

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

January 30, 1979

The meeting of the Labor and Employment Relations Committee was called to order by Chairman Lowe on January 30, 1979, in Room 404 of the State Capitol at 1:30 p.m.

ROLL CALL: All members were present with the exception of Senator Mehrens who was excused.

Chairman Lowe asked Representative Quilici as Sponsor of House Bill 32 to address the Committee on this bill. Representative Quilici explained that this act was requested by the Department of Labor and Industry to amend the laws relating to crime victims' compensation. The changes in this act were set out to conform Montana law with Federal law, the latter designed to help with funding of the State law. Representative Quilici then asked Mr. Norman Grosfield, Administrator of Workers' Compensation to explain the changes being made in the act to the Committee. Mr. Grosfield's statement is attached and made a part of these minutes as Exhibit "A".

Another proponent of this bill was Mr. John Frankino representing the Montana Catholic Conference.

Representative Michael H. Keedy then offered an amendment to House Bill 32 and stated that with that amendment he would recommend a do pass to the Committee. Mr. Keedy's amendment is as follows and is attached as Exhibit "B".

Page 7, line 22:

Following: "injury."

Insert: "The division's discretion as provided herein does not apply to cases in which a claimant is a dependent of a deceased victim."

Representative Quilici stated that he had no real objection to this amendment as he could see where there could be innocent victims in cases where the parents are killed during a crime.

There being no opponents to the bill, Chairman Lowe asked if the Committee wanted to pose any questions.

Senator Aklestad asked Mr. Grosfield to explain what happened to royalties or monies gained by the publication of a book which was derived from the commission of a crime, to which Mr. Grosfield replied that these monies were placed into a trust account until all benefits had been paid to the injured parties, the balance of which would be returned to the author. Mr. Aklestad then asked if this was constitutional to which Mr. Grosfield replied that it had

never been tested, but he felt that the courts would probably uphold the law.

Senator Dover then asked how it was determined when the criminal had completely paid his just dues to which Mr. Grosfield replied that it would probably be handled in a tort system and whatever judgment was made at that time would be final. Some of the committee felt that some provision should be made in the law to return the remaining funds to its owner after judgment had been made and asked Mr. Grosfield if he would work on that while the Committee continued on to other matters of business.

Chairman moved that the Committee accept Representative Keety's amendments and Senator Dover seconded.

Chairman Lowe then asked the Committee to vote on Senate Bill 110 which is the Human Rights bill transferring the administration from the Human Rights Commission to the Department of Labor & Industry. Senator Dover moved that the Committee recommend a DO NOT PASS on this bill. Senator Severson seconded and the motion carried. A roll call vote was then taken and it is attached and made a part of these minutes. Senator Hafferman was asked by the Chairman to prepare a Minority Report on Senate Bill #110, to which he agreed.

Chairman Lowe then asked the Committee to vote on Senate Bill 155 exempting certain professions from the overtime compensation laws, and also asked to hear from the sub-committee on this bill before the vote was taken. Senator Dover said that the sub-committee would like to see the following amendments to the bill so that the Montana law would conform with the Federal law:

1. Page 1, line 10.
Following: "whom the"
Strike: "interstate commerce commission"
Insert: "United States secretary of transportation"
2. Page 1, line 19 through line 21:
Strike: subsections (4) and (5) in their entirety
Re-number: subsequent subsections

Senator Dover then moved the amendments and the amendments carried. (Exhibit "C")

Senator Hafferman made a motion that on pages 3 and 4, the Committee strike lines 22, 23, 24, 25 and lines 1 and 2. A general discussion ensued on these changes and Senator Smith moved that these amendments be made. The motion was not carried.

Senator Dover then moved that Senate Bill #155 Do Pass, as amended, seconded by Senator Aklestad. A vote was then taken and the motion passed.

Chairman Lowe then asked Mr. Grosfield if he had come up with appropriate language for House Bill #32 previously discussed. Mr. Grosfield submitted the following amendment:

Page 5, line 20.

After: "dependents."

Add: "If, after all funds due the victim have been paid to the victim under this section, there remains additional funds in the escrow account, such funds shall be returned to the individual charged or convicted of the crime." (Exhibit "D")

Senator Dover moved that House Bill #32 as amended be passed. Senator Palmer seconded and motion carried with Senator Aklestad dissenting.

Chairman Lowe then asked Mr. Grosfield to explain Senate Bill #150 to the Committee in the absence of Senator Mehrens. Mr. Grosfield's statement is attached as Exhibit "E".

No proponents or opponents appeared on Senate Bill #150.

In view of the fact that Senators Severson and Palmer had to leave during the discussion of this bill, Chairman Lowe felt that the Committee should postpone moving on this bill until all the members were present.

Chairman Lowe then excused himself from the chair and asked Senator Nelson to take over since he was a sponsor and proponent for Senate Bill #161. Senator Lowe then explained Senate Bill 161 to the Committee in that this act provides for a referendum method of resolving an impasse during municipal labor negotiations. If solutions could not be made by negotiations, then the last offer of each side would be put to a vote of the people to decide.

Senator Lowe then introduced Dan Mizner, Executive Director of the League of Cities and Towns. Mr. Mizner stated that Montana needed a better system when negotiations between cities and unions reached a deadlock. He felt that cities and towns could not afford to do without the services of policemen, firemen, etc. He stated that by going through the Board of Personnel Appeals and then the electorate, this system would place the responsibility of wages and fringe benefits upon the people and that the people should have a say in the wages and benefits that public employees should receive since they were the ones who would have to pay for it ultimately. He stated that this approach was working very well in California and Colorado and felt that it would work well for Montana. He indicated that there was a case in Minnesota where a third party arbitration case had been declared unconstitutional.

Another proponent of Senate Bill #161 was Mr. Jack Williams representing the Montana Chiefs of Police Association. Mr. Williams felt that this system was a better one in that if the Board of Personnel Appeals could not resolve the differences between the unions and the cities and towns, the people would then have a say in what they felt they should pay public employees.

Other proponents of this bill were Mr. M. Doyle Williams, Personnel Director, whose statement is attached as Exhibit "F"; Mr. Joe Wolfe, Deer Lodge, Montana, and Mr. Dick Larson representing the City of Billings whose statement is attached as Exhibit "G".

Opponents to Senate Bill #161 were as follows: Mr. Maurice Mulcahy representing the American Federation of State, County and Municipal Employees, AFL/CIO, whose statement is attached as Exhibit "H". Mr. Mulcahy's statement requests the inclusion of the following amendments:

1. Page 1, line 6.

Following: "Negotiations"

Insert: ", setting salaries of elected and appointed officers, adopting municipal budgets, contracting out of local government services and approving or disapproving utility rate increases."

2. Page 2, line 11.

Insert new section 3: "(1) Prior to the adopting of any municipal budget, setting of salaries of any elected or appointed official, contracting out of any local government service or approval of any utility rate increase, the city or town council shall call a special municipal election submitting all pertinent information to the vote of the electors of the municipality for their approval or disapproval.

(2) The cost of a special municipal election called under this section shall be paid by the city."

Another opponent to this bill was Mr. Jim Murry, Executive Secretary of the AFL/CIO. Mr. Murry felt that the bill was not practical and would cause a hardship on everyone involved. He felt that the cost to taxpayers would be great and do away with the collective bargaining process. He also felt that these special elections would result in nothing but political campaigns. Mr. Murry stated that according to the U. S. Department of Labor statistics 98% of contracts are settled without work stoppage.


Mr. D. Patrick McKittrick representing the Joint Council of Teamsters also spoke in opposition to Senate Bill #161. Mr. McKittrick felt that those representing unions as well as elected officials could best be served by good faith bargaining and should not be passed to the electorate. Mr. McKittrick did not feel that the electorate were knowledgeable enough to vote on contracts where hard bargaining was involved.

In closing, Senator Lowe then addressed the Committee in favor of the bill and indicated that he felt that the electorate was better informed today than ever before and felt that they were qualified to decide on matters of labor.

Vice-Chairman Nelson then closed the hearing and asked for questions from the Committee.

Senator Smith asked if the bill passed, would all cities and towns be having many special elections, to which Mr. Bob Jenson from the Board of Personnel Appeals stated that not all contracts would go to the electorate, only the impasse negotiations, and he felt that the Board of Personnel Appeals had a good track record in resolving disputes.

The meeting adjourned at 2:28 p.m.


Senator William R. Lowe

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

46TH LEGISLATIVE SESSION - - 1979

Date Jan. 30, 1979

NAME	PRESENT	ABSENT	EXCUSED
HAROLD C. NELSON, VICE CHAIRMAN	✓		
GARY AKLESTAD	✓		
HAROLD L. DOVER	✓		
WILLIAM F. HAFFERMAN	✓		
JOHN (SANDY) MEHRENS			✓
BOB PALMER	✓		
ELMER D. SEVERSON	✓		
RICHARD G. SMITH	✓		
BILL R. LOWE, CHAIRMAN	✓		

Exhibit A

MEMORANDUM REGARDING HOUSE BILL 32
CONCERNING AMENDMENTS TO VARIOUS SECTIONS
IN THE CRIME VICTIMS COMPENSATION ACT

House Bill 32 would amend certain sections in the current Crime Victims Compensation Act. These amendments are being proposed in order to conform Montana's law with federal law so that Montana may receive federal funds under the federal Crime Victims Compensation Act, and in addition, to amend various provisions so that the Act can be more readily administered. A section by section analysis is set forth below.

Section 1. Section 1 would amend section 53-9-103 by deleting as a collateral source welfare benefits. Under the current Act, benefits under the Crime Victims Compensation Act are reduced by amounts paid through collateral sources. These collateral sources generally include benefits available from other governmental sources or insurance contracts. Proposed federal legislation would not allow a state to utilize welfare benefits as a collateral source. It is believed that claimants should not be forced to seek welfare in order to recover under the Crime Victims Compensation Act. Therefore, the section is being proposed to delete welfare benefits as a collateral source.

Section 2. Section 2 would amend section 53-9-104 by adding certain language from federal legislation so that Montana's law complies with the federal Crime Victims Compensation Act. The amendments would provide that law enforcement officials take reasonable care that victims be informed of the existence of the compensation act, and that benefits received by an offender through interview statements or articles relating to the crime be deposited into a fund to pay the victim. The latter amendment, in effect, provides that an offender cannot benefit from the offender's wrongdoing.

Section 3. Section 3 would amend section 59-3-109 by changing the current crime victims compensation fund from an earmarked revenue account to an agency account.

The reason for this change is to allow the crime victims compensation account to fall more closely into the current treasury fund structure and the definition of an agency account. The agency account would be used to pay benefits to innocent victims of crime in the same manner that benefits are paid from other benefit programs. This would also allow the account to receive interest from the monies invested.

Section 4. Section 4 would amend section 53-9-125 by adding language giving the Division authority to reduce a victim's compensation in proportion to what the Division considers was the victim's contribution to the infliction of the injury or death. Under current law, a victim may be entitled to full benefits even though the victim may have contributed in part to the provocation that resulted in the criminal act. The Division believes that when a victim has contributed to the injuries, benefits should be reduced in proportion to the victim's contribution to the injury. Several other states have this provision and the Division considers that the provision would aid in the meaningful administration of the Crime Victims Compensation Act.

If anyone has questions concerning the proposed bill, please feel free to contact Mr. Norman H. Grosfield, Administrator of the Division of Workers' Compensation.

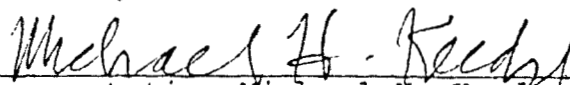
NHG/nmb

I would offer the following amendment to House Bill 32.

Amend House Bill 32, page 7, line 22 as follows:

Following: "injury."

Insert: The division's discretion as provided herein does not apply to cases in which a claimant is a dependent of a deceased victim.



Representative Michael H. Keedy

Exhibit "E"

PROPOSED AMENDMENTS TO SB #155

1. Page 1, line 10.

Following: "whom the"

Strike: "interstate commerce commission"

Insert: "United States secretary of transportation"

2. Page 1, line 19 through line 21:

Strike: subsections (4) and (5) in their entirety

Renumber: subsequent subsections

House Bill No 32

Page 5

line 20 after "dependents."
add:

If, after all funds due the victim have been paid to the victim under this section, there remains additional funds in the escrow account, such funds shall be returned to the individual charged or convicted of the crime.

MEMORANDUM BY THE DIVISION OF WORKERS' COMPENSATION
REGARDING SENATE BILL 150 WHICH PROVIDES FOR
THE GENERAL REVISION OF CERTAIN SECTIONS
OF THE OCCUPATIONAL DISEASE ACT

The Division of Workers' Compensation, through an advisory council made up of representatives of various interest groups concerned with workers' compensation legislation, proposes the changes as set forth in Senate Bill 150. The Division wishes to explain the reason for the changes in each section of the proposed bill. Reference will be made to the bill's sections numbers.

Section 1. Section 1 amends section 39-72-102 by modifying the definition of disablement. The amendment would provide that disablement be defined as incapacity to perform work in the normal labor market rather than incapacity to perform any work for remuneration or profit. The definition as it now exists is too restrictive and causes undue hardship on certain claimants who may be able to do very limited work, and yet have lost their true earning capacity due to an occupational disease. It is believed that the definition should be more in line with the workings of the Workers' Compensation Act and allow benefits when a claimant is disabled from working in the normal labor market. Subsection 9 would be amended to remove superfluous language concerning self-insurers. The definition of insurer provides that self-insurers are considered insurers under the Workers' Compensation Act. Subsection 11 would be amended in style only and there would be no substantive change in the definition of occupational disease.

Section 2. Section 2 would amend section 39-72-305 by removing language which indicates that an employee may reject coverage under the Occupational Disease Act. Coverage under the Workers' Compensation Act has been made mandatory and employees do not have an election. Coverage under the Occupational Disease Act would also be mandatory, and no rejection should be allowed. The section would also provide that benefits under the Uninsured Employers Fund would apply to occupational disease claims as well as workers' compensation cases. This is merely a clarification of what the Division believes is the current law which would, no doubt, allow a claim for occupational disease benefits under the Uninsured Employers Fund system.

Section 3. Section 3 would amend section 39-72-402 by incorporating by reference various sections in the Workers' Compensation Act to apply to the workings of the Occupational Disease Act. This will allow for the repeal of several duplicate sections in the Montana codes, and will provide for uniformity in the administration of both the Workers' Compensation and Occupational Disease Acts.

Section 4. Section 4 would amend section 39-72-405 by deleting the current subsection 2. The current law is very restrictive and allows benefits only if disability results within 120 days from the last day of employment, subject to the one year extension period. Many occupational diseases cannot be detected until after a year from the last day of employment. Claims under the current Occupational Disease Act may be submitted within three years from the last day of employment. Thus, the Division believes that the three year statute of limitations should apply, rather than the restrictive one year limitation. Subsection 2 is amended to provide for a three year statute of limitation rather than the current four year provision, so that it conforms with the claim filing period. This will provide uniformity throughout the Occupational Disease Act.

Section 5. Section 5 would amend section 39-72-406 by changing the statute of limitation provision to provide uniformity in the provisions of the law regarding time limitation for compensable claims. Also, the amendments would delete restrictive provisions allowing death benefits to beneficiaries of claimants receiving benefits only if death results within certain periods of time from the last day of employment. It is believed that death benefits should be allowed beneficiaries of any individuals suffering an occupational disease no matter when the death occurs. The only requirement for the receipt of death benefits would be that benefits were being paid the deceased claimant at the time of death, and death resulted from an occupational disease.

Section 6. Section 6 would provide a new section concerning benefits for pneumoconiosis. Under the current law, there are very detailed provisions concerning the establishment of pneumoconiosis claims. However, the criteria appears to be outdated, and only very limited benefits are available. The federal government provides for pneumoconiosis benefits. The current law concerning pneumoconiosis will be completely removed and a substitute provision is proposed to be placed in the codes merely stating that benefits paid under the Montana Occupational Disease Act would be reduced by amounts paid to a claimant by the federal government. This would streamline the procedure for determining pneumoconiosis claims under Montana's law, and would provide for a simple system of administering any pneumoconiosis claim in this state. In effect, claims for pneumoconiosis will be processed in the same manner as any other occupational disease claim.

Section 7. Section 7 would amend section 39-72-601 concerning the creation of medical panels by revising the medical panel system under the Occupational Disease Act. Presently, there are two medical panels. One panel reviews pulmonary problems, and the other panel reviews nonpulmonary conditions. The Division is suggesting that the panels be combined into one panel and the membership be increased. The Division has found that most physicians who work in the occupational disease area can do both pulmonary and nonpulmonary examinations and diagnosis. One panel would provide more continuity and would increase the number of individual physicians that the Division may draw from in order to administer the Occupational Disease Act.

Section 8. Section 8 would amend section 39-72-602 by revising the manner in which occupational disease claims are processed. The section would be amended to indicate that only one occupational disease panel is to be utilized rather than the current two panels.

Section 9. Section 9 would amend section 39-72-605 by removing references to "pulmonary" when referring to diseases covered by the law. This will allow for the repeal of section 39-72-604, which provides for the same procedure for nonpulmonary diseases. Thus, the amended section will provide for a uniform system of determination concerning the determination of occupational disease death claims.

Section 10. Section 10 would amend section 39-72-606 by deleting an internal reference to a section that is proposed to be repealed in this revision bill.

Section 11. Section 11 would amend section 39-72-608 by deleting an internal reference to a section that is proposed to be repealed in this revision bill.

Section 12. Section 12 would amend section 39-72-610 by allowing claimants and insurers to submit additional medical evidence at hearings either before the Division or the Workers' Compensation Judge. The basis for this amendment is a

determination by the Workers' Compensation Judge that excluding a claimant's attending physician's testimony is unconstitutional. Thus, the law would be modified to comply with the Judge's determination. Also, the law would allow for a rebuttable presumption that the medical panel's determination is correct. This will give credence to the panel's determination, and yet provide for adequate safeguards to a claimant or insurer regarding additional medical information to be considered by the Division or the Workers' Compensation Judge. The language that has been deleted from the last sentence of the first paragraph of the bill has been placed in section 39-72-602(2)(b).

Section 13. Section 13 would amend section 39-72-612 by providing a specific number of days for appeal of a Division's decision to the Workers' Compensation Judge. Currently, the law does not provide for a specific statute of limitation, and it is believed such a limitation should be set forth in the law. A thirty day period is customary for appeal of cases to a higher tribunal.

Section 14. Section 14 would create a new section which would allow the charging of costs and attorney fees against an insurance carrier if the insurance carrier appeals a Division's decision that is later determined to be a correct decision. If an insurer pursues a course of action that requires a claimant to incur additional costs, such costs should be recoverable by a claimant if the final decision is against the insurer.

Section 15. Section 15 would amend section 39-72-703 by deleting an internal reference to a section that is proposed to be repealed in this revision bill.

Section 16. Section 16 would amend section 39-72-704, concerning medical benefits due a claimant under the Occupational Disease Act by providing for unlimited medical benefits to claimants even though such claimants may be able to continue to work. Currently, the law allows unlimited medical benefits for claimants who are permanently totally disabled from an occupational disease. However, for claimants who are suffering from an occupational disease but can continue in employment, a \$2,500 limitation of medical is provided in the law. This limitation is contrary to federal guidelines concerning workers' compensation benefits, and appears to be an unfair limitation. Thus, it is suggested that the limitation be removed and that all claimants who are suffering from occupational diseases be entitled to full medical benefits.

Section 17. Section 17 would amend section 39-72-711 to revise an internal reference to a section number.

Section 18. Section 18 would amend section 39-71-201 by deleting an internal reference to a section that is proposed to be repealed in this revision bill.

Section 19. Section 19 would repeal various sections in the Occupational Disease Act. An explanation of each section to be repealed is set forth below.

Sections 39-72-205, 39-72-306, 39-72-307. These sections duplicate sections in the Workers' Compensation Act. The provisions of these sections will be incorporated by reference to sections in the Workers' Compensation Act as set forth in the proposed amendments to section 39-72-402.

Section 39-72-308. This section provides that there will be no right of suit at common law for employees covered under the Occupational Disease Act except for those employees who reject coverage. The provisions allowing an employee to reject coverage will be removed from the law. Section 39-72-305 provides that occupational disease benefits are the exclusive remedy for employees. Also, the provisions of the Workers' Compensation Act concerning the exclusive remedy issue are being incorporated into the Occupational Disease Act in the amendments to section 39-72-402. Thus, this section will no longer be needed and should be repealed.

Section 39-72-309. This section provides that common law defenses will not be available to employees who do not comply with the coverage requirements of the Occupational Disease Act. The provisions of this section would be taken care of under the amendments to section 39-72-305 providing that the provisions of the Uninsured Employers Fund would apply to the administration of the Occupational Disease Act.

Sections 39-72-501 through 39-72-508. These sections relate to procedures to determine compensation benefits for pneumoconiosis. These sections are outdated and unduly complex, and are proposed to be repealed. Determinations concerning pneumoconiosis will be made in the same manner as determinations are made for other occupational diseases. In effect, a medical panel of experts in the pulmonary area will make the determination regarding any claim for pneumoconiosis. Section 6 of the proposed bill will be a substitute for the provisions in the current law.

Section 39-72-603. This section currently provides for a procedure to determine all pulmonary occupational disease claims. The provisions of this section are being incorporated into the amendments to sections 39-72-601 and 39-72-602.

Section 39-72-604. This section relates to the determination of pulmonary occupational disease death claims. This section is being merged with section 39-72-605. Thus, an unneeded duplicate section is being removed from the Montana codes.

Section 39-72-702. This section concerns benefit payments for individuals suffering pneumoconiosis, or beneficiaries of deceased individuals suffering from pneumoconiosis. Under the new law, benefit provisions for pneumoconiosis will be provided for in proposed section 39-72-509.

Section 39-72-710. This section is a duplicate to a section found in the Workers' Compensation Act. The provisions of this section will be incorporated by reference, as set forth in section 39-72-402, to the duplicate section in the Workers' Compensation Act.

Section 39-72-713. This section is a duplicate to a section found in the Workers' Compensation Act. The provisions of this section will be incorporated by reference, as set forth in section 39-72-402, to the duplicate section in the Workers' Compensation Act.

If anyone has questions concerning the proposed bill, please feel free to contact Mr. Norman H. Grosfield, Administrator of the Division of Workers' Compensation, 815 Front Street, Helena, Montana 59601, phone 449-2047.

The following comments are offered in support of SB161:

This proposal is similar to those in effect in some California and Colorado cities. It is aimed at eliminating labor impasses which result in strikes by public employees. The City's position is that such legislation is the answer to labor impasses in the public sector. It provides for a public referendum as the final determination of a labor dispute.

Labor organizations here in Montana are pushing for another method of eliminating labor impasses-binding arbitration; however, a number of state supreme courts (i.e., Colorado, Connecticut, South Dakota, Utah, etc.) have already ruled binding arbitration unconstitutional in that it violates representative form of government and the right to have government decisions made by elected officials with sufficient accountability.

The Cities of Englewood and Aurora, Colorado, have chosen the referendum method and with good results. In Englewood, over the past six (6) years, negotiations have reached an impasse three (3) times; however, the issues have been resolved through factfinding, and none have gone to the public referendum! The City of San Francisco, California, has been using the referendum method, and impasses have been put on the ballot twice. It is interesting to note that the taxpayers rejected Labor's position in both ballots by overwhelming majorities!

In our opinion, binding arbitration does not work to resolve labor disputes. In fact, it has been proven to negate collective bargaining and greatly increases costs to local governments. In Michigan, for example, the compulsory arbitration law for police and fire has resulted in 111 awards. On the common issue of wage increases, 62% of the awards have gone to the union last offer and 38% of the awards to the employer. In Michigan, there are more police-fire strikes since passage of the law than were experienced in the two years preceding adoption of the law.

Since Great Falls has experienced several labor impasses in recent years, it has taken the firm position that binding arbitration is unconstitutional and an unlawful delegation of the elected officials' responsibilities. Research has clearly indicated that, when the parties anticipate arbitration, neither the union nor the employer will make a serious attempt to bargain and resolve the disputes as when arbitration, as an alternative, is not present. The tendency limits severely the likelihood of settlement and promotes continual arbitration of contract disputes, so that over time, outside parties are determining basic elements of a public employer's relationship with its employees.

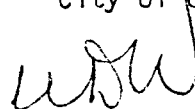
As the National League of Cities recently reported, arbitrators have been ruling that a wide range of subjects, regarded by elected officials as their basic prerogatives in providing services, are arbitrable and have been making rulings often severely limiting a governing body's ability to provide its services, and in many cases, awards which were illegal.

Binding arbitration tends to remove the decision of the cost of services, the level of services; and in some cases, the manner of providing services, from the elected officials directly responsible to the electorate. Arbitration limits the ability of elected officials to be responsive with regard to the most significant single cost item of government--personnel costs.

Personnel costs in the City of Great Falls account for approximately sixty-six percent of the General Fund budget. Increasing personnel costs will soon exceed the City's ability to pay without jeopardizing needed services and the purchase of essential capital improvements. In the final analysis, the people should decide if they are willing (and able) to meet future wage and fringe benefit demands of its public employees. The voters should be the "binding arbitrator" in labor disputes including its public employees, not an outside third party not accountable to elected officials and who can force substantial changes in taxation, public policy priorities and the ability to manage the public work force. Most of the cities and counties in Montana have similar problems.

We see this innovative legislation as a means to resolve public employee labor disputes and place the final decision on impasses in the hands of the citizens to decide, while binding arbitration would seriously conflict with the tenets of representative government. Fundamental among these tenets is the precept that officials engaged in governmental decision-making (e.g., setting budgets, salaries and other terms and conditions of employment) must be accountable to the citizens they represent. We seriously urge rejection of any legislation that will place binding arbitration in the hands of an outside person who has no accountability to the public; rather, we support SB 161, which places the final determination of public employee labor impasses with the people through a referendum process.

Respectfully submitted by the
City of Great Falls,



W. Doyle Williams
Personnel Director

WDWsc



Exhibit "C"
Dick Larson

CITY OF BILLINGS

220 NORTH 27TH STREET
P O BOX 1178
BILLINGS, MONTANA 59103
PHONE (406) 248-7511

I am pleased to appear before you this morning to speak in favor of SEnate Bill 161 which would permit that referendum would be held in the event that regular municipal labor negotiations had failed. It has been, and I think will continue to be, the basic position of the City of Billings that responsive local government must depend on the local electorate. It is our position that in those very rare cases when labor and municipal authorities cannot reach an agreement, then the electorate should be informed of the options available and given the opportunity to speak. This kind of option insures that both parties in labor negotiation have the opportunity to express their view points to the electorate and rely on those people which are paying the bill as well as being served for guidance and direction.

The City of Billings has an annual personnel budget of approximately \$12 million, including benefits, a 5% increase across the board in these benefits would mean an additional \$600,000 in the budget. This translates into taxpayers increase of something greater than 6 mills.

As you are aware, another much discussed method resolving labor impasse is that of mandatory arbitration. That method has not proven entirely satisfactory to either employee's representatives or municipal governments. For example, I understand that in one eastern state, a supreme court recently decided that mandatory arbitration was in fact not legal. It also removes from the local electorate any possibility of input, relying instead on a

third party who has normally no involvement in the local community.

Some question has been raised about the relative cost of these two methods of solving labor impasse. Our calculations indicate that a referendum in the City of Billings would cost, at a maximum, \$20,000. This assumes that an election were held for this special purpose. The cost would be reduced considerably if the question were brought up at a regular election. The involvement of an arbitrator would almost certainly result in costs somewhat greater than that of an election. As an example for each 1% arbitrated decision by a third party with no financial stake in his decision results in Billings of 1 mill increase in costs. Certainly a decision the electorate should be involved in. This is another reason why the referendum method of addressing the labor impasse would be superior to that of arbitration.

Exhibit "H"

MONTANA STATE COUNCIL No. 9

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES

Affiliated With A.F.L.-C.I.O.



Jerry Ward
International President

William E. Lucy
International Secretary-Treasurer

COUNCIL OFFICERS

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Helena, MT 59601
Phone: 442-4259

TESTIMONY ON SENATE BILL 161

Senate - Labor & Employment Relations Committee, January 30, 1979

VICE PRESIDENTS

Dorothy Beck
R.F.D. No. 36
Deer Lodge, MT 59722
Phone: 693-2325

Mr. Chairman, Members of the Committee:

I am Maurice Mulcahy and I am appearing here today as a representative of Montana Council #9 of the American Federation of State, County and Municipal Employees Union, AFL-CIO, and the Montana Police Protective Association. In my capacity as a representative of AFSCME, I am representing clerical and blue collar workers in the cities of Billings, Kalispell, Miles City, Glendive, Havre, Laurel, Whitefish, Butte, Anaconda and Livingston. As a representative of the Montana Police Protective Association, I am representing virtually every police officer employed in all of the 1st and 2nd class cities in the state of Montana.

In behalf of those I represent I am appearing today as an opponent of Senate Bill 161. This measure, if adopted, would make a mockery out of collective bargaining. It would make a mockery out of a process which took years of legislative consideration and modification to adopt. Collective Bargaining, as we know it today, has proven itself as the best way to work out local labor relations problems. People discussing their problems across the table is a much better way of arriving at solutions than parties politicking with the public.

Under this bill, collective bargaining would no longer take place. Each side would concentrate its efforts on publicity campaigns intended to

COUNCIL STAFF

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600 Cooke St
Helena, MT 59601
Phone: 442-1192

Donald R. Judge
Executive Director

R. Nadrean Jensen
Field Representative

George F. Hagerman
Field Representative

Eugene Fenderson
Field Representative

Linda Barrett
Office Secretary

influence the voters rather than resolving impasse issues at the table. Collective bargaining would become collective campaigning!

If the voting public is to become involved in such a complicated process as collective bargaining, then I would suspect that they are sophisticated enough to also vote on other major decisions effecting their well being. I would offer the following amendments to Senate Bill 161 to insure every voter's right to full participation in local government issues:

Amend the Title on Page 1, line 6.

Following: "Negotiations"

Insert: ", setting salaries of elected and appointed officers, adopting municipal budgets, contracting out of local government services and approving or disapproving utility rate increases."

Amend on Page 2, line 11.

Insert a new section 3 to read: "(1) Prior to the adopting of any municipal budget, setting of salaries of any elected or appointed official, contracting out of any local government service or approval of any utility rate increase, the city or town council shall call a special municipal election submitting all pertinent information to the vote of the electors of the municipality for their approval or disapproval.

(2) The cost of a special municipal election called under this section shall be paid by the city."

Mr. Chairman, Members of the Committee, I am not a lawyer and so other appropriate code references may have to be made to insure the legality of my amendments. However, I am sure that the voting public

would feel much more at ease if they were allowed to participate in their local government as I have indicated here today.

I believe that perhaps one more negative aspect of the bill, with or without my suggested amendments, should be considered by this committee. Although I have seen no fiscal note for this legislation, I have inquired of a representative of Butte-Silver Bow as to the cost of conducting such a special referendum. He was not able to give me the cost of a special referendum, but he did convey the cost of the last general election held in Butte-Silver Bow. He estimated that cost at approximately \$48,800. Now in Butte there are eleven different unions and associations representing workers who may reach impasse each year. At \$48,800 per impasse referendum, it would cost Butte-Silver Bow taxpayers approximately \$536,800 each year to reach settlements that would have cost far less through the collective bargaining process.

Mr. Chairman, Members of the Committee, I urge you to carefully consider my amendments to Senate Bill 161 and to do with this bill as your wisdom would dictate.

Respectfully submitted,


Maurice Mulcahy

DATE 1-30

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
Norman Grasfield	Div of Workers Comp	SB 150 HB 32	X	
Dave Stiteler	PERSONNEL DIVISION	SB 161		
James J. Murphy	Div of Workers Comp	SB 150 HB 32	X	
Bob Jensen	Board of Personal Appeals	SB 161		
James M. Siney	Battle School Board	SB 161		X
Pat McKittrick	J.C. Kamstus m2	SB 161		X
Eileen Reardon	MOM LENSE ASSOC	SB 161		X
Maurice Mulcahy	A.F.S.C.M.R. A.F.L.-C.I.O. M.D.P.A	SB 161		X
Jim Murphy	Mont State AFL-CIO	SB 161		X
" "	" " " "	SB 150	X	
Lee Wilson	Nat State Emergency	SB 161		
W. L. Herington	Operating Engineers & Teamsters			

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: Joe Lirini DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? House Dist 84

APPEARING ON WHICH PROPOSAL: H.B. 32

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John Frankino DATE: 1/30/79

ADDRESS: Helena

PHONE: 442-5825

REPRESENTING WHOM? Montana Catholic Conference

APPEARING ON WHICH PROPOSAL: HB 32

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Jack Williams

DATE:

1-30-79

ADDRESS:

3727 Floweree Dr Helena

PHONE:

442-3232 bus

REPRESENTING WHOM?

Montana Chiefs of Police Assn

APPEARING ON WHICH PROPOSAL:

SB 141

DO YOU:

SUPPORT?

☒

AMEND?

☐

OPPOSE?

☐

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: DOYLE WILLIAMS DATE: 1/30/79

ADDRESS: 1624 3RD WEST HILL DR. GREAT FALLS

PHONE: 727-5881-EXT 325

REPRESENTING WHOM? CITY OF GREAT FALLS

APPEARING ON WHICH PROPOSAL: SB-161

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: ATTACHED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Richard Larsen DATE: 1/30

ADDRESS: Billings

PHONE: 248-7544

REPRESENTING WHOM? City of Billings

APPEARING ON WHICH PROPOSAL: 161

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE:

ADDRESS:

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU: SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: D. Patrick H. KITTICK DATE: 1-30-79

ADDRESS: P.O. Box 1184

PHONE: 727-4041

REPRESENTING WHOM? Joint Council of Teachers, No 2

APPEARING ON WHICH PROPOSAL: S.B. 161

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: _____

NAME: MAURICE J. MULCAHY DATE: 1-30-79

ADDRESS: 522 No. Franklin ST, Butte Mont.

PHONE: 792-8560 - HELENA 442-1192 - 442-3327

REPRESENTING WHOM? A.F.S.C.M.E. AFL-CIO & M. P. P. A

APPEARING ON WHICH PROPOSAL: S.B. 161

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

STANDING COMMITTEE REPORT

January 31

19 79

MR. President

We, your committee on Labor & Employment Relations

having had under consideration Senate Bill No. 155

Respectfully report as follows: That Senate Bill No. 155
introduced bill do pass as amended:

1. Page 1, line 10.

Following: "whom the"

Strike: "interstate commerce commission"

Insert: "United States secretary of transportation".

2. Page 1, line 19 through line 21.

Strike: subsections (4) and (5) in their entirety

Renumber: subsequent subsections

And, as so amended

DO PASS

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date January 30, 1979 Senate Bill No. 155 Time 1:15 p.m.

NAME	YES	NO
HAROLD C. NELSON, VICE CHAIRMAN	✓	
GARY AKLESTAD	✓	
HAROLD L. DOVER	✓	
WILLIAM F. HAFFERMAN		✓
JOHN (SANDY) MEHRENS		
BOB PALMER		✓
ELMER D. SEVERSON	✓	
RICHARD G. SMITH		✓
BILL R. LOWE, CHAIRMAN	✓	

Secretary _____

Chairman _____

Motion: Sub-Committee amendments to conform with federal bill.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date January 30, 1979 Senate Hafferman Bill No. 155 Time 1:20 p.m.

NAME	YES	NO
HAROLD C. NELSON, VICE CHAIRMAN		✓
GARY AKLESTAD		✓
HAROLD L. DOVER		✓
WILLIAM F. HAFFERMAN	✓	
JOHN (SANDY) MEHRENS		
BOB PALMER	✓	
ELMER D. SEVERSON		✓
RICHARD G. SMITH	✓	
BILL R. LOWE, CHAIRMAN		✓

Secretary _____

Chairman _____

Motion: Hafferman amendment to strike on pages 3 and 4, lines
22, 23, 24, 25 and lines 1 and 2.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date January 30, 1979 Senate ^{Do} Bill No. 155 Time 1:30 p.m.

NAME	YES	NO
HAROLD C. NELSON, VICE CHAIRMAN	✓	
GARY AKLESTAD	✓	
HAROLD L. DOVER	✓	
WILLIAM F. HAFFERMAN		✓
JOHN (SANDY) MEHRENS		
BOB PALMER		✓
ELMER D. SEVERSON	✓	
RICHARD G. SMITH		✓
BILL R. LOWE, CHAIRMAN	✓	

Secretary _____

Chairman _____

Motion: Dover Motion for Do Pass as amended.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

January 31

1979

MR. **President:**

Minority
We, your committee on **Labor & Employment Relations**

having had under consideration **Senate** Bill No. **110**

Respectfully report as follows: That **Senate** Bill No. **110**

WILLIAM F. HAFFERMAN

JOHN MEHRENS

[Signature]

RICHARD G. SMITH

WILLIAM R. LOWE

DO PASS

STANDING COMMITTEE REPORT

January 31

1979

MR. **President:**

Majority

We, your committee on **Labor & Employment Relations**

having had under consideration **Senate** Bill No. **110**

Respectfully report as follows: That **Senate** Bill No. **110**

HAROLD C. NELSON, VICE-CHAIRMAN

GARY AKLESTAD

HAROLD L. DOVER

BOB PALMER

ELMER D. SEVERSON

DO NOT PASS
~~XXXXXX~~

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date January 30, 1979 Senate Bill No. 110 Time 1:00 p.m.

NAME	YES	NO
HAROLD C. NELSON, VICE CHAIRMAN	✓	
GARY AKLESTAD	✓	
HAROLD L. DOVER	✓	
WILLIAM F. HAFFERMAN		✓
JOHN (SANDY) MEHRENS		✓
BOB PALMER	✓	
ELMER D. SEVERSON	✓	
RICHARD G. SMITH		✓
BILL R. LOWE, CHAIRMAN		✓

Secretary _____

Chairman _____

Motion: Dover motion for recommendation of DO NOT PASS

(include enough information on motion--put with yellow copy of committee report.)

If SB 100 is voted

I vote yes -

Sandy
Inchess