers draining their insurance fund in future years?

Please give HB 261 a do-not pass vote.

Rex Manuel, Lobbyist
CENEX Petroleum Division



EXHIBIT

DATE

SB

EXHIBIT

Executive Office
318 N. Last Chance Gulch
P.O. Box 4401B
Helena, MT 59624
Phone (406) 442-3388

TESTIMONY
JANUARY 28, 1993
HOUSE BILL 261

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: MONTANA HARDWARE AND IMPLEMENT ASSOCIATION AND THE MONTANA TIRE DEALERS ASSOCIATION, I AM HERE TODAY TO OPPOSE HOUSE BILL 261. OVER THE LAST THREE SESSION THIS BILL OR ONE LIKE IT HAS BEEN INTRODUCED TO THE LEGISLATURE. IN THE WISDOM OF THIS BODY IT HAS NOT BECOME LAW.

HB 261 CREATES A STATE POLICY OF SUBSIDIZING STRIKERS BY ALL OF MONTANA EMPLOYERS. THIS BILL FORCES ALL MONTANA EMPLOYERS TO SUBSIDIZE LABOR DISPUTES OF ONLY 15% OF THE WORK FORCE THROUGH EMPLOYER'S PREMIUMS TO THE UNEMPLOYMENT FUND. WE RETAILERS STRONGLY OPPOSE THIS FORCED SUPPORT OF STRIKERS. IT SEEMS TO US TO BE UNFAIR FOR ALL RETAILERS TO SUBSIDIZE A STRIKE THROUGH THE UNEMPLOYMENT FUND, WHEN WE ARE NOT A PARTY TO THE DISPUTE.

MONTANA LAW STATES AN INDIVIDUAL IS ELIGIBLE TO RECEIVE BENEFITS IF".... WE IS ABLE TO WORK AND IS AVAILABLE TO WORK" SECTION 39-51-2104(2) MCA. AN INDIVIDUAL ON THE PICKET LINE IS NEITHER, "... AVAILABLE TO WORK OR SEEKING WORK." THIS BILL WOULD FUNDAMENTAL CHANGE THE LAW AND IT'S INTENT AND PURPOSE. THE RESERVE FUND IS SOUND, (\$94 MILLION), DO TO ALL EMPLOYERS EFFORTS OVER THE LAST EIGHT YEARS.

I ASK THAT YOU GIVE THIS BILL A DO NOT PASS VOTE.

THANK YOU FOR THE OPPORTUNITY TO PRESENT OUR POSITION ON THIS BILL.

Business and labor face off

Should workers who voluntarily go on strike receive strike benefits and unemployment benefits for walking a picket line?

That's the issue labor and business interests debated earlier this week when the House Labor Committee heard House Bill 68, sponsored by Rep. Tim Whalen, D-Billings.

AN IR VIEW

Whalen's bill would reverse a 1985 law that bans unemployment benefits from going to striking workers unless the employer engages in unfair labor practices.

The bill would restore the law that existed from 1975 to 1985 that allowed strikers to receive benefits in labor disputes in which the employer kept operating. If a business shut down during the strike, the striking workers weren't allowed to collect

benefits under the former law.

Whalen told the committee that under current law there is little incentive for employers to settle labor disputes. They can keep operating and make money while the strikers lose their livelihoods.

Don Judge of the AFL-CIO said the 1985 law change has tilted the balance in Montana's labor-management issues in favor of business.

Business representatives countered that the bill would give labor an unfair edge in bargaining and prolong strikes.

Other arguments presented by business interests included:

■ Under Whalen's bill, the 1989 Great Falls teacher's strike would have cost Montanans an additional \$465,000 in unemployment benefits. The 1989 strike by mechanics in Great Falls would have cost \$235,593.

Louis Day, manager of the Cenex refinery in Laurel, said strikers received more than \$500,000 in unemployment benefits during a five-month strike in 1984. "I am convinced that the strike would have been settled much sooner if the strikers had not received these benefits," he said.

■ Of Montana's 290,000 workers, only 15 percent are union members. Opponents say HB68 creates a new class of elite workers with special benefits not shared by the vast majority of hard-working Montanans.

■ Montana law states an individual is eligible to receive benefits if "...he is able to work and is available to work and is seeking work." An individual on the picket line is neither "available to work nor seeking work."

When people join unions they do so with the expectation that their union representatives will do all they can to ensure that they get decent wages and benefits.

We don't think the unions are behind this bill to give them a tool to prolong strikes, although that could be a direct result of the bill. They're simply trying to get all they can for their members.

If an employer locks his employees out or engages in unfair labor practices we whole heartedly support the right of those employees to collect unemployment benefits.

But when an employee joins in a strike in an effort to secure more from his employer, that's quite another matter. He knows what he's getting into and should be prepared to make the sacrifices for the cause to which he is committed.

We believe HB68 should not pass.

EXHIBIT 100
DATE _____
SB _____

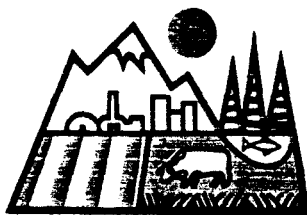


EXHIBIT # 4
DATE 1/28/93
HB 207

MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730

• HELENA, MONTANA 59624

• PHONE 442-2405

TESTIMONY BY

JAMES TUTWILER

MONTANA CHAMBER OF COMMERCE IN OPPOSITION

TO HB261,

AN ACT PROVIDING THAT AN EMPLOYEE MAY BE DENIED UNEMPLOYMENT
INSURANCE BENEFITS BECAUSE OF A STOPPAGE OF WORK.

THURSDAY, JANUARY 28, 1993

THE MONTANA CHAMBER OF COMMERCE REPRESENTING BUSINESSES ACROSS MONTANA OPPOSES HB261. THE INTENT OF THE BILL IS TO GIVE STRIKING WORKERS UNEMPLOYMENT COMPENSATION. ENACTMENT WOULD CLEARLY ALTER THE INTENT OF UNEMPLOYMENT COMPENSATION, SUBVERT THE LEGISLATURE'S ORIGINAL INTENT AND PLACE EMPLOYERS, PUBLIC AND PRIVATE, AT A GRAVE DISADVANTAGE IN THE BARGAINING PROCESS.

WE ASK THE COMMITTEE TO CONSIDER THERE PERTINENT POINTS REGARDING THE UNDESIRABLE EFFECT OF HB261.

THE 1985 LEGISLATURE OUTLAWED THE PRACTICE OF GIVING STRIKERS UNEMPLOYMENT BENEFITS. THIS LEGISLATION PASSED AS A RESULT OF THE PUBLIC'S AND THE LEGISLATURE'S DISAPPROVAL OF EMPLOYERS BEING FORCED TO SUBSIDIZE STRIKES THROUGH THEIR UNEMPLOYMENT INSURANCE PREMIUMS.

OF MONTANA'S 296,000 WORKERS, APPROXIMATELY 15% ARE UNION MEMBERS AND MOST STRIKES AND LABOR DISPUTES INVOLVE UNION MEMBERS. HB 261 CREATES A NEW CLASS OF WORKERS WITH SPECIAL BENEFITS NOT SHARED BY THE VAST MAJORITY OF HARD WORKING MONTANANS.

MONTANA LAW STATES AN INDIVIDUAL IS ELIGIBLE TO RECEIVE BENEFITS IF: "...HE IS ABLE TO WORK AND IS AVAILABLE TO WORK AND IS SEEKING WORK" 39-51-2104(2)MCA. AN INDIVIDUAL ON THE PICKET LINE IS NEITHER, "...AVAILABLE TO WORK OR SEEKING WORK."

UNEMPLOYMENT BENEFITS ARE NEEDED FOR THOSE INDIVIDUALS WHO HAVE LOST THEIR JOBS. MONTANA LAW STATES: "INVOLUNTARY UNEMPLOYMENT IS A SUBJECT OF GENERAL INTEREST AND CONCERN...THE LEGISLATURE, THEREFORE, DECLARES THAT IN ITS CONSIDERED JUDGMENT THE PUBLIC GOOD AND THE GENERAL WELFARE OF THE CITIZENS OF THIS STATE REQUIRE THE ENACTMENT OF THIS MEASURE UNDER THE POLICE POWERS OF THE STATE FOR THE COMPULSORY SETTING ASIDE OF UNEMPLOYMENT RESERVES TO BE USED FOR THE BENEFIT OF PERSONS UNEMPLOYED THROUGH NO FAULT OF THEIR OWN." A STRIKER ;IS NOT INVOLUNTARILY UNEMPLOYED!

APPROXIMATELY ONE-HALF OF THE STATES HAVE SIMILAR LAWS, USING PARTICIPATION IN A STRIKE AS A DISQUALIFYING EVENT FOR AN INDIVIDUAL'S UNEMPLOYMENT BENEFITS.

ONLY EMPLOYERS PAY PREMIUMS INTO THE UNEMPLOYMENT INSURANCE TRUST FUND. HB261 FORCES ALL MONTANA EMPLOYERS TO SUBSIDIZE LABOR DISPUTES FOR APPROXIMATELY 15% OF THE WORKFORCE THROUGH THE EMPLOYER'S PREMIUM TO THE UNEMPLOYMENT INSURANCE FUND.

FINALLY, WE SHOULD NOTE THAT EMPLOYERS ARE EXPECTED AND DO INDEED WILLINGLY PAY INTO A FUND WHICH KEEPS WORKERS WHO ARE

1-28-93
HB-261

UNEMPLOYED THROUGH NO FAULT OF THEIR OWN. IT IS QUITE ANOTHER
MATTER WHEN AN EMPLOYEE JOINS IN A STRIKE TO SECURE MORE FROM HIS
OR HER EMPLOYER AND REQUIRE THE EMPLOYER TO SUBSIDIZE THAT EFFORT.

WE URGE YOUR FAVORABLE CONSIDERATION OF A DO NOT PASS OF
HB261.

HOUSE OF REPRESENTATIVES

EXHIBIT

WITNESS STATEMENT

DATE

PLEASE PRINT

NAME DON WALDRON BUDGET HB 261ADDRESS P.O. BOX 5418 HOLMAWHOM DO YOU REPRESENT? MT Rural Education AssnSUPPORT _____ OPPOSE L AMEND _____

COMMENTS: _____

We oppose HB 261 -

In the late 70's the part of our law
was studied and a reading was made
this present bill - then in 1988 the
word stoppage of roads was removed since
it did not make good sense to be
included.

Now another try to change the wording. -
All we will get is disagreement and
wast of important of all a big INCREASE
in cost of unemployment cost -

like we have to not to not
Pass a this bill HB 261

THANK you

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

DATE 1/28/93 LABOR COMMITTEE BILL NO. HB 261
SPONSOR(S) WHALEN

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
CHAD SMITH	UNEMPLOYMENT COMP ADVISORS		X
Fred Happel	MT Citizens for RIGHT to WORK		X
Bob Jensen	Dept of Labor		X
Darrell Holzer	MT. ST. AFL-CIO	X	
REX MANUEH	CENEX		X
Ken Olson	Dept. of Labor		X
John Frazzetta	Pegasus Gold Corp		X
Charles R. Brooks	MT. RETAIL ASSOC		X
Don Waldron	MT. RURAL ED ASSN		✓
Bruce W. Meyer	MSBA		X
QOTU TULCEL	MT Chamber		✓
Phil Campbell	MSA	X	
John Malzer	M.F.T. / M+S.E.	X	
RILEY JOHNSON	NFIB		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

LABOR

COMMITTEE

BILL NO.

HB261

DATE

1/28/93

SPONSOR(S)

WHALEN

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DAN WALKER	US WEST		✓
STEVE TURKIEWICZ	MT AUTO DEALERS ASSN		✓
Larry Pasbender	Great Falls Public Schools		✓
Joe Brand	self	✓	
Dan Antonietti	Self	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

LABOR
DATE 2/28/93 COMMITTEE DRISCOLL BILL NO. HB 260
SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Norm Eichen	MT St Fireman's Assoc	✓	
Edward FLIES	MT State Council of Professional Firefighters	✓	
Tim BERGSTROM	MT. STATE FIREMEN'S ASSOC.	✓	
Oliver Goe	MT Municipal Insurance Adhkat, MT Ass of Realtors		✓
Todd Thum	NNA	written	
Alec Hansen	MLCT		✓
Jacqueline J. Gunnmark	Am. Ins. Assoc.		✓
Ray Barnicoat	MA CO		✓
Joe Brand	Self	✓	
Don Antonietti	Self	✓	
Don Judge	MT STATE AFL-CIO	✓	

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