

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

February 12, 1987

The tenth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lynch on February 12, 1987, at 1:00 p.m. in Room 413/415 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 136: Senator Joe Mazurek, Senate District No. 23, sponsor of the bill, said this bill would provide full-time State employees who have taken a temporary reduction of hours, with vacation and sick leave benefits as if they were still on a full-time basis. A number of State employees have elected to take a reduction of hours, and in some agencies, it has been mandated. The reduction of hours is in the interest of allowing others to keep their jobs. The intention of this bill would be to allow these employees to continue to receive their benefits as if they were still employed on a full-time basis, and also not be penalized when they retire, due to a reduction of hours. Senator Joe Mazurek stated this bill would be important for public employee moral as the main concern of the State employees, is their loss of benefits. He said there is a grey bill which contains all the amendments for the bill. This bill will be recognition of the fact that it will be difficult, if not impossible, to give pay increases to employees. The fiscal note with this bill would indicate there is not a significant impact. Senator Mazurek stated he took the amendments to the Budget Office, but he is not sure if they have made an updated fiscal note. Senator Mazurek stated the grey bill needs a correction on page 8, line 8, in that the language needs to be stricken. He stated this bill will not effect the Teachers' Retirement System or the city and county governments. It will apply only in the situation of temporary reduction of hours caused as the result of a budget deficit. Senator Mazurek reserved the right to close.

PROPONENTS: Mr. Thomas E. Schneider, Executive Director of the Montana Public Employees Association, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 1.

Ms. Terry Minow, representing the Montana Federation of

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Teachers and the Montana Federation of State Employees, testified in support of SB 136. Ms. Minow stated this bill will result in a minimal impact on retirement systems and the state of Montana, but to the individuals who have voluntarily reduced their hours, this bill will mean a great deal. Ms. Minow urged the committee to support this bill.

Mr. Gene Fenderson, representing the Montana Building Construction Trades Council and the Montana State AFL-CIO, rose in support of this bill.

OPPONENTS: Ms. Laurie Ekanger, representing the State Personnel Division, gave testimony in opposition to this bill. A copy of her testimony is attached as Exhibit 2.

Ms. Linda Kane, representing the Public Employees Retirement Board, rose in opposition to this bill. She said there are a few problems with the grey bill, as in Section 5, page 7. This would be impossible to administer and risks the qualified plan status of retirement. Public Employees Retirement Division is worried about the ability of the Division to actually administer the requirements of Section 5. Between one and three times each month the Retirement Division receives payroll information from approximately 800 employers on over 40,000 active members. This information is either sent in on computer tapes or on paper and is then key punched manually into the computer. This accounting system must balance as far as wages are recorded and contributions remitted. There is no way an artificial wage can be entered into this system since all accounts must balance monthly and yearly. The Public Employees Retirement Division has rules which allow seasonal employees the ability to be granted a full year's service for less than a full year of working, but the Division cannot give them a salary they did not earn. The Division can give an employee 12 months of service credit. This problem is compounded by the passage of the 1986 Federal Tax Reform Act which places very stringent nondiscrimination tests on all IRS qualified plans. Currently all state retirement systems are qualified plans. This bill would create benefit enhancement only for select individuals, and may cause these retirement systems to be determined discriminatory. If the retirement systems lose their qualified plan status with the IRS, investment earnings on the retirement system would become taxable. This would necessitate significantly higher contribution rates into the system in order to fund the retirement benefits. The Board is concerned about risking the qualified plan status. The Board agrees with the principle behind Section 4 of the grey bill. The Public Employees Retirement Board asked the committee to consider the possible

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long term impact as well as the short term solutions. They asked the committee not to make changes which cannot be effectively administered.

Mr. David Senn, representing the Administrator for the Teachers' Retirement Division rose in opposition to the bill. He said teachers do not receive credit on the basis of hours; they receive credit on the basis of nine months, or on 180 days worked in the year. A teacher or an administrator may work 12 months and will still receive one year's credit based on 180 days. Mr. Senn does not feel teachers should be included in a bill concerned with a reduction of hours.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 136: Senator Lynch informed Mr. Senn the Teachers' Retirement Division would not be included in this bill. Senator Lynch asked Senator Mazurek if he could foresee a compromise for the people in opposition to the bill. Senator Mazurek stated he seriously questions whether this bill would render the plan unqualified. Senator Mazurek would like the opportunity to research this bill further and he will work on whatever technical amendments may be necessary.

Senator Thayer asked Senator Mazurek if he would still promote this bill if it would be handled by the administrative rule. Senator Mazurek replied the Public Employees Retirement Division could handle part of it with administrative rule. The problem is the salary issue which was outlined by Mr. Schneider is the dollar amount the retired employee will receive upon retirement, and that is the most important part of the bill. Senator Mazurek does not think they could do that by administrative rule.

Senator Blaylock asked Mr. Schneider if he feels the Department of Administration can handle this. Mr. Schneider replied yes. Senator Blaylock asked Ms. Ekanger if her staff, with all the cutbacks, could handle the paperwork. Ms. Ekanger replied if the Department of Administration thought the effort this bill would require was feasible, the department would have introduced this bill.

Senator Keating asked Ms. Ekanger if they will have to change their software to accomodate this change. Ms. Ekanger replied that under the original bill there might have to be a change in the payroll system, but with the grey bill there is an in-date on it, so only a manual calculation would be necessary.

Senator Gage asked Senator Mazurek about language on page 7,

lines 17 through 19 where it states there will be a reduction of hours. He said the same language is not at the end of Section 2. Mr. Gomez replied in Section 2 it is relating to vacation leave credits and was included with regard to Section 1, page 2. Senator Gage asked Ms. Linda Kane if this is significant enough to have an effect on benefits being paid out based on amounts, when no amount was paid in. Ms. Kane replied the impact on the system would depend on how many people would be affected. This bill states the ending date of the temporary reduction would be June 30, 1987.

Senator Thayer asked Ms. Kane if the fiscal note prepared with the original bill will still pertain to the grey bill. Ms. Kane replied the original bill did not require the use of artificial salary computations and it was thought at the time of the original bill there would be a minimal number of people who would actually retire and need an additional day or two of service credit. However, under the grey bill with artificial salaries, there would be a minimal impact on the system unless the plans were disqualified.

Senator Mazurek closed by stating he will work with the Public Employees Retirement Board to try to resolve the problems.

CONSIDERATION OF SENATE BILL NO. 280: Senator George McCallum, Senate District No. 26, sponsor of the bill, stated this came about as the result of problems in the western part of Montana in the logging industry. Logging contractors from Idaho came over to bid on jobs and they were under-bidding Montana contractors because the competition rate was approximately half. The Department of Labor has made an effort to halt them from entering the state for more than 30 days. SB 280 would automatically make out-of-state contractors eligible to pay Workers' Compensation tax the same as Montana contractors pay. Senator McCallum reserved the right to close.

PROPOSERS: Mr. Keith Olson, Executive Director of the Montana Logging Association, stated during the summer of 1986 there was a crisis brewing in western Montana in the logging industry. In the Libby area many logging contractors were finding themselves at a competitive disadvantage while bidding on federal timber sales. At that time the logging Workers' Compensation rate was \$29.06 per \$100 payroll. At the same time Idaho logging Workers' Compensation rates were approximately \$22 per \$100 payroll. Since that point in time, things have gotten progressively worse. Idaho has dropped their rates for the logging industry to under \$20 per \$100,

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while Montana's rates have soared to \$34 per \$100. What this means is that Idaho logging contractors bidding on a federal timber sale have a competitive advantage of approximately \$14 per employee per day. Last summer the Logging Association in the Libby area had a parade in the Libby streets concerning this problem. Mr. Bob Robinson, Mr. Olson and a logging contractor made a trip to Boise, Idaho to talk with members of the Idaho Industrial Commission. He said it is not the intent to deny or prohibit logging contractors from Idaho from bidding of federal contracts in Montana. There are western Montana logging contractors that bid on federal Forest Service timber sales contracts in northern Idaho. The intent is if we are going to compete, the states should compete on some form of competitive basis.

Mr. Jim Murry, representing the AFL-CIO, rose in support of this bill. He said the AFL-CIO believes this legislation is a step forward in bringing some change to the inequities which have developed between the Workers' Compensation system in Montana and neighboring states. In 1969 the legislature, following the recommendation of the Governor's Advisory Committee on Workers' Compensation, developed one of the best Workers' Compensation laws in the nation. Montana has one of the most productive work forces in the nation. The neighboring states to Montana have not been as responsible as the legislature in Montana in enacting Workers' Compensation laws. The result is the employers in surrounding states pay substantially less than Montana workers in premium costs because they provide less in Workers' Compensation protection. Over a period of time, the out-of-state employers have been able to come in to Montana and underbid Montana employers on the basis of their lower Workers' Compensation premiums. This is also the case in the construction industry. This situation is unfair to Montana workers and employers. The AFL-CIO urges the committee give this piece of legislation a do pass recommendation.

Mr. Gene Fenderson, representing Montana State Building Construction Trades Council, rose in support of this bill. He said this bill would put Montana contractors on an even competitive basis with neighboring states.

Mr. Karl Englund, representing the Montana Trial Lawyers Association, rose in support of this bill. The Montana Trial Lawyers Association have spent the last couple years researching the total Workers' Compensation system to try to improve it.

The Trial Lawyers Association goes along with the basic motion that if you are working in Montana and earning a wage in Montana, then the employer should be paying into the Montana Workers' Compensation system and be covered by Montana law.

OPPONENTS: Mr. Hiram Shaw, Division of Workers' Compensation, gave testimony in opposition to this bill. A copy of his testimony is attached as Exhibit 3. Mr. Shaw said there has been a problem with the definition of temporary. Idaho is currently unhappy with the policies in Montana and they have threatened to possibly eliminate the extraterritorial agreement with Montana. However, they seem to be accepting at the present time. If the extraterritorial agreement is eliminated, it would eliminate all reciprocal agreements. If Montana does not honor the other states' workers in our state, the other states will not honor Montana workers going in to their state. This legislation will possibly allow workers to collect benefits from both states. This will be very hard to enforce.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 280: Senator Gage asked what areas besides Workers' Compensation does Montana have reciprocal agreements. Ms. Peg Hartman, representing the Department of Labor and Industry, stated Montana has reciprocal unemployment agreements. However, the difference between those reciprocal agreements is that Montana's agreements are federally mandated through a nation wide system.

Senator Gage stated there is state reciprocity with other types of businesses and he was wondering if this would affect the other reciprocal agreements. Senator McCallum said there is a reciprocal agreement between real estate brokers in certain states and he believes Montana did have a preferential bidding on contracts left by the state.

Senator Keating asked Mr. Shaw if currently the extraterritorial applications and reciprocity workers are covered by their state's Workers' Compensation. Mr. Shaw replied yes. Senator Keating asked if the Montana workers working in another state are covered by the Montana Workers' Compensation Division. Mr. Shaw replied yes, that is the basis of the reciprocal agreement. The workers are covered by their own state's Workers' Compensation plan.

Senator McCallum closed by giving an example of a small logging contractor with three employees who make approximately \$25,000 per year. That person is paying \$18 per \$100

payroll more than the contractor in Idaho pays. Senator McCallum stated he is trying to find some way there can be fair competition between Montana and the neighboring states.

FURTHER CONSIDERATION OF SENATE BILL NO. 103: Senator Lynch stated there is a grey bill for SB 103. He said one additional technical change needs to be made to SB 103.

Senator Hager, sponsor of the bill, stated this bill has to be completely rewritten. If the committee has any detailed questions, Mr. Gomez will be available.

Senator Lynch asked the parties in opposition to SB 103 if they would like to respond to the new grey bill.

Mr. Gene Fenderson, representing Montana State Building and Construction Trades Council, stated he has not seen the grey bill but was informed of amendments, and asked that they be explained to him. Mr. Gomez explained there are four basic changes: (1) Fringe benefits will be paid into a fund approved by the Department of Labor. (2) Fringe benefits, as outlined in subsection 1, shall be defined on a line by line basis. (3) The general provisions from the first draft are now applied not only to those employees who are not a party to a collective bargaining agreement. (4) Repealing Section 18-2-405, MCA. Mr. Fenderson asked Mr. Gomez if a party is not signatory to a collective bargaining agreement, would they have to pay into a plan and not be able to collect on a cash basis. Mr. Gomez replied if a party is not a signatory party to a collective bargaining agreement, they may elect to utilize this method. The method is for payment of wages earned and contributions to a bonafide fringe benefit program, rather than how it was done previously, which was the fringe benefits must be paid as wages for the parties who are not signatory to a collective bargaining agreement. Senator Lynch stated the parties still have the option of paying wages if they do not have a plan. Mr. Fenderson stated the members of his union vote on whether they want these fringe benefit packages every time they negotiate an agreement.

Senator Keating stated one of the objections during testimony of the original bill was the employer would take the money from the employee, then there was a line by line clause so the employee would not be paying for it out of his paycheck, but the employer would be paying for it. He asked if this provision is in the grey bill. Senator Lynch replied yes, it is under subsection 2 on page 1.

Mr. Lloyd Lockrem stated there are other provisions added. (see Exhibit 4) The original bill indicated the fiscal impact would be \$48,000 and in the second year the fiscal impact would be \$87,000. The grey bill has not been approved by the U. S. Department of Labor or the Internal Revenue Service, so there is actually no involvement with them. However, they still monitor compliance wages and fringe benefits. The other provision added was due to Mr. Marvin Lehman's testimony and because it may be possible some contractor not doing federal work must be approved by the Department of Labor or the Internal Revenue Service. Thus, there is the possibility of some fiscal impact. Mr. Lockrem stated he is not positive this provision is needed in the bill because when they are providing either pension or health insurance, those people are already regulated by the Commissioner of Insurance. Mr. Lockrem stated this bill only addresses the portion of the work that is totally funded by state funds. This would protect Montana workers working on Montana funded projects. Senator Lynch asked if this could benefit the employers at the employees expense. Mr. Lockrem replied, no.

FURTHER DISCUSSION OF SENATE BILL 280: Senator Thayer stated the intent of the bill is good, however, he is worried about retaliation from the states that have a reciprocal agreement with Montana.

Senator Blaylock stated we have seen embargo taxes added at the nation level that has resulted in immediate retaliation.

Senator Lynch asked Mr. Gomez if there would be a possible amendment as this bill has good intentions. Mr. Gomez stated it needs a sunset agreement.

Senator Keating stated Montana is not just dealing with an Idaho treaty; Montana is dealing with seven other states on a reciprocal agreement basis. Senator Keating stated he is concerned with the ramifications of a trade barrier. He said the real answer to our problem is to get the Workers' Compensation rates competitive.

Senator Thayer asked if an amendment could state a restriction to certain bids without giving it such a broad effect. Mr. Gomez suggested a termination date of July 1, 1989, so the next legislative session could check on what has occurred.

DISPOSITION OF SENATE BILL NO. 280: Senator Thayer made a motion that the amendment for the effective date of July 1, 1989 be added to SB 280. The motion CARRIED UNANIMOUSLY.

FURTHER DISCUSSION OF SENATE BILL NO. 280: Ms. Van Riper stated under current law, extraterritorial exclusion operates by operation law, and there is no need for an agreement. The statute could be written so the Division has the discretion to enter into extraterritorial agreements with other states. Senator Keating asked Ms. Van Riper if there could be limited agreements and the law would not necessarily affect other states. Mr. Van Riper replied yes, there could be a situation, for example, an agreement with Idaho and California, and not be involved with the same agreement with Wyoming. Senator Lynch asked Mr. Robinson if he went to Idaho to discuss this problem. Mr. Robinson stated he talked to the Industrial Commission of Idaho to interpret the current extraterritorial agreement. He said seasonal employment would not be covered under the extraterritorial agreement, for example, the logging industry in western Montana. The Industrial Commission of Idaho would not agree to this, so the Montana Department of Labor and Industry had no choice but to interpret the extraterritorial agreement of temporary employment to mean 30 days.

DISPOSITION OF SENATE BILL NO. 280: Senator Manning made a motion that Senate Bill 280 AND AS AMENDED, DO PASS. Senate Bill 280 was held in committee due to a 4-4 tie vote. See attached roll call vote.

FURTHER DISCUSSION OF SENATE BILL 234: Senator Gage stated this bill will only affect the employees who request the department to handle their claim. Senator Lynch said the claimant gives the department the right to make a settlement.

DISPOSITION OF SENATE BILL NO. 234: Senator Galt made a motion that Senate Bill 234 DO PASS. Senate Bill 234 was held in committee due to a 4-4 tie vote. See attached roll call vote.

FURTHER DISCUSSION OF SENATE BILL NO. 169: Senator Keating stated there are two laws in the current statute that contradict each other. The comparable worth section in the personnel classification system is at odds with the present classification system. The equal opportunity for the gender issue of equal pay for equal worth is being covered by our classification system. The margin gap between salaries of male and females is coming closer together on our own system without comparable worth. The comparable worth study required by law every two years states job segregation is the problem and comparable worth cannot correct job segregation. (See Exhibit 5) Senator Keating's handout explains comparable worth is not a method for bringing gender equalization. Workers in the collective bargaining system are exempt

from our classification system. If comparable worth law was challenged under our system, blue collar workers could have a pay freeze or a pay reduction due to comparable worth. This could happen if the court rules that we must accept the comparable worth doctrine.

Senator Keating stated Montana's situation is similar to Washington's. The state of Washington ordered a study and the result was a large cost. Senator Keating stated he is not trying to get rid of comparable worth for any reason other than being afraid of Montana being challenged under current law. Comparable worth is not achieving the original goal as it was thought it would. It has not achieved the gender gap and SB 169 does not deal with gender. Senator Keating feels SB 169 will help avoid litigation and the current classification will continue to work. Senator Keating urged the committee support SB 169 to save the state of Montana money.

Senator Manning asked Mr. Gomez if there is potential for litigation. Mr. Gomez replied he had discussed this with the Legislative Council and the answer is yes. The reason is a statute requires two things of the state: (1) that they work toward the goal of establishing a standard of equal pay for comparable worth, Section 2-18-208, MCA; and (2) In Section 2-18-209, MCA, the state must meet the standard, thus implementing the standard. The concern, which does have some substance, is that if the study does show there is a disparity in payment of wages in Montana, then there would be grounds for litigation. The duty of the state under the law is not being fulfilled and requires implementation of some standard to bring about a remedy of the treatment of employees under the state's classification plan. The state of Washington performed a study of comparable worth in 1974 and found disparity in wages based on the comparable worth standard. The results were used in bringing a case against the state of Washington. The court found the state had failed to rectify and acknowledge discriminatory disparity which was evident based on the results of the study. Mr. Gomez stated there would be some basis for litigation. However, it is not to say if this section was repealed, all possibilities of litigation would be eliminated because litigation could still be brought up on some other theory.

Senator Manning asked if there has been a survey taken in Montana to verify that this could be a potential problem. Senator Keating stated the results can be found on Exhibit 5.

Senator Haffey stated the narrowing of women and men on the pay scale comes from the increase of the number of women in the work force.

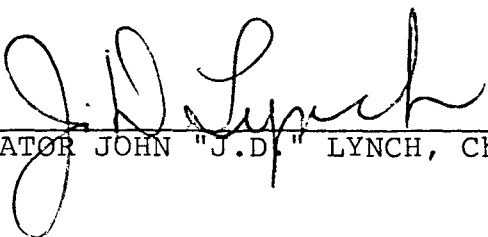
Senator Keating stated the classification system allows more opportunities and this is what is helping bring them closer.

Senator Lynch stated he agrees with Senator Regan who feels there could be litigation from changing the law. Senator Keating stated he disagreed with that statement because there is no basis for litigation if the cause for action is gone.

Senator Blaylock stated the decision in Washington was based on the fact Washington had not been making any effort. In Montana we are making an effort and narrowing the gap, and this would make it hard to prove the state of Montana is not making a good faith effort.

DISPOSITION OF SENATE BILL NO. 169: Senator Keating made a motion that Senate Bill 169 DO PASS. Senate Bill 169 was held in committee due to a 4-4 TIE VOTE (see attached roll call vote sheet).

ADJOURNMENT: There being no further business to come before this committee, the hearing adjourned at 2:40 p.m.



SENATOR JOHN "J.D." LYNCH, Chairman

jr

ROLL CALL

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 12, 1987

NAME	PRESENT	ABSENT	EXCUSED
John "J.D." Lynch Chairman	X		
Gene Thayer Vice Chairman	X		
Richard Manning	X	X	
Thomas Keating	X		
Chet Blaylock	X		
Delwyn Gage	X		
Jack Haffey	X		
Jack Galt	X		

Each day attach to minutes.

DATE _____

Labor

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date Feb 12, 1987 Bill No. 280 Time 2:25 p.m.

NAME	YES	NO
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman		X
Richard Manning	X	
Thomas Keating		X
Chet Blaylock	X	
Delwyn Gage		X
Jack Haffey	X	
Jack Galt		X

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Do Pass As Amended
4/4 tie

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date Feb. 12, 1987 Bill No. 234 Time 2:40 p.m.

NAME	YES	NO
John "J.D." Lynch, Chairman		X
Gene Thayer, Vice Chairman	X	
Richard Manning		X
Thomas Keating	X	
Chet Blaylock	X	
Delwyn Gage		X
Jack Haffey		X
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Do Pass
4/4 tie

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date Feb. 12, 1987 Bill No. 169 ~~103~~ Time 2:55 p.m. ~~2:10 p.m.~~

NAME	YES	NO
John "J.D." Lynch, Chairman		X
Gene Thayer, Vice Chairman	X	
Richard Manning		X
Thomas Keating	X	
Chet Blaylock		X
Delwyn Gage	X	
Jack Haffey		X
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Do Pass
4/4 tie

TO: Honorable Members of the Senate Labor Committee

FROM: Thomas E. Schneider, Executive Director

SUBJECT: Senate Bill 136

Senate Bill 136 is not a union bill, in fact it affects very few of our members. It is a humanitarian bill! The whole idea of this bill was to try to cushion the effect on employees who had contributed to easing the budget deficit by taking days off without pay. Nearly every employee questioned after doing this said " I don't mind losing the pay but I hate to lose my benefits!"

In the case of the retiree the loss could be for the rest of their lives. If every employee would have received the reduction it would have been one thing but it doesn't seem fair that those who gave up hours to keep others employed should bear the brunt.

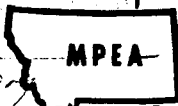
I met, personally, with employees of the Personnel Division and the Retirement System to try to meet any criticism they had of the bill. We made the changes we could in the areas we could to do that. In the case of the retirement section the representative of the PERD met with the council staff person who drafted the amendments and discussed the amendments to insure that they were workable.

I have an idea that the opponents will try to make a mountain out of a mole hill but I want to insure the committee that it is our intention that this bill be totally workable and we will accept any changes to make it work.

The whole idea of this bill is to try to mitigate the loss to those employees who helped the state out in a continuing time of need. This bill should have been proposed by the administration instead of being opposed by them.

Eastern Region
P.O. Box 20404
Billings, MT 59104
(406) 256-5915

Western Region
P.O. Box 4874
Missoula, MT 59806
(406) 251-2304

SENATE LABOR & EMPLOYMENT
EXHIBIT 1
DATE 2/12/87
BILL NO. SB 136


SENATE BILL 136

Senate Bill 136 provides that full time employees who have had a temporary reduction of hours imposed upon them will continue to receive vacation and sick leave credits as though they had worked the time. In addition it provides that an employee who retires and has had a salary reduction as a result of the reduction in hours, shall have retirement benefits calculated as though there was not a reduction in salary.

Because of the budget deficit this past year many employees have had hours reduced rather than have fellow employees laid off. In the Department of Justice all employees were required to take 3 days off without pay, the Department of Administration required some employees to take as much as 58 hours, the University System, Department of Agriculture and others did the same.

The main complaint from the employees was not the loss of pay but the loss of benefits. This bill would correct that and improve employee morale and productivity at a time that talk of a pay freeze is having a devastating effect.

PRIOR to 1983, the provisions on vacation and sick leave would have not been necessary as the law protected employees who took less than 15 working days of leave without pay. The legislature, however, repealed that language in 1983 and now the benefits are reduced based on the hours reduction.

The retirement section is even more serious as it will apply to the benefit a retiree receives for the rest of their life. Because retirement benefits are based on three years of salary, only those employees who retire within three years of an hour reduction will be penalized by having to take hours off. This bill will only effect those who retire.

We have a chance here to lessen the burden on those who helped us out in time of need and I think we owe it to them to lessen the blow they have suffered.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 2/12/87
BILL NO. SB 136

COST AND EFFECT (Based on the current PERD Valuation)

1/2080 = .00048

Average salary PERD member = \$ 17,146 per year or \$ 65.92 per day

Sick Leave: 12 days per year

Vacation: 15 days per year

* * * * *

	<u>Sick Leave</u>	<u>Vacation</u>
<u>24 Hr. Reduction</u>		
Normal (days)	12.00000	15.00000
Reduced (days)	.13846	.17307
After reduction	11.86154	14.82793
<u>Value</u>	\$ 65.92 x 12 = \$ 791.04	\$ 65.92 x 15 = \$ 988.80
	\$ 65.92 x 11.86154 = \$ 781.91	\$ 65.92 x 14.8279 = \$ 977.46
Loss	\$ 9.13	\$ 11.34

Payout cost: 25% of \$ 9.13 = \$ 2.28 + \$ 11.34 = \$ 13.62 Annually

58 Hr. Reduction

Normal (days)	12.00000	15.00000
Reduced (days)	.33456	.41820
After reduction	11.66544	14.58180
<u>Value</u>	\$ 65.92 x 12 = \$ 791.04	\$ 65.92 x 15 = \$ 988.80
	\$ 65.92 x 11.66544 = \$ 768.99	\$ 65.92 x 14.5818 = \$ 961.23
Loss	\$ 23.05	\$ 27.57

Payout cost: 25% of \$ 23.05 = \$ 5.76 + \$ 27.57 = \$ 33.33 Annually

While these examples show that the dollar effect of these benefits are small, the mental effect on the employees is great. For these very small costs, we can reward employee and improve morale and productivity at a time that we cannot grant salary increases. Remember, only a small number of employees paid the price of having to take time off without pay.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 2/12/87
BILL NO. SB 136

COST AND EFFECT (Based on current PERD Valuation)

24 hour reduction

\$ 28,128 divided by 12 = \$ 2344 per month or \$ 108.18 per day

33 mo. x \$ 2344 = \$ 77,352

3 mo. x \$ 2235.82 = \$ 6,707.46 (\$ 2344 less one day = \$ 2235.82) (3 months)

Average salary = \$ 84,059.46 divided by 36 = \$ 2334.99

\$ 2344.00 x 50% = \$ 1172.00 per month benefit

\$ 2334.99 x 50% = \$ 1167.50 per month benefit

LOST BENEFIT \$ 4.50 per month for the remainder of the retirees
lifetime.

56 hour reduction

29 mo. x \$ 2344.00 = \$ 67,976.00

7 mo. x \$ 2235.82 = \$ 15,650.00 (\$ 2344 less one day = \$ 2235.82) (7 months)

Average salary = \$ 83,626.00 divided by 36 = \$ 2322.94

\$ 2344.00 x 50% = \$ 1172.00 per month benefit

\$ 2322.94 x 50% = \$ 1161.47 per month benefit

LOST BENEFIT \$ 10.53 per month for the remainder of the retirees
lifetime.

ASSUMING 53 persons who retired took a reduction in hours with an average loss of \$ 7.50 per month, the total cost to the PERD system would be \$ 4,770.00 per year. This when compared to the annual benefits paid out of \$ 36,482,138 would be microscopic to the system but, certainly, not to the employee.

This is not the only benefit of this type. Currently, employees of the school systems and university system receive a full years credit for 10 months of work. Even the legislators receive full years credit and full salary consideration for the time and pay received during the session.

It seems only fair that with a few people being penalized for the rest of their retirement live that some method of removing that penalty is in order.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1

DATE 2/12/87

BILL NO. SB 136

Department of Administration
Testimony in opposition to SB 136
February 2, 1987

I. Administrative Impact:

- A. Significant changes will have to be made in payroll and record keeping procedures.
 - 1. Benefits are currently calculated on an hourly basis for all employees.
 - 2. Agencies will have to track the number of reduced hours and accrue additional benefits.
 - 3. Separate payroll records will have to be maintained to distinguish affected employees from other part-time employees.

II. SB 136 has only minor impact on an individual employee.

- A. Reduced work hours is a temporary measure to accommodate recent across the board cuts.
 - 1. Further cuts will more likely be made through permanent reductions in force.
- B. Service credit for determining longevity and the rate vacation is earned is not reduced by LWOP.
- C. A part-time employee earns annual leave and sick leave at the same hourly rate as a full-time employee.
- D. A full-time employee with less than 10 years of state service, if required to take one day of leave with out pay, would currently loose:
 - 1. 28 minutes of annual leave (\$4.40).
 - 2. 22 minutes of sick leave (\$3.49).(At \$9.48/hr, Average salary.)

III. Costs:

- A. Additional benefits do have some cost. While the cost of this bill may not be large, it will impact those agencies which can least afford it; agencies who have already had to resort to reducing work hours.
- C. To pay for the additional benefits required by SB 136, the agency would have to increase the hours of LWOP required.

IV. Technical Problems:

- A. What happens if hours must be permanently reduced? Are benefits maintained forever?
- B. Does the bill apply only to full-time employees? What if part-time people have their hours reduced?
- C. Does it apply to all public employees, or just state employees?
- D. How would we distinguish between employees whose hours were reduced due to a budget reduction and those who voluntarily accepted reduced hours?

For more information call Laurie Ekanger or Mark Cress (444-3871).

T-17/TEST

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 2/12/87
BILL NO. SB 136

BILL SUMMARY
(SB 136)

Prepared for the Senate Committee on
Labor and Employment Relations

By Tom Gomez, Staff Researcher

Senate Bill No. 136 allows state employees whose work hours are temporarily reduced as a result of a budget deficit to earn annual leave and retirement credits as if they were full-time employees.

As amended, Senate Bill No. 136 contains the following specific provisions:

- Provides that, for purposes of calculating annual vacation leave credits, a state employee must be credited with 80 hours of service for each biweekly pay period regardless of the number of hours of service in the pay period if the employee's hours of work are temporarily reduced because of a budget deficit;
- Requires that state employees be allowed to accrue sick leave credits on a full-time employment basis if the employee's hours are temporarily reduced because of budget deficits;
- Provides that the time during which an employee is absent from work due to a reduction in hours may not be used in computing service credit for the purpose of determining retirement benefits;
- Mandates that, if a state employee's hours have been reduced due to budget deficits during 1 or more of 3 consecutive years in which he would have been paid the highest annual compensation from his employment, the employee's final rate of compensation must be used in calculating his final retirement allowance;
- Clarifies that a reduction in hours resulting from a budget deficit is considered temporary if the reduction occurs on or before the last day of the current fiscal year; and
- Provides for retroactive application to employees whose hours were reduced as a result of a budget deficit on or after January 1, 1986, and who were employees as of the effective date of the act.

SB 280 EXTRATERRITORIALITY
Hiram Shaw
Division of Workers' Compensation

Figures without parenthesis indicate numbers of employers entering Montana from other states.

Figures within parenthesis indicate numbers of Montana employers seeking reciprocity from other states.

	1984	1985	1986
1.) Colorado	47 (3)	38 (0)	40 (0)
2.) Idaho	43 (2)	33 (5)	68 (6)
3.) Nevada	31 (12)	36 (3)	48 (1)
4.) Oregon	27 (4)	11 (4)	11 (3)
5.) South Dakota	10 (11)	6 (6)	3 (6)
6.) Utah	30 (2)	32 (1)	26 (0)
7.) Washington	80 (17)	68 (7)	38 (4)
8.) Wyoming	278 (21)	174 (52)	145 (24)
	<hr/> 546 (72)	<hr/> 398 (78)	<hr/> 379 (44)

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 3
DATE 2/12/87
BILL NO. SB 280

Shaw

SENATE BILL 280: AMENDMENTS TO EXTRATERRITORIALITY

EXAMPLES OF RECIPROCAL ACTIVITIES BETWEEN MONTANA AND
OTHER STATES:

1. Montana resident worker, hired in Montana, temporarily works in Idaho.

With Agreement: Covered by Montana insurer.

Without Agreement: Covered by Montana insurer.

2. Montana resident worker, hired in Idaho, temporarily works in Idaho.

With Agreement: Covered by Idaho insurer.

Without Agreement: May be covered by Idaho, but may sue for Montana benefits.

3. Idaho resident worker, hired in Idaho, temporarily works in Montana.

With Agreement: Covered by Idaho insurer.

Without Agreement: Must be covered by Montana insurance, and may also be covered in Idaho.

4. Montana resident worker, hired in Idaho, temporarily works in Montana.

With Agreement: Covered by Idaho insurer.

Without Agreement: May be covered by Idaho, but may also sue for Montana benefits.

5. Montana resident, hired in Montana to work in any foreign state (i.e., any state without an agreement).

Covered by Montana insurer.

6. Foreign state resident worker, hired in foreign state, temporarily works in Montana.

Must be covered by Montana insurance, and may also be covered in home state.

SENATE LABOR & EMPLOYMENT

SEN. NO. 3

DATE 2/2/87

ENCL. SB 280

SENATE BILL NO. 103
INTRODUCED BY HAGER, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE METHOD FOR PAYMENT OF THE STANDARD PREVAILING RATE OF WAGES WHEN AN EMPLOYER IS NOT A PARTY TO A COLLECTIVE BARGAINING AGREEMENT; ELIMINATING THE REQUIREMENT TO PAY FRINGE BENEFITS AS WAGES; REPEALING SECTION 18-2-405, MCA;" AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Method for payment of prevailing wages when the employer is not a party to a collective bargaining agreement" (1) In order to fulfill his obligation to pay the standard prevailing rate of wages as provided in 18-2-403, an employer who is not a signatory party to a collective bargaining agreement", may,

(a) pay the amount of wages and fringe benefits directly to the employee in cash;

(b) pay to a trustee or to a third person the rate of contribution in accordance with a bona fide fringe benefit plan or program; provided that the contribution is paid irrevocably to a fund, plan, or program that has been approved by the United States department of labor, the internal revenue service, or the Montana commissioner of insurance" or

(C) make payments of a combination of the methods set forth in subsections (1) (a) through (1) (b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance provisions applicable to the county or locality in which the work is being performed.

(2) Payment of fringe benefits as provided for in subsection (1) must be on a line-by-line basis whereby the amounts designated to a particular benefit may not be applied to other benefits."

Section 2. Repealer. Section 18-2-4-5, MCA, is repealed."

Section 3. Codification instruction. Section 1 is intended to be codified as an integral part of Title 18, chapter 2, part 4, and the provisions of title 18, chapter 2, part 4, apply to section 1.

Section 4 Effective date. This act is effective on passage and approval.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4

DATE 2/2/87

PILL NO. SB 103

AMENDMENT TO SB 103

1. Title, line 4.
Following: "AN ACT"
Strike: "CLARIFYING"
Insert: "REVISING"

2. Title, lines 5 and 6.
Following: "WAGES" on line 5
Strike: remainder of line 5 through "ACT" on line 6.
Insert: "WHEN AN EMPLOYER IS NOT A PARTY TO A
COLLECTIVE BARGAINING AGREEMENT; ELIMINATING THE
REQUIREMENT TO PAY FRINGE BENEFITS AS WAGES; REPEALING
SECTION 18-2-405, MCA;"

3. Page 1, line 10.
Following: "wages"
Insert: "when the employer is not a party to a
collective bargaining agreement"

4. Page 1, lines 12 and 13.
Following: "," on line 12
Strike: remainder of line 12 through "or" on line 13
Following: "or" on line 13
Insert: "an"
Following: "employer"
Insert: "who is not a signatory party to a collective
bargaining agreement"

5. Page 1, lines 16 through 17.
Strike: subsection (b) in its entirety
Renumber: subsequent subsections

6. Page 1, line 20.
Following: "program"
Insert: ", provided that the contribution is paid
irrevocably to a fund, plan, or program that has been
approved by the United States department of labor, the
internal revenue service, or the Montana commissioner
of insurance"

7. Page 1, line 21.
Strike: "any"
Insert: "a"

8. Page 1, line 22.
Following: (1)(a)
Strike: "through (1)(c)"
Insert: "and (1)(b)"

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4
DATE 2/2/17
BILL NO. SB 103

9. Page 2, line 3.

Following: line 2

Insert: "(2) Payment of fringe benefits as provided for in subsection (1) must be on a line-by-line basis in which the amounts designated to a particular benefit may not be applied to other benefits."

10. Page 2, lines 3 through 5.

Strike: subsection (2) in its entirety

Insert: "Section 2. Repealer. Section 18-2-405, MCA, is repealed."

Renumber: subsequent sections

SENATE LABOR & EMPLOYMENT
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2/12/87
28 123

SB 103 AMENDMENTS

Line 20, page 1

delete (; or)

add ", said fringes to be paid irrevocably to a fund, plan or program which has been approved by the U.S. Department of Labor and Internal Revenue Service, where required.

Line 6, page 2

add " (3) Payment of fringe benefits as outlined in subsection (1) shall be on a line by line basis where amounts designated to a particular benefit may not be applied to other benefits".

PREVAILING FRINGE BENEFITS

MIKE ROGERS

P.O. Box 10998 #584 Austin, Texas 78766

1-512-250-5023

1-800-531-5225

NATIONAL WESTERN LIFE INSURANCE COMPANY

Austin, Texas 78776 1-800-531-5442

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4

DATE 2/12/87

BILL NO. SB 103



PREVAILING FRINGE BENEFITS, INC.

BUILDERS, CONTRACTORS & EMPLOYEES RETIREMENT TRUST

BUILDERS & CONTRACTORS INSURANCE TRUST

PREVAILING WAGE EMPLOYEES PENSION TRUST

The fringe benefit contribution paid irrevocably by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program for the benefit of employees, their families and dependents, or retirees which has been approved by the U.S.D.O.L. and IRS where required.

The payment of fringes must be on a line by line basis where amounts designated for a particular benefit may not be applied to any other benefit. Each and every fringe benefit payable as a component of a prevailing wage must be paid in full, either directly to the worker or in full dollar amount to a third party provider.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4

DATE 2/12/87

BILL NO. SB 103



PREVAILING FRINGE BENEFITS, INC.

BUILDERS, CONTRACTORS & EMPLOYEES RETIREMENT TRUST

BUILDERS & CONTRACTORS INSURANCE TRUST

PREVAILING WAGE EMPLOYEES PENSION TRUST

RECEIVED

JAN 26 1987

MONTANA CONTRACTORS
ASSOCIATION, INC.

January 23, 1987

Bill Olson, Executive Director
c/o Montana AGC
P.O. Box 4519
Helena, MT 59604

Re: Description of charges in Nevada

Dear Mr. Olson:

Tim Eckland asked that I forward some type of explanation to your office regarding the charges made about National Western Life in the Montana hearing.

I have enclosed a copy taken from the 1985 10-K Report filed by National Western Life with the securities commission. This is probably the best information available.

If I can be of further help, please let me know.

Best regards,

Larry West ml

Larry A. West, CLU

LAW/ml

Enclosure

xc: Tim Eckland

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 14

DATE 2/2/87

BILL NO. SB 103

Item 3. Legal Proceedings. (continued)

On December 3, 1985, the Grand Jury of the United States District Court, District of Nevada, issued an indictment charging Registrant, Harry L. Edwards, its President, Robert R. Johnson, its Executive Vice President and four persons not affiliated with Registrant, with one count of conspiracy to violate Title 18, United States Code, Sections 1954, 1952, 1027 and 1341, in violation of 18 United States Code, Section 371, in relation to a life insurance program purchased in 1980 from Registrant by the Southern Nevada Culinary Workers and Bartenders Health and Welfare Trust Fund. The charges primarily relate to alleged wrongful conduct during 1978-81 by a former broker-agent of Registrant and a Trustee of such Health and Welfare Trust Fund in placing the insurance program with Registrant, including alleged illegal payments by the former broker-agent to the Trustee and others unrelated to Registrant. The indictment alleges that in 1978 or 1979, Mr. Edwards approved a division of the standard agent's 50% first-year commission into a 12.5% agent's commission and 37.5% agency development allowance in order to conceal the total commissions paid the agent. The allegations against Mr. Johnson are that in 1980 he made a false statement concerning the rate of commission to the agent, and that in 1981 he approved a false schedule showing an inadequate commission to the agent.

The Registrant, Mr. Edwards and Mr. Johnson deny any knowledge of, or involvement with, such alleged conspiracy, any wrongdoing relating thereto, or any illegal payments made to anyone relating to such insurance programs. Three of the other persons named in the indictment are totally unknown in any manner to Mr. Edwards and Mr. Johnson. While Mr. Edwards and Mr. Johnson know of the Trustee, neither one has ever met or talked with him concerning any matter whatsoever. During the last two years the Federal Bureau of Investigation and Department of Labor advised Registrant that they were investigating the former broker-agent and the Trustee. During this investigation the Registrant cooperated fully with the government authorities, including an explanation of the life insurance program purchased by the Health and Welfare Trust Fund and provided copies of all documents requested by such authorities.

This event was reported to the S.E.C. on Form 8-K dated December 11, 1985.

No other legal proceedings presently pending by or against the Company or its subsidiaries are described, because management believes the outcome of such litigation should not have a material adverse effect on the financial position of the Company or its subsidiaries taken as a whole.

Item 4. Submission of Matters to a Vote of Security Holders

No matters were submitted during the fourth quarter of fiscal 1985 to a vote of the Company's security holders.

SENATE LABOR & EMPLOYMENT

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3/3/87

Sen. Hearing
Ex. 6

Summary

A 23% gap between the average salaries of male and female employees has been identified. A 3% gap results from differences in longevity pay, with male employees having accrued more steps and longevity increments. At least 14% is due to the differences in the content of jobs held by males and females. This leaves only six percent that has not been accounted for, but it is likely that some of this may also be job content differences.

Job segregation -- the dominance of certain types of jobs by either males or females -- is the major reason for the existence of a wage gap. How much of this segregation results from differences in skill levels, opportunities, or choices cannot be measured. Comparable worth cannot correct job segregation.

Given the limitations of the present classification system with regard to demonstrating consistent and measurable comparisons between male- and female-dominant jobs, the "legitimate" wage gap cannot be identified. While there are indications that some classification and pay practices have favored males, this seems to be a result of males exerting more organized efforts to change their status rather than a result of discrimination against females.

Recommendations

While the classification methodology in use since 1975 has placed the state in a relatively good position with respect to comparable worth, technical improvements would provide for greater consistency in its application. The state should continue in its efforts to make comparisons between gender-dominant occupations more efficient.

Because most of the wage gap results from job segregation, achieving a standard of comparable worth will not bring female salaries up to par with male salaries. The problem of job segregation is properly addressed by equal employment opportunities and affirmative action goals. Efforts to recruit, select, and promote females into professional, administrative, and other occupations where they are underrepresented should be redoubled.

Separate white collar workers and blue collar workers in making the evaluation and in making the study. (Integrating blue collar workers with white collar workers will always be an injustice to the blue collar workers because differences in adverse working conditions, risk, hours, and skill make it impossible to equate them fairly with white collar workers. The blue collar workers will end up getting a wage cut, or a wage freeze if cuts are forbidden.)

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. EX 5

DATE 2/12/87

BILL NO. SB 109