

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on January 10, 1995,
at 8:00 AM.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

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

Committee Business Summary:

Hearing: HB 34, HB 39, HB 98
Executive Action: *w/a*

HEARING ON HB 34

Opening Statement by Sponsor:

REP. DAN HARRINGTON, HD 38, Silver Bow County said this bill was
a law until 1985. The federal government decided that it was
time to change the law. The federal government has since changed

their ruling. Unemployment compensation can be given to classified employees. People with the school districts who do not have contracts and only work a certain period of time are eligible. These people are usually very low paying individuals, their salaries are very often little more than minimum wage and when school is out at the school year, they don't have any guarantee they will have resumed employment. The state fails to recognize the fact that these people are unable to get unemployment compensation in the summertime. Bus drivers on the other hand can receive unemployment compensation. Persons is employed by a school district are discriminated against. The issue also arises that school teachers cannot file for unemployment compensation. There is a big difference in salary and school teachers have contracts going from one year to the next.

Proponents' Testimony:

Terry Minow, Legislative Director, Montana Federation of Teachers/Montana Federation of State Employees said this bill allows payment of unemployment benefits to classified school district employees during the summer months that had been laid off. She then discussed excerpts from the Montana Unemployment Insurance, A Guide to Your Rights and Responsibilities. **EXHIBIT 1.**

SEN. LINDA NELSON, SD 49, Roosevelt and Sheridan Counties distributed a packet of letters written by public school employees of the Poplar School District. She also stated that unemployment on the reservation reaches the 70% area. There is little opportunity for summer employment for these people. Summertime often finds these people totally broke and in the appalling position of going to their friends and relatives begging for food and assistance to make it through the summer. These are often single mothers. Their situation is different from the people who have the option to find another job. **EXHIBIT 2.**

Phil Campbell, Montana Education Association said he supported this bill. These people at one time had the benefit of unemployment compensation until the federal law changed. He also said the fiscal note would need to include everybody that might be eligible.

REP. JOE QUILICI, HD 36, Silver Bow County said the people who would come under this category are non certified employees.

REP. GEORGE HEAVY RUNNER, HD 85, Glacier County said in the 1993 session he had testified as a opponent to this legislation. After 3-1/2 years having been on the school board, getting the feedback from that testifying, he said he was given penance to serve in the legislature for two years. From his prospective as a trustee and in working with the teachers aids and all of the support staff of the school, there are no other people that are

more deserving of this particular piece of legislation. With his being able to collect unemployment compensation as a teacher during the summer he is able to continue in the career field he enjoys in education.

Tom Schneider, Montana Public Employees Association said he supported this bill. This bill, if passed, is not a guaranteed summer payment to all of the school employees. He said that when this legislation was in effect there was only one secretary who had worked for the school district that had applied for compensation and this only happened because her husband was injured in his job.

Don Judge, Executive Secretary, AFL-CIO said that in reality few employers are willing to hire workers who are available for only a few months each summer. Unemployment benefits provide a necessary buffer for those employees who are actively searching for work but who are not successful in finding a temporary job to support their household. **EXHIBIT 3.**

REP. BOB PAVLOVICH, HD 37, Silver Bow County said he wished to go on record as a proponent to this bill.

Opponents' Testimony:

Michael Keedy, Montana School Boards Association said he appreciated the sincerity and passion with which **REP. HARRINGTON** has urged upon the committee on the passage of this bill. There are two reasons he opposes this bill and they are cost and the second is the philosophy embodied in this bill.

Don Waldron, Montana Rural Education Association said this bill should be defeated on the financial grounds and not the hardship it might cause to the people.

Linda Brandon, Montana Association of School Business Officials said they were opposing this bill not because of its idea but because there is no additional money for the schools so they would need to take this funding out of existing monies.

Larry Fasbender, Great Falls Public Schools said the people in Great Falls were very concerned about the cost of this legislation. The schools are very strapped for funds. A large number of schools in the state are looking at the same situation. If the legislature wants to find additional funds to put into the school system some the opposition to these bills may go away.

Jim Tutweliler, Montana Chamber of Commerce said financial need was not disputed but what is questioned is the appropriateness of using unemployment funds. The people are attracted to the profession precisely because it provides time off each year for other pursuits. The fund is stable but well below federal recommended levels. Expanding eligibility to include non-certified employees will create a permanent cost outlay, one that

will not lessen during periods of high unemployment when payout is relatively high. The fact that one like class of employees is paid unemployment compensation does not negate the argument that it is inappropriate to pay compensation for non work time beyond a contract limit that ends at a specific and predetermined time known to the contracting employee before accepting employment. The imbalance should be more appropriately addressed by disallowing unemployment compensation for privately contracted drivers.

TAPE 1, SIDE B

Chad Smith said he was not representing any particular association but himself as a taxpayer. This bill has been unsuccessful for the same arguments that you have heard before. Unemployment insurance is not different insurance. It covers risk and is not designed to supplement welfare payment or provide for the needy. It is provided for the risk that is taken and the loss of employment which was expected to continue. The amount of money which is involved in this really deserves intense concentration. This amount is approximately \$4 million during the biennium.

Charles Brooks, Montana Food Distributors Association said he had been appointed to a committee by Governor Schwinden on unemployment insurance. The unemployment fund is now healthy and it was his suggestion to not do those things which would adversely impact the fund. There are other ways to address this issue.

Loren Frazier, Montana School Administrators Association said the timing in this bill is probably the worst time to be brought up because the money in this bill will be competing against other mill levies.

Riley Johnson, National Federation of Businesses said he advised the recognition of this bill as a risk pool and not a social program aided at solving social problems.

Informational Testimony:

Richard L. Webb, Sweet Grass County High School provided written testimony. EXHIBIT 5

Questions From Committee Members and Responses:

REP. PAVLOVICH said it was stated that some of the school districts had private contracts and questioned as to how many had this type of contract. **Mr. Keedy** said he did not know. **REP. PAVLOVICH** then asked if this was the solution. **Mr. Keedy** said **REP. HARRINGTON** would not be fully satisfied until all of the classified employees embraced in his bill are addressed. **REP. PAVLOVICH** questioned the fact that there was over \$100 million in the fund and it is healthy and if the school districts

contributed to this fund. **Rod Sager, Administrator, Unemployment Insurance Division, Department of Labor** said there was \$106 million. **Mr. Sager** indicated that the schools did contribute.

REP. LARSON asked how much the schools did contribute to the Unemployment Insurance Fund. **Mr. Sager** said the fund is all together but is separated between experience rating purposes. The school district employers are maintained as a sub portion of that. **REP. LARSON** asked what school employees are eligible for unemployment benefits. **Mr. Keedy** said if a person working for a school through an independent contractor. **REP. LARSON** then questioned the fact that schools paid into this fund but were not eligible for benefits. **Mr. Keedy** said the employee who loses his job is eligible to draw unemployment and the employee who is simply laid off during the summer months as anticipated is not eligible unless it turns out eventually that they do not return to work.

REP. HERRON questioned the by choice of paying into the fund because it is automatically deducted. **REP. HARRINGTON** said the employer pays into the fund.

REP. ELLINGSON said he understood the school districts were in tough financial shape now and they need all of the money they can acquire for educational services. But, loggers and other seasonal employees get unemployment compensation during the seasons they are not employees as do the term contractors for schools districts get compensation. Simply because there is a crisis for school education, is that a good enough reason to discriminate against this one class of employees. **Mr. Keedy** said the committee would be wise to look at this legislation from the standpoint of the fiscal impact. An employee embraced by this bill is fully aware in signing on for work with a school district that the school year does not span 12 months.

REP. TUSS said the predictability seems to be a big issue and at what point do the school systems inform employees that they do have further employment. **Mr. Keedy** said this was a matter or elective negotiated grievance. If the employee does not have reasonable assurance that is the case then eligibility for unemployment benefits opens up. **REP. TUSS** said she was not satisfied that an employee knows reasonably they have jobs in September. **Mr. Keedy** said if the employee did not feel he had assurance they are eligible for benefits.

REP. COCCHIARELLA asked where **Mr. Smith** resided and he said Helena. She then said she had found a bill to get rid of unemployment benefits for seasonal workers other than school employees and if he would be a proponent or opponent.

CHAIRMAN SIMON intercepted the question by stating the questioning was getting afield.

REP. COCCHIARELLA said her question was very appropriate because she was talking about seasonal workers and the qualifications for unemployment. **Mr. Tutweiler** said that in understanding her questioning, if a bill were brought before this committee that would address the situation of private contractors hiring people - he would consider supporting a bill of that nature. It is certainly in line with the question of fairness which was incorporated in the testimony today.

REP. COCCHIARELLA said that in this case he was not discriminating necessarily against a group of school employees that would consider the criteria of seasonal work an issue in which he would base his decision. **Mr. Tutweiler** said he was concerned about this bill but not about arguing about before this committee that people are not deserving. The use of unemployment compensation in a situation where there is reasonable practicability through your job that the person will not be working. If there is a contract situation where there is definite down time or a period where the job season ends.

REP. COCCHIARELLA asked if classified school employees would need to meet the criteria to collect unemployment insurance as other people do when they apply for a job. **Mr. Tutweiler** said he was not conversant with the rules today as they apply to non certified school, employees with or without a contract.

REP. FORBES said she had done some checking in Cascade County said there were 160 people who were affected by this. They currently do have that option to resign due to lack of work and can apply for unemployment compensation at that time. However, they do gamble when applying for another job. If they don't resign they do have the guarantee of the job being offered to them again. **Mr. Fasbender** said yes. **REP. FORBES** questioned the statement that if good employees were retained the need arises to pay them. She then questioned the criteria for unemployment. **Mr. Judge** said the problem here was that these employees are not eligible for unemployment whether they are seeking or not seeking other work.

MR. ELLINGSON questioned the fact of the employees who were laid off during the summer do pay into the unemployment fund. Would it be stretching too far to say the risk that the employers are paying for in purchasing this unemployment insurance would there be risk that these employees would not be able to find alternate employment over the summertime. **Mr. Sager** said the employers did pay into the fund for the employees. The employers are paying a rate based upon the salary they are paid while they are working. The fiscal note indicates that if this bill passes it will eventually increase the cost to the school districts. Looking at the school district employees, the comparison was \$1.7 million a year less without the summer being covered. With inflation on benefits anticipated for the future that brings the fiscal impact estimate up to over \$2.0 million a year.

CHAIRMAN SIMON asked when a school pays into the unemployment trust fund is it paid on all personnel, teachers, classified employees, administrators, everyone. **Mr. Sager** said every employee was covered. **CHAIRMAN SIMON** then asked if the experience rating would be based on the amount they paid in for all of the employees against the amount of benefits paid out to those employees, and **Mr. Sager** said yes.

Closing by Sponsor:

Sponsor closes.

HEARING ON HB 39

Opening Statement by Sponsor:

REP. HARRINGTON said the bill is the increase in the minimum wage which has occurred between July 1995 to July 1996 which would be 25 cents each year. The last time an increase was passed an increase in minimum wage was 1991 which the same year the federal government passed the change in the minimum wage. Once the federal minimum wage is increased the wage will continue to be raised.

Proponents' Testimony:

Don Waldron, Montana Rural Education Association said he believed people should make more money than the minimum wage. Anyone who is still paying that minimum should be increasing those peoples wages. The important part of this bill is the prospect of doing something to help those people that receive those lower wages to determine a way to receive medical insurance.

Kate Cholewa, Montana Women's Lobby said the service industry minimum wage jobs without any help of benefits are in Montana and are being felt in large part by women. The poverty level is \$9,840 and a worker working 52 weeks a year at minimum wage earns \$8,840.

Sharon Hoff, Executive Director, Montana Catholic Conference said the 54.4% of the people in the state who are poor work. They work for minimum wage jobs, don't have benefits and the people most at risk for getting on the welfare rolls.

John Malre, Montana Federation of Teachers said he supported this bill.

Milissa Case, Hotel Employees and Restaurant Employees Union said to increase the minimum wage to a wage that one can actually subsidize on can only be in the best interest of the people of Montana as well as in the best interest of the economic base of Montana because the more you make the more you spend and the more you are taxed. **EXHIBIT 6**

Brad Martin, Director, Montana Democratic Party said the debate on the bill should not be if there is an increase in the minimum wage but how much it is increased.

Don Judge said that in adding an incentive for employers to provide health care is a noble and sound gesture. The language of the bill should require that the increase be applied to a new health care plan or that it be used to reduce the employees' contribution to an existing health plan. **EXHIBIT 7**

Opponents' Testimony:

David Owen, Montana Chamber of Commerce said this bill doesn't begin to solve the problem most commonly cited by critics of the minimum wage. In 1991 employers agreed to link the state's minimum wage with the federal minimum wage. The non-wage costs associated with having employees is rising. Market forces are working to raise wages for jobs that have been minimum wage jobs. **EXHIBIT 8**

Charles Brooks, Montana Food Distributors said that in any business labor is the number one driving cost factor. That must remain as a percent of sales if there is any money put on the bottom line so people may be employed.

Riley Johnson, National Federation of Businesses said that probably more than anyone here the minimum wage issue hits business members. 84% of the small business members oppose the minimum wage increase. There is here the minimum wage bill disguised as something about health care. The health care issue needs to be separated and not try to solve the health care problem.

Bob Anderson, Montana School Boards Association said he did not really want to rise in opposition to this bill but many of the districts the salaries are approximately 80% of the budget. There are some districts in the state who are about 87% of their budget. These districts are close to bankruptcy.

Steve Turkowitz, Montana Auto Dealers Association said he opposed this bill.

Questions From Committee Members and Responses:

REP. ELLIS questioned the schools being cut \$50 million in the last session. Didn't they spend more money every succeeding year than they did the year before. **Mr. Anderson** said that between the regular session and the special session it was about \$50 million in cuts from the proposed budget. There has been large increases in student populations.

REP. ELLINGSON asked what the minimum was when **Mr. Brooks** started employment and he said \$.25 per hour since the 1940's.

REP. OHS asked what the neighboring states rates were. Mr. Owen indicated he did not know.

CHAIRMAN SIMON said that if this bill passes as it is written and according to the news casts, a proposal was made to raise the federal minimum wage \$1.00. What happens to Montana workers under your bill, if this passes? REP. HARRINGTON said the bill had been amended again and did not feel sure that the \$1.00 would pass on the federal level. There would be two minimum wage levels in the state.

CHAIRMAN SIMON then said in the way this bill was drafted the language is being stricken that ties in with the federal minimum wage so if in fact later on there is a federal minimum wage that exceeds the amounts that are listed in this bill, now the Montana workers have fallen behind and the federal minimum wage would call for rather than being tied to the federal minimum wage. This would put the Montana workers at a level higher than what is called for in this bill. REP. HARRINGTON said the law would need to be changed by a certain percentage.

REP. PAVLOVICH also questioned the minimum wage in other states of which there was no answer.

TAPE 1, SIDE B

Closing by Sponsor:

Sponsor closes.

HEARING ON HB 98

Opening Statement by Sponsor:

REP. PAVLOVICH, HD 37, Silver Bow County said this bill exempts direct sellers from minimum wage, overtime, unemployment insurance and workers' compensation requirements in Montana.

Proponents' Testimony:

Dave Brown, Kirby Rocky Mountain Division distributed a copy of the codes regarding direct sellers. EXHIBIT 9

Eric Ellman, Associate Counsel and Manager of Government Relations, Direct Selling Association, Washington D.C. said there are 5.1 million direct sellers nationwide. There are 10,000-20,000 direct sellers in Montana. Direct sellers are independent business people. They work on commissions. They set their own hours and decide who to sell to and when to sell. Twenty-eight states exempt direct sellers from their unemployment and workers' compensation laws.

Brad Griffin, Montana Retail Association said this bill would move the state into the direct selling industry by codifying the status of direct sellers as non-employees under the unemployment compensation direct wage laws.

Van Gemmill, Kirby said he represented 12 states and gave a brief synopsis of the business.

Richard Herthneck, Attorney, Bernie and Herthneck, Cleveland, OH said he had represented Kirby and direct sellers for the past 18 years.

Mike Davis, Kirby supports this bill.

Blain Schaff, Kirby said he supported this bill.

David Roth, Attorney, Kirby or Montana supports this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. LARSON wanted to explore the definition of agent and direct seller as independent operating agents. **Mr. Andrew** said that anytime the Department of Labor and Industry has a relationship between the parties the primary thing to consider is the element of control, the nature of the business and the nature of the product and the department does not oppose this bill.

REP. COCCHIARELLA questioned the number of direct sellers in Montana and **Dennis Zieler, Employment Relations, Department of Labor** said there was not a survey to obtain this data.

CHAIRMAN SIMON questioned outside sellers and in this case there is reference to direct seller - are these the same people? **Mr. Brown** said yes. There is still not a definition of direct sellers in the code. That is why that portion of the bill was amended to contain this definition. **CHAIRMAN SIMON** then asked if there was anyone else who could respond to this. **Mr. Ellman** said the definition of a direct seller is very specific and very narrow and very limited. To be a direct seller, under the federal law and the laws of 28 other states, one must sell on a commission or similar basis, sell at other than a permanent retail establishment such as a door to door and the contract which is entered into must reflect the reality of the situation that a person is a non employee and a self employed individual responsible for his own business operations.

Closing by Sponsor:

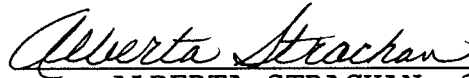
Sponsor closes.

ADJOURNMENT

Adjournment: 10:50 AM.



REP. BRUCE T. SIMON, Chairman



ALBERTA STRACHAN, Secretary

BTS/ajs

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL

DATE 1-10-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority	X		
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		

January 10, 1995

Testimony for HB 34

Terry Minow, Legislative Director

Mr. Chairman, members of the committee. My name is Terry Minow. I represent the Montana Federation of Teachers/Montana Federation of State Employees. I rise in strong support of House Bill 34.

HB 34 allows payment of unemployment benefits to classified school district employees during the summer months that they are laid off. Classified school employees include those employed as teachers' aides, janitors, food service workers, library assistants, secretaries, and bus drivers. Under current law, these employees are not eligible for unemployment benefits even though other seasonal employees, such as loggers, truck drivers, or farm workers, are eligible to receive unemployment during the months they are out of work.

Montana classified school employees used to be eligible to receive unemployment benefits, but in 1983, in response to a federal mandate, we changed our law. That was my first session as a lobbyist, and I testified against the change when it was considered. As I recall, the federal government threatened Montana with a loss of federal funds. Many in the Legislature resented the threat, but felt they had little choice but to change Montana's law. Ever since, we have tried to reinstate the rights of classified school employees to apply for unemployment benefits if they are unable to find work during the summer months.

Several years ago, the Congress and then President George Bush reversed the federal law to allow states the option of allowing the states to pay classified school employees unemployment benefits. Two years ago, Representative Harrington's bill to reinstate classified school employees ability to apply for unemployment benefits passed second reading in the House but failed third reading on a 50-50 vote.

House Bill 34 gives classified school employees the right to apply for unemployment benefits just like any other worker in the state of Montana. These same employees, who make considerably less than other seasonal workers in Montana, would already be eligible to receive unemployment benefits if they worked for a private contractor. In other words, a janitor or bus driver working in the schools for a private contractor would be eligible for unemployment benefits--a person working in the next town, doing the same job, but working directly for the school district, could not apply for unemployment benefits. This just doesn't make sense.

January 4, 1995

Senator Linda Nelson
Capital Building
Helena, MT 59620

Dear Senator Nelson,

I am writing this letter in support of House Bill 34.

Employees of Poplar Schools, and all schools in Montana, who work on annual contracts through federal programs face a difficult situation each and every summer. Due to the language in the law as it presently is, these employees are unable to draw unemployment during the summer months.

If you take a look at the profile of a majority of the workers who fill those federal jobs in the schools you will find most of them are single parent mothers or one income families. They are earning \$5.50 an hour and work 35 hours per week. They have to support a family and be expected to save enough money to carry them through the summer months. Since they only work 9 months out of the year, this puts them far below the national poverty level.

We have a situation here on the Fort Peck Reservation that is different from the more affluent areas of Montana. Due to the cut backs in Defense spending, A & S Tribal Industries has laid off 444 employees since Desert Storm. Our unemployment rate is currently 10 times higher than the national average. Competition for jobs during the summer months is intense. Returning college students only add to the pressure.

Four of my staff at A & S Tribal Industries lost their jobs because of reduction in force. One of my staff now holds the job of one of the ladies you met last summer. She had to go out and look for another job because she could not draw unemployment and she was too proud to go on welfare.

She was fortunate enough to find another job, but the gentleman who filled her position has one child in college, another close to graduation and his wife just had surgery for cancer. What will their family do when he is unable to draw unemployment this summer?

I spent six years serving on the Poplar School Board and I have listened to their concerns many times. Unemployment is paid in for them but they cannot collect it and they are not guaranteed a contract until funding is made available for the next school year. I feel that they should be entitled to collect unemployment during the summer months.



Montana State AFL-CIO

EXHIBIT 3

DATE 1-10-95

HB 34

Donald R. Judge
Executive Secretary

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

406-442-1708

TESTIMONY OF DON JUDGE, EXECUTIVE SECRETARY OF THE MONTANA STATE AFL-CIO, IN SUPPORT OF HOUSE BILL 34

BEFORE THE HOUSE BUSINESS AND LABOR COMMITTEE
JANUARY 10, 1995

Mr. Chairman, members of the committee, for the record my name is Don Judge, Executive Secretary of the Montana State AFL-CIO. On behalf of Montana workers and their families, we urge you to support House Bill 34, to reinstate payment of unemployment insurance benefits to non-instructional school district employees.

This bill is about fairness, plain and simple. Public school janitors, cooks, teachers' aides, coaches and others don't qualify for U.I. in the summer simply because they work for the school district. Privately employed persons who do the same work for schools **DO** qualify.

Up until 1985, Montana's non-certified school district employees were eligible for U.I. benefits in the summer layoff, but the federal government made us drop that practice. That created an inequity that has gone unaddressed for nearly a decade -- an inequity you have the opportunity to correct.

Some school districts in Montana use private contractors to fill some of these non-teaching positions. Those workers get summer unemployment benefits -- but their counterparts employed directly by schools **DON'T** get them. That's just not fair.

Even the state Department of Labor has, in the past, said it's not fair -- but the department says the state can't afford the average \$60-a-week benefit for which these low-income workers might be eligible.

I would like to point out that the fiscal note on this bill is probably overestimated because it uses average weekly benefit amounts. The workers who would be affected by this bill earn below-average wages -- some of them are **WAY** below average -- so the benefit payout will not be as high as estimated.

Also, it's important to note that not all non-teaching employees of school districts would automatically draw benefits because of this bill. House Bill 34 only makes them eligible -- it doesn't require payment. A fourth to a third of these workers get other employment during the summer, and thus wouldn't draw benefits.

Although some do find summer work, the reality is that few employers are willing to hire workers who are available for only a few months each summer. Unemployment benefits provide a necessary buffer for those employees who are actively searching for work, but who are not successful in finding a temporary job to support their household. House Bill 34 is about fairness, and we urge you to support it.

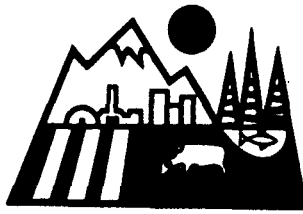


EXHIBIT 4
DATE 1-10-95
HB 34

MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730

• HELENA, MONTANA 59624

• PHONE 442-2405

TESTIMONY
JIM TUTWILER

BEFORE HOUSE BUSINESS & LABOR COMMITTEE
ON HB 34
TUESDAY, JANUARY 10, 1995

I am James Tutwiler and I appear on behalf of the Montana Chamber of Commerce.

HB 34 concerns unemployment compensation for noncertified school employees. The bill also addresses changes in unemployment fund policy. Since employers pay millions into this fund, we believe it is appropriate to provide this committee our views on the bill.

The history of this bill extends back over numerous sessions. Generally, the arguments and counter arguments for the proposal have stressed these points.

Many noncertified school employees are single parents in need of financial help. Financial need is not disputed. What is questioned is the appropriateness of using unemployment funds.

Its difficult to find employment for three months. Certainly true for some. However, some people are attracted to the profession precisely because it provides time off each year for other pursuits.

The unemployment compensation fund is healthy and can afford modest payments to cover noncertified school employees. The fund is stable but well below federal recommended levels. Expanding eligibility to include noncertified employees will create a permanent cost outlay, one that will not lessen during periods of high unemployment when payout is relatively high.

Its a question of fairness. Loggers and other outdoor employees work seasonally and they collect unemployment compensation. Employees in these professions enter employment not knowing when or even if they will be unemployed due to weather induced conditions. On the other hand, noncertified school employees enter employment knowing exactly the precise time the job will commence and terminate.

over

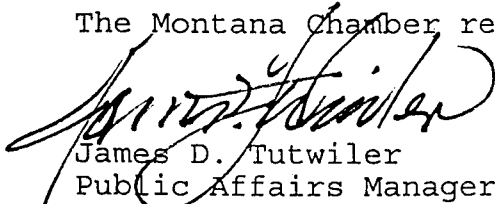
Private contractors employing school bus drivers pay unemployment compensation. Why shouldn't school districts? The fact that one like class of employees is paid unemployment compensation does not negate the argument that it is inappropriate to pay compensation for non work time beyond a contract limit that ends at a specific and predetermined time known to the contracting employee before accepting employment. The imbalance should be more appropriately addressed by disallowing unemployment compensation for privately contracted drivers.

In the end the question is what is reasonable, fair and appropriate.

If you believe the need of noncertified school employees is so compelling as to warrant changing unemployment compensation policy to provide payments even though recipients knowingly and voluntarily accept employment with a finite beginning and ending, than you should vote Yes.

On the other hand, if you believe that it is inappropriate to compensate people, in this case with public tax revenue, for not working during a period of time clearly known to the employee prior to acceptance of such work, than you should vote No.

The Montana Chamber recommends a note vote on HB 34.



James D. Tutwiler
Public Affairs Manager
Montana Chamber of Commerce

EXHIBIT 5
DATE 1-10-95
HB 34

HOUSE OF REPRESENTATIVES

HB 34 - COMMITTEE

WITNESS STATEMENT

PLEASE PRINT

NAME Richard L. Webb BUDGET _____

ADDRESS Box 886, Big Timber, MT DATE 1-10-95

WHOM DO YOU REPRESENT? Sweet Grass County High School

SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: This increase would be an additional burden
on our school district and our taxpayers. Each of
our classified employees are issued contracts prior
to the end of the school year for the next
school year. They are aware of when they will be
returning to work in the fall. Prior to the change
in 1985 we had classified employees drawing
no employment during the summer months with no
intent of applying for summer employment.
During the summer months there are job opportunities
in our area if they so desire to work.

Richard L. Webb

EXHIBIT 6
DATE 1-10-95
HB 39

House Bill 39

Mr. Chairman, members of the committee, for the record my name is Melissa Case. I am here representing the Hotel Employees and Restaurant Employees Union. We are supporting H.B 39 and encourage you to do the same. Increasing the minimum wage to a wage that one can actually subsist on can only be in the best interest of the people of Montana as well as in the best interest of the economic base of Montana because as we all know, the more you make the more you spend, and what we know for certain is the more you make the more you are taxed. This is a win, win situation. Win for the people, win for the state!

Thank you, and again I encourage you to cast a yes vote for H.B 39

Melissa Case

H.E.R.E

EXHIBIT 7DATE 1-10-95B 39Donald R. Judge
Executive Secretary

Montana State AFL-CIO

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

406-442-1708

TESTIMONY OF DON JUDGE, EXECUTIVE SECRETARY OF THE MONTANA STATE AFL-CIO, IN SUPPORT OF HOUSE BILL 39

BEFORE THE HOUSE BUSINESS AND LABOR COMMITTEE
JANUARY 10, 1995

Mr. Chairman, members of the Committee, for the record I am Don Judge, Executive Secretary of the Montana State AFL-CIO, and I'm here today in support of House Bill 39.

The workers and their families who make up the AFL-CIO have consistently supported increases in the minimum wage to make it a more livable wage, and have consistently supported efforts to make health care more accessible.

When the minimum wage was raised to \$4.25 an hour, people who worked full time at that wage still fell more than \$2,000 shy of the federal standard of poverty for a family of four. They'll still be shy of it under this bill -- but they'll be closer.

Minimum wage is a poverty wage, whether it's \$4.50 an hour or even \$5.50 an hour. Working families who earn that wage often cannot afford health care, pay minimal taxes, and often must rely on public assistance programs simply to survive.

According to a 1994 report of the Economic Policy Institute, the 1991 increase in the minimum did NOT -- let me stress that -- did NOT lead to a decrease in employment.

Other findings of the Institute's study are that:

- most minimum wage workers are adults over 19;
- nearly one-fourth of low-income workers fall below the poverty line;
- of those defined as impoverished workers, 65 percent are the sole breadwinners in their families;
- minimum-wage laws are the most significant factor in pay raises for rural workers and those with only a high-school education.

Clearly, raising the minimum by 25 cents this year and next will help offset losses to inflation, and move the working poor -- including many Montanans -- closer to self-support -- and we urge your support.

Adding an incentive for employers to provide health care is a noble and sound gesture, but we do have some concerns about the wording. We would encourage the committee to make sure that the language in the bill requires that the increase be applied to a new health care plan, or that it be used to reduce the employees' contribution to an existing health plan.

HB 34 is supposed to be an incentive for employers to provide health care if they don't already, and lower the cost to workers if they do already provide it. It is not intended as a subsidy for employers who already provide health insurance; it's an incentive for those who don't. The bill should provide some reasonable assurance to workers that if they don't get the 25 cents in cash, their employer is applying it in good faith as an addition to, not a replacement of, an employee's share of the health insurance.

We encourage the members of this committee to give workers an economic boost by increasing the minimum wage.

Thank you.

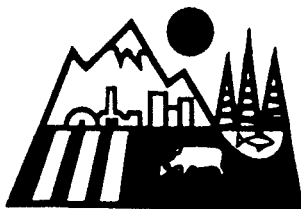


EXHIBIT 8
DATE 1-10-95
HB 39

MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730

• HELENA, MONTANA 59624

• PHONE 442-2405

TESTIMONY ON H.B. 39

Mr. Chairman and members of the committee my name is David Owen, I represent the Montana Chamber of Commerce. The Chamber appreciates the opportunity to address this bill.

The Chamber opposes H. B. 39 for the following reasons:

- H.B. 39 doesn't begin to solve the problem most commonly cited by critics of the minimum wage. One of the most common criticisms of minimum wage laws is that they are inadequate to support a family. This argument assumes that every job should be a "head-of-household" job and ignores the value of supplemental income and entry level wages. The U.S. Chamber has cited 1992 Department of Labor statistics that conclude 30% of those working at the minimum wage were teenagers and 20% of those working at the minimum wage come from households with income in excess of \$50,000.

- Montana employers agreed in 1991 to link the state's minimum wage with the federal minimum wage. This agreement put into law an automatic increase when the federal standard goes up. The Chamber can find no reason for a state dominated by the smallest of businesses to get ahead of the national law on minimum wage. An increase in the minimum wage has an effect on wages above that level causing a ripple effect and driving wage costs higher. It is an undeniable fact of the market place that when something becomes more expensive the demand goes down. Montana may have more jobs now than before the last minimum wage increase but there is no measure of jobs not created.

- The non-wage costs associated with having employees is rising. The work force of Montana should be alarmed at the rising costs of health insurance, workers compensation and other non-wage costs because these factors are robbing the money that used to go to higher wages. During three tours of 21 Montana cities business owners/managers constantly told the Montana Chamber that they are not interested in expanding the number of jobs because of the costs and hassles of providing those jobs. If the legislature wants to help workers earn more money it could do more by reducing employment costs than by raising the minimum wage.

- Market forces are working to raise wages for jobs that have been minimum wage jobs. One of the other comments that was repeated during our tours around the state was a frustration about turn over in lower paid jobs. This is the first step in a market process that will result in businesses bidding more for labor. (over)

The human need of low income people is compelling and Rep. Harrington is to be commended for wanting to help them and other workers. Unfortunately H.B. 39 does little to help them while doing much to make it harder to create and expand job opportunities that may offer real help.

The Chamber urges the committee to oppose H.B. 39.

26 U.S.C. 3508

Subtitle E—Employment Taxes

PART I—IN GENERAL

SEC. 262. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS.

(a) **GENERAL RULE.**—Chapter 25 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 3508. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS.

"(a) **GENERAL RULE.**—For purposes of this title, in the case of services performed as a qualified real estate agent or as a direct seller—

"(1) the individual performing such services shall not be treated as an employee, and

"(2) the person for whom such services are performed shall not be treated as an employer.

"(b) **DEFINITIONS.**—For purposes of this section—

"(1) **QUALIFIED REAL ESTATE AGENT.**—The term 'qualified real estate agent' means any individual who is a sales person if—

"(A) such individual is a licensed real estate agent,

"(B) substantially all of the remuneration (whether or not paid in cash) for the services performed by such individual as a real estate agent is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

"(C) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for Federal tax purposes.

"(2) **DIRECT SELLER.**—The term 'direct seller' means any person if—

"(A) such person—

"(i) is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in

the home or otherwise than in a permanent retail establishment, or

"(ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment.

"(B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

"(C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for Federal tax purposes.

"(3) COORDINATION WITH RETIREMENT PLANS FOR SELF-EMPLOYED.—This section shall not apply for purposes of subtitle A to the extent that the individual is treated as an employee under section 401(c)(1) (relating to self-employed individuals)."

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Treatment of Real Estate Agents and Direct Sellers

"(p) Notwithstanding any other provision of this title, the rules of section 3508 of the Internal Revenue Code of 1954 shall apply for purposes of this title."

(c) INDEFINITE EXTENSION OF PROVISIONS RELATING TO EMPLOYMENT STATUS FOR EMPLOYMENT TAXES.—

(1) TERMINATION OF CERTAIN EMPLOYMENT TAX LIABILITY.—

(A) Subparagraph (A) of section 530(a)(1) of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before July 1, 1982) is amended by striking out "ending before July 1, 1982".

(B) Paragraph (3) of section 530(a) of such Act is amended by striking out "and before July 1, 1982."

(C) The subsection heading of subsection (a) of section 530 of such Act is amended by striking out "FOR PERIODS BEFORE JULY 1, 1982".

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of such Act is amended—

(A) by striking out "July 1, 1982 (or, if earlier, ", and

(B) by striking out "taxes" and inserting in lieu thereof "taxes".

(3) CERTAIN REGULATIONS, ETC., PERMITTED.—Nothing in section 530 of the Revenue Act of 1978 shall be construed to prohibit the implementation of the amendments made by this section.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item:

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to services performed after December 31, 1982.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall take effect on July 1, 1982.

EXHIBIT 9
DATE 1-10-95
HB 98

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor SUB-COMMITTEE DATE 1-10-95

BILL NO. HB 98 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Riley Johnson	AFIB		
Brad Griffin	MT Retail	✓	
JOE THARES	SELF		
Eric Elman	Direct Selling Assn.	✓	
BLAIN SCHAFF	KIRBY of Western MT	✓	
DAVE BROWN	Kirby	✓	
DAVID ROTT MSLA	KIRBY	✓	
Richard HERTHNECK	KIRBY	✓	
VAN Gemmill	Kirby	✓	
Mike Davis	Kirby	✓	

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HR:1993

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CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

SUB-COMMITTEE

DATE 1-10-95

BILL NO. HB 34

SPONSOR(S)

PLEASE PRINT

John Malee

PLEASE PRINT

M, F, +

PLEASE PRINT

X

NAME AND ADDRESS	REPRESENTING	Support	Oppose
<u>Charles R. Brooks</u>	<u>MT. Food D's +</u>		<input checked="" type="checkbox"/>
<u>Robert White</u>	<u>Bozeman Chamber</u>		<input checked="" type="checkbox"/>
<u>Riley Johnson</u>	<u>NFIB</u>		<input checked="" type="checkbox"/>
<u>Garry Jaschke</u>	<u>City of Bozeman Sch</u>		<input checked="" type="checkbox"/>
<u>Richard L. Webb</u>	<u>Sweet Grass Co. H.S.</u>		<input checked="" type="checkbox"/>
<u>Brad Griffin</u>	<u>MT Retail Assoc</u>		<input checked="" type="checkbox"/>
<u>MICHAEL KEENE</u>	<u>MSBA</u>		<input checked="" type="checkbox"/>
<u>Howard Bailey</u>	<u>MSSE</u>		<input checked="" type="checkbox"/>
<u>Jim Tutwiler</u>	<u>MCE</u>		<input checked="" type="checkbox"/>
<u>Bob Anderson</u>	<u>MSBA</u>		<input checked="" type="checkbox"/>
<u>Terry Muraw</u>	<u>MFT</u>	<input checked="" type="checkbox"/>	
<u>Synda Brannon</u>	<u>MASBO</u>		<input checked="" type="checkbox"/>
<u>Phil Campbell</u>	<u>MEA</u>	<input checked="" type="checkbox"/>	

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CS-14

Don Judge

MREA

MT STATE AFL-CIO

Jay Driscoll

MFT

Tom Schneider

MFEA

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

SUB-COMMITTEE

DATE 1-10-95

BILL NO. HB 39

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Charles R Brooks	MT Food Dist.		✓
Robert White	Bozeman Chamber		✓
Riley Johnson	NFIB		✓
Brad Griffin	MT Retail Assoc		✓
Steve Turkiewicz	MT Auto Dealers Assn		✓
David Owen	MT Chamber		✓
Chaf Smith	Self		✓
Kate Cholawa	MT Women's Lobby	✓	
Don Judge	MT STATE AFA-CIO	✓	
SHARON HOFF	MT CATH CONF	✓	
Rep. Heavy Runner	Browning Schools	✓	
Don Waldron	MT REA	✓	
Melissa M. Case	Hotel Employees Rest. Employees Union	✓	

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CS-14

Brad Martin
John Malrae

MT Deans Panel
M.F. +

✓
X