Montana
Summer 2003
Department of Labor and Industry

MAIN STREET

Miles City, Montana
Photo courtesy of Donnie Sexton and
Travel Montana

MONTANA

Look Inside

Early Return to Work
Independent Contractor Decision
Educational Seminars
Southeast Montana

Information, answers and solutions for employers

MAIN STREET MONTANA

Published 3 times per year by the
Montana Department of Labor and Industry

Commissioner
Wendy J. Keating

Administrators
Jim Brown
Ingrid Childress
Jerry Keck
Keith Kelly
Tammy Peterson

Contributors from Department of Labor and Industry
John Andrew
Kelly Chapman
Maggie Connor
Katherine Kountz
Marla Sykes
Wade Wilkison

Other Contributors
Mary Boyle, Montana State Fund
Julie Foster, Montana Jobs Network
Pam Harris, Department of Commerce

Production Staff
Editor:
Kelly Chapman
Distribution:
Diane West

Reprint Request
Please feel free to make copies of this publication or any article for further distribution.

Subscription Request

Commissioner's Office
Department of Labor and Industry
PO Box 1728
Helena MT 59624-1728
Phone: 406/444-9091
Fax: 406/444-1394

MAIN STREET MONTANA is made available to employers at no charge.

MAIN STREET MONTANA is available on the Internet at http://dli.state.mt.us, and in other alternative formats upon request.

Cover
Photo by Donnie Sexton, courtesy of Travel Montana.

MAIN STREET MONTANA

Volume 3, Issue 2

Summer 2003

CONTENTS

From the Mailbag	4
State Fund Charitable Giving	5
Montana Business Culture 101	6
John Andrew, Master Mediator	7
Regional Focus: Southeast MT	8-9
Wild Decision and Independent Contractors	10-11
Fire Extinguisher Training	12
Early Return to Work	13
National Scene: www.women-21.gov	14
DLI Resources	15

A young cowpoke prepares for the Miles City Bucking Horse Sale. Photo by Donnie Sexton.

Who's on First? You!

Do you remember the old Abbot and Costello routine of "Who's on First?" This is a hilarious routine when performed by talented comics, but it's not funny at all when you have a "Who's on First" service encounter. Who, What, and I Don't Know may have been great baseball players, but they'd probably have a hard time in the business world.

That's why the senior management team of the Department of Labor and Industry recently spent some time defining the core values for our department. We wanted to articulate our expectations of staff at all levels in the Department so that you, our customer, have the best experience possible when working with this agency. You may be thinking that our core values are statements for internal success, and you're right. However, I believe you'll see our core values at work as you interact with staff in all areas of the Department of Labor and Industry.

Customer Focus

Every day, in every way, we strive to make all decisions based on what is best for you – our customers – within legal parameters of laws and regulations. You may have provided feedback to us in the past about how we could improve our service, and you will likely be asked again because customer focus is vitally important to the way we do our business.

Individual Responsibility

At every level in the department, I believe each person is accountable for their own performance, attitude, professionalism, and communication.

Individual Growth

I believe it is incumbent upon the Department of Labor and Industry to find creative ways to provide you with the finest staff available to meet your needs. To that end, we have committed resources to enhance staff performance at all levels of the Department.

Ethics in the Workplace

We respect others, staff and customers, as individuals. We do not tolerate mean-spirited behavior at any level. Above all, we are honest in our endeavors.

Continuous Improvement

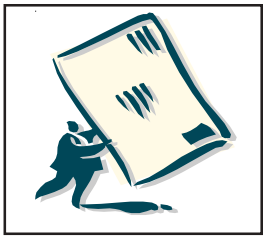
Have you heard an echo of "Why?" and "How?" when you've visited one of our offices? It may not be audible, but we continually question the "why" and "how" of our performance, products, processes, and services.

We're very clear about "Who" and "What", and if we experience "I Don't Know", we'll go to great lengths to find out as quickly as possible.

Our core values drive everything we do, and we are committed to doing the right things for the right reasons. "Naturally! Certainly! and Absolutely!" as our friends Abbot and Costello would say.

Sincerely,

Wendy J. Keating
COMMISSIONER



FROM THE MAILBAG

In March of 2003 the U.S. Department of Labor proposed significant changes to the rules that define the requirements for exemption from minimum wage and overtime for workers employed in administrative, executive, professional and outside sales capacities. The regulations in question are generally referred to as the 541 exemptions and have remained substantially the same since 1980.

A key portion of the proposed rules deletes what is known as the "long test" used to determine exempt or non-exempt status.

The proposed rules require that to be exempt, executive, professional and administrative employees must receive a salary of at least $425 per week. The rules then define other requirements, in addition to the salary amount that must be met to gain the exemption. Included in the guidelines, and depending on the exemption claimed, are requirements that a certain number of employees be supervised and that the salaried executive be employed in a position of responsibility.

Other requirements substitute advanced training and job experience for what has traditionally been higher formal education. As with existing rules, the employer claiming the exemption has the burden of proving the individual in question meets the test for the exemption from the law.

At this point in process the public comment period has closed with over 75,000 comments made as of June 30, 2003. The USDOL anticipates adopting the final rules in the first calendar quarter of 2004. At that time the Montana Department of Labor and Industry will be able to assess whether Montana will need to go through similar rule making since state law exempts similar positions.

Question
When will the new rules be effective?

Answer
At this point public comment has been solicited and the USDOL anticipates final rules in the first calendar quarter of 2004.

Question
What about the Montana rules?

Answer
At this time since there is no final federal rule the Montana Department of Labor and Industry is monitoring what is happening on the federal level and will respond accordingly when the federal rules are finalized.

Question
Will these rules have an effect on my business?

Answer
Yes, but at this point the full effect is not known. As with the existing rules, an employer who claims the exemption has the burden of proving the employee meets the test for exemption if there is an overtime dispute.

Question
Where can I go for additional information?

Answer
On the federal level inquiries can be directed to Rich Kulczewski at 303-844-1302. In terms of the Montana law, inquires can be directed to John Andrew at (406) 444-4619.

Question
Will Montana adopt similar rules?

Answer
Since state and federal law exempt the same categories of workers, and since the rules are currently closely aligned Montana will likely go through rule making, although that cannot be determined until the final federal rules are adopted.

Send your questions to the Commissioner's Office, Department of Labor and Industry, PO Box 1728, Helena MT 59620-1728

Montana State Fund Charitable Giving Program

Mary Boyle

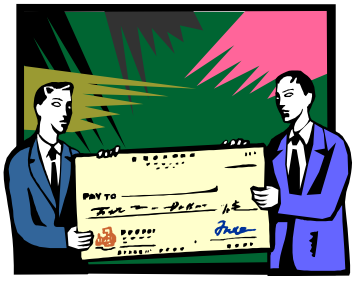
The 2001 Legislature granted Montana State Fund, (MSF) the state's largest workers' compensation insurer, the ability to establish a charitable giving program to promote civic goodwill and enhance the success of selected worthwhile causes in Montana. The ACE (Assisting Charitable Endeavors) program makes grants available to qualifying non-profit organizations that contribute to both safety and community well-being in our state.

Since the grant's inception, MSF has supported 16 projects totaling $29,045. Some statewide programs that have benefited from this program include: the East Helena Head Start, Boys and Girls Club of the Flathead in Ronan, Montana Rescue Mission in Billings, and the Brain Injury Association of Montana.

Currently, MSF is partnering with the American Red Cross and many of the state's independent insurance agents to purchase new, updated lifesaving equipment that will be used by the Red Cross to train the general public and provide first aid training scholarships to Montana employees. MSF has committed a $10,000 matching grant.

To qualify for an ACE grant:

- The project must promote workplace safety, safety trainings, or assistance with the purchase of equipment that enhances safety and community well-being.
- The program benefits a representative cross section of small and large communities across Montana.
- The minimum grant will be $250.
- All contributions will be a dollar for dollar match. Source of dollar match must be identified on the application form.
- Organization must be a qualifying non-profit, tax-exempt organization based in Montana. Grants **will not** be given to individuals, financial or political organizations.



To apply for a grant submit an ACE application form. Forms can be accessed on the MSF website www.montanastatefund.com or by calling 800-332-6102. A full list of ACE grantees can be viewed on the web.

In an effort to improve services to businesses in the Flathead area, the Kalispell Chamber of Commerce spearheaded efforts to develop a comprehensive business resource center located in the Depot Building.

Under one roof, businesses have access to the Flathead Convention and Visitor Bureau, Flathead Job Service, Flathead Valley Community College, Kalispell Area Chamber of Commerce, Kalispell Small Business Development Center, Montana Manufacturing Extension Center, and the Montana Department of Commerce Regional Development Officer.

Affordable Internet Training Available for Montana Businesses

Julie Foster

Did you know that the U.S. Dept of Labor estimates the base cost of replacing an employee is 30% of their salary, and that much of this expense comes from the time it takes to train new workers? For Montana employers, this averages $4000 to $8000 in training expenses, per employee – a staggering amount for any business, but even more burdensome for the state's small employers.

To help Montana businesses affordably develop their workers' skills, Montana Jobs Network has announced the creation of Montana Business Culture 101, an introduction to soft skills and e-learning for employers and employees. Montana Business Culture 101 was created to give employers, especially in rural areas, an opportunity to train their employees with a readily available tool to help them succeed. Montana Business Culture 101 is for those that need to brush up on soft skills as well as for those that have never had *any* soft skills training.

Montana Business Culture 101 includes a quick and easy self-assessment tool for discovery of one's behavior and communication styles. The Personal Profile Preview™ is a perfect tool for managers, *even those managers with no management training*, to get to know their workforce better. This assessment has proven successful in helping individuals learn their own communication style, how to recognize the styles of others, and how to improve communication with customers, coworkers, and employees.

The course has 4 modules: Communications, Problem Solving, Work Habits and Ethics, and Adaptability to Change. Each module takes approximately 1 to 1.5 hours each to complete, and team skills are integrated throughout the curriculum. Modules end with self-assessment tests and guides for setting up personal goals. A Certificate of Completion that includes the sponsoring employers name is sent to each person completing the course.

While traditional training can be expensive and difficult to coordinate with schedules and workload, Montana Business Culture 101 is available for just $25 per person for all four learning modules. Because the curriculum is delivered through the Internet, modules can be accessed anytime.

Montana Jobs Network worked with experts Patti Furniss and Mary Larson to develop the content of the modules. Mary Larson, a Western Montana College graduate, is the founder of Hawk Point Consulting Inc. She has developed curriculum for Microsoft and is currently completing her Master's in Applied Behavioral Science. Patti Furniss is the Manger of the Bitterroot Job Service and works with employers and employees daily. Patti was recently awarded the IAPES Award of Merit for her work as a Subject Matter Expert on Montana Business Culture 101. The Award of Merit is the highest honor bestowed by this nonprofit educational association representing 17,000 professionals worldwide.

For more information or to take the course visit http://www.montana-jobs.net/mbc101/.

John Andrew, Master Mediator

Wade Wilkison

John Andrew is comfortable with himself, and soon makes you comfortable too when you sit down to talk with him. "What happened in Billings was based on the work of a lot of people, not just me. I would like the emphasis for any of our successes to be put on our mediation staff, Paul [Melvin] and Vicki [Knudsen], and the work that they and the other people do who work with me."

The success John Andrew is talking about is a courteous and quick resolution to contract talks between the Billings teachers' association and school board for a three-year period that solves salary and insurance issues to the satisfaction of both labor and management. John Andrew is Chief of the Labor Standards Bureau of the Montana Department of Labor, and facilitated these contract negotiations. What John modestly does not mention is that, at the beginning of this past school year, both of these Billings organizations were locked in a dispute described as bitter by local newspapers, a dispute that resulted in a labor strike by teachers and lawsuits, some of which are still ongoing. What brought about this dramatic change?

"We've been involved for a long time in the Department of Labor's Assistance To Business clinics around the state, where we explain wage and hour issues and describe our mediation services. The best way to solve problems is to educate everyone on the law to keep them out of trouble. If you don't nurture the educational process then small problems can develop into large ones.

We work very hard at preventing disputes and misunderstandings."

"Schools have unique problems and common problems, for example funding issues, just like everyone does. When it comes to problem-solving to resolve these issues, you actually have a range of ways to approach a problem. Traditional bargaining techniques may still work, but there are alternatives as well. Let me give you an example. A few years ago Federal Mediation and Conciliation Service grants were available, and we received one for Montana. I served as chairman and facilitator for representatives from management and labor organizations, and the focus of our grant-funded work was on applying cooperative means to reach clear common goals, not necessarily struggling each step of the negotiating path over small issues that can side-track you from your real goal."

The successful negotiations in Billings this month were based on a new style of negotiations called intensive facilitated collective bargaining, and were preceded by a lot of hard work. According to John, "it may sound like a small thing, but small things contribute to a successful end result, and [the two sides] deciding to work together to agree on financial information helped re-establish trust and helped result in a contract agreement between the board and the teachers' association. I can't—-no mediator can—-make agreements happen unless both sides want an agreement. But we can be there at the right time to help them move to agreement. For Billings, the most important achievement was that the contract is for three years, so they have time to consolidate their developing trust and continue to work together."

Jerry Keck, Administrator of the Employment Relations Division, thinks highly of John. "John is regularly out and about the state doing presentations for JSECs, employer groups, and others on the requirements of the wage and hour laws. Without exception, I have always had good feedback on John's presentations, and how impressed everyone is with the wealth of knowledge John has about wage and hour and prevailing wage laws; both state and federal. It is the years of experience and the positive contacts that he has built up over the years within both labor and management that make John successful in helping keep 'labor peace' in Montana."

For John Andrew, however, he has mixed feelings about all the attention. "I really believe in what we are doing, so it is easy for me to stay interested in wage and hour issues and contract negotiations, but usually it is best for a facilitator to stay out of sight."

Wolfgang Ametsbichler (left), manager of the Missoula Job Service Workforce Center consults with John Andrew (right) at a recent event.

REGIONAL FOCUS: Southeast Montana

Population Provides Workforce Stability

More data on residence from Census 2000 are available from either the Montana Department of Commerce, Census and Economic Information Center (CEIC) web site at http://ceic.commerce.state.mt.us or the U.S. Census Bureau's Census 2000 web site at http://www.census.gov/main/www/cen2000.html. Or else contact CEIC staff at (406) 841-2740 or email ceic@state.mt.us.

Pam Harris

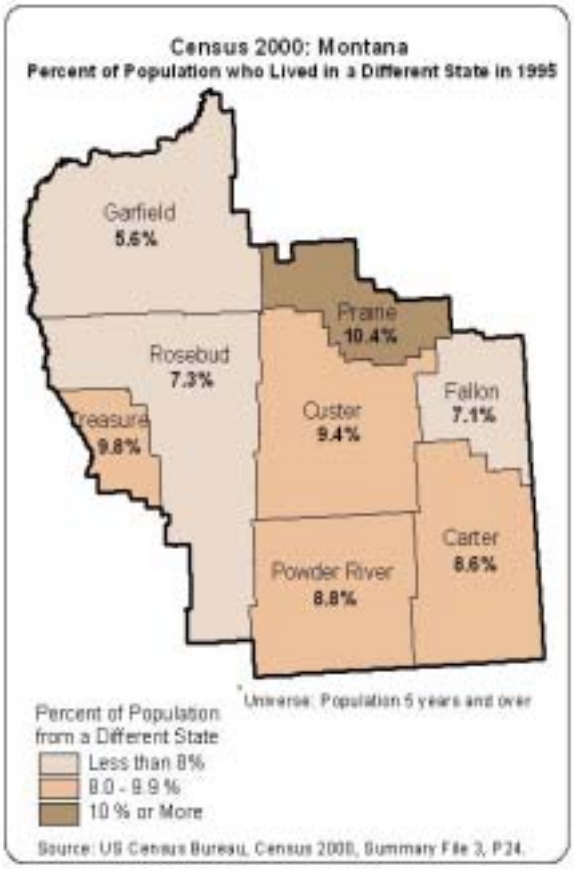
Looking at the Miles City Job Service area, comprised of Carter, Custer, Fallon, Garfield, Powder River, Prairie, Rosebud and Treasure counties, Census 2000 figures offer a snapshot of residential mobility during the 1990's. The data on residence 5 years prior to the year 2000, were derived from answers to a question on the long-form questionnaire from a sample of the population 5 years and over. This question basically asked where did respondents live (which state, which county, etc.) on April 1, 1995.

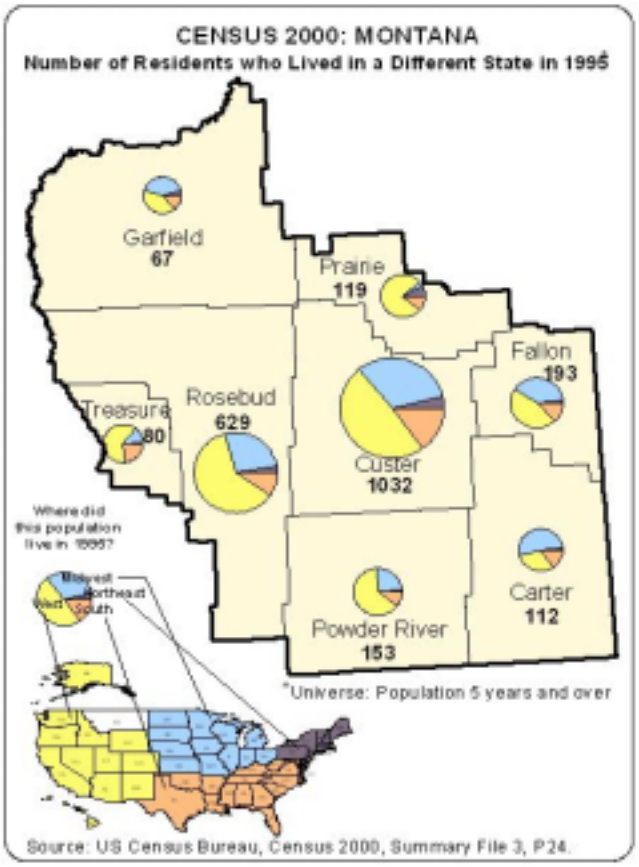
Same House in 1995

The majority of the population in all of the counties lived in the same house in 1995 with Carter having the greatest percentage of its population at 73.8% not moving within the 5 year time frame. Prairie County followed with 67.2% non-movers, with Fallon close behind at 67%, Powder River 66.9%, Garfield 66.4%, Treasure 63.7%, Rosebud 58.8% and Custer at 57.7%.

Different State in 1995

Out of the eight counties, Prairie County had the highest percentage of the population who lived in a different state in 1995 at 10.4%, followed by Treasure at 9.8%, Custer, 9.4%, Powder River 8.8%, Carter 8.6%, Fallon 7.1%, Rosebud 7.3%, and Garfield at 5.6%. As to where these new residents came from, the map below indicates by region of the United States where they lived in 1995. Except in the case of Carter County, the greatest number of newcomers came from one of the thirteen states which make up the West region. For Carter county, 4.4% came from the Midwest while just 2.7% came from the West. Newcomers to these counties were least likely to come from the Northeast portion of the country with each county having less than one percent of its new residents coming from one of these nine states.





LOCAL RESOURCES

Mike Metzenberg
Miles City Job Service Workforce Center
PO Box 1786
Miles City MT 59301
Ph: 406-232-8341
mmetzenberg@state.mt.us

Darrell Hammon
Miles Community College
2715 Dickenson
Miles City MT 59301
Ph: 406-234-3522
hammond@milescc.edu

- Career Development Workforce Center
  Sharon Kearnes
  Ph: 406-234-3538
  kearness@milescc.edu
- Adult Learning Center
  Sandra Myers
  Ph: 406-234-3500
  myerss@milescc.edu
- Center for Technology and Learning,
  Shelly Weight
  Ph: 406-234-3547
  weights@milescc.edu

Leslie Colbrese
Action for Eastern Montana
PO Box 1309
Glendive MT 59330
Ph: 800-227-0703
leslie@aemt.org

Ernie Bighorn
Indian Development & Educational Alliance
PO Box 729
Miles City MT 59301
Ph: 406-236-6112
idea@mcn.net

Angie Lohrke
Youth Dynamics
PO Box 1485
Miles City MT 59301
Ph: 406-232-4233
ydimc@mcn.net

Susie Nielsen
Eastern Montana Industries
PO Box 759
Miles City MT 59301
Ph: 406-232-3740
emiws@midrivers.com

Linda Wolff, Executive Director
Miles City Area Chamber of Commerce
315 Main St.
Miles City, MT 59301
Ph: 406-232-2890
http://www.mcchamber.com

Statewide:
Associated Employers of Montana
Gregg Wilson
PO Box 1301
Billings, MT 59103-1301
406-248-6178

Where's the B.E.E.F? Miles City!

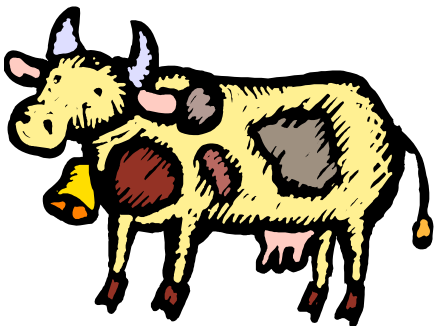
Ron Nemec

Good ideas are as contagious as spring fever, it seems. In December 2002, the business reresentatives at the Miles City Job Service Workforce Center had the opportunity to attend a workshop designed to provide ideas on providing outreach to local employers. One of the examples given in the workshop was how an organization in the East had facilitated a partnership between the fast food industry and the banking industry. This uncommon partnership provided a career ladder for standouts working in fast food, and provided the banking industry with workers who understood the importance of customer service, accuracy, and speed.

As experts in understanding our local workforce needs, Ronetta Blackburn and I thought this idea would work in Miles City, and have been active in local efforts to implement the idea. The Miles City initiative is called "Businesses Empowering Employees' Future", commonly known as "B.E.E.F."

Since the intitial meeting with local business leaders, an additional linkage with the Jobs for Montana's Graduates program was added, giving B.E.E.F an avenue to work with local high school students.

"Although the B.E.E.F. project is still in the infancy stages, I am thrilled with the prospect of being part of the solution instead of the problem," said Judith L. Garret, PHR, Human Resources Director for Stockman Bank of Montana. "Thanks to the strong leadership of Ron Nemec and Ronetta Blackburn, I believe Miles City has taken a huge leap forward in the development of our future workforce."



To learn more about the human resources consulting services available through your local business representatives, contact your local Job Service Workforce Center, or check out www.mtjoblinc.com.

The Wild Decision and Independent Contractors

Maggie Connor

Montana businesses have many responsibilities, and one of the most difficult tasks is keeping up with all the rules and regulations they have to comply with. Are you sure that when you hire independent contractors (ICs) they aren't really employees?

It may seem obvious that hiring ICs, requesting copies of their Independent Contractor Exemption for your business files and issuing 1099s makes them Independent Contractors and not employees. However, the State Supreme Court has determined that, no, these actions are not enough.

A recent Supreme Court decision, *Wild v. Fregein Construction and Montana State Compensation Insurance Fund*, provides added clarity for Independent Contractor status.

Kelly Wild was in the roofing business as an IC for 20 years. He was known in the community as Wild's Roofing. He went out of business, sold his roofing equipment, and sought other work.

Fregein Construction hired Mr. Wild as a roofer. Mr. Fregein offered him employment as an IC for $20 per hour or as a "legit" employee at $15 per hour. They both agreed Mr. Wild would work as an IC.

The total cost to Fregein Construction paying Mr. Wild as an independent contractor, rather than an employee, was $3 less per hour. Mr. Wild was not getting any business other than Fregein's work.

Mr. Wild had an active independent contractor exemption in the field of roofing since 1993. He acknowledged he was not covered under workers' compensation insurance as an IC in the exemption application process.

The Workers' Compensation Act states the status of a worker, with an independent contractor exemption, is conclusive as an IC. The Workers' Compensation Act also states that agreements by employees to waive any rights to workers' compensation benefits are invalid. Fregein Construction controlled Mr. Wild similar to their other employees, provided Mr. Wild with tools similar to their other employees, and had the right to fire Mr. Wild.

In October 2000, Mr. Wild fell 14 feet head first from a roof, resulting in multiple head injuries. He experienced memory loss and confusion. Mr. Wild filed a workers' compensation claim for his injuries listing Fregein Construction as his employer. Fregein Construction was, and is, insured with the Montana State Fund.

So, what do you think? Was Mr. Wild an IC or an employee?

On the surface, it appears simple, but let's compare the facts listed above to the statutory definition of an IC. Montana statute defines an IC as *"an individual who renders service in the course of an occupation and:*

(a) has been and will continue to be free from control or direction over the performance of the services, both under a contract and in fact; and

(b) is engaged in an independently established trade, occupation, profession or business."

A worker must meet **both** sections of the law, (a) and (b), to be an IC.

The court concluded that Mr. Wild was subject to control the same as Fregein Construction's other employees. Fregein Construction had a right to fire Mr. Wild at any time; they paid him by the hour, and provided the equipment needed to do the job. The court also concluded that Mr. Wild was not in an independent business. Thus, he was an employee.

Do you feel confident the individuals you are hiring as ICs are truly ICs? It may seem time consuming, but carefully reviewing worker relationships may help prevent future problems.

The courts have stated that it is not only the evidence of control, but also the right to control, that indicates whether the worker is an IC.

Some points to focus on when determining if control is evident in the relationship are:

- The worker is not required to follow written or oral instructions concerning how the work is to be done.
- The worker is not required to perform the services at certain established times.
- The worker is not furnished with the facilities, tools, and materials by the hiring agent to do the work.
- The worker is not paid based on the time spent doing the work, but rather is paid per job.
- The working relationship may not be terminated at will without liability involved.

Some factors to consider in determining if individuals have established themselves in an independent trade, occupation, profession, or business are:

- The worker can make a profit or incur a loss as a result of his or her work.
- The worker has two or more contracts with several different hiring agents.
- The worker has continuing or recurring liabilities associated with performing the services.

- The worker files federal or state business tax forms.
- The worker pays all expenses associated with performing the services, and is not reimbursed by the hiring agent.
- The worker advertises his or her services in telephone books, newspapers, or other media, and obtains insurance and business licenses.

In *Wild v. Fregein Construction and Montana State Compensation Insurance Fund*, 2003 MT 115, page 25, the Montana Supreme Court ruled that "an employer has a clear obligation to make at least a cursory determination of whether the worker is an IC in fact, as opposed to merely in name, before the employer can reasonably rely upon the exemption. An employer who fails to do so, with knowledge of the facts, should not be allowed to hide behind the exemption."

Additionally, in *Wild*, 2003 MT 115, page 39, the court stated employers are required "to make an initial good faith inquiry of the worker to determine that he or she does, in fact, meet the control and independently established business tests before the employer employs the worker as an IC and if the employer determines the worker is an IC, to thereafter treat the worker as an IC and not as an employee."

This decision may seem harsh to some businesses. Hopefully, the decision will create a level playing field for all Montana businesses. Businesses that cover their employees with workers' compensation insurance and subcontract only with true independent contractors should have no problems.

If you would like to discuss any questions or concerns you have about these issues, please contact the Independent Contractor Central Unit at (406) 444-1446, or visit our website at http://erd.dli.state.mt.us/WorkCompRegs/WCRhome.htm

Mark your Calendar for the 2003 Governor's Conference on Workers' Compensation and Occupational Safety and Health, October 1-3 in West Yellowstone

Marla Sykes

The annual Governor's Conference on Workers' Compensation and Occupational Safety and Health will be held in West Yellowstone at the Holiday Inn SunSpree Resort on October 1-3, 2003.

The conference is an educational opportunity for those individuals interested in any aspect of the workers' compensation or occupational safety and health fields.Conference participants typically include safety professionals, insurer representatives, claim adjusters, rehabilitation counselors, medical providers, attorneys, employers, and injured workers. Safety awards are given to honor employers with outstanding safety records at the annual banquet.

For more information, visit our website:

http://erd.dli.state.mt.us, click on UPCOMING EVENTS.

KEYNOTE SPEAKERS:

Michael J. Lotito, Jackson Lewis LLP, Attorney at Law, San Francisco, CA

Michael J. Lotito has been serving the legal and human resource needs of companies across the U.S. for nearly 30 years. He is a partner at Jackson Lewis, a law firm that specializes in preventive labor, employment, immigration, and benefits law, representing management since its founding in 1958.

Antone Aboud, Consultant & President of Antone Aboud Associates, Inc., Clearwater Beach, Florida

Antone Aboud received his PhD from Cornell University's School of Industrial and Labor Relations in 1974. He founded and was president of Labor Relations Alternative, Inc. from 1984 through 1997. In that capacity he conducted and supervised the delivery of incident management interventions, including investigations training, to organizations in over three dozen states.

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health

As Assistant Secretary of Labor for Occupational Safety and Health, John L. Henshaw heads the Occupational Safety and Health Administration (OSHA). Henshaw has more than 26 years' experience directing environmental, safety and health programs in the chemical industry.

Billings Fire Extinguisher Training Proves Successful

John Maloney

On May 1, 2003, the Montana Occupational Safety and Health Training Institute, in conjunction with the Billings Area Safety and Health (BASH) Coalition and the City of Billings provided a training session on the use of fire extinguishers. General principles of portable fire extinguisher use and the hazards involved with incipient stage fire fighting were addressed.

Approximately 100 employees of the City of Billings as well as other workers in the greater Yellowstone County area attended one of three two-hour sessions" said Dan Toney of the Department's Safety and Health Bureau, who coordinated the training. Instruction was comprised of classroom instructions and hands-on training in the use of portable fire extinguishing equipment.

Federal OSHA requires employers having portable fire extinguishers in the workplace to provide an educational program to familiarize employees with the general principles of fire extinguisher use. Employers are also responsible for the inspection, maintenance and testing of all portable fire extinguishers in their workplace. Inspections include a monthly visual inspection of all extinguishers, an annual maintenance check, empty and refill procedures every 6 years and hydrostatic testing performed by trained personnel.

For further information on portable fire extinguisher requirements and the Montana Occupational Safety and Health Training Institute, contact the Safety and Health Bureau, (406) 444-6401.

Labor Relations Conference Set for September

Vicki Knudsen

The 24th annual Arbitration and Labor Relations Conference will be held on September 25 and 26, 2003, at the Ramada Copper King in Butte. The Montana Department of Labor and Industry, Board of Personnel Appeals, Montana Arbitration Association, Federal Mediation and Conciliation Service, and the National Labor Relations Board sponsor the conference.

The conference provides a forum where everyone in the labor relations arena, whether private or public, management or labor, basic or advanced practitioners, can meet to exchange information and learn from one another as well as from practitioners from throughout the labor relations community.

The agenda for the conference is available at the new conference home page, www.mtlaborrelationsconf.com. This page provides links to the agenda, presenter biographical information, and the conference registration form. In addition, a link to the 2004 conference provides information about the location and dates for that conference and allows individuals to pass on ideas about topics and/or presenters for use in future conferences.

To receive more information or to pre-register, contact Vicki Knudsen, Conference Coordinator at 406-444-0038, or vknudsen@state.mt.us.

Invest in Employees with Early Return to Work

Mary Boyle

One of the key strategies that can help control rising workers' compensation insurance costs is an investment in workplace safety. A safe working environment contributes to a businesses overall success and the well-being of its' employees. That is why Montana State Fund (MSF) is committed to providing employers with the best safety services and information available. Preventing accidents from occurring in the workplace is the primary goal; however, if an injury does occur, an Early Return To Work (ERTW) Program is an important tool available to control the cost of workers' compensation claims.

According to Laurence Hubbard, President/CEO of MSF, **"** An effective ERTW program begins with the belief that employees are a company's most valuable asset. When an employee is injured, every attempt is made to bring that person back to work as soon as medically appropriate to do so." Hubbard adds that to be successful the program must have three elements.

- The ERTW program must have the full support of top managers and supervisors to survive.
- All employees should be informed about the program.
- The transitional duty assignments that are assigned to injured employees must be meaningful, safe, fair and equitable.

What are the benefits of an Early Return To Work Program?

Employer Benefits

- **Reduce Medical Costs**

Employees who return to work early typically recover faster and use less medical care than those who remain off work, resulting in medical cost reductions of up to 70%.

- **Improve Productivity**

Employees who are working at limited capacities are still contributing to their company's success. Having an employee work at a transitional assignment is more productive than hiring a temporary employee.

- **Improve Employee Morale**

Implementing an ERTW program tells employees their employer values them and is concerned about their well-being.

- **Reduce Potential Fraud Claims**

An ERTW program that returns injured employees to work as soon as practical following an injury reduces the incentive to falsely file a claim in order to take time off work.

- **Decrease Attorney Involvement**

Employers, who do their best to return employees to their job, show they care. Employees who know their employer values them generally will not hire an attorney. Studies have shown that when an injured worker involves an attorney, medical costs increase by 91%; compensation costs by 165% and totals costs by 145%.

Employee Benefits

- **Reduce Financial Impact**

Many injured employees experience reduced wages due to an injury while they are away from work. (Workers' compensation benefits are less than take-home pay).

- **Increase Self-Esteem**

Providing meaningful transitional work helps an employee feel like a productive member of society and it promotes wellness through contact with fellow employees.

- **Contribute to a Speedier Recovery**

Keeping the injured employee physically active and on a normal work schedule contributes to the healing process. Only 50% of disabled employees return to work after six months of inactivity and only 10% after one year**.**

"Montana State Fund is committed to holding down the costs of workers' compensation coverage, said Hubbard. "By working together, we can make a difference."

For more information about organizing an effective ERTW program at your business, contact MSF at 800-332-6102.

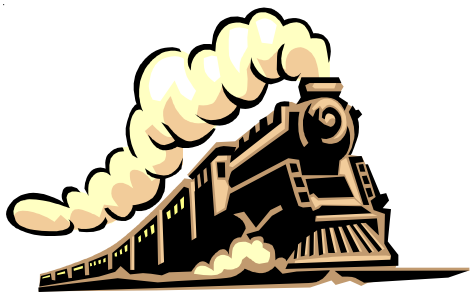
NATIONAL SCENE: WWW.WOMEN-21.GOV Launched to Serve Women Business Owners

U.S. Secretary of Labor Elaine Chao and Small Business Administrator Hector Barreto unveiled www.women-21.gov, a new web site that recognizes the ever increasing role of women small business owners in the American economy as a major source of job creation. The site is designed to help businesswomen effectively and efficiently access federal government resources, and builds on the President's initiatives to foster the growth of women-owned businesses he announced at last year's National Summit on Women's Entrepreneurship.

The time is right. According to the Census Bureau's latest Survey of Minority-Owned Business Enterprises, women owned 26 percent of the nation's 20.8 million non-farm businesses - which translates into 5,417,034 firms. Those businesses also employed 7.1 million paid workers, and generated $818.7 billion in sales and receipts.

www.women-21.gov champions the cause of women small business owners and their ever-increasing role in the American marketplace. The site, the first of its kind, aims to serve these women by providing the resources they need to continue to drive their businesses forward, creating more jobs in the nation's economy. Highlights of the web site include up-to-date information regarding key issues such as access to capital, health insurance, government procurement, retirement security, technology, and the tax code.

SOURCE: U.S. Department of Labor



Montana Human Resource Conference September 18-19, Lewistown

Human resource professionals from around the state will convene in Lewistown September 18-19 for the Montana Human Resource Conference.

The conference agenda is packed with timely information, including workshops, keynotes, and general sessions on human resource topics such as emotional intelligence, competency management, and strategic planning tools.

For more information, or to register for the conference, contact:

Kelly DaSilva
444-3984
kdasilva@state.mt.us

Beth Strandberg
444-3982
bestrandberg@state.mt.us

DLI Employment Related Resources

Wage and Hour
Phone: 406/444-5600

- Minimum Wage
- Overtime
- Wage Payment
- Child Labor
- Prevailing Wage
- Mediation Assistance

Human Rights/
Discrimination
Phone: 406/444-2884

- Employment Discrimination

Safety
Phone: 406/444-6401

- On-site Consultation
- Safety inspections of public sector employers

Unemployment Insurance
Phone: 406/444-3783

Workers' Compensation
Phone: 406/444-6543

- Regulation of workers' compensation insurers
- Industrial injury and occupational disease claims
- Uninsured Employer's Fund
- Subsequent Injury Fund
- Medical fee schedules
- Independent contractor exemption
- Construction contractor registration

Labor Market Information
Phone: 406/444-2430

- Employment Statistics
- Worker Profile

Labor Exchange Services
Phone your local Job Service Workforce Center
or 406/444-4100

- Job Posting
- Applicant Screening
- Skills Testing
- Job Matching
- Interviewing Assistance
- Individual Employer Assistance

Job Training Programs
Phone: 406/444-4100

- Apprenticeship
- Jobs for Montana's Graduates
- Displaced Homemaker
- Dislocated Worker

For more information on DLI services, visit our website at http://dli.state.mt.us.

Core Values of the Montana Department of Labor and Industry

At the Montana Department of Labor and Industry, we are committed to live, breathe, walk, and talk our core values:

Customer Focus

Individual Responsibility

Individual Growth

Ethics in the Workplace

Continuous Improvement

Montana Department of Labor and Industry
PO Box 1728
Helena MT 59624-1728

Phone: (406) 444-9091
Fax: (406) 444-1394
Email: kechapman@state.mt.us

PRESORT STANDARD
U.S. POSTAGE
PAID
MONTANA DEPARTMENT OF LABOR AND INDUSTRY
HELENA MT

The Montana Department of Labor & Industry is a Proud Member of America's Workforce Network SM

Montana Department of Labor and Industry

Working to promote the well-being of Montana's workers, employers, and citizens, and to uphold their rights and responsibilities.