

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT COMMITTEE
MONTANA STATE SENATE

March 19, 1985

The twenty-second meeting of the Labor and Employment Committee was called to order at 1:00 p.m. by Chairman J. D. Lynch in Room 413/415 of the State Capitol

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 599:

Chairman Lynch called on Representative Tom Asay, sponsor of House bill 599. House Bill 599 deals with the existing statute that says 8 hours constitutes a day's work for hydroelectric dam employees.

PROPOSERS OF HOUSE BILL 599:

Bernard Shelton, representing IBEW, Local #44, submitted testimony in support of HB 599.
(Exhibit No. 1)

Jim Rogers, Site Manager for Montana Power Company, Colstrip, said his company supports Local #44 in this request. He asked that the committee give this bill a Do Pass recommendation and submitted written testimony.
(Exhibit No. 2)

Gene Phillips, representing Pacific Power and Light, said his company has one hydroelectric project in the state. They support House Bill 599.

OPPONENTS OF HOUSE BILL 599:

None were present.

QUESTIONS FROM THE COMMITTEE:

Senator Keating asked Mr. Rogers if Colstrip is a hydroelectric plant. Jim Rogers replied Colstrip is a thermal plant. Montana Power Company doesn't have a hydroelectric plant at Colstrip, but they do have 14 hydroelectric plants elsewhere in the state.

Senator Haffey asked where the hydroelectric facility in question is located. Senator Thayer replied Big Fork.

Chairman Lynch asked Mr. Shelton if his employees are giving up overtime to accommodate this shift. Bernie Shelton

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answered they are not; they are working the same amount of hours.

Representative Asay closed on House Bill 599.

The hearing was closed on House Bill 599.

EXECUTIVE ACTION ON HOUSE BILL 599:

Senator Haffey made a motion that House Bill 599 Be Concurred In. On a voice vote, the Committee voted unanimously that HOUSE BILL 599 BE CONCURRED IN. Senator Keating will carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 378:

Senator Keating made a motion to strip Senator Towe's amendments to House Bill 378 and recommend it Be Concurred In.

Senator Keating made a motion to remove House Bill 378 from the table. A roll call vote was taken; the motion tied 4-4. House Bill 378 will stay tabled in Committee. The roll call vote is attached.

EXECUTIVE ACTION ON HOUSE BILL 453:

Senator Thayer asked if anyone knew the status on Senate Bill 402. Chairman Lynch answered as of March 22, it is in House Business and labor Committee.

Senator Towe moved that House Bill 453 Be Concurred In. On a voice vote, the committee voted 5 to 3, with senators Aklestad, Keating and Thayer voting no and all others voting yes, the motion carried.

Senator Towe will carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 554:

Senator Blaylock addressed Dave Wanzenried, Commissioner of Department of Labor, and said if an Idaho contractor came here and brought a whole Idaho crew with him, he wouldn't be paying into Montana's workers compensation for unemployment funding, he would be paying into the Idaho fund for his workers.

Dave Wanzenried said that is not correct. It is different for worker's compensation. When they come to Montana, Idaho contractors would pay Montana unemployment insurance taxes into our trust fund.

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Gary Blewett answered the question further: If the Idaho firm and Idaho employees are coming here to work, they don't pay Montana workers' compensation; they pay Idaho workers' compensation. It is only when they hire Montana people when they are doing Montana work that they have to pay workers' compensation in Montana for those employees.

Senator Aklestad addressed Mr. Wanzenried and said on page 2, lines 11-16, the contractor has to give preference in hiring to Montana residents. He asked if that means employers would have to take into consideration the workers' qualifications. Mr. Wanzenried answered you would end up with something like the veterans preference but in this case residence would dominate.

Senator Keating asked Mr. Wanzenried what HB 554 does to change what is already being done.

Dave Wanzenried replied he is not sure he can answer that question.

Chairman Lynch responded to the question, saying that in recalling a similar question which was asked of Representative Connelly, much of this is being done right now, but this bill would encourage further preference in hiring to Montanans.

Senator Towe offered amendments:

Page 2, line 16.

Following: "PROJECTS"

Insert: "in the same manner as preference is granted to veterans under 39-30-201."

Senator Towe also moved the same amendment be made on page 4, line 22, and page 6, line 7.

Senator Towe moved the amendments. On a voice vote, all members of the committee voted yes except Senator Keating who voted no.

Senator Towe moved that House Bill 554 Be Concurred In As Amended. On a voice vote, with senators Aklestad and Keating voting no and all others voting yes, the motion carried.

Senator Towe will carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 718:

Senator Haffey said he thinks the bill has enough wrong with it that it deserves not to pass. Senator Manning said he was talking with several people who represent state employees, and he felt this bill was needed to cover the

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lieutenants at the state prison.

Senator Towe said he would be opposed to the bill unless we straighten out that part which limits grievances for those who are suspended or laid off; that is the whole purpose of the grievance procedure. He thinks the grievance procedure should be there for everybody.

Senator Aklestad said it was brought out that \$50,000 was spent for the biennium, \$24,00 a year. It was brought out that there were three appeals a year and that is \$8,000 worth of appeals. He doesn't want to spend another \$50,000.

Senator Aklestad made a motion that House Bill 718 Be Not Concurred In.

Senator Haffey agreed that is the best solution. He asked Dennis Taylor about the amendments that would allow supervisory or management personnel a grievance procedure, because that is currently not available to them. He didn't understand the lieutenants at the prison.

Dennis Taylor, representing the Department of Administration, said the department is on its way to the Supreme Court in regard to how the grandfather clause works with regard to the prison lieutenants. Currently, the prison lieutenants are not covered by the grandfather clause. All state employees in the executive branch have a grievance procedure that is provided for them through the administrative rules. What it does not have is the review that the departments of Fish, Wildlife and Parks and Highways have.

Senator Haffey asked who made the ruling.

Dennis Taylor said the ruling grew out of a decision made by the Personnel Appeals Board.

Senator Haffey asked who is bringing it to the Supreme Court. Dennis Taylor replied, the Montana Public Employers Association.

Senator Manning asked why the lieutenants at the prison are not under the grievance act. Bob Jensen, representing the Board of Appeals, said the action came to the board in the form of a unit clarification, meaning that the petition was filed indicating these individual lieutenants meet the supervisory definition of the Collective Bargaining Act and therefore should be exempt.

Senator Manning asked if the lieutenants feel this was favorable as far as they were concerned. Bob Jensen said

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they felt the decisions were not favorable to them because they asked that the decision be appealed to the District Court.

A roll call vote was taken on the motion that House Bill 718 Be Not Concurred In. The motion passed 7-1. See attached roll call vote sheet.

Senator Manning moved the statement of intent be attached. On a voice vote, the committee voted unanimously that the statement of intent be attached.

EXECUTIVE ACTION ON HOUSE BILL 853:

Senator Haffey made a motion that House Bill 853 Be Concurred In. Senator Haffey then withdrew his motion.

Senator Towe moved the following amendments:

Page 1, line 15.

Following: "state"

Insert: "or federal"

Page 1, line 15.

Following: "Transportation"

Insert: "where residency preference laws are specifically prohibited by federal law"

The amendments passed unanimously.

Senator Towe moved a further amendment following line 18, page 1. New sentence: "This requirement may be waived if labor from a particular craft is not available in the state of Montana."

Senator Thayer spoke against the amendment. Senator Thayer made a substitute motion:

Page 1, line 17.

Strike: "worker"

Insert: "work"

Strike: "hours on a craft-by-craft basis"

A roll call vote was taken on Senator Thayer's substitute motion on his amendments. The motion passed 7-1. See attached roll call vote sheet.

John MacMaster suggested amending the title of the bill to conform with Senator Thayer's amendment: One line 4, Strike: "ALL"; on line 5, strike: "A WORK"; on line 6, Strike: "FORCE CONSISTING OF AT LEAST 50 PERCENT"; on line 4, Following: "that" Insert: "AT LEAST 50% OF THE WORK ON"

Senator Manning moved the amendments. On a voice vote, with

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senators Aklestad and Keating voting no and all other senators voting yes, the motion carried.

Dave Wanzenried offered amendments on page 1, line 24. See the attached Standing Committee Report. Senator Towe moved the amendments. On a voice vote, the committee voted unanimously in favor of the amendments.

Senator Towe moved to strike section 5 and the corresponding language in the title. On a voice vote, the committee voted unanimously in favor of the motion.

Senator Haffey moved that House Bill 853 Be Concurred In As Amended.

Senator Aklestad made a substitute motion that House Bill 853 Be Not Concurred in As Amended. A roll call vote was taken on the substitute motion; on a 3-5 vote the motion failed. See attached roll call vote sheet.

Senator Manning made a motion to reverse the vote for the original motion. The committee voted 5-3 in favor of the motion. See attached roll call vote sheet.

ADJOURNMENT: The committee, having no further business, adjourned at the hour of 2:30 p.m.


Committee Chairman

STANDING COMMITTEE REPORT

March 19

19 85

MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **453**

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color

RELATING TO TOTAL DISABILITY WORKERS' COMPENSATION BENEFITS

(Senator Towe will carry the bill)

Respectfully report as follows: That **HOUSE BILL** No. **453**

BE CONCURRED IN

~~XXXXXXXX~~

~~XXXXXXXXXX~~

SENATOR J.D. LYNCH

Chairman.

STANDING COMMITTEE REPORT

March 19

19 85

MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **554**

third reading copy (**blue**)
color

BUILD MONTANA BORROWERS TO COMPLY WITH CONTRACTOR'S LAWS

(Senator Towe will carry the bill)

Respectfully report as follows: That **HOUSE BILL** No. **554**

be amended as follows:

Page 2, line 16; page 4, line 22; and page 6, line 7.

Following: "PROJECTS" on each line

Insert: "in the same manner as preference is granted to veterans under 39-30-201"

AND AS AMENDED

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXX~~

SENATOR J.D. LYNCH

Chairman.

STANDING COMMITTEE REPORT

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85

19.....

MR. PRESIDENT

LABOR AND EMPLOYMENT RELATIONS

We, your committee on.....

HOUSE BILL

599

having had under consideration..... No.....

third reading copy (blue)
color

REMOVE HYDROELECTRIC DAM EMPLOYEES 8-HOURS DAY'S WORK REQUIREMENT

(Senator Keating will carry the bill)

Respectfully report as follows: That..... **HOUSE BILL**..... No..... **599**.....

BE CONCURRED IN

~~XXXXXX~~
DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

.....
SENATOR J.D. LYNCH

Chairman.

STANDING COMMITTEE REPORT

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MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **718**

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color

UNIFORM GRIEVANCE PROCEDURE FOR STATE EMPLOYEES

Respectfully report as follows: That **HOUSE BILL** No. **718**

BE NOT CONCURRED IN

~~XXXXXXXXXX~~

~~XXXXXXXXXXXX~~

STATEMENT OF INTENT ADOPTED
AND ATTACHED

SENATOR J.D. LYNCH

Chairman.

March 19, 1985

MR. PRESIDENT.

WE, YOUR COMMITTEE ON LABOR AND EMPLOYMENT HAVING
HAD UNDER CONSIDERATION HOUSE BILL NO. 718, ATTACH THE
FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

HOUSE BILL 718

It is the intent of the legislature that when the board of personnel appeals adopts rules to implement this bill, that it review the present rules for the departments of highways and fish, wildlife, and parks and determine the extent to which those rules may be applicable to state employees covered by the grievance procedure provided by this bill. It is further the intent of the legislature that the rules be adopted to provide timely and efficient proceedings while otherwise assuring that employees receive procedural due process and fairness throughout.

KB

STANDING COMMITTEE REPORT

Page 1 of 2

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MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **853**

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color

**REQUIRE STATE CONSTRUCTION CONTRACTS BE PERFORMED BY 50%
MONTANA RESIDENTS**

(Senator Lynch will carry the bill)

Respectfully report as follows: That **HOUSE BILL** No. **853**

be amended as follows:

1. Title, line 4.

Following: "THAT"

Insert: "AT LEAST 50% OF THE WORK ON"

2. Title, lines 5 and 6.

Following: "BY" on line 5

Strike: remainder of line 5 through "PERCENT" on line 6

3. Title, line 7.

Following "PROVIDING"

Strike: "AN IMMEDIATE EFFECTIVE DATE AND"

4. Page 1, line 13.

Following: "state"

Insert: "or federal"

5. Page 1, line 15.

Following: "TRANSPORTATION,"

Insert: "or where residency preference laws are specifically
prohibited by federal law,"

(continued)

~~XXXXXX~~

~~XXXXXXXXXX~~

Chairman. *MLP*

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HB853

6. Page 1, line 17.

Following: line 16

Strike: "workers hours on a craft-by-craft basis"

Insert: "work"

7. Page 1, line 21.

Following: "TRANSPORTATION,"

Insert: "or where residency preference laws are specifically prohibited by federal law,"

8. Page 1, line 23.

Following: "provision"

Insert: ", in language approved by the commissioner of labor and industry,"

9. Page 1, line 24.

Following: "(1)."

Insert: "The bid specification and the contract must provide that at least 50% of the work on the project will be performed by bona fide Montana residents. If there are two or more contracts, and due to a lack of qualified personnel a contractor cannot guarantee that at least 50% of his work will be by Montana residents, his contract must provide that the percent the commissioner of labor and industry believes possible will be performed by Montana residents and one or more of the other contracts must provide for a higher percentage of work by Montana residents so that 50% of the total work on the project will be by Montana residents.

(3) The commissioner of labor and industry shall enforce this section and investigate complaints of its violation and may adopt rules to implement this section."

10. Page 2, lines 13 and 14.

Following: line 12

Strike: Section 5 in its entirety

AND AS AMENDEDBE CONCURRED INSTATEMENT OF INTENT ADOPTEDAND ATTACHED

SENATOR J. D. LYNCH

MD
MD

MR. PRESIDENT,

WE, YOUR COMMITTEE ON LABOR AND EMPLOYMENT HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 853, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

HOUSE BILL 853

A statement of intent is required for this bill because section 1 grants rulemaking authority to the commissioner of labor and industry.

The rules should, at a minimum:

(1) provide the most practical method or methods for quantifying the requirement that at least 50% of the work on a project must be performed by Montana residents so that the quantification method or methods can be applied to contracts and projects to ensure that the requirement is complied with;

(2) include a procedure by which the commissioner will determine whether or not 50% of the work by a contractor can be performed by Montana residents, and if it cannot, what percent can be so performed; and

(3) include procedures for investigating compliants and enforcing section 1.

Labor and Employment

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 3/19/85

NAME	PRESENT	ABSENT	EXCUSED
1 <u>Senator Aklestad</u>	X		
46 <u>Senator Blaylock</u>	X		
9 <u>Senator Haffey</u>	X		
20 <u>Senator Keating</u>	X		
49 <u>Senator Manning</u>	X		
33 <u>Senator Thayer</u>	X		
<u>Sentor Towe</u>	X		
5 <u>Chairman Lynch</u>	X		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

DATE March 19 1985 BILL NO. HB 853 TIME

NAME <u>March 19 1985</u>	YES	NO
SENATOR AKLESTAD		X
SENATOR BLAYLOCK	X	
SENATOR HAFHEY	X	
SENATOR KEATING	X	
SENATOR MANNING	X	
SENATOR THAYER	X	
SENATOR TOWE	X	
CHAIRMAN LYNCH	X	

Beth Dauby
SECRETARY

J.D. Lynch
J.D. LYNCH

Motion: Senator Thayer's amendments to House Bill 853.

See Exhibit No.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

DATE March 19 1985 BILL NO. HB 853 TIME

NAME	YES	NO
SENATOR AKLESTAD		X
SENATOR BLAYLOCK	X	
SENATOR HAFHEY	X	
SENATOR KEATING		X
SENATOR MANNING	X	
SENATOR THAYER		X
SENATOR TOWE	X	
CHAIRMAN LYNCH	X	

Beth Daulty
SECRETARY

J.D. Lynch
J.D. LYNCH

Motion: Reverse vote on House Bill 853 Be Concurred In.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

DATE March 19 1985 BILL NO. HB 718 TIME

NAME	YES	NO
SENATOR AKLESTAD	X	
SENATOR BLAYLOCK	X	
SENATOR HAFHEY	X	
SENATOR KEATING	X	
SENATOR MANNING	X	
SENATOR THAYER	X	
SENATOR TOWE		X
CHAIRMAN LYNCH	X	

Bein Daily
SECRETARY

J.D. LYNCH

Motion: House Bill 718 Be Not Concurred In.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

DATE March 19 1985 BILL NO. HB 378 TIME

NAME	YES	NO
SENATOR KJESTAD	X	
SENATOR BLAYLOCK		X
SENATOR HAFHEY		X
SENATOR KEATING	X	
SENATOR MANNING		X
SENATOR THAYER	X	
SENATOR TOWE	X	
CHAIRMAN LYNCH		X

Beth Shiley
SECRETARY

J.D. LYNCH

Motion: To remove from the table. The motion failed
with a tie vote.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

DATE March 19 1985 BILL NO. HB 853 TIME

NAME	YES	NO
SENATOR AKL ESTAD	X	
SENATOR BLAYLOCK		X
SENATOR HAFHEY		X
SENATOR KEATING	X	
SENATOR MANNING		X
SENATOR THAYER	X	
SENATOR TOWE		X
CHAIRMAN LYNCH		X

Beth Daily
SECRETARY

J.D. Lynch
J.D. LYNCH

Motion: House Bill 853 Be Not Concurred In. Motion failed

3/19/85

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I AM BERNIE SHELTON, ASST. BUSINESS MANAGER, I.B.E.W., LOCAL 44. LOCAL UNION #44 OF THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS REPRESENTS SOME 900 EMPLOYEES OF THE MONTANA POWER COMPANY; LINEMAN, THERMAL AND HYDROELECTRIC GENERATION AND OTHER ELECTRICAL CLASSIFICATIONS. OF THESE, ABOUT 240 ~~EMPLOYEES~~ ^{MEMBERS} ARE ON AN EIGHT HOUR ROTATING SHIFT SCHEDULE. THIS IS TO PROVIDE THE NECESSARY 24 HOUR COVERAGE AT MONTANA POWER'S GENERATING FACILITIES.

THE ROTATING SCHEDULE OUR MEMBERS WORK IS BASED ON A 28 DAY CYCLE WITH THREE OF FOUR CREWS EACH WORKING ON EIGHT HOUR SHIFT-DAYS, AFTERNOONS AND MIDNIGHTS. EACH MEMBER PRESENTLY WORKS 21 OF 28 DAYS IN ONE CYCLE FOR A TOTAL OF 168 HOURS WORKED. THIS SHIFT SCHEDULE ALSO HAS AN ADVERSE AFFECT ON A SHIFT WORKER'S BODY FUNCTIONS, SOCIAL LIFE AND FAMILY LIFE.

ABOUT FIVE YEARS AGO, THE CONCEPT OF A ROTATING TWELVE HOUR SHIFT SCHEDULE WAS INTRODUCED TO OUR MEMBERS. THROUGH NEGOTIATIONS WITH MONTANA POWER, WE HAVE WORKED OUT THE DETAILS OF THIS NEW CONCEPT AND ~~ARE READY TO IMPLEMENT~~ ^{HAVE} ^{ED} A PILOT PROGRAM MARCH 9TH OF THIS YEAR AT COLSTRIP UNITS 1&2.

THE TWELVE HOUR SHIFT SCHEDULE IS SIMILIAR TO THE EIGHT HOUR SCHE- DULE IN THAT IT IS BASED ON THE SAME 28 DAY CYCLE AND EACH MEMBER WORKS 168 HOURS. THE WORKED HOURS, HOWEVER, ARE REDISTRIBUTED TO A TWELVE HOUR WORK PERIOD AND EACH MEMBER WORKS 14 DAYS OF THE 28 DAY CYCLE. TWO OF THE FOUR CREWS PROVIDE THE NECESSARY 24 HOUR COVERAGE. ~~THERE IS NO LOSS OR INCREASE IN MANPOWER REQUIREMENTS.~~

EACH MEMBER ON THE TWELVE HOUR SCHEDULE WILL GAIN AN ADDITIONAL 91 DAYS OFF EACH YEAR, INCLUDING TWO WEEKENDS OFF PER/CYCLE AND THE ADVANTAGE OF SOCIALIZING WITH A SHIFT OTHER THAN HIS OWN, AS THERE IS ALWAYS TWO SHIFTS ON THEIR DAYS OFF. WE FEEL IT WILL ALSO BENE- FIT ~~OTHER~~ ^{our} MEMBERS FAMILY LIFE AND HAVE A POSITIVE AFFECT ON HIS HEALTH.

OUR MEMBERS WILL NOT BE WORKING ANY MORE HOURS IN A GIVEN PERIOD OF TIME NOR WILL THERE BE ANY CHANGE IN MANPOWER REQUIREMENTS.

MANY OF MONTANA POWER COMPANY'S GENERATING UNITS ARE IN WHAT ARE CONSIDERED REMOTE LOCATIONS IN TERMS OF MAJOR MEDICAL FACILITIES AND SHOPPING POTENTIAL. THEREFORE, TANGIBLE BENEFITS TO THE MONTANA POWER COMPANY ARE THE REDUCTION IN ABSENTEEISM FOR ALL CAUSES AND AN INCREASE IN PRODUCTIVITY DUE TO HAPPIER EMPLOYEES AND FEWER SHIFT CHANGES. BOTH BENEFITS HAVE AN EFFECT ON THE RATE PAYER. THE MORE EFFICIENTLY MONTANA POWER CAN PRODUCE ELECTRICITY THE LOWER THE COST WILL BE.

AS I MENTIONED EARLIER, SOME OF OUR MEMBERS WORK ROTATING SHIFT WORK AT HYDROELECTRIC DAMS. THESE MEMBERS ARE VERY MUCH INTERESTED IN IMPLEMENTING THE TWELVE HOUR SHIFT SCHEDULE AT THEIR FACILITIES. HENCE HOUSE BILL 599.

WE ASK THAT YOU CONCUR WITH HOUSE BILL 599 AND GIVE IT A DO PASS RECOMMENDATION.

THANK YOU FOR YOUR CONSIDERATION.

BERNIE SHELTON
FEBRUARY 14, 1985

NAME BERNARD H. SHELTON BILL NO. HB 599

ADDRESS COLSTRIP, MT. DATE 3/19/85

WHOM DO YOU REPRESENT IBEW LOCAL #44

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Exhibit 2
3/19/85

NAME J.E. ROGERS BILL NO. HB 599
ADDRESS COLSTRIP, MT DATE 3/19
WHOM DO YOU REPRESENT MONT POWER CO.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: