

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS**

**Call to Order:** By **SEN. WALTER MCNUTT**, on February 2, 1999 at 3:09 P.M., in Room 413/415 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Tom Keating, Chairman (R)  
Sen. Fred Thomas, Vice Chairman (R)  
Sen. Sue Bartlett (D)  
Sen. Dale Berry (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Alvin Ellis (R)  
Sen. Bob Keenan (R)  
Sen. Walter McNutt (R)  
Sen. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Gilda Clancy, Committee Secretary  
Eddy McClure, Legislative Branch

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 223, 1/27/1999; SB 242,  
1/27/1999  
Executive Action: SB 117; SB 118

*{Tape : 1; Side : A; Approx. Time Counter : 1 - 16}*

**HEARING ON SB 223**

**Sponsor:** SEN. GLENN ROUSH, SD 43, Cutbank

**Proponents:** Don Judge, Montana State AFL-CIO  
Gene Fenderson, Montana Joint Heavy & Highways  
Committee

**Opponents:** Riley Johnson, National Federation of Independent  
Business (NFIB)  
Larry Jones, Liberty Northwest Insurance  
Lawrence Hubbard, Montana State Fund  
Jacqueline Lenmark, American Insurance Association  
Brad Griffin, Montana Retail Association  
Steve Turkowitz, Montana Auto Dealer's Association  
Byron Roberts, Montana Building Association

**Informational Testimony:** Jerry Keck, Administrator, Department  
of Labor

**Opening Statement by Sponsor:**

**GLENN ROUSH, SD 43, Cutbank,** opened SB 223 by stating this bill deals in a fairness safety issue. The best way to keep Workers' Compensation costs down is to have a safe workplace. Effective safety programs protect employers from high Workers' Compensation premiums and insurers from high loss ratios. Also, this bill is about fairness. He said it is not fair that some groups get special discounts just because they belong to a certain group while others who do not belong to the group have to pay the full price. Premiums should be based on factors such as the number of employees, the risk associated with the kinds of work they do, the effectiveness of a safety program in place, and, most importantly the actual number and severity of accidents in each particular workplace. Also, regarding the financial security of the Workers' Compensation system, one reason Workers' Compensation was in such bad shape a few years ago was that premiums were kept artificially low. There was no emphasis on safety, and this bill will ensure the Workers' Compensation system to remain secure in this area. He also said the safety needs of one business is different than those of another business. The bill says the group must offer an effective safety program. Businesses are trying to find ways to keep costs down, and also to provide employees with a decent amount of protection. The way to keep costs down is safe workplaces. The focus needs to remain on safety, fairness and security.

**Proponents' Testimony:**

**Don Judge, AFL-CIO,** supports SB 223. They raised this issue with the Governor and Legislative Auditor about a year ago. The statutes in Montana regarding Workers' Compensation are very

clear. They provide that the management of State Fund lies solely with the Board, who must operate within statutory requirements. In addition, the statute also clearly states the Legislative Auditor, "shall review rates established by the Board to determine if the rates are excessive, inadequate, or deemed fairly discriminatory". Statutory requirements and restrictions on the State Fund preclude rate setting based on anything other than actuary sound principles. The statute provides the State Fund must charge premiums of the classification so the State Fund will neither be more nor less than self-supporting. It allows the Fund to set higher prices for unsafe high-loss employers. This does not mean offering discounts to members of political organizations. They are concerned about the State Fund providing discount rates to heterogeneous groups with a smoke-screen of a four-hour seminar on safety issues offered to the employers of those groups which range in occupation from butcher shops to insurances. This doesn't have anything to do with the statutory variable pricing and is not likely to have much impact on accident rates. The statute also provides the appropriate process for the distribution of State Fund assets which are dividends that should be declared and distributed to the premium payers, giving consideration to accident experience to "of each individual employer during the dividend year". Given these requirements and restrictions, the State Fund's practice of offering group discounts appears to be inappropriate and improper. There may be some justification for rate reductions by private insurers to homogeneous groups who provide their members with comprehensive safety training and hazard reduction consultation programs with demonstrable accident-reduction rates. However, they find no justification for the State Fund's group discounts to heterogeneous groups with no safety programs. If the 10% rate reduction they apply to these members is based on actual loss experience, and does not apply indiscriminately to new members recruited to this political organization based upon the promise of a 10% reduction in rates, then, that should be made clear to the public and should not be advertised or described as a discount. If member loss experiences are low enough to qualify them for a 10% lower premium rate, then they should be outraged at the overcharge for the State Fund. If not, then they should pay the appropriate premium. In either case, this practice is not warranted. The fiscal consideration they believe are appallingly bad public policy. A public entity should not use funds either to subsidize or support recruitment activities of a lobbying organization. A private carrier may use its profits to provide special discounts for political entities, but a public concern must avoid even the appearance of impropriety. The State Fund is a public entity. **Mr. Judge** said he reported this practice to the Legislative Auditor and the response was the types of concerns he mentioned are the types of issues to be reviewed by an actuary during a normal review. A

number of years ago the State Fund got into trouble. We had to divide the resources of the State Fund into an old and a new Workers' Compensation System. As a result of that division, workers in Montana began paying for Workers' Compensation benefits through payroll tax. The employers also pay some cost into that system which adds up to \$52M per year out of the economy. In addition, they saw significant reduction in benefits offered to injured workers. That problem was because the Governor in the 1980's allowed the operators of the State Fund to make political decisions not to charge the employers the rates that were necessary to cover the cost of compensation. We are allowing discounts to be applied to heterogeneous groups of employers who simply have to take a four-hour safety training course in order to comply with a receipt of a 10% reduction. In SB 223, homogeneous groups that have a demonstrated safety program that can apply to its members are entitled to a discount. State Fund is either artificially overcharging rate-payers to provide these discounts or providing artificial discounts which could put State Fund back in the shape it was. He believes this bill will take care of this situation. **Mr. Judge** submitted **EXHIBIT (las26a01)**.

**Gene Fenderson, Montana Joint Heavy & Highway Committee**, which is a group of five labor unions in the state, said he agrees with Mr. Judge. Many of the large contractors in this state are self-funded. This leaves small contractors to buy from the State Fund. In one case this situation is unfair, and lucky for another. He used the example of an iron-workers rates compared to that of a general contractor who is somewhere in the neighborhood of \$50 to \$80 difference per hundred. If all the iron-workers and contractors state-wide got together to initiate a program, it will help lower their rates. But if we start mixing and matching the construction industry it will end up in a mess. He asked for support of SB 223.

*{Tape : 1; Side : A; Approx. Time Counter : 16-42}*

**Opponents' Testimony:**

**Riley Johnson, National Federation of Independent Business, (NFIB)** informed the Committee that **NFIB** was targeted with this bill, but it is not exclusive to them. Regarding lines 15 - 17 on page 1, if you are going from homogeneous to heterogeneous he asked what it meant to "engage in a business pursuit that is the same as or similar pursuits of the other entities participating in the group"? He said that is so broad that anyone could interpret that to be anything they want. Also, there is no reference to the State Fund and other groups. If you own a plumbing shop and want to belong to the Home Builder's

Association, and want to be in their fund, is that a similar business? He believes this bill covers a lot more than the author of the bill intended to do. It is not limited to the State Fund nor to the NFIB. He also asked who will be determining this language? The fiscal note says it will be determined by the Department of Labor and will have to be at a .5 FTE with \$19,000 budget. This half-person will be underwriting groups. That is a very highly educated and skilled talent and he questions whether a half-person in the Department of Labor with no underwriting experience could handle it. If you did find someone, it would cost more than \$19,000 to do that job. This bill places all the certification and underwriting back into the Department of Labor. In 1997 there was a bill in session which took this out of the Department of Labor, at the request of the Department of Labor, and put it back into the State Fund where insurance underwriters could underwrite the group. This bill reverses what was accomplished in 1997. This bill also increases the regulation, paperwork and costs. **Mr. Johnson** explained the NFIB has been insured with the State Fund for one and one half years as of January 1. In fiscal year of 1998, they had approximately 1300 people involved in the program, with a \$4.3M premium and a 57% loss. That is 20% under the state average. He believes they have a good safety record and should not be required to incorporate a 'cookie-cutter' safety program if they are 20% under the average. This will cost more for everyone. They are prepared to tackle any problems. On January 21st they ran the sixth month loss ratio which should come in between 55% to 60%. Again, it is substantially below the state average. Their program does not, any longer, give a 10% discount. As of January 1, it is a 5% discount with the availability of a dividend if it is earned at the end of fiscal year or year of contract. That will be a savings to their people of \$315,740 right off the top. They could conceivably have a dividend of a million dollars or more, and could have a reduction for their safety record. The program they are involved in is fair and insure small businesses who do not have the money to go with a 'big' company. They have 1600 people in their group now, who pay \$6.3M in premium. This is a good example of allowing small businesses to get together and combine their buying power and safety efforts to play like the 'big boys' and get the discounts. They believe this is fairness.

**Larry Jones, Senior Attorney, Liberty Northwest Insurance Corporation**, informed the Committee they are the largest private Workers' Compensation carrier in the State of Montana with about 40 employees in four cities. They have a group called the Liberty Better Business Alliance (LBBA), which is a non-homogenous group. The services they offer their insureds includes safety programs which are not homogenous, in other words, they have a smorgasbord approach. They offer video tapes,

etc. **EXHIBIT (las26a02)** to enhance safety. They also have three loss prevention persons located in Montana. They return unused premium with their loss-sensitive program within the LBBA. The nature of the program is an incentive to safety because the safer you operate, the more money you stand to get back in a return of unused premium. If this bill passes, **Mr. Jones** said it will clearly apply to LBBA. They will be able to function in the market with that bill, but he is present on behalf of their insureds who, through their good efforts, have safe workplaces and have been able to lower expense ratios on their own accounts. If this bill passes, the amount of return of unused premiums to their insureds will be less, and affect 350 of their insureds.

**Lawrence Hubbard, Montana State Fund**, said it is an economic reality that business in Montana is small business. In 1993, the legislature passed legislation authorizing the formation of Workers' Compensation Group purchasing arrangements, which was authorized by the Department of Labor. At that time, only homogenous groups were especially authorized by the statute. A number of trade associations which were already in existence were able to be certified under that program. The process was cumbersome and unnecessary. The advisory group appointed by the Department of Labor & Industry, which were made up of members of the insurance industry, as well as the Department of Labor & Industry, was open to the public for comment and participation. They recommended the statute be amended in 1997 to eliminate the certification requirement and that groups be the same or similar business. This bill restores the statute before 1993 and before the 1997 amendments. He said there is no reason the government should be involved in the types of Workers' Compensation products offered to individual policyholders or groups of policyholders. An insurer in an association should be free to negotiate group insurance agreements, which provide competitive opportunities for the group at a profitable return for the insurer. Group insurance programs are prevalent in many states and are a common Workers' Compensation insurance product, but for generation of new business and retention of superior performing accounts in the current book of business. All five of the State Fund's groups are loss-sensitive plans. Mr. Jones talked about loss-sensitive plans designed to enhance workplace low injury. The better the group controls losses, the greater the premium discount. Safety is the essence of these plans. Proponents argue the government must ensure such plans contain effective and comprehensive safety programs. No one can argue with the direct impact of safe-working environments, however, the legislature has already promulgated the Montana Safety Culture Act, which ensures that employers will adopt and maintain effective workplace safety programs. There is no need to duplicate that legislation. In addition, there has been no evidence the current law is flawed or ineffective. On the contrary, insurance companies continue to

expand such relationships with groups and provide opportunities for members that would not otherwise exist. Successful group plans have shown the ability of these groups to control losses and improve workplace safety by enhancing insurers ability to deliver loss-prevention services. **Mr. Hubbard** said the State Fund also provides video tapes through their program. Effective programs combines the association's clout and good-will with its membership with the dissemination of loss control and prevention information. Finally, limitation of group purchase opportunities to homogenous businesses is not logical. Essential workplace safety programs apply to every business, with every industry they may be involved in. While homogeneous groups can afford more specialized aspects of loss prevention, and they do under some of our programs, that does not warrant the arbitrary exclusion of heterogeneous group associations from these programs. Regarding fairness, there is a statutory mandate for the state compensation insurance program to remain financially sound. Part of that process is to retain good business. When you can use a group to aggregate the premium dollars and at the same time control losses, that is good business.

**Jacqueline Lenmark, American Insurance Association**, stated is a trade association comprising private Plan 2 insurance companies which write Workers' Compensation Insurance in Montana. Much of the testimony already heard has been directed entirely to the State Fund and this bill is not about the State Fund, it affects the companies **Ms. Lenmark** represents also. She also pointed out this bill will do nothing to ensure or promote safety. There are already adequate legal requirements in the Workers' Compensation Act to promote safety and achieve that result. Furthermore, this requirement of homogeneous groups will not ensure safety. Safety practices ensure safety. Simply matching a safety requirement to homogenous trade groups is not going to promote safety. She stressed to the Committee that this bill will not protect from rate suppression and will not affect the rating of the companies which she represents. Those companies are controlled and regulated by the Insurance Commissioner, that's where the regulation of those rates should reside. For the State Fund, there are already statutory requirements to ensure that its rates remain adequate. Those are already contained in the Workers' Compensation Act. She also believes it is not prudent to put underwriting requirements into statute. It does not allow Montana to remain current with industry trends and industry standards with industry practices. This bill also affects private insurance companies. Ultimately, this can become an anti-competitive measure, especially for the 350 companies she represents. In an earlier session, a loss cost rating law was passed, a law which her companies must operate under with the Insurance Commissioner. That law, the rates required to be filed must be based on loss experience. The companies, then are

entitled to take that rate and load on other expenses. Her companies want the opportunity to compete for business, they want underwriting practices to remain current with industry standards, they want the regulation of insurance companies for fiscal purposes to remain solely and exclusively with the Insurance Commissioner, and they think it is most prudent that each company individually make the decision of how to write a risk and whether that risk should be a homogenous group and that decision should remain with the insurer so the market remains competitive.

**Brad Griffin, Montana Retail Association, Montana Tire Dealer's Association, Montana Equipment Dealer's Association, Montana Restaurant Association,** stated they are concerned about the bill because if you look at each one of the associations, they are homogeneous one at a time, but when they are merged together under one company, obviously there are different industries and suppliers who make up those industries. This bill would affect them and they ask for a "do not pass".

**Steve Turkowitz, Montana Auto Dealer's Association,** said they represent Montana's franchised new car and truck dealers and have been operating under a group plan since 1994. They have watched their premiums go from \$2.3M per year to \$1.3M per year. They have seen a constant 30% loss ratio with their group. In the marketplace and in the insurance industry they are a safe trade organization with safe group practices. They do not see the rationale or any reason for their group to have to go to the Department of Labor and ask for permission to do this. He also urged a "do not pass" on this bill.

**Byron Roberts, Montana Building Industry Association,** informed the Committee his association feels SB 223 threatens their association group refund insurance program by requiring Workers' Compensation and these are the business pursuits of other entities participating in the group. Their association is an umbrella group with 1300 members. They serve the collective interests of many different types of businesses, many of which participate in their program. On October 1, they entered into an agreement with the State Fund, not only to provide insurance but to promote safety in Montana's Construction Industry. This agreement has been beneficial to both parties. During the first year of the program, 240 members bought premium of \$1.1M. Many members left their old insurance companies to participate in the program and 167 businesses in the first year received some sort of safety training from Montana Building Industry's loss control programs. Last year they held over 90 safety seminars statewide. There was more safety training put on than the Montana Safety Bureau provided in the same year. The training helps to lower the costs of business by lowering accidents and injuries in the

workplace. **{Tape : 1; Side : B; Approx. Time Counter : 42 - 61}**  
They work one-on-one with businesses who have safety records who are not up to standard. Their loss experience was low enough last year to return \$155,000, nearly 14% premiums, back to the members. They look for even better returns in the coming year. This is a result of the group's emphasis on safety and providing safety training to the members. With the help of this program, businesses improve their individual loss ratios and are working directly with the State Fund. He urged a "do not pass" SB 223.

**Informational Testimony:**

**Jerry Keck, Acting Administrator, Employment Relations Division, Department of Labor & Industry,** said they are neither a proponent nor an opponent. He reported it is true that from 1993 to 1997 the department had the responsibility of certifying trade groups. In 1997 legislation passed which removed the department's role and the department supported that legislation. He believes the state's interest is to insure all employers have the appropriate Workers' Compensation coverage in allowing groups to form, and to buy competitive Workers' Compensation insurance is to ensure all employers have the appropriate Workers' Compensation coverage in allowing groups to form and buy competitive Workers' Compensation insurance helps promote that state interest. They don't see what the role the Department of Labor had prior to 1997 added any value to this process.

**Questions from Committee Members and Responses:**

**SEN. FRED THOMAS** asked **Steve Turkowitz** to refresh him on the premium numbers.

**Mr. Turkowitz** responded they've gone from \$2.5M to \$1.3M in five years. Their loss ratio has ran anywhere from 22% to 30% depending on the year.

**SEN. THOMAS** then asked what he attributed this difference to.

**Mr. Turkowitz** believes this is due to the emphasis of safety in the workplace. They recognize the value of people being safe and productive. They've made the connection between good, safe work practices and maintaining a healthy low loss ratios in the workplace.

**SEN. THOMAS** said obviously, accidents in the work site directly affects the loss ratio 22 to 30%.

**Mr. Turkowitz** responded "yes".

**SEN. THOMAS** asked **Don Judge** with this example from the Montana Auto Dealer's Association, which apparently they've been able to do on their own, if he was saying somehow we need to involve the Department of Labor to improve what they have accomplished.

**Don Judge** responded overall, private and State Fund carriers have received a 46% rate reduction in that same period of time. You cannot attribute the huge decrease in the Auto Dealer's Association to something they have done specifically in their organization.

**SEN. THOMAS** if **Mr. Judge** believes the Department of Labor will lower their loss ratio.

**Mr. Judge** responded in the case of the auto dealers specifically, they believe they would fit the confines of what this law would accomplish.

**SEN. THOMAS** asked why they would want to do this, or what value is there in this.

**Mr. Judge** answered that we need to understand some of the proponents argued. They have seen significant rate reductions and need to understand the majority of their workforce is captured under new exclusions of the law. For example, if you don't have a wage-loss, you are not entitled to receive rehabilitation benefits, secondary medical benefits, permanent partial disability benefits and the reductions of those benefits across the board to save money. The law requires the State Fund to charge no more nor less than what it costs to cover Workers' Compensation in the state. What they hope to do with this statute is to require those who receive premium rate discounts based on a short-term-four-hour workplace seminar, to actually institute workplace safety programs which are affective to showing reductions in those plans. The current law simply does not require that.

**SEN. THOMAS** stated they have removed the Department of Labor from this in the past which was a significant, huge problem. To go back there seems like a wrong left turn.

**SEN. ALVIN ELLIS** asked **Lawrence Hubbard** what the purpose of Workers' Compensation is.

**Mr. Hubbard** responded it provides benefits for injured workers at a reasonable cost to employers.

**SEN. ELLIS** asked if making the workplace safer and preventing these types of injuries is also a goal of this program.

**Mr. Hubbard** answered "absolutely".

**SEN. ELLIS** said he is a member of a Workers' Compensation group and **Mr. Judge** would say they are a homogeneous group and wouldn't fall under the provisions of this law, but in reality they do a lot of different things. They are a feed lot in the wintertime, but probably the most dangerous thing that occurs on their ranch is they pasture-doctor cattle. In the winter when feed lot conditions are quite icy, they doctor cattle. The horses they ride are not infallible and the conditions are not terrific. It seems to him it is doubtful they all fit under a homogenous group. How else, without an incentive of this kind, could we concentrate on the safety of our workers?

**Mr. Hubbard** responded the bottom line is up to the employers and employees to work together to reduce workplace injuries. This has benefits for both, employees get hurt less often and they are able to retain and maintain gainful employment and the employers can begin to regain and maintain gainful employment and employers can begin to see rates which come into line with exposures.

**SEN. ELLIS** asked if they did what the Montana Stockgrowers are now doing for him, providing him with ideas he may not have thought about to present to his employees, would he be any better served.

**Mr. Hubbard** said they do what the Montana Stockgrowers Association is doing. In fact, it is in close coordination with the MSGA that they put these programs together through their loss control department. What is added is the ability to continually put safety before the employer. There is a certain amount of clout in an organization when you've chosen to become a member of it. When that group that you may have ranched next to for years, or been in business with, come to you and say there are problems at your work site and we can help you reduce losses, you will listen more closely.

**SEN. ELLIS** stated it seems to him he has seen documentation when Workers' Compensation laws were changed in 1993, 1995 and 1997, that states with high Workers' Compensation rates, as opposed to those who run a tighter program, that the workers are more than paid for the differential. He asked if **Mr. Hubbard** has seen any information regarding this.

**Mr. Hubbard** responded he may have in the past but does not have it available at this time.

**SEN. SUE BARTLETT** asked **Mr. Hubbard** regarding the Assessment Advisory Group, which apparently met between 1995 and 1997, if he had a copy of the people who met on that committee.

**Mr. Hubbard** responded he does have a copy of it and would get it to her.

**Closing by Sponsor:**

**SEN. ROUSH** closed by stating they heard a lot of testimony about Workers' Compensation and the benefits that people since 1993 have worked in various businesses have received. Those benefits have been received because there have been some requirements in state legislation for safe working conditions. He was employed for 41 years by a company in this state and they had a good, safe working record. He said it wasn't a small business, though. This bill does nothing to take away from the existing groups that enjoy the benefits they have in those programs. Their accident rates are reduced, their premium costs have gone down, but he hasn't heard about the small groups who probably give the employee a piece of paper which says, "this is our safety program". Good safety conditions and safety programs are not that costly to administrate and to practice on the workplace. Good safe working practices will reduce injuries and increase profits for small groups. Employees who work across this state and many other groups who receive the premium discount presently are members of the agricultural community. He is concerned about members not being told what they are working with in chemicals, in paints, cleaning solvents, weed sprays, etc. One of the biggest injuries in the workplace is lifting accidents. People need to be educated to know how to lift and for safe working conditions. This bill does not eliminate anyone coming in with a group asking for their own private carrier and it does not prohibit them from getting the discount. He is concerned we need to have language which states those groups need a viable safety program. The word homogeneous seems to be upsetting to some, but he does not know what else to call it unless you explain it as dealing with some of the same subjects of employment. He would be open to 'homogeneous' being moderated. Insurance groups are doing well with premiums and he commends them but believes we need a safe program to reduce injuries. He asked for support of SB 223.

*{Tape : 1; Side : B; Approx. Time Counter : 61 - 65; Comments : Committee took a 4 minute recess.}*

**HEARING ON SB 242**

**Sponsor:**           **SEN. KEN MILLER, SD 11, Laurel**

**Proponents:** None.

**Opponents:** Mark Maki, Supervisor of Apprentice Training Program, Department of Labor  
Jack Gillespie, U.S. Department of Labor  
Richard Zier, Yellowstone Electric & Montana Apprentice Training Committee  
Rick Hutchinson, Hutchinson Electric  
Mike Christie, Christie Electric  
Kim Ranger, Montana Electric Training Program  
Ray Richards, Technical Electric  
Joe Wolfe, Polar Electric  
Don Herzog, International Brotherhood of Electrical Workers  
Bruce Morris, Montana Carpenters' Apprenticeship  
Gene Fenderson, Montana Joint Heavy & Highways Committee

**Opening Statement by Sponsor:**

**SEN. KEN MILLER, SD 11, Laurel,** informed the Committee by saying this bill is an electrician's bill which will add more good-paying jobs. It increases the number of apprentices who can train under licensed electricians. Currently, if you are a one-man shop you can have one apprentice working under you. If you are a multi-electrician shop, you can have one for the first and then you must have three more licensed electricians, journeyman, or master electricians in your shop before you can have another apprentice. This bill would allow up to a one-to-one ratio so you are working one-to-one with the apprentices. Other states allow a ratio which varies from three apprentices to one licensed electrician. We have a lot of younger people who are going out of state and becoming electricians out of state because they can train under this more lenient ratio, then they sometimes come back to the State of Montana. This bill is designed to give them the same opportunity in Montana as they have in other states.

**Proponents' Testimony:** None.

*{Tape : 1; Side : B; Approx. Time Counter : 65 - 78}*

**Opponents' Testimony:**

Mark Maki, Supervisor of Apprentice & Training Program, Job Service Division, Department of Labor & Industry, said they oppose this legislation.

**EXHIBIT (las26a03), EXHIBIT (las26a04), EXHIBIT (las26a05), EXHIBIT (las26a06), EXHIBIT (las26a07)**

**Jack Gillespie, Montana State Director, Acting Wyoming State Director, Bureau of Apprenticeship & Training, U.S. Department of Labor,** informed the Committee he has been working with the Montana Apprenticeship & Training program since 1977. Prior to that he was a school teacher and coach. The National Apprenticeship Act was passed in 1937. It was also known as the Fitzgerald Act. The Montana Apprenticeship Agency was created by the legislature in 1941. That creation of a state agency came as a result of the Fitzgerald Act which encouraged states to develop and promote apprenticeship standards within their own boundaries. Apprenticeship is a training and education program which is a safeguard to protect the welfare of apprentices. The program is governed by federal regulation. This ratio protects the welfare of apprentices. Safety is a major component of any apprenticeship program. The federal government recognizes the State of Montana to act in its behalf for federal purposes. If an apprentice works on a federal project, that apprentice is recognized because the state is recognized as the registration agency. However, for federal purposes, the ratio is one to three on federal projects. If the ratio is lower, this may create conflict. If you have a contractor on a federal project and he has a federal standard which allows a one-to-one ratio, but the government project mandates a one-to-three ratio, this will not work. **{Tape : 2; Side : A; Approx. Time Counter : 78 - 106}** He thanked the Committee for the opportunity to oppose this bill.

**Richard Zier, Electrical Contractor, Yellowstone Electric, Chairman of the Joint Apprentice Training Committee,** stated as a member of the Apprentice Training Committee it is their concern that they train their apprentices in the latest technology and safety. They also try to provide enough journeymen to take care of the needs and try to project the needs, meet those needs and surpass those needs. He does not believe this is a jobs bill. They presently have roughly 2,500 either master or licensed electricians and roughly 300 apprentices registered. If this were a jobs bill, they could train another 533 apprentices. He does not believe we need further legislation to confuse the system.

**Rick Hutchinson, Hutchinson Electric, Great Falls, Montana,** said he is both a businessman and an electrician. He is present to express his opposition to SB 242. Apprentices start out cheaply. This is about being able to provide cheap labor without the proper education. We cannot effectively operate on a one-to-one ratio and provide for public safety, apprenticeship safety, and quality education of the apprentices. There are times on certain jobs when the journeyman or foreman has to go to the parts house to get material, leaving the apprentice unsupervised. There are times when the journeyman or master electrician may be sick and

leave the apprentice unsupervised. It is physically impossible for the journeyman to perform his or her job and provide quality supervision of the apprentice at the same time. This is not about creating more jobs, but getting more labor into the field without a license. We need to look more towards public and apprenticeship safety. He asked the Committee to oppose SB 242.

**Mike Christie, Christie Electric, Bozeman,** is opposed to the bill as it is written on a one-to-one ratio. This bill has gone through both houses last session and was vetoed by the Governor. During his conversation with the Governor's aides, he strongly encouraged the public safety issues which have already been addressed. However, he also addressed job training issues and the fact that Montana's most precious resource is labor. The one-to-one ratio is not the way to go. The bill should be amended to read a one-to-two ratio. This will satisfied all the requirements by the folks who have already spoken. Every year he receives ten to fifteen phone calls from people he went to high school with who are wanting to be trained as electricians and stay in Montana, but they don't have the means to get trained as an electrician. He does believe a one-to-two ratio would be a success in Montana for all parties and train young Montanans to be electricians and stay in Montana.

**Kim Ranger, Montana Electrical Apprenticeship & Training Program,** submitted written testimony for the training program.  
**EXHIBIT (las26a08), EXHIBIT (las26a09), EXHIBIT (las26a10), EXHIBIT (las 26a11)**

**Ray Richards, Journeyman Electrician, Tech Electric,** stated they currently have offices in Harlowton, Big Timber, Bozeman, and their main office is in Livingston. They currently employ over 30 personnel, four of which are apprentices. They are an open shop, non-union, so it is not just being represented by union trades. His company has developed a wide variety of experience in all facets of residential, commercial, and industrial electrical contracting and they are concerned about proposed changes to the state apprenticeship ratio. The passing of SB 242 is not in Tech Electric's best interest nor in the best interest of Montana. If passed, wages for existing electricians will most likely be affected with low-cost labor. This will, in turn, affect the bidding strategies of electrical contractors as they consider using more low dollar-per-hour labor in the form of apprentices on the job site. If the apprenticeships are allowed to be issued at three times the current rate, what would be the point of adding the apprenticeship program? Electrical contractors, when short of manpower or when bidding the job cheap, will find it easy and tempting to add a few people on through Job Service with no intentions of keeping them through

the entirety of the apprenticeship program. Upon completion of the job, they may opt to either lay them off for lack of work or make it fiscally impossible for the employee to stay on. The contractor could hire in the spring when things get busy and lay-off in the fall when work drops off. His company has long-term employee relationships and their selection of perspective apprentices is a very thoughtful process. They expect the individual to be with the company until he get his license and hopefully for a long time after. In order to be competitive, their philosophy may, however, need to change with mainstream thought and use these ratios to their advantage. Another significant result of this bill will be the quality and safe operation of the home, grocery store, hotel, hospital, or water treatment facility under construction. Significant personal injury and property damage is inherent in improper electrical installations. This should be the most important area to consider with untrained personnel. For the apprentices to be laid off during different seasons which are not busy is certainly an incentive for them to work without a license and not have their work inspected. Allowing a fourth year apprentice to be considered for ratio purposes only as a journeyman, would allow a margin of increase of apprenticeships into shops which truly honor the apprenticeship program by seeing their apprentices through fruition. By the passing of this bill, the potential for unsafe work is a threat and detriment to our state.

**Joe Wolfe, Polar Electric**, stated they are a union shop and use the apprenticeship ratio of three-to-one which works extremely well. He said he didn't believe they could operate on a one-to-one ratio because they would not have enough places to put the apprentices. The apprentices have to work on larger projects to get the training from the journeyman. This couldn't happen on a one-to-one.

**Don Herzog, International Brotherhood of Electrical Workers**, said they oppose this bill. One thing which hasn't been suggested is that a large contractor in Billings who is non-union went through the waiver process with the Department of Labor to get a two-to-one ratio. That process is available to any contractor. They are currently running approximately 30 people and 15 are apprentices. A one-to-one ratio does not increase jobs, but economic cycles do. When interest rates are low, there is more construction and when interest rates are high there is less construction. When construction work is seasonal, it goes in economical cycles. In Billings they have about 50 workers, 15 of them are residents and 35 are non-residents, who are looking for work in Montana.

**Keith Allen, International Brotherhood of Electrical Workers, Local #233, Helena,** reported he is a state licenced journeyman electrician and he has been in the trade nine years. He also serves on the Helena apprenticeship subcommittee.

**EXHIBIT(las26a12), EXHIBIT(las26a13)**

**Bruce Morris, Secretary-Treasurer, Montana Carpenter's Apprenticeship & Training Committee,** said they stand opposed to SB 242.

**Gene Fenderson, Montana Joint Heavy & Highways Committee,** said he represents five unions in this legislative session and four of those unions have apprenticeships. His observation is that if the quotas are raised for apprentices, the last trade that this should happen to, are the electricians. He has been around light and heavy construction his whole life, and he doesn't believe the 'the engine should be put up front'. He opposes this bill.

**Questions from Committee Members and Responses:**

**SEN. ELLIS** said he could understand assistance for apprentices to protect the industry. He asked **Mark Maki** how it is a factor in safety that there be more than two journeyman to an apprentice.

**Mr. Maki** responded that if they had a situation where one-to-one is allowable, it is not necessarily a cross-check, but you would have a lot of green, untrained personnel in a hazardous job situation. With reduced supervision, the opportunity for safety is also reduced. Journeymen on the job are always looking over their shoulder to make sure everything is safe.

**SEN. ELLIS** requested information which allows someone to practice as neither a journeyman or an apprentice in neighboring states, because it brings suspicion to the comparison which was made of the states which have three or four journeymen to an apprentice.

**Mr. Maki** remarked those journeymen and apprentices are considered by the agency by which they are licensed. Those situations are not recognized as bonafide apprenticeship programs. There are seven to eight western states in this region that have licensing agencies which allow a work permit for an amount of dollars to work in the trade. Those apprentice programs are recognized by that state, but not by anyone else.

**SEN. ELLIS** asked if he could certify there are only seven states which do this.

**Mr. Maki** responded this is only in the western region and he would get that information for him.

**SEN. BERRY** asked if **Mr. Maki** knew how many licensed electricians in Montana have been trained in the state and how many have been trained in other states.

**Mr. Maki** responded once apprentices have gone through the program, their data base stops taking the information on them. But most apprentices stay in Montana, they like it here and are able to live here with a higher wage and job security. They've paid taxes through their apprenticeship program and they stay here.

**Richard Zier** reported in regard to people coming into the state, occasionally when there is a lot of work, they have people come in. There are also times when they have sent apprentices out of state because there wasn't enough work, but they do try to keep their apprentices here. But if the economy drops they send them out of state. In regard to the two-to-one, three-to-one ratio, the journeyman is required to train the apprentice on the job. There may be repetition because they are doing the same thing over and over again and that is how the apprentice learns his job. The most important part of the training is not his on-the-job training, but his formal education. It is required they train 160 hours per year and that is to be increased to 200 hours. At the end of the program they also have 56 hours of college credits which are applicable to any certified college.

**SEN. WILSON** inquired if there is a safety issue when an apprentice is on the job with the same journeyman day in and day out because it can get burdensome to the journeyman.

**Mr. Zier** said they move their apprentices around so he's not always with the same journeyman.

**SEN. COCCHIARELLA** stated it is her understanding many apprentices that become journeymen do leave Montana to work. When they are away, Montana is still their residence and they pay Montana income tax. She asked if they are kind of a nomadic type of people.

**Don Herzog** responded "yes". That is the construction industry. Right now they are busy, but this trade is seasonal and they do continue to pay Montana taxes. They have a dozen electricians working in Las Vegas now.

**Closing by Sponsor:**

**SEN. MILLER** said there are proponents out there and they will write letters to the Committee. One proponent is the consumer

and the other is the person who can never get on as an apprentice. It appears this matter is off balance and the whole world is against it, but if the Committee would contact people in their districts, they would find many are for it and there is a need for increasing the number of young people trained into the industry. The salary of this trade is at the top of the state and many here now are from other states. **EXHIBIT(las26a14)**, **EXHIBIT(las26a15)**, **EXHIBIT(las26a16)** He agreed with the safety issues and does not want to see an apprentice get hurt. But a neighbor he knows well went to Colorado because he could not get a job here. Let's collect that problem of oversight and allow a one-to-one ratio here in the State of Montana. He encouraged a "do-pass" from the Committee.

**EXHIBIT(las26a17)** was faxed to **SEN. TOM KEATING**.

#### EXECUTIVE ACTION ON SB 117

**Motion:** **SEN. THOMAS** moved that **SB 117 DO PASS**.

**Discussion:** **SEN. THOMAS** introduced amendment **EXHIBIT(las26a18)**. **SEN. COCCHIARELLA** drafted this amendment and **Eddy McClure** explained the amendment to the Committee.

**Motion/Vote:** **SEN. THOMAS** moved that **THE AMENDMENTS BE ADOPTED**.  
**Motion carried unanimously.**

#### EXECUTIVE ACTION ON SB 118

**Motion/Vote:** **SEN. THOMAS** moved that **SB 118 DO PASS AS AMENDED**.

**Discussion:** **SEN. THOMAS** explained the amendment.  
**EXHIBIT(las26a19)**

**Vote:** Motion that **SB 118 DO PASS AS AMENDED** carried unanimously.

**EXHIBIT(las26a20)**, **EXHIBIT(las26a21)**, **EXHIBIT(las26a22)** were mailed to the Committee and received one week after the hearing.

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**ADJOURNMENT**

Adjournment: 5:10 P.M.

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SEN. TOM KEATING, Chairman

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GILDA CLANCY, Secretary

TK/GC

**EXHIBIT (1as26aad)**