

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Chair Tom Towe, on January 28, 1993, at 1:05 P.M.

ROLL CALL

Members Present:

Sen. Tom Towe, Chair (D)
Sen. Bill Wilson, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Chet Blaylock (D)
Sen. Tom Keating (R)
Sen. J.D. Lynch (D)

Members Excused: None

Members Absent: Sen. Jim Burnett(R)

Staff Present: Eddy McClure, Legislative Council
Patricia Brooke, Committee Secretary

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

Committee Business Summary:

Hearing: SB 163, SB 164
Executive Action: None

HEARING ON SB 163

Opening Statement by Sponsor: Senator Harp, Senate District 4, stated he has introduced SB 163. at the request of Governor Racicot. SB 163 promotes safety for the workers of Montana. Sen. Harp relayed that ultimately, this is the bill that will have cost containment in it. Sen. Harp stated a safety culture is attempted to be established with SB 163. With an education program for young people high school students will understand the full impact of safety in the work place. Sen. Harp referred to Oregon's safety plan and stated this bill adopts some of that plan but at the same time is adapted to Montana's particular needs. The Department of Labor plays two primary functions in this bill. One, they have a safety advisory committee of seven members of employers, employees and a Department representative and, two, they will formulate safety programs and continue to educate students who will enter the work place. Sen. Harp stressed the importance for both employers and employees to have equal representation on committees. This bill also addresses an

area dealing with safety consultants. The bill ensures safety consultants perform their services, identify the problems, and administer the surcharges. The State Fund is the insurer of last resort. There is a section for immunity for safety consultants who perform evaluations on cost containment. Sen. Harp stated SB 163 will ensure the safety consultant is not liable for anything which happens at the workplace. Sen. Harp is convinced a strong safety program will be a great asset to Montana. After a 68% increase in the workers' comp rates in the last year, Sen. Harp is convinced the state must invest now in order to create eventual savings.

Proponents' Testimony: Mark Sonyu, Coalition for Workers Compensation System Improvement, stated SB 163 addresses many critical issues, especially the education program in the schools that will instill safety awareness. Mr. Sonyu stated the Safety Appointment Training and Advisory Committee will provide positive contributions to Montana and improve the business climate as a whole in Montana.

Rick Hill, Governor's Office, stated SB 163 is a top priority of Governor Racicot's. This bill strives to create safety in the workplace among employers and employees. A safety culture in Montana will be created through the awareness of safety programs. By mandating workers' safety plans the state will strengthen the commitment.

Pat Sweeney, State Fund, spoke from a written testimony (exhibit #1).

Gerald Klein, State Fund, spoke from a written testimony (exhibit #2).

Chuck Hunter, Department of Labor and Industry, stated preventing accidents will save money for the State. The Department of Labor will have new responsibilities that include developing a new safety committee and working with students to develop safety awareness.

Warren Wilcox, John R. Daily Meat Packing, stated his company has had a formal safety program for five years and believes safety pays. Mr. Wilcox supports SB 163 because it provides incentives for businesses to raise awareness of safety programs and advantages. Mr. Wilcox stated he has a problem with the mandated aspect of SB 163. Mr. Wilcox stated in Section five, the rules should be the guidelines, not requirements. He feels this should be a system which rewards, not penalizes. He stated OSHA already provides the enforcement and they do not really help safety programs be positive.

Mike Micone, Montana Carriers Association, stated safety programs work and it pays to instill safety programs in the workplace. SB 163 is a first step to getting Montana's workers compensation

program cleaned up.

Jerry Noble, Jerry Noble Tires, stated his support for SB 163. He conveyed that in his business he has done everything possible to lower his MOD factor. Because of his safety programs he is paying less in workers comp now than in 1988. Mr. Noble encouraged the Committee to look into the fact that the companies are responsible forever for injuries to their workers. He suggested that perhaps some time frame after the occurrence of the injury be placed on the people who collect workers comp.

Riley Johnson, National Federation of Independent Businesses, feels that businesses under five employees should be under a reward, not a mandatory system. Mr. Johnson stated it is better to give a reward of a reduction if there is compliance with the safety standards by the small business. He also stated his organization feels the 20% reduction is too low.

Don Judge, President, Montana AFL-CIO, submitted a written testimony(exhibit #3).

Russell Hill, Montana Trial Lawyers Association, submitted written testimony(exhibit #4).

Jane Van Riper, claimant attorney, stated she is in support of the bill but is in favor of a couple of amendments which she submitted to the Committee(exhibit #5). The first amendment addresses employer responsibility to provide a safe workplace. The second amendment requires the State Fund to set up a separate account for the safety measures in order to track the results.

Oliver Go, self-insurer, stated he is in support of SB 163 but has a problem with Section five and the potential of the authority of the Department of Labor.

David Hemion, Helena Chamber of Commerce, stated the Chamber supports the State's effort to encourage safety and they would be pleased to work with the State on this.

Jacquiline Lenmark, American Insurance Association, stated the organization strongly supports this bill and would like to draw attention to Section four which addresses public education on safety and creates an opportunity for the State to allow private agencies to provide information for the safety education programs.

Roger Glenn, President, Independent Insurance Agents Association of Montana, stands in support of the bill and hopes the Committee adopts some amendments dealing with mandating insurance companies to write requirements into policies.

Russ Ritter, Washington Corporation, stated his support of the bill but has some concern with Section five. He would like a softer approach.

Mona Jamison, Montana Chapter of the American Physical Therapy Association, stated a safety culture environment will reduce the number of injuries in the state of Montana.

Keith Olson, Montana Logging Association, stated the Association is strongly in support of this bill.

Bill Stevens, Montana Food Distributors Association, submitted written testimony (Exhibit #6).

Opponents' Testimony:

Jim Nys, owner of small business, stated he is generally in support of the program but has a problem with the vagueness of who is responsible to provide the insurance. Mr. Nys stated a temporary service employer should be responsible for the safety of a temporary service employee and the intent of the bill should be to mandate the safety program only for companies which have five permanent, full-time employees. Mr. Nys told the committee the bill creates a lot of additional paperwork without changing the safe practices already employed. He suggested that the only ones who would have to go through the extensive paperwork are the high-risk employers.

Doug Kelly, owner of Express Services of Helena, stated that through the temporary services several thousands of Montanans are essentially on assignment to their clients. He has many of the same concerns of Mr. Nys including Section five. He suggested the safety program be made site-based.

Kaaren Jensen, Express Services, submitted written testimony (Exhibit #7).

Questions From Committee Members and Responses:

Sen. Lynch asked Sen. Harp if he had any concern about the section of the bill that limits the safety program to companies with five or more full-time employees knowing some employees will have only a couple full-time employees but many others just under the full-time qualifications. Sen. Harp agreed with Sen. Lynch and stated he will review all the proposed amendments.

Sen. Aklestad asked Sen. Harp what this bill will accomplish. Sen. Harp answered that safety consultants will visit businesses and help put a safety plan in place. He went on to say there are 26,000 policy holders and the State Fund wants the ability to institute an awareness amongst all of them.

Sen. Keating asked Sen. Harp how the safety program will save Montana money. Sen. Harp answered the safety program is an example of an area in which state government can be helpful. Sen. Keating asked if the \$800,000 on the fiscal note is accurate and Sen. Harp answered that it will be well spent.

Sen. Keating asked Sen. Harp when he thought the premiums will be lowered. Sen. Harp answered they will be lowered when the State gets a proactive stance on safety and the \$800,000 will be an excellent investment.

Sen. Blaylock asked Sen. Harp if the \$800,000 is a solid figure. Sen. Harp replied he could not predict if the figure would change.

Sen. Towe asked Sen. Harp how this plan is similar or different to the Oregon plan. Sen. Harp replied the Oregon plan has an OSHA plan with more mandates and less incentives while SB 163 is a plan of education that works with people to show the benefits of safety.

Sen. Towe asked Sen. Harp if Section 10, which addresses variable pricing, is from the Oregon plan. Sen. Harp stated it was in the law already and he is not aware of its origins.

Sen. Towe asked Sen. Harp if he agrees with the concerns of the owners of temporary agencies. Sen. Harp replied it is common for people to want to be excluded from new programs but he will leave the decision up to the Committee.

Closing by Sponsor: Sen. Harp stated he closed.

HEARING ON SB 164

Opening Statement by Sponsor:

Sen. Harp introduced SB 164 by stating this bill is at the request of Governor Racicot. This bill will look at the prevention, detection, investigation and fraud of workers comp cases. Sen. Harp stated 8% of all premium dollars paid by insurers have been determined to contribute to fraud. This bill only applies to the State Fund and it will be completely funded by the State Fund. A new fraud unit would be started by the State Fund. The Department of Justice will have a special prosecutor who will follow up on referrals of fraud by the State fund. Currently the Department of Justice has one investigator and he/she cannot keep up on the number of cases. Sen. Harp stated he is convinced if there are one or two high visibility cases of fraud enforcement it will be a deterrent to all. He also stated most fraud is not employee fraud but a third party, the medical industry or employers, not paying into the Fund. Sen. Harp cannot estimate what the savings will be.

Proponents' Testimony:

Bill Connor, Coalition for Work Comp System Improvement, stated he has extensive experience in the workers compensation. He was an investigator and a supervisor in the workers compensation area. He stated he has seen cases of fraud. Mr. Connor stated the costs of the fraudulent claims add up and put a pressure on the system. The fraud exists on the part of medical providers,

specifically chiropractors, and also employers who set themselves up as companies in order to file claims and receive benefits. Mr. Connor stated there are many fraud cases other than employees out there. He reported the state fund currently has eight people doing the investigations for them but they are not trained investigators and they do not know how to investigate a fraudulent claim. Also, there is a reluctance on the part of county attorneys to prosecute. Mr. Connor urged that a message needs to be sent and there will be a reduction of abuse if this happens.

Beth Baker, Department of Justice, expressed the support of the Attorney General and presented amendments the Department developed for the purpose of clarifying the intent of the legislation. The principle purpose of the amendment is to clarify the relationship between the fraud unit of the State Fund and the Department of Justice. The amendment makes clear the State Fund will conduct the initial detection function and refer suspected cases of fraudulent conduct to the Department of Justice which will be responsible for the criminal investigation and prosecution. Both Sections one and three of the amendment removes the bill's definition of fraud. Ms. Baker feels it creates confusing language and the section appears to be limited to the fraudulent abuse of benefits and not fraudulent actions on the workers. The amendment also makes it clear the fraudulent activity is a criminal offence. In the amendment the number of investigative positions is changed from three to four in the Department of Justice. There is not a clear effective date and Ms. Baker suggests it be July 1st, 1993.

Rick Hill, Governor's Office, stated this bill is necessary for fraud detection and prosecution and it will save money in the long run.

Pat Sweeney, State Fund, stated the State Fund strongly supports SB 164 and the amendments offered by the Attorney General's office. The State Fund has recognized fraud has not gotten the in-depth attention necessary to combat the problems. The staff of the State Fund are not able to devote the necessary amount of time to fraud detection. Mr. Sweeney submitted written testimony (Exhibit #8).

Riley Johnson, National Federation of Independent Business, believes the passage of SB 164 will send an important message to Montanans.

Jan VanRiper, attorney, stated her support for SB 164. She stated she has 50 workers compensation cases and of those there are at least three cases in which she knows her claimants have been wrongly accused. Ms. VanRiper knows the State has utilized private investigators and has had more resources going into fraud investigation currently than has been reported. The State Fund field staff is used for fraud detection. Ms. VanRiper suggested the Committee amend SB 164 so the State Fund separates the

records and accounts of all money paid to fraud investigation from the other State Fund business. Ms. Baker feels this will be important when analyzing its affects.

Russell Hill, Montana Trial Lawyers, submitted written testimony(Exhibit #9).

Paul Svrcek, representing himself, stated he strongly endorses SB 164. He suggested investigators should be placed directly under the State Fund, not the Department of Justice.

David Hemion, Helena Chamber of Commerce, stated his support of SB 164 and the importance of the State Fund to increase its ability to find and prosecute fraud.

Don Judge, Montana AFL-CIO, submitted written testimony(Exhibit #10).

Bonnie Wallen, Kalispell Chamber of Commerce, stated her organization would like to see amendments to the bill that address employer fraud. The occurrence of employer fraud is alarming. Ms. Wallen stated businesses playing with the law cannot afford to compete with businesses violating the law.

James Tutwiler, Montana Chamber of Commerce, stated his support of SB 164.

Larna Frank, Montana Farm Bureau, stated they are in full support of SB 164.

Mona Jamison, Montana Chapter of the American Physical Therapy Association, strongly supports SB 164.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

Sen. Aklestad stated to Sen. Harp his concern regarding the amount of funds SB 164 requires. He asked if SB 164 will prevent new businesses from coming into Montana and if there are other bills coming before the Committee that will address this situation. Sen. Harp stated the change in classification rate is done by a committee but he knows of no legislation to address Sen. Aklestad's concern.

Sen. Aklestad asked Sen. Harp if there will be a pool of doctors around Montana that will do nothing but deal with workers comp claims to take it away from the family doctor relationship. Sen. Harp replied there will be a bill introduced next week that addresses the medical costs involved in workers compensation.

Sen. Aklestad asked Sen. Harp about the legal fees in workers compensation. Sen. Harp replied he does have an attorney bill he will introduce.

Sen. Aklestad questioned Sen. Harp why SB 164 does not address employee responsibility in complying with the safety suggestions. Sen. Harp replied legislation cannot exist to regulate all policy decisions.

Sen. Aklestad asked Beth Baker, Department of Justice, how many positions are funded right now for investigation. Ms. Baker responded there is currently one full-time investigative position. Sen. Aklestad asked how many cases have been solved. Ms. Baker responded the investigator has 23 open cases and has investigated a total of 52 cases since 1989. She cannot state how many have been solved.

Sen. Blaylock asked Pat Sweeney, State Fund, if the State Fund has used private investigators. Mr. Sweeney responded the State Fund has used private investigators.

Sen. Towe asked Sen. Harp about the provisions in SB 164 to make it a crime to collect wages as well as benefits. Sen. Towe questioned when the State should encourage people to return to work even though they are still in rehabilitation. Sen. Harp stated there was a recent case the State lost because the law is not clear on this issue. Beth Baker stated the insurer generally knows an employee's situation and works with them.

Sen. Towe asked Sen. Harp about the fiscal note of SB 164. He stated there does not seem to be any recovery note listed. Sen. Harp replied it is difficult to predict the savings. Sen. Towe asked if the legislation will be paid out of the State Fund. Sen. Harp stated the entire amount will be paid from the State Fund.

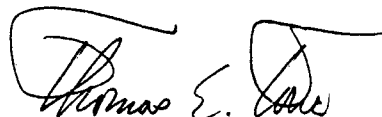
Sen. Aklestad asked Sen. Harp about page 3, lines 14-18, the amendment. Sen. Aklestad why it is necessary. Sen. Harp replied it has to be very clear an employee cannot receive benefits and work at the same time. Sen. Aklestad asked about page 6, line 5, the change from "shall" to "may." Sen. Towe stated the change is clerical.

Closing by Sponsor:

Sen. Harp closed.

ADJOURNMENT

Adjournment: 3:05 P.M.



SEN. TOM TOWE, Chair



PATRICIA BROOKE, Secretary

TET/pmb

ROLL CALL

SENATE COMMITTEE LABOR

DATE 1/28/93

[illegible]

F08

Attach to each day's minutes

100

Amendments to Senate Bill No. 163
First Reading Copy

For the Senate Labor Committee
Prepared by Eddy McClure
February 1, 1993

1. Page 3, line 3.
Following: "aid"
Strike: "a policyholder, management, or an employer"
Insert: "an insured employer"
2. Page 3, line 15.
Following: "to"
Strike: "policyholders or employers"
Insert: "an insured employer"
3. Page 3, line 21.
Following: "advise"
Insert: "insured"
4. Page 3, line 22.
Following: "the"
Strike: "policyholder's"
Insert: "insured employer's"
5. Page 4, line 4.
Following: "activities."
Insert: "(1)"
6. Page 4, line 6.
Strike: "(1)"
Insert: "(a)"
7. Page 4, line 9.
Strike: "(2)"
Insert: "(b)"
8. Page 4, line 14.
Strike: "(a)"
Insert: "(i)"
9. Page 4, line 16.
Strike: "(b)"
Insert: "(ii)"
10. Page 4, line 18.
Strike: "(c)"
Insert: "(iii)"
11. Page 4, line 21.
Following: line 20
Insert: "(2) An employer who employs temporary workers shall include those workers in the employer's safety program. A temporary services contractor shall provide a safety program

for employees not employed by other employers."

12. Page 5, line 11.

Following: "comprehensive"

Insert: "and effective"

13. Page 5, line 23.

Strike: "policyholder or employer"

Insert: "insured employer"

14. Page 6, line 4.

Following: "its"

Strike: remainder of line 4

Insert: "insured"

15. Page 6, line 9.

Following: line 8

Strike: "policyholder's or"

Insert: "insured"

16. Page 6, line 12.

Following: "to"

Insert: "insured"

17. Page 6, line 15.

Following: "each"

Strike: "policyholder or"

Insert: "insured"

18. Page 6, lines 23 and 24.

Following: "years" on line 23

Strike: remainder of line 23 through "commissioner" on line 24

19. Page 7, line 9.

Following: "vacancy"

Strike: remainder of line 9 through "expires"

20. Page 9, line 6.

Following: "program"

Insert: "-- expenditure accounting"

21. Page 9, line 18.

Following: line 17

Strike: "an insurer's"

Insert: "the"

22. Page 9, line 25.

Following: line 24

Insert: "(3) The state fund shall separately account for money
expended under [sections 1 through 11 and 39-71-2311]."

23. Page 10, line 4.

Following: line 3

Strike: "policyholders or"

Insert: "insured"

The State Fund supports Senate Bill 163. We have always known that the best way to reduce the cost of workers' compensation coverage and to reduce the suffering of injured workers, is to prevent injuries before they occur.

This bill, by making safety a priority with employers and employees, allows the State Fund to expand its current and very effective safety efforts to not only more employers but also to our smaller employers. Following my testimony, our Safety Director, Jerry Klien, will give you examples of how the State Fund has been successful in its safety efforts.

We will add four additional field safety consultants to our current staff of 7 safety consultants who are in the field. This will also allow for approximately 1,600 additional contacts with employers in a year by the State Fund. We will also add four safety consultants to the office in Helena who will be divided into two units. Two persons will be dedicated to conducting group training seminars which would be sponsored by groups such as industry associations or chambers of commerce. This will provide contact with exposure to small policyholders economically. Two persons will be dedicated to the production, publication and distribution of training materials, guidelines, video tapes and other materials for businesses to borrow or nominally purchase. These four persons would also compromise the core of expertise for telephonic consultations which we would provide in response to requests from policyholders. These additional staff will enable the State Fund to facilitate establishment of the safety programs by employers and employees.

We also hope to be able to work with the Department of Labor to assist the efforts of their safety advisory committee. Reaching workers before they enter the work force will make safety a priority for our future workers.

This bill also gives the State Fund the authority to provide an additional pricing level with a higher rate for those employers who do not satisfactorily implement a safety program, if we have provided services and they have not been utilized, or we attempt to provide services and are rejected. In addition, the State Fund was given the authority to assess a surcharge of an additional 20% on high loss employers. The Board will establish the criteria for policyholders who will be subject to this additional 20% surcharge.

The section providing immunity to insurers in the provision of safety services will promote our ability to provide services to employers and will therefore ultimately promote safety in the work place. An insurer needs to facilitate safety but is not and should not have the role of guaranteeing safety.

Conclusion

We urge this committee to pass Senate Bill 163. We believe this is one of the most important pieces of legislation this Legislature will see in the effort to reduce the cost of workers' compensation in this state to both employers and employees.


SENATE LABOR & EMPLOYMENT

EXHIBIT NO. #2

DATE 1/28/93

BILL NO. SB 163

TESTIMONY ON S. B. 163


GERALD L. KLEIN
STATE FUND

As Mr. Sweeney mentioned in his remarks, the State Fund is very effective in assisting many of our policyholders with customized, on-site Safety Consultation services. Our staff of seven field consultants currently aid employers in writing and implementing safety program elements, we assist in the development and presenting of supervisory and employee education and safety training sessions, we aid in the establishment of Job Safety Analyses, Safe Operating Procedures, task oriented job descriptions and guidelines for Early Return to Work Programs.

We have used the hands-on approach; primarily that of "See one, Teach one, Do one". We cannot possibly BE everyone's Safety Program---we cannot Chair each Safety Committee, conduct each employee training class, do everyone's monthly inspection. But we are very effective at providing technical assistance and safety expertise to employers when THEY want to get a program in place. And we generate results!

A few examples that show results that run the full range of industries and sizes of policyholders we service:

COMPANY A: MACHINE & WELDING FIRM ---- \$65,000 EAP

Loss/Ratio Pre-Safety Program - (2 yr Ave)	420%
Certified 2/90	
Loss/Ratio Post Safety Program - (4 yr Ave)	46%

COMPANY B: CONSTRUCTION COMPANY ---- \$15,000 EAP

Loss/Ratio Pre-Safety Program - (3 yr Ave)	230%
Certified 6/90	
Loss/Ratio Post Safety Program - (3 yr Ave)	59%

COMPANY C: NURSING HOME ---- \$200,000 EAP

Loss/Ratio Pre-Safety Program - (4 yr Ave)	224%
Certified 6/91	
Loss/Ratio Post Safety Program - (1+ yr Ave)	28%

Conclusion

We in the Safety field are only one piece of the entire Workers Compensation whole, but we are a very positive piece. S. B. 163 will enable us to provide an even larger impact on decreasing the accident experience and subsequent costs borne by the employers and employees of Montana.



Montana State AFL-CIO

Donald R. Judge
Executive Secretary

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

406-442-1708

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. # 3

DATE 1/28/93

BILL NO. SB 163

TESTIMONY OF DON JUDGE ON SENATE BILL 163, THE MONTANA SAFETY CULTURE ACT,
BEFORE THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE, JANUARY 28, 1993

Mr. Chairman, members of the committee, for the record, my name is Don Judge, and I'm here today to represent the Montana State AFL-CIO in support of Senate Bill 163.

Senator Harp, we're pleased to be here today in support of your efforts to help make Montana's places of work safer. We understand that one of the prime motivations for this legislation is to help control the rising costs of workers' compensation premiums, and that is to be commended. We agree with such efforts, as employers who employ union workers bear a disproportionate share of the costs of this system.

As you are probably aware, being a union contractor yourself, workplace safety programs are much more common among union employers, resulting in better safety records and fewer injuries. That's the good side. Unfortunately, because union employers tend to pay higher wages, premiums based upon payroll are higher for them, despite better safety and fewer accidents.

Requiring employers to provide a safer workplace, and requiring issuers of workers' compensation insurance to mandate safety programs, is a good step towards holding down the costs of workplace injuries and deaths. Further, requiring employers of more than five employees to have safety committees comprised of employees as well as employers makes good sense. After all, workers really don't want to be injured or killed on the job, and they often know best how to prevent workplace accidents. For your information, the requirement regarding safety committees would impact only approximately a third of Montana's employers. Of the 27,791 employers in Montana, 16,689 employ fewer than five workers.

The provisions of SB 163 which allow the state fund to adjust premium rates based upon the lack of a safety program would seem to give the legislation some teeth, as do the provisions for assessing a surcharge on premiums paid by high-loss employers. We've often said that rewarding good employers and punishing the bad would be good for those employers who truly believe in workplace safety.

SB 163 also contains provisions for educating young people about the need for safety in their future workplaces. We commend the foresight of this legislation in working to ensure that our kids may enter the workforce better prepared than we did.

And last, but certainly not least, we concur with the establishment of a safety employment education and training advisory committee to oversee the enactment of the intent of this legislation. We would, of course, like to see the selection procedures for the committee members include at least one representative from the ranks of organized labor. After all, unions have pioneered workplace safety programs and workplace safety committees, and we believe that we have much to offer this committee.

Testimony of Don Judge
SB 163
January 28, 1993

The much touted Oregon Workers' Compensation system, called the Department of Insurance and Finance, issued findings last year that give weight to the need for Senate Bill 163. According to Dept. Director, Gary Neeks, "Improving workplace safety is the major reason Oregon businesses are paying lower rates on their workers' compensation insurance." A copy of a press release containing this statement and other statistical data is attached for your review. Making workplaces safer means making them less expensive for both the workers and the employers.

Lest I sound too complimentary of this legislation, let me point out two areas of concern.

The first is in granting civil immunity to insurers who either furnish, or fail to furnish, safety consultation services. Although the bill does provide an exception for such services which clearly are inappropriate, that's only as it relates to the actual performance of the consultations. We believe that if insurers are going to be allowed to write policies in our state, they should be liable for NOT providing appropriate safety consultation services, or for injury, loss, or death occurring as result of inappropriate consultation recommendations.

The second is in requiring by law, that a workers' satisfactory job performance is contingent upon an arbitrary "safety awareness" standard not clearly defined in the statute and which may conflict with existing collective bargaining agreements. I would be happy to work with the committee to attempt to resolve this issue.

With these two exceptions, we believe that Senate Bill 163 is good legislation and should be amended, passed and put into effect for the benefit of Montana's workers, employers and general public. Thank you.

NEWS RELEASE

Oregon Department of Insurance and Finance

November 20, 1992
For Immediate Release

Contact: Kathy Thomas/Jim Locnikar
503-378-8254 or
David Sparks (OR-OSHA) 378-3272

DRAMATIC DROP IN WORKPLACE INJURIES

(Salem) The rate of work related injury and illness in Oregon has hit a record low. The state's private sector incidence rate fell to 9.1 per 100 full-time workers in 1991, down from 10.1 in 1990. The incidence rate reflects all workplace accidents and ailments reportable under OSHA standards, regardless of severity, and is one of the broadest indicators of occupational safety and health.

The Oregon Department of Insurance and Finance released the figures. Department officials explained that the drop of one full point represents *10,000* fewer injuries and illnesses at private businesses and organizations, 34 fewer per workday. The 1991 decline follows reductions of one half point in 1989 and again in 1990.

Oregon's public sector or government incidence rate of 7.5 also represents its lowest recorded point.

Department Director Gary Neeks said, "Improving workplace safety is the major reason Oregon businesses are paying lower rates on their workers' compensation insurance, which benefits the entire economy. More importantly, it means less pain and suffering for Oregon's workers."

Lost workday cases, where missed work goes beyond the day of the injury, also set record lows last year. The private sector rate was 4.4, falling from the previous year's record of 4.8. The public sector reported 2.9. The U.S. Labor Department has collected figures in the private sector for 20 years and in the public sector for 17 years. The following table compares 1988-1991 incidence rates.

Industry	Lost Workday Cases				Total Cases			
	1988	1989	1990	1991	1988	1989	1990	1991
Total Private Sector	5.6	5.2	4.8	4.4	11.1	10.6	10.1	9.1
Ag, For, Fish	7.6	7.4	5.8	5.1	12.7	13.1	11.7	10.3
Construction	7.2	7.6	7.5	6.6	15.6	16.1	15.4	14.1
Manufacturing	8.9	8.3	7.4	6.7	17.3	16.8	15.6	14.2
Trans, Pub Util	6.0	6.6	6.1	6.1	10.1	10.6	10.7	10.0
Wholesale Trade	4.7	4.9	4.8	4.2	8.8	9.1	9.2	8.2
Retail Trade	4.3	3.8	3.6	3.2	10.3	9.2	8.4	7.8
Fin, Ins, R.E.	1.3	1.1	1.1	1.5	2.9	2.2	2.3	2.8
Services	4.2	3.5	3.5	3.1	7.6	7.3	7.2	6.6
Total Public Sector	3.7	3.5	3.1	2.9	8.9	8.4	7.7	7.5
State Gov't	3.4	3.0	2.6	2.4	9.2	7.7	7.4	6.9
Local Gov't	3.9	3.7	3.4	3.2	8.8	8.7	7.9	7.8

Source: Oregon Department of Insurance and Finance, Information Management Division, in cooperation with the U.S. Department of Labor, Bureau of Labor Statistics.

Montana Trial Lawyers ASSOCIATION

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. #4

DATE 1/28/93

FILE NO. SB 163

Directors:

Wade Dahood
Director Emeritus
Monte D. Beck
Thomas J. Beers
Michael D. Cok
Michael W. Cotter
Karl J. Englund
Robert S. Fain, Jr.
Victor R. Halverson, Jr.
Gene R. Jarussi
Peter M. Meloy
John M. Morrison
Gregory S. Munro
David R. Paoli
Paul M. Warren
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January 28, 1993

Officers:

Thomas J. Beers
President
Monte D. Beck
President-Elect
Gregory S. Munro
Vice President
Michael E. Wheat
Secretary-Treasurer
William A. Rossbach
Governor
Paul M. Warren
Governor

Sen. Tom Towe, Chair
Senate Labor and Employment Relations Committee
Room 413/415, State Capitol
Helena, MT 59624

RE: SB 163

Mr. Chair, Members of the Committee:

Thank you for this opportunity to express MTLA's qualified support for SB 163, which addresses the critical need for workplace safety programs in Montana.

MTLA has long advocated safety programs to reduce workplace injuries, workers compensation claims, and ultimately employer premiums. MTLA supports the provisions in SB 163 which require employers to establish and administer safety programs. MTLA supports the provisions in SB 163 which require employees to participate in ongoing safety training programs. MTLA supports the provisions in SB 163 which require workers compensation insurers to provide safety consultation services to their policyholder employers. And MTLA supports the provisions in SB 163 which implement variable pricing levels to reward employers with good safety records and penalize employers with poor safety records.

However, MTLA opposes several provisions of SB 163:

1. Section 9, which provides virtually blanket immunity to workers compensation insurance companies, cripples the bill. Expert safety consultation services are a key component of any plan to reduce workplace injuries, and SB 163 properly requires insurers to provide safety consultation services. But then the bill insulates those same insurers from liability when they fail to furnish safety consultation services, when they carelessly furnish those services, even when they are grossly negligent in furnishing those services. Civil liability provides far more

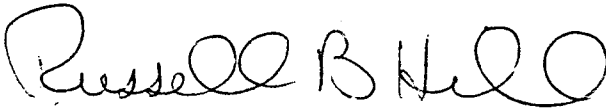
reliable guarantees of compliance than administrative enforcement by another cumbersome layer of government bureaucracy.

2. SB 163 insulates insurers from liability but requires no corresponding demonstration that their safety consultation services are efficient or effective. The bill should require workers compensation insurers to regularly record and report expenditures for safety consultation services separately, in conjunction with their loss experience.

3. Section 7 requires workers compensation insurers to provide safety consultation services upon request but establishes no meaningful standard for those services. Safety engineering is a recognized discipline, and SB 163 should require safety consultation services to meet the objective criteria of nationally recognized certifying bodies such as the American Society of Safety Engineers, the National Safety Council, and the Johns Hopkins Injury Prevention Center.

Thank you for considering these comments. If I can provide additional information or assistance, please notify me.

Respectfully,

A handwritten signature in black ink, appearing to read "Russell B. Hill". The signature is fluid and cursive, with the first name "Russell" being more prominent and the last name "Hill" following in a similar style.

Russell B. Hill
Executive Director

SENATE LABOR & EMPLOYMENT

Amendments to Senate Bill No. 180 EXHIBIT NO. #5
First Reading Copy DATE 1/28/93

Requested by Representative Cocchiarella SB 163
For the Senate Labor Committee

Prepared by Eddye McClure
January 27, 1993

1.
1. Page 2, line 12.

Following: "provide"

Insert: "and maintain a safe place of employment and to provide"

2. Page 9, line 6.

Following: "program"

Insert: "-- expenditure accounting"

3. Page 9, line 25.

Following: line 24

Insert: "(3) The state fund shall separately account for money
expended under [sections 1 through 11 and 39-71-2311]."



MONTANA FOOD DISTRIBUTORS ASSOCIATION

2700 Airport Way • P.O. Box 5775 • Helena, Montana 59604 • (406) 449-6394 • 1-800-735-1082

SENATE LABOR & EMPLOYMENT

SENATE BILL NO. #6

DATE 1/28/93

BILL NO. SB 163

TESTIMONY OF BILL STEVENS PRESIDENT, MONTANA FOOD DISTRIBUTORS ASSOCIATION

IN FAVOR OF SB-163 "SAFETY BILL"

It is unnecessary to reiterate the basic problems facing the workers' compensation system in Montana. You are acutely aware of the complexity of those problems, and certainly understand that there is no one solution.

However, you have the unique opportunity to provide a vehicle by which we can begin to correct our system. That vehicle is the "Safety Bill" before you.

SB 163 creates a safety "culture" in Montana. In other words, it is a statement of philosophy that is subscribed to by employers across Montana who have experienced the positive results of a comprehensive safety program. In a survey conducted by the Tillinghast Company, a national actuarial firm, 84% of the responding employers identified *safety* as the most popular cost-control measure in the Workers' Compensation arena.

This proposal's purpose is to reduce accident frequency by raising safety awareness and lowering the risk of on-the-job accidents. By lowering "risk" and promoting safety in the workplace, the cost of workers' compensation will be controlled.

This bill contains the primary elements that are necessary for the implementation of safety in the workplace.

First, it provides for employee and employer safety education. Such education will show why safety is important, and provides assistance in implementing safety.

Second, SB 163 implements a method by which high loss employers will pay their fair share of the cost of noncompliance in promoting a safer workplace. Implementation of a variable pricing structure for rate classifications will foster the value of safety by rewarding employers with good safety records, and penalizing employers with poor safety records.

SB-163 also provides for an advisory board that promotes an interaction of employers and employees with the Department of Labor and Industry for the purpose of promoting safety education.

These factors mandate a proactive approach to preventing accident claims.

"Safety First" has never been more applicable than today. Prevention is the most effective way to control the rising costs of workers' compensation. Effective safety programs promoted by passage of SB-163 would not only reduce accident frequency, but improve employee morale and decrease the likelihood of fraudulent claims. Employees who feel employers care about their safety naturally return to work sooner, thereby reducing medical costs and legal intervention.

The real change in the workers' compensation system must begin with employers. They are the ones with the most incentive to act because they currently bear the burden of the system's costs. By instituting safety in the workplace, SB-163 will insure that all employers actively participate.

I urge you to support this bill. The time for pointing fingers is over. The time to begin to "fix" workers' compensation is now! SB-163 will ignite the recovery process of workers' compensation in Montana. With this beginning, the other elements of the "solution" can be addressed and implemented.

Respectfully submitted,



Bill Stevens, President
Montana Food Distributors Association



Wayne Dillavou
Safety Director
Montana Food Distributors Association

EXHIBIT 6
DATE 1-28-93
1 SP 163

SUMMARY: Safety Bill

The intent of this bill is to create a starting point whereby safety can be promoted in the workplace.

1. It will educate employers on safety in the workplace. Insurers will be required to provide safety services to their insureds.
2. It develops a "safety culture" in that it provides for safety education in our schools. It will help develop "safe attitudes" so they can be safety conscious before entering the workforce.
3. Establishes a training advisory committee.
4. Provides authority for the State Fund to implement variable pricing levels for safety purposes.
5. Provides for surcharging high loss employers.

INTENT:

Mandates safety programs in Montana. It authorizes the Dept of Labor and Industry to provide guidelines in the establishment of safety programs.

Insurers are required to provide their policyholders with safety services to identify, evaluate and control existing and potential hazards in the workplace.

Safety services are:

1. Surveys consisting of on-site identification of potential hazards.
2. Recommendations on how to eliminate or reduce exposure to these hazards.
3. Provide training programs.
4. Accident analysis.

SECTION 5: Employers will conduct an educational-based safety program.

Elements of program:

1. General safety orientation.
2. Job specific safety training.
3. Continuous refresher training, and documented hazard assessment with corrective action.

SECTION 6: Insurers will be required to notify insureds what safety services are available. The safety program will become part of each insurer's insurance contract.

SECTION 8: Establishes a training advisory committee composed of 7 members representing employers, employees and one rep from the department.

SECTION 10: Variable pricing.

1. Variable pricing levels within individual rate classifications to reward good safety performance and penalize poor safety performance.
2. State Fund may assess a 20% surcharge on high loss employers.

This bill is a statement of philosophy relating to safety. It is a "clean" bill number one, and secondly it is legislation that can be built upon.

This bill is not perfect, however, it is a place to start and can be improved upon over time.

It is a two pronged approach.

1. Provides education in schools, employers, employees.
2. Mandates and establishes the importance of safety in the workplace.

EXPRESS SERVICES
Temporary & Permanent Personnel

JANUARY 28, 1993

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. # 7DATE 1/28/93BILL NO. SB 163

TO: SENATOR JOHN HARP

FROM: KAAREN & WAYNE JENSEN
EXPRESS SERVICES
30 EAST WASHINGTON
KALISPELL, MT. 59901
Phone# 257-2255
Fax# 257-5042

Dear John:

Wayne and I wanted you to know that we agree that your Senate Bill 163 does propose a valid public policy for reduction of work place injuries. But we are concerned about several items as they are stated in SB 163 that may force our temporary employment firm and other similar small businesses into hardships unless it is amended to cover any unexpected consequences that may arise.

We agree with the testimony that Mr. Jim Nys presented to the Senate Labor and Employment Relations Committee with regards to SB 163 and feel that his amendment were good and correct.

We feel that the safety programs should be the responsibility of the clients where our employees are assigned.

Your attention to this matter will be appreciated. Please call if you have any questions or concerns.

Sincerely,



Kaaren J. Jensen
Express Services

cc: Senate Labor & Employment Relations Committee

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. #8

DATE 1/28/93

BILL NO. SB 164

TESTIMONY ON S.B. 164

DAT Sweeney
STATE FUND

The State Fund strongly supports Senate Bill 164. We applaud Gov. Racicot's recognition of fraud as an area of workers' compensation that needs to be addressed. We also recognize the support of many others on this bill.

Nationally fraud costs insurers 8% of all premium dollars. Based on premiums collected in fiscal year 1992 by the State Fund on approximately \$127 million, there could have been approximately \$10 million attributable to fraud.

The State Fund has recognized fraud as an area that was not getting the in-depth approach necessary to realistically combat the problem. The staff at that State Fund, due to multiple duties, are unable to devote full time efforts at fraud detection and prevention. We also have only one full time investigator at the Department of Justice.

Last March we sent two State Fund employees along with an investigator from the Department of Justice to Oregon to review their much publicized fraud program. That visit provided us valuable information.

Oregon's State Fund believed they were losing \$1 million a week to fraud. They publicized a zero tolerance for fraud, they used a hot line, surveillance, and focused investigation on new claims. They found the program to be cost effective but believed the major value to be deterrence.

This bill provides for a unit at the State Fund whose function will be to detect and prevent fraud. This will be done through training of State Fund staff in claims, audit and underwriting. The unit will also provide preliminary review of alleged fraudulent activity as it is reported to us or detected. Education of the public will also be a role. Staffing is to consist of a coordinator of the unit, two field representatives, an auditor, and one half-time clerical support.

Once alleged fraud is detected, it will be referred on to the Criminal Investigation Bureau at the Department of Justice. They plan to field base the agents and they will investigate workers' compensation cases full time. A prosecutor for workers' compensation fraud in the Attorney General's Office will greatly facilitate prosecution of cases and also provide legal assistance to agents, the State Fund, and county attorneys.

We also want to make it clear that fraud by claimants will not be this program's only focus. Employer premium fraud and fraud by medical providers will also be pursued.

Conclusion

Costs in workers' compensation must be addressed and this bill is key to that effort. We would like to send the message that fraud will not be tolerated because we want workers' compensation benefits to go to workers with legitimate injuries, lower premium rates for our employers, and our economy to not be depressed because of workers compensation problems.

We urge do pass on this bill.

Montana Trial Lawyers ASSOCIATION

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. #9

DATE 1/28/93

NO. SB 164

Directors:

Wade Dahood
Director Emeritus
Monte D. Beck
Thomas J. Beers
Michael D. Cok
Michael W. Cotter
Karl J. Englund
Robert S. Fain, Jr.
Victor R. Halverson, Jr.
Gene R. Jarussi.
Peter M. Meloy
John M. Morrison
Gregory S. Munro
David R. Paoli
Paul M. Warren
Michael E. Wheat

Executive Office
#1 Last Chance Gulch
Helena, Montana 59601
Tel: 443-3124

January 28, 1993

Officers:

Thomas J. Beers
President
Monte D. Beck
President-Elect
Gregory S. Munro
Vice President
Michael E. Wheat
Secretary-Treasurer
William A. Rossbach
Governor
Paul M. Warren
Governor

Sen. Tom Towe, Chair
Senate Labor and Employment Relations Committee
Room 413/415, State Capitol
Helena, MT 59624

RE: SB 164

Mr. Chair, Members of the Committee:

Thank you for this opportunity to express MTLA's qualified support for SB 164, which targets workers compensation fraud.

MTLA supports efforts to investigate, prosecute and prevent genuine fraud in Montana's workers compensation system. MTLA believes that fraud does occur on a limited scale and involves employers, insurers, providers, consultants, and attorneys as well as employees. However, MTLA also believes that Montana's workers compensation system is immense, complex, confused and unstable. Consequently, MTLA believes that investigators and prosecutors should observe the spirit as well as the letter of Sec. 45-6-301, MCA, in strictly construing the elements of criminal intent required to prove fraud.

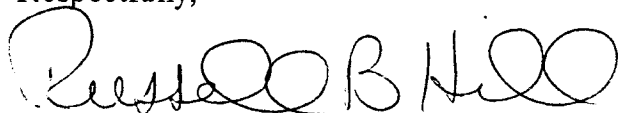
MTLA also believes that expenditures for the fraud investigation and prosecution office in the Department of Justice and the fraud prevention and detection unit in the State Fund should be regularly recorded and reported separately, in conjunction with the results of those investigations, prosecutions, and prevention.

Since Montana's workers compensation benefits are inadequate to meet the expenses of many injured workers and their families, and since SB 163 imposes such severe consequences on injured workers who attempt to supplement those benefits, MTLA believes that the term "wages" in Section 5(7), Section 6(6), and Section 7(7) of the bill should be defined more simply and plainly than the convoluted definition of "wages" currently incorporated in Secs. 39-71-123, 39-71-118, and 39-71-117, MCA.

Finally, MTLA believes that the amendments on page 9, line 4 of SB 164 constitute a dramatic and unwarranted change in the rehabilitation benefits negotiated in 1991. Whereas current law conditions rehabilitation benefits on the injured worker's inability to return to the time-of-injury employment, SB 163 would condition those benefits on his inability to "return to work," period. If this amendment reflects careless drafting, it can be easily corrected.

Thank you for considering these comments. If I can provide additional information or assistance, please notify me.

Respectfully,

A handwritten signature in black ink, appearing to read "Russell B. Hill". The signature is fluid and cursive, with the first name "Russell" being more prominent and followed by "B Hill".

Russell B. Hill
Executive Director



Montana State AFL-CIO

Donald R. Judge
Executive Secretary

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

406-442-1708

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. #10

DATE 1/28/93

BILL NO. SB 164

TESTIMONY OF DON JUDGE ON SENATE BILL 164,
CREATING A WORKERS' COMPENSATION FRAUD INVESTIGATION AND PROSECUTION OFFICE,
BEFORE THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE, JANUARY 28, 1993

Mr. Chairman, members of the committee, for the record, I'm Don Judge and I'm here today to represent the Montana State AFL-CIO in support of amending, and then passing, Senate Bill 164.

Thank God we're finally going to do something about all the fraud that's been taking place in the workers' comp system. It's outrageous, and something needs to be done about it. Having said that, let me share with you some information discovered in other states regarding this problem.

In Colorado, the *Business Journal* recently reported that **EMPLOYER** fraud was twice as likely to occur as **EMPLOYEE** fraud.

In California, a random check of construction contractors found that 70% of these employers failed to pay their appropriate premiums, costing the state workers' compensation fund in excess of **\$2 BILLION** in fiscal year 1990-91!

In Washington, D.C., a 1989 study showed that there were only 153,000 construction workers officially employed during a peak construction period, but there were another 120,000 operating as so-called "independent contractors".

In Connecticut, Congressional testimony offered that one contractor had 164 trades people working for him, but his payroll records reflected only 11 employees. The other 153 were listed as "independent contractors".

In Nevada, a state where the fund deficit is estimated at approximately \$1.6 BILLION dollars, the owners of a construction firm operating under two different names were ordered to pay a judgment of over \$800,000 for misreporting payroll to the State Industrial Insurance System.

Cockshaw's Construction Labor News & Opinion, a highly regarded industry publication, reported about workers' comp that: "There are many reasons for the crisis. But the largest single problem is employers who cheat the system by one means or another."

Even Congress is getting into the act. They are currently considering legislation which will allow unions, employers, associations and even workers, themselves, the authority to pursue legal redress against employers violating federal prevailing wage laws, an area where fraudulent payments of workers' comp and unemployment compensation taxes causes good employers and workers to lose billions of dollars.

Testimony of Don Judge
SB 164
January 28, 1993

Don't get me wrong, we don't condone fraud or abuse of the system by anyone, including workers. But we do believe that it's important for this committee to understand that fraud appears to be much more prevalent on the employer's side than that of the worker. That's one of the reasons we have encouraged this committee to require submission of weekly certified payrolls on our state's Little Davis Bacon Act: So that the investigators provided for in this bill -- along with unions, good employers and the workers themselves -- can monitor the appropriateness of taxes paid to our state's workers' comp system. You will recall that we have been meeting with representatives of the Montana Contractors Association about Senate Bill 62, which could, if amended, help deal with our runaway workers' comp problems.

We are concerned with a couple of issues as they are presented in SB 164 which I'd like to bring to your attention, and to offer some small amendments. The first amendment is quite simple, and I'll provide it only verbally.

Page 3, lines 14 through 18 seem to make it a crime for a worker to be receiving a combination of benefits without consent of the insurer. We object to giving the insurer the power of a judge by allowing them to approve or disapprove a worker's efforts to rehabilitate and return to the workforce. If we are out to prosecute crime, then we should find a fraudulent act of a worker, such as obtaining benefits for a non-existent injury. We don't think that SB 164 should provide an arbitrary limitation of benefits, without regards to the intent to defraud or steal from the insurer.

This same objection is raised about language contained on page 5, lines 11 through 16; page 7, lines 2 through 7; and page 9, lines 13 through 17.

The other amendment we are suggesting is attached to this testimony, and simply calls for fraudulent activities on the part of the employer or the insurer to be prosecuted under the same provisions as those being suggested for the worker.

Fraudulent activities under this amendment would include: misrepresentation and underpayment of payroll taxes; refusal to pay or unduly delaying payments of legitimate compensation benefits, or underpayments of legitimate benefits.

It would seem to us, that in the interest of fairness, and considering the evidence that employer fraud may be far more costly to the system than worker fraud, and that insurers, too, bear the responsibility to do justice to the system, everyone should be treated equally under the law.

With these amendments, we urge a do pass recommendation on SB 164. Thank you.

SB 164
(Introduced)

EXHIBIT 10
DATE 1-28-93
SB 164

1. Page 1, line 11.
Following: "39-71-702,"
Strike: "AND"

2. Page 1, line 11.
Following "39-71-2001,"
Insert: "AND 45-6-301,"

3. Page 3, line 6.
Following: "means"
Insert: "-- fraudulent reporting of payroll and premium information,
and fraudulently denying benefits to worker"

4. Page 3, line 18.
After line 18
Insert: "(3) Any person who misrepresents payroll information to an
insurer or misrepresents the class codes under which payroll informa-
tion is provided an insurer may be guilty of theft under 45-6-301.
A county attorney may initiate criminal proceedings against the per-
son.

(4) Any person who delays, underpays, or refuses to pay benefits
to which an injured worker is entitled under this chapter or chapter
72 of this title may be guilty of theft under 45-6-301. A county at-
torney may initiate criminal proceedings against the person."

5. Page 9, line 17.
After line 17
(This is to be added to section 45-6-301)
Insert: "(6) A person commits the offense of theft when he purposely
or knowingly misrepresents payroll information to an insurer or mis-
represents the class codes under which payroll information is pro-
vided an insurer for insurance coverage under title 39, chapter 71 or
72, by means of

(a) a knowingly false statement or representation; or

(b) deception.

(7) A person representing an employer or insurer, either in the
capacity of an agent or employee, commits the offense of theft when he
purposely or knowingly delays, underpays, or refuses to pay benefits
to which an injured worker is entitled under title 39, chapter 71 or
72."

(Renumber paragraphs (6) and (7) to paragraphs (8) and (9).

SENATE BILL 164
Proposed Amendments

Prepared by Department of Justice

Page 1, line 17:

office shall investigate and prosecute ~~fraud for cases~~
referred by the state compensation mutual insurance fund.

Page 1, line 21: (1) ~~three~~ four persons qualified by education

Page 2, lines 6-7:

~~(3) For purposes of this section, "fraud" has the
meaning provided in 45-6-301(5).~~

Page 2, lines 20-25, and page 3, lines 1-3: Amend Section 3 to read as follows:

NEW SECTION. Section 3. Fraud detection and prevention unit. ~~(1)~~ The state fund shall establish a fraud prevention and detection unit. The unit is responsible for developing detection and investigative prevention procedures, providing investigative detection services, and providing training in the prevention and investigation detection of ~~fraud with respect to fraudulent conduct under Title 39, chapters 71 and 72 which is subject to prosecution under Title 45. The unit shall refer all cases of suspected fraudulent conduct to the workers' compensation fraud investigation and prosecution office established in [section 1].~~

~~(2) For purposes of this section, "fraud" has the meaning provided in 45-6-301(5).~~

Page 3, lines 10-14:

(2) A person who obtains or assists in obtaining benefits to which the person is not entitled under this chapter or chapter 72 of this title ~~may be~~ is guilty of theft and may be prosecuted under 45-6-301. A county attorney or the attorney general may initiate criminal proceedings against the person.

Page 5, lines 11-16:

(7) A worker may not receive both wages and temporary total disability benefits without the written consent of the insurer. ~~Failure of the worker to notify the insurer of the receipt of wages while receiving temporary total disability benefits may subject the worker to criminal penalties provided in 45-6-301(6)~~ A worker who receives both wages and temporary total disability benefits without written consent of the insurer is guilty of theft and may be prosecuted under 45-6-301.

Page 7, lines 2-7:

(7) A worker may not receive both wages and permanent total disability benefits without the written consent of the insurer. ~~Failure of the worker to notify the insurer of the receipt of wages while receiving permanent total disability benefits may subject the worker to criminal penalties provided in 45-6-301(6)~~ A worker who receives both wages and permanent total disability benefits without written consent of the insurer is guilty of theft and may be prosecuted under 45-6-301.

Page 9, lines 13-17:

(7) A worker may not receive both wages and rehabilitation benefits without the written consent of the insurer. ~~Failure of the worker to notify the insurer of the receipt of wages while receiving rehabilitation benefits may subject the worker to criminal penalties provided in 45-6-301(6)~~ A worker who receives both wages and rehabilitation benefits without written consent of the insurer is guilty of theft and may be prosecuted under 45-6-301.

DATE 1/28/93 LABOR

SENATE COMMITTEE ON SB 163, SB 164

BILLS BEING HEARD TODAY: _____

PLEASE PRINT

Name

Representing

Bill
No.

Check One
Support Oppose

CHUCK HUNTER	DEPT OF LABOR & IND.	163	✓	
Don Judge	MT STATE AFL-CIO	HB 163 164	Amend ✓	
Bonnie Whiteman	Kaleispell Area Chamber	163 & 164	Amend ✓	
Dee Sullivan	Sullway Construction	163 & 164	✓	
Ruth "	" "	"	✓	
Bill Steen	MZDA	163	✓	
Jerry Noble	Jerry Noble Trs	163		
Marilyn Hudson	Hudson Furn.	163		
Larry Watson	MT Safety Council	163	✓	
Mike Micone	MACA	163/164	✓	
Gary Langley	MMA	163, 164	✓	
John CHEBUL	SKYLINE SPORTSMEN	163/164	✓	
Robert D. ROSS	MBIA, FBA, Ross cont	163 - 4	✓	
RILEY JOHNSON	NFTB	163, 164	✓	
Bill CANNON	Coalition	163/164	✓	
Robert W. Ross	"	163-164	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1/28/93

SENATE COMMITTEE ON LABOR

BILLS BEING HEARD TODAY: SB 163, SB 164

PLEASE PRINT

Name	Representing	Bill No.	Check One	
			Support	Oppose
Jim Nys	Self	SB163		✓
Kathy Simpson	Self	SB163		—
Tom & Thun	MIVA	SB163		
Bill Visser	SCMIF	163		
Jerry Klein	SCMIF	163		
David Hemion	Helena Chamber	163/164		
John King	SCMIF	163	✓	
Russ Ritter	Wash Corp			
B. A. Jacobs	St. Auditor/Treas. Comm.	164		
Jim Tietwiler	MT Chamber		✓	
Charles R Brooks	M T. Retn. Assoc	163/164	✓	
Walter Wilcox	MT Chamber		✓	
George Wood	MT Self Insurers	SB 163 SB 164	✓	
Bob Armstrong	DLT	163		
Jim Moen	Heat Tack, Capital	163		
Jim Burnich	Burnich Mtg	163		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE

1/28/90

SENATE COMMITTEE ON

LABOR

BILLS BEING HEARD TODAY:

SD 163, SB 164

Name	Representing	Bill No.	Check One	
			Support	Oppose
OLE NETTEBERG	SHURNO CABINETS	163-9	✓	
Russell B Hill	MTLA	163, 164	✓	
Jan Van Riper	self		✓	
Donald D. Ross	Ross Const		✓	
JERRY SOMMER	J's Rainbow Paints	164, 163	✓	
STEPHEN DOLAS	GREATNORTHERN BUILDERS	163, 164	✓	
FRANK SHEPARD	Shepard's Gls.	163-164	✓	
John R. Topp	Belgrade, Wood Prods.	112-164		
Jaqueline Denmark	American Ins. Assoc	163, 164	✓	
David Steen	NAT. BUILDING ASSOC		✓	
Tony Sadino	Sadino Const		✓	
DENNIS AZBELL	MURPHY'S CARPETECH		✓	
Nick Sengul	CWCST	163	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1-28-93

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: SB 163, SB 164

Name	Representing	Bill No.	Check One	
			Support	Oppose
Bonnie Norrish	Norrish Soc. Const	163-164	X	
Joe Norrish	" " "	163-164	X	
John Norrish	" " "	163-64	X	
MICHAEL H Reed	AFL-CIO	163-64	X	
Lorna Frank	MT. Farm Bureau	164	X	
John Connor	MT County Attys Assn	164	X	
PAUL SVRCEK	self	163-64	X	
Ken Brady	Self		X	
Linda Dry	✓			
Bob Lee	✓	163-64	X	
Alan Olson	-	163-64	X	
Robert McGowan	IIA-M	163 Friends	X	
John Galt	Gov's Ofc	Boyl	X	
Wm M. Taylor	JUSTICE			

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE January 28, 1993

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: SB 163, SB 164

Name	Representing	Bill No.	Check One Support Oppose	
Doug Kelley	Express Services	163	<input checked="" type="checkbox"/>	Not Answered
BRADLEY B TALCOTT	JAMES TALCOTT CONST	163	<input checked="" type="checkbox"/>	
GWE TURKIEWICZ	Montana Auto Dealers Assn	163	<input checked="" type="checkbox"/>	
Sonny Greer	Greer Const	163	<input checked="" type="checkbox"/>	
Moni Jamison	Mt-Chpt. General Physical Therapy	163	<input checked="" type="checkbox"/>	
Don Ode	CWCST / MA. Council of Police	163	<input checked="" type="checkbox"/>	
KEITH OLSON	MT. Logging Assn	163	<input checked="" type="checkbox"/>	
Michael J Reed	AFL-CIO	164	<input checked="" type="checkbox"/>	
DAN WALKER	US WEST	163	<input checked="" type="checkbox"/>	with Admin.
Skip Finchen	SELF	163	<input checked="" type="checkbox"/>	with Admin.
Wm Egan	IBEW	163	<input checked="" type="checkbox"/>	Answered
DAN WALKER	US WEST	164	<input checked="" type="checkbox"/>	
Russ Logan	Bls Chamber	163	<input checked="" type="checkbox"/>	
Russ Logan	Bls Chamber	164	<input checked="" type="checkbox"/>	
Mike Stockin	ILTH. Business Assn	163-164		
Beth Baker	Dept of Justice	164	<input checked="" type="checkbox"/>	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY