

MINUTES OF THE MEETING OF THE HOUSE LABOR COMMITTEE  
January 20, 1981

The House Labor Committee met at 12:30 p.m. on January 20, 1981, in Room 129 of the State Capitol, with Chairman Robert Ellerd presiding and all members present for a hearing on the following bills: HBs 76, 136, 148

HOUSE BILL 76

REPRESENTATIVE HAL HARPER, District 30, chief sponsor, said this bill was at the request of the Department of Labor and covered some changes in federal regulations. He introduced Harold Kansier of the Labor Department to give further explanation of the bill. He asked that the bill be considered with the amendment, which is EXHIBIT 1 of the minutes.

HAROLD KANSIER, Unemployment Insurance Bureau, Labor Department, explained the bill. He said it provides a pension offset and complies with federal requirements.

JERRY DRISCOLL, Laborers' Union, Billings, spoke in opposition. He said he was opposed to an offset because a person has earned the pension.

Questions were asked by the committee. Rep. Keedy was asked if the amendment squared with the testimony. Re. Keedy suggested removing "of the amount that he has received" from the amendment. Rep. Harper suggested that the amendment be amended by striking the period and adding "of the pension received." Upon being asked the researcher, Ms. Brodsky, mentioned that social security and railroad retirement are not pensions but payments.

Harper closed.

HOUSE BILL 136

REPRESENTATIVE JACK MOORE, District 54, chief sponsor, said this little bill just eliminates the requirement that an employee be paid within three days when he leaves a business. He said two businesses have refused to come to Montana because of the tightness of such laws.

LARRY HUSS, Montana Contractors Association, said they support the bill. He said this provision would put them on a par with the state of Montana, who do not have to pay until the next scheduled pay day.

DAVE GOSS, Billings Area Chamber of Commerce, said they support the bill. He said in most cases employees are used to receiving their paychecks on a regular scheduled basis. He said in 1979

this three day requirement was dropped for public employees and there hasn't been any complaints because of it in Billings.

RANDY SIEMERS, Operating Engineers, spoke in opposition. He handed to the members a copy of a work file to show how mobile the operating engineers are. They could be dispatched to a number of places in a year. They need their money to move to another job. (A copy of this work file is EXHIBIT 2 and part of the minutes.) He didn't think it was fair to place this burden on the employees.

JAMES W. MURRY, Executive Secretary of the AFL-CIO, said they would like to go on record as opposed to this bill. He said it would work a particular hardship on the men and women of the building and construction trades. He said they move from job to job - could have as many as 11 to 12 employers over the course of the year, and need their money to move to the next job or to the next state. He said if there is disagreement over the final check, it is more difficult to settle it if they are gone on to another location.

Chairman Ellerd opened the hearing to questions from the committee. Rep. Sivertsen asked if this only addressed instances where the individual quit a job voluntarily. Mr. Siemers said yes - and added that inclement weather plays a big part in the construction and building trades and could cause voluntary quitting to move on.

Rep. Moore closed. He said he could sympathize with the few cases cited but why should every private employer in the state suffer because of it. He said many have gone to computerized payrolls and it is inconvenient for them. He felt this was a harrassment of private industry.

With special permission from the Chair, Rep. Menahan asked concerning employees that are fired. Rep. Moore said they get paid immediately. Chairman Ellerd asked if separation pay is a part of collective bargaining and Mr. Murry said yes.

#### HOUSE BILL 148

REPRESENTATIVE FRED DAILY, District 87, chief sponsor, said this bill requires employers to credit employee vacation leave and pay over the entire period of employment. This is if they do grant vacation time - does not require that vacation time be granted.

JIM MURRY, Executive Secretary of the AFL-CIO, said they would like to go on record as supporting this bill and they feel it is good legislation.

JANELLE FALLAN, Montana Chamber of Commerce, spoke in opposition. A copy of her testimony is EXHIBIT 3 and is a copy of a letter written by George A. Schuman, President of IGA.

WILLIAM OLSON, Montana Contractors Association, spoke next as an amender. He felt clarification was needed with regard to collective bargaining agreements.

Chairman Ellerd opened the hearing to questions from the committee. Rep. Daily responded to a question that this is a benefit these people have earned and not something that is coming out of the sky. Rep. Keyser questioned if there should be a limitation on the amount of vacation time that could be accumulated. Rep. Dozier mentioned the vacation time is figured in when negotiating a contract and it reduces the base pay accordingly. Rep. Keedy suggested the bill was a missing paragraph in a collective bargaining agreement and not a legislative matter. Mr. Daily responded that this is true for the people covered with a contractual agreement, but some are not and for some this is a condition of employment not covered by a union agreement. He felt this applied to many workers in Montana. Rep. Briggs raised the question of what the obligation would be for an employer who hired a man for just a very short period. Mr. Driscoll said for construction workers the vacation time whether paid by the employee or employer is held out of their wages and paid into a trust and twice a year he can get it.

Rep. Daily in closing said this is a good bill and applies to union and nonunion alike. He said it will correct a problem that needs some attention and he hoped the committee would look favorably at it. He said if it needs some amendments - have at it.

#### EXECUTIVE SESSION

Chairman Ellerd closed the hearing on the bills and opened the meeting to a consideration of the following bills:

HOUSE BILL 101 Rep. Dozier moved to table the bill. He said he has had some long discussions with the Department of Labor and they have assured him they can handle the problem. This motion carried unanimously with all.

HOUSE BILL 118 Rep. Dozier moved the newly written amended bill, which is EXHIBIT 1 of the January 15, 1981 minutes, do pass. Rep. Keyser moved a substitute motion of DO NOT PASS this amended version. Rep. Keedy said he had a problem with the original bill on page 2, subsection (5) where a majority of a quorum can conduct business. Rep. Dozier felt without the amended bill there would be no streamlining of the hearing process and so the bill would be pointless. A roll call vote was taken on the motion of do not pass the amended bill and the motion carried 10 to 6 (nos were Reps. Dozier, Harrington, Keedy, Menahan, O'Connell, Pavlovich); absent at the time of the vote was Rep. Harper. Rep. Keyser moved the original HB 118 DO PASS. Rep. Keedy moved a substitute motion to amend on page 2 by striking subsection (5). Rep. Keedy said this would preclude any decision by this five

member board by only two of the board. Rep. Harrington wondered what kind of problems labor and management might have coming up with a neutral alternate. Rep. Keyser changed his DO PASS to a DO PASS AS AMENDED by Rep. Keedy's suggested amendment. The motion carried with Reps. Keedy and Pavlovich voting no.

HOUSE BILL 136 Rep. Menahan moved DO NOT PASS. Rep. Harrington said the testimony presented about it keeping industries out - didn't feel it was that big a thing. Rep. Keyser felt the employees of the different groups could bargain this out in their agreements. He felt the bill did put a restriction on all employers in the state. Rep. Seifert spoke against the motion. Rep. Dozier pointed out that while it is inconvenient to pay within three days when a man quits, if they want to terminate him they can pay immediately. Rep. Harrington said a person that does not have collective bargaining needs this. Rep. Briggs felt an individual who had difficulty waiting for the end of the usual pay period needed to show a little more self discipline. A roll call vote was taken with 6 yes (Dozier, Harper, Harrington, Menahan, O'Connell, Pavlovich) and 11 no. The motion did not carry. Rep. Keyser moved a DO PASS and to reverse the vote. This carried.

HOUSE BILL 148 Rep. O'Connell moved a DO PASS. She felt it was a good bill. Rep. Sivertsen feared it could be counterproductive in that the employees could lose this benefit. Rep. Keedy felt this belonged on the bargaining table. Rep. Briggs said in his thirty years as a director of a company this has never been a problem as they negotiate. A roll call vote was taken and the motion failed 12 to 5. The 5 yes were Reps. Dozier, Harrington, Menahan, O'Connell and Pavlovich.

HOUSE BILL 76 Rep. Harper moved the amendments. A copy of these are EXHIBIT 1 of these minutes with the added words following 50% "of the amount that he is receiving from such payments." This motion carried unanimously. Rep. Harper moved the bill AS AMENDED DO PASS. Rep. Briggs said he was voting no on the bill because he didn't understand it. The motion carried with 11 voting yes and 5 no (Reps. Briggs, Harrington, Menahan, Pavlovich, Smith voted no).

Rep. Menahan moved the meeting adjourn. Meeting adjourned at 2:30 p.m.

Respectfully submitted,



ROBERT ELLERD, CHAIRMAN

Ex. 1

HOUSE BILL 76 (Proposed Amendment)

1. Page 1, line 22.

Following: "~~as-amended-~~"

Insert: "If a claimant is receiving payments under the federal Social Security Act or the federal Railroad Retirement Act or from a pension to which he has contributed in part, his weekly benefit amount must be reduced by 50% ~~of the payments received~~

*of such payments received.*

Name CLYDE SIEMERS Reg. No. 1171936 Phone No. 373-5250  
Unit #5  
 Address 1011 W 9th 373-6324

ts.	Cat	Scrapper	Patrol	Loader	Roller	Crusher	Shovel	Crane	Mech.	Weld.	Co. & Pu.	Other
1	1/4/77											Small Boats
2	1/3/77			1/5/77	3/5/77	1/7/77	3/5/77	3/6/77	1/5/77	Dispatched To		Date
3	1/4/77	1/5/77	1/3/77	5/1/78	6/6/78	1/1/78	1/15/78	10/2/78	1/12/78	1/23/78		
4	1/5/77	1/5/77	1/5/77	1/5/77	1/5/77	1/5/77	1/5/77	1/5/77	1/5/77	1/5/77		
5	1/6/77	1/6/77	1/6/77	1/6/77	1/6/77	1/6/77	1/6/77	1/6/77	1/6/77	1/6/77		
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30	1/31/77	1/31/77	1/31/77	1/31/77	1/31/77	1/31/77	1/31/77	1/31/77	1/31/77	1/31/77		

Dispatched To	Date	Dispatched To	Date	Dispatched To	Date
PKS Decker Mech	7-18-76	Stamps - 1/2	4/6/77	Stamps - 1/2	7-10-79
KS	9-6	Emm. D. 1466	11/21/75	Kent / Brimble	7-10-79
7-K - 1/2	11/29/77	Shirley - 1/2	12/21/75	Clark Bros. September	7/25-79
1/2 - 1/2	5/17/78	Bart - 1/2	1/4/77	Alfred / 1/2	7/27/79
1/2 - 1/2	6/6/78	Living C. 1/2	4/6/77	Empire Sand / 1/2	2/28/80
				Waver / 1/2	6/30/79

**LESS FORWARD**

**A** Name CLYDE SIEMERS Reg. No. 1171376 Phone No. 379-6119

Address ROUTE 3,  
BILLINGS, MT. 59101

Phone No. 373-6466

FORWARD

[illegible][illegible]

NAME DAVE GOSS BILL No. HB 136  
ADDRESS P.O. Box 5019 Billings, MT 59103 DATE 1/20/81  
WHOM DO YOU REPRESENT Billings Area Chamber of Commerce  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Bill removes the law places an unnecessary state layer into the management technique of business.
2. Pay system requires computation of additional items, (vacation, sick leave, pension, etc.)
3. Employees already are receiving pay on regular basis.
4. Requirement was eliminated for public employers in 1979. City of Billings reports no problems or complaints from employees.

NAME Janelle Fuller BILL NO HB 146  
ADDRESS Box 1720 DATE 1/20/81  
WHOM DO YOU REPRESENT Indiana Member  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Employees should be allowed  
to maintain their own policies  
with respect to benefits.  
It should not be a prerogative  
of the legislature to establish  
how employees are to be paid  
benefits. This should remain a  
matter of negotiation between  
employer & employee.





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January 15, 1981

JAN 19 1981

Hon. Bob Ellerd, Chairman  
House Committee on Labor  
Montana House of Representatives  
Capitol Building  
Helena, MT 59601

Dear Mr. Ellerd:

House Bill #148 has been referred to your committee and scheduled for Hearing January 20. This bill has as its intention to legislate how vacation benefits must be paid to employees.

Montana law now specifies that vacation pay is earned and must be paid in accordance with the contractual provisions of an employment contract or in accordance with the customary policies and procedures of the employer. Many Montana employers now provide vacation benefits for their employees on the basis that the vacation is earned only upon completion of the year of service to which it pertains. In other words, if an employee does not spend the entire year of employment, they are not entitled to vacation benefits. Once the anniversary year is completed, then under current law, they are entitled to vacation benefits, whether taken or not.

For some time now, the Montana Department of Labor and Industry has been attempting to circumvent this law by regulation, insisting that vacation pay must be paid on a pro-rata basis according to days worked, regardless of the employment contract or policies of the employer. This regulation has been repeatedly tested in the courts and before the Commission of Labor and Industry, failing each time as being contrary to current law. House Bill #148 merely attempts to place the Department of Labor and Industry's regulation into statutory authority.

It should not be a prerogative of the legislature to establish how employees are to be paid benefits. This

HOUSE Labor & Industry COMMITTEE

Date 1-20

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
John Nelson	Helena	Commissioner of Higher Education		
Nelle Fallon	Helena	Mt. Chamber		148
Wm W. Murry	P.O. Box 1176 Helena	Mt. State AFL-CIO	148	136
Edy C. J.	Bismarck, MT	Operating Engineers	148	136
Donna D. D.	Butte, MT	MT Teachers Assn.	148	136
David Hunter	Helena	Dept of Labor & Indus	76	
Jim Jensen	633 N. Rodney Helena	LISCA (Low Income Senior Citizens)		
William Olson	P.O. Box 4519 - Helena	Mt. Contractors Assn.	148(Amend)	
Gary Allen	Box 511 - Helena	"	136	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.