

HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE MINUTES
February 10, 1983

The House Labor and Employment Relations Committee convened at 12 p.m. on February 10, 1983, in Room 224K of the State Capitol with Chairman Williams presiding and all members present except Reps. Seifert, Thoft and Jones. Chairman Williams opened the meeting to an executive session.

EXECUTIVE SESSION

HOUSE BILL 451 Rep. Dozier moved that the committee reconsider their action on this bill. It had received a DO NOT PASS on February 8. Rep. Smith said he would like to say a word on the bill. He said he didn't know how we were going to work this out but he said we do need a conveyance to teach people a job. They have got to be trained. Somewhere down the road hopefully there will be jobs. The motions to reconsider passed unanimously with those present. Absent at this time were Reps. Brown, Ellerd, Harper, Jones, Seifert and Thoft.

The bill was now before the committee with no amendments attached due to the prior action. Rep. Pavlovich now moved to amend on page 1, line 5, following "state" to insert "-funded"; on line 11, following "18-2-101" to insert "do not"; on line 14, to strike "a state building that is" and insert "projects funded in whole or in part by state funds that are individually"; and on line 15, to strike, "\$2,000" and insert "\$5,000". The motion to adopt the amendments carried unanimously with those present (same absent as paragraph above).

Rep. Driscoll moved that HB 451 AS AMENDED DO PASS. He said you do not have to hire an apprentice unless you need the apprentice. All you need do is sign up in case your job was big enough to use an apprentice. Rep. Smith seconded the motion. The motion carried with all present voting yes except Rep. Hannah who voted no (same absent as previous vote).

HOUSE BILL 514 Rep. Dozier spoke against the bill saying it attacks people who have a limited amount of time on the job. He said this talks of some working mother who takes off two hours to take her kid to the dentist, and doesn't have enough sick leave to cover. He said he just couldn't understand a bill like this coming before the Legislature.

Rep. Driscoll said testimony on the bill said it would save bookwork. Some of the departments would have union as well as nonunion people and they would have to set up dual bookkeeping as this point is spelled out in the union contracts. Small counties and cities that do their books by hand will have more work. He felt it would be a bookkeeping nightmare.

Chairman Williams commented that the only proponents were from the Employee Relations Division. He said his experience with working with union agreements in the management of personnel is that employees who have these privileges must get permission from their supervisor. Most of these kind of leaves are pretty well controlled and logically excused for that period of time. He didn't feel there was a lot of abuses. He said most union agreements specifically say how much time you can have before it affects your leave.

Rep. Addy moved to amend by striking on page 1, line 17 starting with "However" through line 19; and on page 2, line 22 starting with "Employees" through line 24. He said the real problem seemed to be for the employee who just came on board; and, if we let them have their sick leave and annual leave right from the beginning, much of the problem would not be there. Rep. Brown asked if that wouldn't be a substantive change and so not permissible. Rep. Addy said we are still prohibiting using sick leave during leave without pay so we are trading instead of just taking away.

Chairman Williams said most union agreements have a provision that you must work a year before you get a vacation. Rep. Addy said he would like a vote on the motion. The motion to adopt Rep. Addy's amendment failed in a roll call vote with 9 voting no, 3 yes (Addy, Dozier, Driscoll) and 5 absent (Ellerd, Harper, Jones, Seifert and Thoft).

Rep. Driscoll moved the bill DO NOT PASS. A roll call vote was taken and the motion carried with 9 yes, 4 no (Addy, Hannah, Harper, Miller) and 3 absent (Ellerd, Jones and Thoft). Rep. Seifert left a yes vote.

HOUSE BILL 535 Rep. Addy moved DO NOT PASS. The motion passed with 11 voting yes, 2 no (Addy, Farris) and 4 absent (Ellerd, Jones, Seifert, Thoft).

Chairman Williams closed the executive session part of the meeting and opened the meeting to a hearing of the House Bill 568.

HOUSE BILL 568

REPRESENTATIVE HAL HARPER, District 30, chief sponsor, said this bill merely extends the time we have to work with Reed Act money. The money was appropriated by the federal government to be used for building local offices and other administrative expenses. It was to be used up in 25 years and this bill would extend it for 10 more years.

HAROLD KANSIER, Administrator, Unemployment Insurance Division, Department of Labor, said there is \$167,274 available in this fund, \$237,000 of that amount is obligated. He said when the state borrows for the trust fund it will lose this money but when we pay the federal government back we can ask that it be restored.

There were no other proponents or opponents.

REPRESENTATIVE HARPER in closing said the U.S. Department of Labor had excess funds in 1956, 1957 and 1958 so allotted it to the states for the purposes of local office functions.

Chairman Williams closed the hearing on this bill and opened the meeting to a hearing on HB 596.

HOUSE BILL 569

REPRESENTATIVE JAN BROWN, District 32, chief sponsor, passed to the members a statement of intent. A copy of this is Exhibit 1 of the minutes. She said this started out as a simple concept. She said the fiscal note attached is out of all proportion. The bill is a mechanism to create a sick leave bank made up of voluntary contributions of sick leave. She said the intent was to let the Department of Administration and an advisory committee work out the details. She said maybe the bureaucracy is too big and complicated to do this but she hoped not.

CHRISTY KONIGSBERG, DOLI-ICCW, spoke next in support and a copy of her testimony is Exhibit 2 of the minutes.

KATHIE CRAMER, representing self, spoke next in support and a copy of her testimony is Exhibit 3.

BARBARA CONDON, representing self, said she had an operation in September and fortunately was able to return to work but will need extensive therapy. She said it is not only doing without the pay check but you have to come up with your insurance. She felt this would help a lot of people in emergencies.

TOM SCHNEIDER, Montana Public Employees Association, spoke in support. He said there is another bill on this same subject and perhaps it could be incorporated into this bill. He said there is one problem on page 3, paragraph 8 which deals with state employees and also local government employees to pool sick leave benefits. It requires the Department of Administration to administer the advisory council and that might create a problem as that department doesn't usually promulgate rules for local government entities. He said local government can be amended out and have it just for state employees or put in that local governments would have their own

advisory council. He said the bill is needed. He said they were basically looking at a loan situation but a pool would be better. He said before 1977 it wasn't as much of a problem because you could use sick leave benefits in a negative fashion, and then repay as you earned more. But, he said, it was felt that it was not a proper way to administer the sick leave so a stop was put to it. He felt this was the only way to handle this situation and urged a do pass.

There were no opponents.

REPRESENTATIVE JAN BROWN closed saying it was a human type of bill and strictly voluntary. She said she realizes there are technical problems and she didn't expect the Legislature to work them out. She asked that the bill be passed to allow the mechanism to be put into place.

Chairman Williams said we would not close on this bill. Since the sponsor of HB 655 had another hearing to attend, he would hear testimony on that bill and then return to this one. Chairman Williams opened the meeting to a hearing on HB 655.

HOUSE BILL 655

REPRESENTATIVE JOHN HARP, District 19, chief sponsor, said this bill is to exclude line trucks and bucket trucks from the laws regulating hoisting engines. He said this bill has the support of the REA's and utility companies. He said the men who operate these vehicles have over a thousand hours of on-the-job training. He said he knew the utilities would not allow anyone to operate one of these who was incompetent because of their investment and they know if they keep their safety records in line their unemployment compensation rates follow. He passed around snapshots showing what these trucks looked like.

BOB QUINN, Montana Power Company, said they rise in support of the bill for the reasons stated.

GENE PHILLIPS, Pacific Power and Light, said they support the bill.

NORMAN CLARK, MAV and MTV, said they are in favor of the bill.

GENE PIGEON, Montana Dakota Utilities, said they support the bill.

DAVE FARRIS, Local 44 of the IBW, said they support the bill.

There were no opponents.

REPRESENTATIVE HARP said the bill has some fairly prominent people as signers including Rep. Driscoll of the committee.

Questions were asked by the committee.

Rep. Addy said judging from the pictures it would indicate there would be a person in the bucket. Isn't that a number one time to need a license. Rep. Harp said often the man who was in the bucket was operating the truck himself. He said being licensed through a \$20 fee is no guarantee the man would be safe and competent.

Rep. Pavlovich asked GARY L. BLEWETT, Dept. of Labor and Industry if there is a difference between this and any other license.

GARY L. BLEWETT, Social and Rehabilitation Services, said he was not speaking for or against the bill but only on a point of information. He said these trucks are still under the statute regulating hoisting engines and cranes. He said if you exclude this type of truck definition you could put a conflict in the law. He questioned whether the terms make it a clear exception. He said these people have a high workmen's compensation rate and since they are paying coverage on these individuals they have every incentive to encourage safety.

Chairman Williams closed the hearing on HB 655 and returned the committee's attention to HB 569 for questions from the committee on that bill.

BACK TO HB 569

Questions were asked by the committee

Rep. Harper asked why we need an advisory council. Ms. Konigsberg said to get employee input. She said the best kind of rules would be formulated by a committee made up of employees and not just by the Department of Administration. Rep. Harper said when adding any new bureaucracy the chances of getting the bill killed really increases. Can the purpose be served without? Ms. Konigsberg responded that the purpose of the bill could be met without an advisory council as she felt strongly the need of the bill and didn't want it killed. Rep. Brown said she felt an advisory council would be needed as she said the question was raised when drafting the bill and they felt it was doubtful that state employees would be willing to donate to a fund administered wholly by the Department of Administration. She said they envision some kind of employee council that would review some way to get the employee input.

Rep. Hannah asked how long sick leave can accululate. Ms. Konigsberg replied that there is no maximum amount. Mr. Schneider said if you quit or retire you get paid 25 percent of the value of the sick leave. He said seven to eight days a year are the average amount used. Rep. Dozier said he had accumulated about 1000 hours in fifteen years and that which was accumulated prior to 1971 is nonrefundable time.

Rep. Hannah expressed a concern that this could have a fiscal impact as the sick leave could be paid out at 100 percent whereas it might otherwise be only 25 percent. Mr. Schneider said it would but he felt it would be a savings over the long run. Rep. Addy suggested that the employees contribute all the hours they want but have it subject to a 50 percent discount. Ms. Konigsberg said the concept is for using this in extensive illnesses. She said it will not be used as frequently as the fiscal note indicates. She said she didn't know how the concept of 50 percent would work, but that it was unacceptable to her.

Chairman Williams said there is a question on the validity of the fiscal note. He suggested the sponsor of the bill get together with the researcher and possibly suggest another fiscal note.

Chairman Williams closed the hearing on this bill and opened the hearing on HB 603.

HOUSE BILL 603

REPRESENTATIVE RAY PECK, District 100, chief sponsor, said this was a bill that would allow the number of hours worked by firefighters to be the subject of collective bargaining. He said the problem surfaced in Havre when the Attorney General's opinion was sought to see if it were legal for firemen to work a 24 hour on and 72 hour off work schedule. The Attorney General found against it so they have had to work an eight hour day. The only exception is if there is a major conflagration and need firemen beyond that. He said he was approached by the local firemen to sponsor this bill. He said he had talked to city councilmen and was told that the 8-hour day was less efficient and more costly and they would like to get out of it. He then sent a letter to the persons chiefly concerned (Exhibit 4) and the responses encouraged him to sponsor HB 603. He said this bill cleans up the law by deleting some of the old sections that are in conflict and enables the firemen to negotiate at the local level to define hours of work. He went through the bill. He said Havre had to make the change since they had asked for the Attorney General's opinion, but some of the cities haven't made the change. Rep. Peck requested an amendment to make the bill effective on passage and approval and to change the title to reflect that.

RAY BLEHM, Montana State Firemen's association, spoke in support. He said this affects other cities besides Havre and was caused by the Attorney General's ruling. He said the Department of Labor had said they wouldn't push for compliance immediately so most cities' firemen have continued as usual, but it has affected some cities like Missoula and Lewistown and will affect all cities if this situation does not get corrected. He passed to the members an information sheet which is Exhibit 5; a news clipping is Exhibit 6; and a copy of the letter issued by Barry L. Hjort concerning the Attorney General's opinion is Exhibit 7, and a copy of the Attorney General's opinion is Exhibit 8.

TIM MacKAY, Havre Fire Department, spoke in support. He said he had been with the department for five years. He felt the hours should be negotiable.

ROBERT W. KEELER, Havre Fire Department, spoke in support. He said they had worked the 24 hours on 72 hours off for 12 years before the decree came down. He said it was due to a collective bargaining disagreement and this was just a way to get even. He said they have neighborhood support as they were able to get 2,000 registered voters to sign their petition and this would be about 50 percent of the voters of Havre. He said they run the ambulance service that covers about 4200 square miles and this way they have to get somebody from another shift to run this and so it costs extra (time and a half). He said the training program has been nil since the change and it used to be one of the best in the state.

MAE NAN ELLINGSON, Deputy City Attorney for the City of Missoula, spoke as an amender. She said they would prefer HB 281 as it deals with all employees. A copy of her testimony is Exhibit 9 of the minutes. A copy of her suggested amendments is Exhibit 10.

BILL VERWOLF, City of Helena, agreed with the preceding witness that the bill should cover more than firefighters. He felt both HB 281 and HB 603 should be looked closely at together and provide what the firefighters want. He said they support the amendments presented by Ms. Ellingson.

REPRESENTATIVE PECK, in closing, said firemen need to serve 24 hours a day while clerical work is thought of by the public as an 8 to 5 thing to do. He said they wouldn't want to endanger this bill by amending the other people in. He said they are trying to correct a very specific problem that pertains to firemen.

Questions were asked by the committee.

Mr. Blehm responded to a question that the Attorney General's opinion only spoke to general government power cities. He alluded to the possibility that the others might not have to pay attention to this. He said it is the employees protection law that is being dealt with and it has never been tested or ruled on before. She said you could take the firemen and police out of 281.

EXECUTIVE ACTION

HOUSE BILL 525 Rep. Harper moved to amend title, line 7, following "BONA FIDE" to insert "COLLECTIVE BARGAINING AGREEMENT" and the same amendment on page 1, line 22 and again on line 15. This motion carried with Rep. Addy voting no. Rep. McCormick moved that HB 525 AS AMENDED DO PASS.

Rep. Addy said he opposed the amendment because the words bona fide seniority system come out of the regular employment discrimination law. In court cases and in federal regulations, amendment is not necessary and if you have a bona fide seniority system for employees, it is a nonaffirmative action bill. Any past discrimination is clarified into the system until replaced by attrition. He said it lends stability to the working place, but it limits the extent to which you can engage in affirmative action.

The question was called and the motion carried. Rep. Ellerd voted no and absent now were Reps. Bachini, Driscoll, Hannah, Jones, Seifert and Thoft. Rep. Ellerd said he voted no because he didn't understand the bill.

HOUSE BILL 554 Rep. Addy moved DO NOT PASS. He said he has a lot of frustration with the Human Rights Commission. He said the Department of Labor and Industry processes these complaints in sixty days and the Human Rights process takes six months to make an initial determination. He said it takes one and a half to two years before anyone has a right to go into district court. He said he realizes there might be overlapping processes that the employer said he has to live with. He said we would not be helping the employee to pass this.

Rep. Dozier asked if the bill is not passed will all the avenues still be open to the employee. Chairman Williams said it would close one avenue if we passed it and it would just go under the Human Rights Commission.

Chairman Williams asked if this would relieve the individual from hiring an attorney to get the job done. Rep. Addy said there would be an administrative hearing on both tracks but in and administrative procedure there is less need for an attorney.

Rep. Harper asked why it takes the Human Rights Commission so long. Rep. Addy said they hire their own staff and the hearing officer comes from the Attorney General's Office which limits their manpower being readily available. The scope of inquiry under the Department of Labor is much narrower. Human Rights has a broader inquiry. Human Rights has been very lenient towards employees and so employees are encouraged to file claims.

Chairman Williams said he was having a problem accepting his approach. Wouldn't it be better to turn this over to the Human Rights? Wouldn't this be more justifiable than doing it twice if they don't get the right answer? Rep. Addy said you can go both ways at once and this bill would only limit the alternatives.

Rep. Harper made a substitute motion of DO PASS. The motion carried with six voting yes, 5 no (Dozier, Assy, McCormick, Pavlovich, Smith) and six absent (Bachini, Driscoll, Hannah, Jones, Seifert and Thoft).

HOUSE BILL 568 Rep. Harper moved DO PASS. The motion carried unanimously with those present. There were the same absent as the previous vote.

Chairman Williams appointed the following subcommittee to look into House Bills 603 and 281: Rep. Dozier, Chairman, Rep. Miller and Rep. Farris.

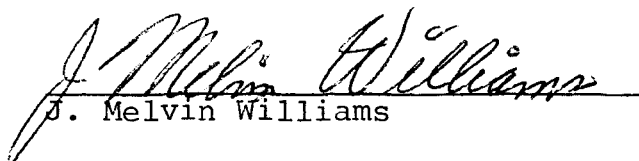
HOUSE BILL 623 Rep. Harper moved DO PASS. Mr. Dick Kane, Department of Labor and Industry, said he doesn't know of any present remedy unless it falls under the federal act. He said a fellow out of a job doesn't have the money to file a civil suit.

Rep. Addy asked if there could be a codification interaction in this and Mr. Wright the researcher was going to check on that.

The notion carried with Reps. Ellerd and Miller voting no and absent were Rep.s Bachini, Driscoll, Hannah, Jones, Seifert, and Thoft.

The meeting adjourned at 2:25 p.m.

Respectfully submitted,


J. Melvin Williams

Ex. 1

STATEMENT OF INTENT

Bill No. _____ [LC 621]

This bill requires a statement of intent because section 1 gives the Department of Administration rulemaking authority to administer the sick leave pool created by the bill.

The Department would be required to consult with the advisory council created by the bill in promulgating all rules. The rules would relate to the following matters:

- (1) maximum amount of benefits payable, based on the participant's previous contributions;
- (2) defining the types of illness or other circumstances when benefits would be payable;
- (3) procedures for participation and making claims for benefits;
- (4) other matters necessary for the efficient administration of the sick leave pool.

HOUSE EMPLOYMENT RELATIONS COMMITTEE

DATE 2/10

[illegible]

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name Christy Konigsberg Committee On Labor + EMPLOYMENT
Address 618 N. Davis Date 2-10-83
Representing DOLI - ICCW Support ✓
Bill No. 569 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

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4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Christy Konigsberg

Testimony in favor of House Bill Number 569

As a member of the Department of Labor and Industry's Intradepartmental Coordinating Committee For Women, I talk with employees about the problems they face in the work place. One problem they frequently mention concerns sick leave. Despite the fact that State employees earn 12 days of sick leave a year, many of them use most of their sick leave to care for sick children and in some cases aging parents. This is an especially difficult situation for single or divorced women with small children and for widows who do not have a partner to share the burden of care. These people often find they have no leave left for emergencies. For example a person who has had a heart attack may run out of sick leave very rapidly. Although he will eventually be able to return to work he and his family may undergo weeks of lack of income. Worry over money at such a time impedes a return to good health.

On the other hand I know employees who've accrued several hundred hours of sick leave and do not have the kind of responsibilities I've described. As a three-year employee I've accumulated over 200 hours of sick leave; that's a month and a half of time.

One way we envision solving the problem is the establishment of a sick leave bank. Employees would voluntarily donate a portion of their accumulated sick leave in a nonrefundable sick leave fund and thereby become eligible to draw upon the fund if extensive illness exhausts their accumulated sick leave. Our

intent is to provide employees with an additional benefit at a low cost and give protection against extensive illness or emergencies. This sick leave bank would have employees helping employees. Many of us would welcome the opportunity to help out on a voluntary basis.

We envision the fund would be self-building. It would be small the first year, and gain support as the benefits become known. It is difficult at this time to calculate the total cost because it's contingent on its use. However we believe the cost would be minimal.

The fund would be administered by an advisory council consisting of a representative of the participating employees of each state executive branch department, elected officer of state government, and major entity within the judicial and legislative branches of state government and the university system. Appointees would be nominated by participating employees and serve at the pleasure of the governor.

The council would work out the details for the use of the fund and adopt these procedures as rules. The rules would cover such matters as:

- (1) maximum amount of benefits payable, based on the participant's previous contributions;
- (2) defining the types of illness or other circumstances when benefits would be payable;
- (3) procedures for participation and making claims for benefits;
- (4) other matters necessary for the efficient administration of the sick leave pool.

It is the council's responsibility to ensure the efficient and effective management of the fund.

I recommend the members of this committee give serious consideration to this bill and vote a do pass recommendation.

WITNESS STATEMENT

Name Kathie Adams Committee On _____
Address 500 Kalipuel E Helena Date 2-10-83
Representing Self Support ☒
Bill No. HB 5-69 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

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Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

TESTIMONY IN FAVOR OF - HB569

I'm here as a proponent of HB569, who can personally recognize the need for establishing a sick leave bank.

As a single parent, I'm aware of what devastating effects a long-term illness or disability can have on my family.

Like most people, I've obtained medical and life insurance. I also carry an accident insurance policy for a cost of \$16.00 per month. This insurance provides supplemental wage benefits of \$40 per day if I am unable to work due to an accident, but does not cover illnesses. The same company does offer insurance for illness, but costs an additional \$18 per month, and only pays for an illness which lasts over 14 days. I frankly do not think this additional coverage is cost effective for me.

Then in August of 1981, my daughter was injured in a near-fatal motorcycle accident. She sustained fractures and a ruptured liver.

Luckily, after 7 weeks and 3 major surgeries she began to recover. But by that time I had exhausted all accumulated sick and annual leave and was in a status of leave without pay. Had I then become seriously ill or in an accident, I would have had no leave available.

I believe some of the stress generated by these types of circumstances may be alleviated for friends and co-workers when a sick leave bank is available. I support HB569.

WITNESS STATEMENT

Name Barbara Condon Committee On Galun + Employment
Address 744 Rosemary Date 2-10-83
Representing self Support ✓
Bill No. 569 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

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Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

HOUSE EMPLOYMENT RELATIONS COMMITTEE

DATE 2/10/83

SPONSOR HARP

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name VERMAN D. CLARK Committee On LAB & IND.
Address Box 1306 GREAT FALLS Date 2/10/83
Representing M.A.U. Support ✓
Bill No. 655 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. ON BEHALF OF M.A.U. & M.T.U. WE SUPPORT BILL No. 655
2. WE HAVE AN ONGOING TRAINING PROGRAM WITH OUR SYSTEMS &
WE HAVE A 3 TO 5 YEAR APP. TRAINING PROGRAM WITH IN OUR
SYSTEMS
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



The Big Sky Country

MONTANA STATE HOUSE OF REPRESENTATIVES

REPRESENTATIVE RAY PECK
HOUSE DISTRICT 8

HOME ADDRESS:
620 FOURTH AVENUE
HAVRE, MONTANA 59501

86.4
COMMITTEES:
APPROPRIATIONS
EDUCATION

MEMORANDUM

TO: Robert J. Miller; James E. Galbavy; Jerry D. Benbrooks;
Michael R. Badgley; Gary A. Schnurr; Robert P. Nieuwenhuys;
Robert W. Keeler; Robert Letang; Dennis G. Hensley;
James E. Kase; Timothy N. MacKay; Glenn L. Carlson;
Craig R. Ellingson; Michael D. Anderson, Norman H. Maze;
James E. Cowan; Ray Watson; Kevin Loftus; Frank Hoppe;
Clay Codden; Essie Gebhart; Steve Velk; Fred Brown,
Rick Brodock and Barbara McConley

FROM: Ray Peck, Representative
House District #8

RE: Legislation Dealing With Work Hours of Firemen

DATE: January 31, 1983

About a week ago, I was asked by firemen representing firemen throughout Montana to carry a bill dealing with working conditions for those city employees. I told these gentlemen that this was a sensitive area in Havre and they might be wise to look to some other House member to carry this legislation. I was assured that they were aware of the history in Havre and they still wanted me to carry the bill. I told them that I would consider it after seeing the bill and discussing the matter with Havre City officials.

A day or two later, Jim Spangelo called me about a water rights piece of legislation we had been working on, and I described the bill to him as it had been described to me. I am sure Jim was uneasy about commenting on it without seeing the actual bill - he also noted that it was not his authority to make such decisions for the City - but felt it may be good legislation. I then called Mayor Watson and discussed the same question with him, and Ray indicated that he could not see anything wrong with it on the basis of my report to him.

I was not able to discuss the bill with any members of the Havre Fire Department, but I assumed they were in agreement with it in view of the fact it was proposed by their state organization.

I have now received this piece of legislation from the Legislative Council and will file it on Tuesday. Due to rules of the House, I cannot hold it any longer than that.

Memorandum
Ray Peck, Representative
House District #8

-2-

January 31, 1983

It appears to me that the legislation would merely make hours of work an item to be negotiated by the firefighters and the city. However, the bill is 10 pages long to amend the appropriate sections, and it will probably be Friday before I can secure the printed copies for you.

The bill amends Section 7-1-111; 7-33-4109; 39-3-406 and 39-4-107, MCA. it also repeals Sections 7-33-4126; 7-33-4129 and 7-33-4132, MCA.

I would appreciate it if any of you have any comments on this legislation if you would send them to me as soon as possible.

RP/mac

cc: James Spangelo
Post Office Box 190
Havre, Montana 59501

WITNESS STATEMENT

Name Ray Blehm Committee On _____
Address 226 Wallace Date _____
Representing Mt St Firemans Assoc Support X
Bill No. HB 603 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

see attachments

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

8x.5

HOUSE BILL 603: Information Sheet

Montana State Firemen's Association

1. Consolidates firefighter time and a half provisions, and the eight hour work day under the State Labor Code, and eliminates language from the Municipal Fire Department section of state law which covers the same subjects.
2. Relieves what has become an untenable situation in some of the states general government power cities which are causing their firefighters to work in strict adherence with the attorney general's ruling on Fire Department shifts in Havre, an employee is assigned the same days off and shift; requiring such shifts for an individual as perpetual afternoons with Sunday and Monday off--a man working this shift may only get to spend one day a week with his children.
3. Gives flexibility to the local government employee and employer representatives without removing important safeguards of the employee.
4. Reduces the possibility of a wage claim suit being filed against local government units.
5. Will help hold down cost by more efficient use of manpower.
6. Failure to pass this legislation could cause a disruption of the fire protection levels in cities which have not complied with the recent A G ruling being forced onto a straight eight hour shift, 40 hour week.
7. This would bring into question Local Government contract negotiated with fire department employees under the authority granted by the Montana Public Employees Collective Bargaining Act, which authorizes negotiation of hours.

Firemen, cities seek support for amendment on labor hours

By CHARLES S. JOHNSON
Tribune Capitol Bureau

HELENA — Lobbyists for firemen and cities, two groups often at odds, are working together to seek support for a bill to correct a problem they say a recent attorney general's opinion has caused.

If it isn't corrected, some Montana cities could wind up paying more for reduced fire protection, according to lobbyists for the Montana State Firemen's Association and League of Cities and Towns.

They fear Attorney General Mike Greely's opinion nullifies collective

bargaining agreements that allow firemen to work more than eight hours a day.

The lobbyists are trying to convince enough lawmakers that a simple amendment to the law would solve the problem.

If they drum up enough legislative support for the proposal, they will ask Gov. Ted Schwinden to expand his special session call to include their bill.

The problem arose with an opinion Greely issued to the city of Havre Oct.

7. Greely held that work schedules

for firemen must conform to a state law stipulating that firemen in first- and second-class cities cannot work more than eight hours in a 24-hour period except in emergencies.

The opinion, which has the force of law, nullifies the working arrangements agreed to by firemen and some cities through collective bargaining, according to Ray Blehm, lobbyist for the firemen's group.

Dan Mizner, executive director of the Montana League of Cities and Towns, said local governments and firemen had taken the position that the law authorizing them to bargain collectively supersedes the statute cited by Greely.

It changes a mutually agreed upon interpretation of the law that has been held by some cities and fire departments for as long as a dozen years, according to an information sheet distributed by the groups.

Most cities have agreed to contracts with firemen that provide for more flexible shifts beyond eight-hour days and 40-hour weeks.

Bozeman, for example, has an agreement with its firemen for each to work two 24-hour shifts a week.

In Great Falls, the contract calls for firemen to work 42-hour work weeks, including 10-hour day shifts and 14-hour night shifts, Blehm said.

If Great Falls is required to obey the attorney general's opinion, each of the 70 firemen would be required to cut back two hours a week, which would reduce the total hours worked by 140 hours a week, according to Blehm.

"That's like cutting back three and one-half people," he said.

The net result might end up costing local governments more money by forcing the financially strapped cities to hire more firemen to make up the difference, Mizner said.

It might cost cities anyway because most firemen's contracts are negotiated on a monthly salary, according to the information sheet. Thus even though firemen's hours would be reduced, cities would be paying the same salaries.

"Failure to change this law could result in reduced fire protection and more manpower reductions on top of those experienced in recent years in many of our cities," the statement said.

Unless the law is changed to override Greely's opinion, cities and towns could be fined by the state Labor Department for allowing firemen to work more than eight hours, Blehm said.

Greely's opinion and the law don't affect cities with self-governing powers, which are Helena, Billings, Butte and Anaconda.

The proposed bill would amend the law to say it can be waived by collective bargaining agreements between cities and firemen.

Chances of the bill being introduced were uncertain late Wednesday.

Blehm said he and Mizner hope to convince the House Republican caucus to discuss the measure Thursday.

The proposal was discussed briefly at the meeting between Schwinden and House and Senate leaders Wednesday, but the matter was not resolved.

But Schwinden all but agreed to expand the call to include Rep. Jay Fabrega's bill to deal with delinquent taxes after the Great Falls Republican gathered more than 80 signatures supporting him. The formal document to expand the call had been drafted and the governor was waiting only for the report from Senate Republicans as to whether they would support the measure.

IONTANA provide bright spot around Missoula

soula area because of layoffs and plant closures," he said.

Longtime Grizzly booster Al Manuel of Alberton echoed Lewis' comments. Manuel, who has worked 24 seasons in the Grizzly pressbox as a statistician, says he's never seen the Missoula economy so tough. Manuel, a railroader, was a victim of the Milwaukee Road closure last year who managed to pick up some part-time work with Burlington Northern.

But he and others with low seniority were laid off by BN recently. "There just isn't much freight moving," Manuel comf

Bud Munson reflected on his 20 years as a logger and mill employee in western Montana.

"You know, this is a dying business. I've seen it tough before...but never this bad."

Munson also offered his assessment of what's gone wrong: "It's the goddamn Forest Service and the goddamn environmentalists. And the politicians don't give a hoot either."

Some 3,900 persons were out of work in the Missoula labor market area at the end of September, according to State Department of Labor and Industry figures.

A. W. Scribner (1924-1978)
Lawrence D. Huss
Barry L. Hjort
R. Scott Currey
Dennis R. Lopach

LAW OFFICES
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P. O. Box 514
Telephone
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File No:

October 14, 1981

Richard Seddon
106 Fifth Ave. W.
Kalispell, MT 59901

Ray Blehm
623 Avenue B
Billings, MT 59101

Ron Lee
1712 Fifth N.W.
Great Falls, MT 59401

Bob Armstrong
Fire Department
City Offices
Havre, MT 59501

Re: Attorney General's Opinion--Firefighters' Hours
of Work

Gentlemen:

Enclosed please find a copy of Attorney General's Opinion No. 35 of Volume No. 39, concerning firefighters' hours of work, issued to James W. Spangelo, City Attorney for the City of Havre, Montana.

A review of the Opinion reveals that the Attorney General concludes: that work schedules for firefighters must conform to the requirements set forth in 7-33-4126, MCA (that firefighters in first and second class cities must not be required to work on or be on duty more than 8 hours out of each consecutive 24 period except in the event of an emergency); and that a firefighter may receive comp time off for any additional bonus hours in excess of 40 hours in 1 week.

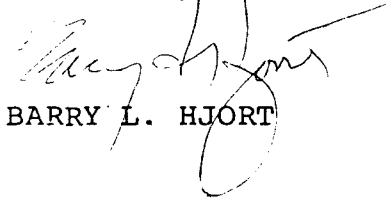
A review of the Opinion further reveals that the Attorney General has concluded that the provisions of 7-33-4126, MCA, are mandatory. That is, the 8 hour shift requirement cannot be waived by individual firefighters, nor can it be waived through the collective bargaining process. I will caution you, as the Attorney General does in the conclusion to his Opinion, that this conclusion only applies to municipalities with general government powers. The Attorney General does not purport to extend the determinations which he made in this Opinion to cities operating under self-government charters.

Richard Seddon
Ray Blehm
Ron Lee
Bob Armstrong
Page 2
October 14, 1981

The final conclusion of the Opinion is that comp time can be provided, through the device of a collective bargaining agreement or otherwise to provide compensation to fire-fighters who work in excess of 40 hours in a given work week.

After reviewing the Attorney General's Opinion and this letter, should you have any questions about the matter, do not hesitate to contact me.

Very truly yours,



BARRY L. HJORT

BLH/cr

Enc.

Ex 8
RECEIVED

OCT 09 1981

FIRE MARSHAL BUREAU

VOLUME NO. 39

OPINION NO. 35

FIRE DEPARTMENTS - Schedule of workshifts;

FIREFIGHTERS - Hours of work;

FIREFIGHTERS - Receipt of compensatory time off;

HOURS OF WORK - Repeal by implication of statutes providing criminal penalties for overtime work;

HOURS OF WORK - Firefighters;

STATUTES - Repeal by implication;

MONTANA CODE ANNOTATED - Title 7, Chapter 1, Part 1, 7-5-4101, 7-33-4126, 7-33-4129, 7-33-4132, Title 39, Chapter 3, Part 4, 39-4-107;

UNITED STATES CODE - 29 USC §201 et seq.

OPINIONS OF THE ATTORNEY GENERAL - 36 OP. ATT'Y GEN. NO. 63 (1970) and 38 OP. ATT'Y GEN. NO. 83 (1980).

- HELD: 1. Work schedule for firefighters must conform to those set forth in 7-33-4126, MCA.
2. A firefighter may receive compensatory time off for bonus hours worked in excess of forty in one week.

7 October 1981

James W. Spangelo, Esq.
City Attorney
P.O. Box 231
Havre, Montana 59501

Dear Mr. Spangelo:

You have requested my opinion on the following questions:

1. May a municipal fire department, with the consent of its employees, schedule firefighters to work shifts of 24 hours on duty followed by 72 hours off duty when such a schedule results in firefighters working more than eight hours in one day and forty hours in one week?
2. May firefighters accept compensatory time off in lieu of additional nonetary compensation for overtime work?

You raise two other questions which need not be answered in light of the disposition of these questions:

I.

38 OP. ATT'Y GEN. NO. 83 (1980) examined the status of

Montana's statutes providing for eight-hour work days. The statute in question there was section 39-4-107, MCA, which provides:

(1) A period of 8 hours constitutes a day's work in all works and undertakings carried on or aided by our municipal or county government, [or] the state government....* * *

* * *

(4) Every person, corporation, stock company, or association of persons who violates one of the provisions of this section is guilty of a misdemeanor....

The opinion noted the enactment of maximum hour and overtime statutes and an opinion of the Montana Supreme Court authorizing payment of overtime salary to state employees working more than eight hours per day, Glick v. Department of Institutions, 162 Mont. 82, 509 P.2d (1973), and concluded that section 39-4-107, MCA, does not prevent a local law enforcement agency from scheduling its employees to work a forty-hour week consisting of four ten-hour days.

Section 39-4-107, MCA, was originally enacted in 1905 to promote the safety and well-being of workers through a system of criminal sanctions for overtime work. See Butte Miner's Union v. Anaconda Copper Mining Co., 112 Mont. 418, 436, 118 P.2d (1941). Until 1938, the legislature chose to regulate hours of work through imposition of such criminal sanctions, which, incidentally, applied to both employer and employee. State v. Livingston Concrete Building and Manufacturing Co., 34 Mont. 570, 577, 87 P.9, 80 (1906). In 1938, the federal Fair Labor Standards Act, 29 USC §201 et seq. ("FLSA"), changed the direction of the law by creating the now well-known system under which workers are not prohibited from working more than the statutory maximum hours, but rather are granted additional compensation at a higher rate for the additional work. The FLSA was enacted pursuant to Congress' power to regulate interstate commerce, and it therefore controls, under the United States Constitution's Supremacy Clause, to the extent of any inconsistency with state laws on the subject. See Butte Miner's Union, 112 Mont. at 429-31. Since the FLSA provides for overtime compensation for extra hours worked, Montana's provisions for criminal penalties for such conduct may not be applied to employees and employers covered by the FLSA.

The public employees in question here are excluded from the coverage of the FLSA under the decision of the United States Supreme Court in National League of Cities v. Usery, 426 U.S. 833 (1976). It does not follow, however, that public employees and their supervisors are subject to criminal penalties for overtime work. The legislature has enacted several statutes dealing with wages and hours. Such statutes are in pari materia with the eight hour day statutes, and all must therefore be read together. State ex rel. McHale v. Avers, 111 Mont. 1, 5, 105 P.2d 686 (1940). Title 39, Chapter 3, Part 4, MCA, is Montana's version of the FLSA. Like the 8-hour day provision of section 39-4-107, MCA, its purpose is to promote the general well-being of the worker. Chapter 417, Section 1, Laws of 1971. It provides that workers are entitled to additional compensation when employed in a work week of more than forty hours. Section 39-3-405, MCA. Since a statutory work week is forty hours, section 39-3-405, MCA, the overtime statute

is obviously inconsistent with the criminal penalties provided in section 39-4-107, MCA. It is ridiculous to suggest that the legislature intended to prohibit a person, on pain of criminal penalty, from exceeding eight hours of work per day or forty hours of work per week, as section 39-4-107, MCA, provides, while at the same time providing that employee with a premium in the form of one and one-half times his usual rate of compensation for overtime hours. The provisions relate to the same subject matter and they support the same objective, but they simply cannot be reconciled. While repeals by implication are not favored, Fletcher v. Paige, 124 Mont. 114, 119, 220 P.2d 484 (1950), I cannot escape the conclusion that by its later enactment of the overtime provision in section 39-3-405, MCA, the legislature has implicitly repealed the earlier criminal penalties for overtime work in Title 39, Chapter 4. See State ex rel. Jenkins v. Carisch Theatres, Inc., 172 Mont. 453, 458-59, 564 P.2d 1316 (1977). I reaffirm my holding to that effect in 38 OP. ATT'Y GEN. NO. 33 (1980).

That opinion, however, does not control the answer to your question, since the legislature has enacted other more specific provisions relating to firefighters. Section 7-33-4126 MCA, provides:

Hours of work of member's of paid fire departments in cities of first or second class. (1) The city council, city commission, or other governing body in cities of the first or second class shall divide all members of the paid fire department into platoons of three shifts. The members of each shift shall not be required to work or be on duty more than eight hours out of each consecutive twenty-four hours except in the event of a conflagration or other similar emergency when any of such members shall be required to serve so long as the necessity therefor exists.

(2) Each member shall be entitled to at least one day off out of each eight day period of service without loss of compensation.

Section 7-33-4132, MCA, provides a misdemeanor criminal penalty for violation of this statute. Unlike section 39-4-107, MCA, section 7-33-4126, MCA, does more than limit hours of work --it establishes a statutorily mandated work schedule consisting of eight hours on duty followed by sixteen hours of off duty with at least one full day off duty in each eight day period. A statute is repealed by implication only to the extent of its inconsistency with subsequent legislation. Thus, although the criminal penalties for overtime work provided in section 7-33-4132, MCA, cannot stand, the provisions of section 7-33-4126, MCA, establishing a work schedule for firefighters remain in force.

Your letter suggests that since section 7-33-4126, MCA, was enacted to further the health and well-being of firefighters, the employees may waive the benefit of the statute and agree to a work schedule other than that established by the legislature. Initially, even if it is conceded that the statute was intended solely to benefit the firefighters, it does not follow that they may waive its protections. Livingston Concrete, 34 Mont. at 577. Further, although the purpose of the eight-hour day statute is "to avoid the continuous employment of workmen for such length of time as to imperil their lives or health," Livingston Concrete, 34

Mont. at 576, it is not at all clear that this was the sole motivation for the enactment of section 7-33-4126, MCA. It is conceivable, for example, that the legislature might have concluded that work shifts longer than eight hours in each twenty-four hour period might detract from the efficiency of the firefighter's performance of his duty and thereby endanger the safety of persons or property in the community in the event of a fire. This possibility is enhanced by the fact that when section 7-33-4126, MCA, was enacted in 1937, firefighters had been protected from the "evils" of overtime work for some twenty years under an amendment to section 39-4-107, MCA, Section 1, Chapter 30, Laws of 1917. The work shift provisions of section 7-33-4126, MCA, do not add materially to the protections granted to firefighters under the eight-hour day statutes. I must therefore conclude that the legislature had some other object in mind in enacting the work-shift provisions of section 7-33-4126, MCA, and that the firefighters may not waive the provisions of the statute.

When the legislature prescribes the means by which a municipality with only general government powers is to do an act or perform a function, the municipality has no discretion to do otherwise. Dietrich v. City of Deer Lodge, 124, Mont. 8, 15, 218 P.2d 703 (1950). Section 7-33-4126, MCA, leaves no discretion to the city -- it must schedule its firefighters in shifts according to the statute.

In light of my conclusion that the work schedule provisions of section 7-33-4126, MCA, may not be waived by the employees, I need not reach the question of whether such a waiver may result from collective bargaining. Since I have concluded that the criminal penalties for overtime work have been repealed by implication, I likewise need not decide whether employee consent is a defense to prosecution under sections 7-33-4132 and 39-4-107, MCA.

II.

Your second question is whether firefighters may receive compensatory time off in exchange for hours worked in excess of forty in a workweek. I conclude that such a practice is permissible. Section 39-4-107(2), MCA, provides that a standard workweek for firefighters is forty hours. However, the statutes clearly authorize the performance of overtime work in cases "of a conflagration or other similar emergency," and the statutory work schedule would also allow an employee to work more than five eight-hour shifts per week. Section 7-33-4126(1), and 39-4-107(1), MCA. Under section 7-33-4129, MCA, firefighters are entitled to additional overtime compensation under Title 39, Chapter 3, Part 4, only if such entitlement is agreed upon through collective bargaining. The conclusion expressed in Part I of this opinion and in 38 OP. ATT'Y GEN. NO. 23 (1980) is based largely on the legislature's determination that employees who work more than the statutory maximum work week are entitled to compensation. If that compensation does not take the form of additional salary at one and one-half times the normal rate, it must come in the form of compensatory time off which gives the employee an average work week of forty hours. While there is no explicit statutory authorization for the granting of compensatory time off to public employees, 36 OP. ATT'Y GEN. NO. 63 (1976) recognized that the power of county commissioners to manage the affairs of a county includes the power to grant compensatory time off to employees. Section 7-5-4101, MCA, gives the governing body of a city the power to manage the affairs of the city and

take any action necessary to execute the municipal powers. The necessarily implied power recognized in 36 OP. ATT'Y GEN. NO. 63 (1976) allows the city to enter into a contract providing compensatory time off for firefighters.

In closing, it is important to bear in mind that the above discussion applies to cities with general government powers, as opposed to those cities which have adopted self-government charters. Such home rule local governments possess expanded powers to manage their own affairs without regard to most statutory limitations on general government powers. See Title 7, Chapter 1, Part 1, 'CA. This opinion expresses no conclusions as to the relationship between a self-governing city and its firefighters.

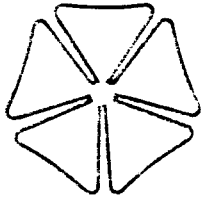
THEREFORE, IT IS MY OPINION:

1. Work schedules for firefighters must conform to those set forth in 7-33-4126, 'CA.
2. A firefighter may receive compensatory time off for bonus hours worked in excess of forty in one week.

Very truly yours,


MIKE GREELY
Attorney General

MG/CT/dc



THE GARDEN CITY
HUB OF FIVE VALLEYS

Missoula, Montana 59802

OFFICE OF CITY ATTORNEY
201 West Spruce Street
Phone 721-4700

TO: Mel Williams, Chairman
Members of House Labor and Employment Relations

FROM: Mae Nan Ellingson
Deputy City Attorney

RE: HB 603

DATE: February 10, 1983

When the committee heard testimony on HB 281, the hours of work bill on January 25, 1982, it decided to hold that bill for consideration until the other hours of work bill was before the committee. HB 603 from what I understand is that other bill. The City can support HB 603 with an amendment and certainly the legislation is needed if HB 281 is not enacted. HB 603 will not be needed if 281 is passed and clearly 281 is the preferable bill for many reasons.

1. HB 603 allows only firefighters to work schedules other than five 8-hour days.

HB 281 would allow all County or City employees to agree to work schedules other than the statutorily mandated five 8-hour shifts. HB 603, while it is in specific response to Attorney General opinion No. 39-35, it is piecemeal legislation.

In 1979 the Legislature authorized County road and bridge crews to work four 10-hour days.

In 1981 the Legislature authorized the Sheriff's Department to establish a work period other than the work week provided in 39-3-405.

This session will be or is currently considering in separate legislation allowing nurses, police officers and firefighters to work shifts other than five 8-hour shifts.

If it is in the public interest to allow certain employees the right to agree to work more flexible work hours, why isn't it in the public interest to allow all City and County employees to do the same? It seems unfair to me that only those bargaining groups who can afford to have a lobbyist and get special dispensation through the Legislature are entitled to arrange more flexible hours of work. What about the secretaries, the clerks, the librarians, the city street workers, the sewer workers? Do you really want to encourage them to each seek introduction of their own legislation over the years until each conceivable category of worker has obtained a statutory exception?

That neither seems fair or a prudent use of legislative time.

2. HB 603 does not address the conflict between the law and Attorney General Opinion No. 38-83.

Most cities currently have any number of employees working four 10-hour shifts at a not insignificant risk. We are faced with openly defying the red letter of the law and exposing ourselves to a back pay claim for time and a half for hours worked in excess of 8 hours, or reverting back to five 8-hour shifts which would destroy worker morale and create inefficiencies in operation.

I would encourage you to pass 281, with the amendments I sent to you on February 7, 1983.

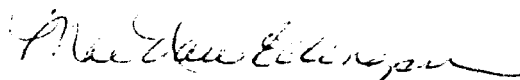
If HB 603 is the preferred bill of the committee, I recommend that it be amended in accordance with the amendment.

The purpose of this amendment is to use language consistent with language contained in the other exclusion provisions such as the sheriff's deputy exclusion in section (M). The intent of the bill as proposed by the firefighters is consistent with this change. Parallel statutory provisions are beneficial for future interpretation.

Also, the conflict language used in SB 603 raises an additional threshold question of whether there is a conflict between the statute and the agreement. Does the conflict have to be explicit or implied? Again, the purpose of the bill is to have Section 39-3-406 and 39-4-107 not apply where firefighters have bargained for other hours of work. The amendment that I have suggested accomplishes that.

Thank you for your consideration.

Very truly yours,



Mae Nan Ellingson
Deputy City Attorney

SUGGESTED AMENDMENTS TO HB 603

Page 5, Line 21

following: "a firefighter"

strike: "if such provisions are in conflict with"

Insert: "who is working under a work period established in"

Page 6, Line 20

Following: "firefighters"

Strike: "if the provisions conflict with a provision"

Insert: "who are working a work period established in"

STANDING COMMITTEE REPORT

February 10, 1983

SPEAKER:

MR.

LABOR AND EMPLOYMENT RELATIONS

We, your committee on

having had under consideration HOUSE Bill No. 568

First reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE TIME FOR THE
USE OF REED ACT MONEY AS PROVIDED FOR IN SECTION 192 OF PUBLIC
LAW 97-248; AMENDING SECTION 39-51-404, MCA."

Respectfully report as follows: That HOUSE Bill No. 568

DO PASS

STANDING COMMITTEE REPORT

February 17, 19 83

MR. **SPEAKER:**

We, your committee on **LABOR AND EMPLOYMENT RELATIONS**

having had under consideration **HOUSE** Bill No. **569**

First reading copy (**white**)

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW STATE EMPLOYEES TO POOL A PORTION OF THEIR COMPENSATED SICK LEAVE DAYS IN A FUND AND TO DRAW UPON THE FUND IF ABSENCE DUE TO EXTENSIVE ILLNESS OR AN ACCIDENT EXHAUSTS THEIR SICK LEAVE; CREATING A STATE EMPLOYEE SICK LEAVE ADVISORY COUNCIL; AMENDING SECTION 2-18-612, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **569**

DO-PASS-

STANDING COMMITTEE REPORT

February 17, 1983

MR. **SPEAKER:**

We, your committee on **LABOR AND EMPLOYMENT RELATIONS**

having had under consideration **HOUSE** Bill No. **603**

First reading copy (white)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE NUMBER OF HOURS
WORKED BY FIREFIGHTERS TO BE THE SUBJECT OF COLLECTIVE BARGAINING;
AMENDING SECTIONS 7-1-111, 7-33-4109, 39-3-406, AND 39-4-107, MCA;
AND REPEALING SECTIONS 7-33-4126, 7-33-4129, AND 7-33-4132, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **603**

be amended as follows:

1. Page 5, lines 21 and 22.

Strike: "if such provisions are in conflict with"

Insert: "who is working under a work period established in"

2. Page 6, line 20.

Strike: "if the provisions conflict with a provision"

Insert: "who are working a work period established"

AND AS AMENDED
DO PASS

~~XXXXXX~~
DO PASS

STANDING COMMITTEE REPORT

February 15, 19 83

SPEAKER:
MR.

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 655

FIRST reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE LINE TRUCKS AND
BUCKET TRUCKS FROM THE LAWS REGULATING HOISTING ENGINES; AMENDING
SECTION 50-76-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 655

be amended as follows:

1. Page 1, lines 17 and 18.

Strike: "or line trucks and bucket trucks"

Insert: ". (3) The provisions of this chapter shall not apply to
line trucks and bucket trucks engaged in the maintenance or repair
of existing facilities in accordance with rules adopted by the
department"

AND AS AMENDED
DO PASS

~~XXXXXX~~
~~DO PASS~~
STATEMENT OF INTENT ATTACHED

..... J. MELVIN WILLIAMS

Chairman.

MR. SPEAKER:

WE, YOUR COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS, HAVING
UNDER CONSIDERATION HOUSE BILL NO. 655, FIRST READING COPY (WHITE),
ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL NO. 655

It is intended by this bill to amend Section 50-76-101, MCA,
to exclude from the provisions of Title 50, Chapter 76, line trucks
and bucket trucks engaged in the maintenance or repair of existing
facilities. Such trucks engaged in new construction are not
excluded.

Because line trucks and bucket trucks are similar to other
equipment included in this chapter, it is necessary to define and
distinguish them. These trucks are not exclusively used for mainten-
ance or repair and may be adapted for new construction.

The Division of Workers' Compensation is delegated the rule
making authority to define the vehicles and exclude those intended
by this amendment.

J. Melvin Williams
vin

Chairman.