

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By CHAIR CAROLYN SQUIRES, on March 7, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Carolyn Squires, Chair (D)
Tom Kilpatrick, Vice-Chairman (D)
Steve Benedict (R)
Vicki Cocchiarella (D)
Ed Dolezal (D)
Jerry Driscoll (D)
Russell Fagg (R)
H.S. "Sonny" Hanson (R)
David Hoffman (R)
Royal Johnson (R)
Thomas Lee (R)
Mark O'Keefe (D)
Bob Pavlovich (D)
Jim Southworth (D)
Fred Thomas (R)
Dave Wanzenried (D)
Tim Whalen (D)

Members Excused:

Gary Beck (D)

Staff Present: Eddye McClure, Legislative Council
Jennifer Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SB 130

Presentation and Opening Statement by Sponsor:

SEN. ED KENNEDY, JR., Senate District 3, Kalispell, presented written testimony and a handout. **EXHIBIT 1**

Proponents' Testimony:

Roger Tippy, Montana State Pharmaceutical Association, stated the Board of Directors supported the bill.

Darrell Holzer, AFL-CIO, presented written testimony. **EXHIBIT 2**

Darrell Holzer, AFL-CIO, presented written testimony. EXHIBIT 2

Bob Heiser, United Food and Commercial Workers' Union, stated his support.

Bob Jensen, Administrator, Department of Labor and Industry, stated his support.

Pat Sweeney, State Fund, stated his support on behalf of George Wood, Self Insurers' Association. The bill will result in cost savings.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. KENNEDY said SB 130 is an opportunity to save money in the troubled State Fund. Rep. Wanzenried will carry the bill.

EXECUTIVE ACTION ON SB 130

Motion/Vote: REP. PAVLOVICH MOVED SB 130 BE CONCURRED IN. Motion carried unanimously. Reps. Dolezal, O'Keefe, and Thomas were absent for the vote.

HEARING ON SB 30

Presentation and Opening Statement by Sponsor:

REP. TOM TOWE, Senate District 46, Billings, said SB 30 defines a professional strikebreaker. A professional strikebreaker is prohibited from taking employment or replacing a person who is on strike, which is contained in the law since about 1975. However, there is no definition of a professional strikebreaker. When the United Mine Workers struck the Decker coal mine, many scabs were brought in to work the mine and crossed the picket line. They were recognized as people who had worked in other strikes. He submitted a list of the people to the County Attorney and asked him to prosecute under this law. The law says that it's illegal to hire a professional strikebreaker or to be a strikebreaker. The County Attorney's office said they didn't know what a professional strikebreaker was because it wasn't defined in the Code. Page 1, Line 23, states that a professional strikebreaker means a person who, within the previous five years, has been employed two or more times in a strike or has offered himself three or more times for employment to replace a striker. Page 2, Lines 6-11, states that a professional strikebreaker does not include a person who has been continuously employed in Montana by the same employer for at least one year prior to the commencement of the strike. A professional strikebreaker was defined in the law as a person who customarily and repeatedly offered himself for employment. That definition didn't mean anything, so it is

struck from the bill. Page 3 defines the reporting requirements. An employer shall ask a perspective employee if he has worked during a strike within the last five years if he is hiring that employee to work during a strike. The prospective employee shall provide the name and address of the employer for whom he worked while the strike was in progress. That information must be submitted to the commissioner of the Department of Labor within ten days, and the commissioner shall forward the information to the union. If there is a criminal violation, it shall be forwarded to the county attorney. Anyone who knowingly makes a false statement in this process is guilty of a misdemeanor. This clarifies the law. Without the clarification, the law is worthless.

Proponents' Testimony:

Darrell Holzer, AFL-CIO, presented written testimony. EXHIBIT 3

John Malee, Montana Federation of Teachers and Montana Federation of State Employees, stated his support.

Bob Heiser, United Food and Commercial Workers' Union, said it's hard for strikers to watch professional strikebreakers cross the picket lines and take their jobs. It's not right. The current law is not enforceable.

James Mular, Chairman, Montana Joint Rail Labor Legislative Council, stated his support.

Mark Langdorf, Field Representative, American Federation State, County, and Municipal Employees (AFSCME), said the opponents will say that this is a labor "hit list," and by obtaining this information the union and labor will take recourse. That is not the union's intent. The law needs to be strengthened.

SEN. TOWE presented written testimony for Dan Edwards, International Representative, Oil, Chemical & Atomic Workers Union. EXHIBIT 4

Opponents' Testimony:

Forrest "Buck" Bowles, Montana Chamber of Commerce, said there is a freedom issue. Some conditions in the bill border on being unconstitutional. The American Civil Liberties Union might take an interest in this. A person must register with the Department of Labor before he has done anything wrong, but he can be a strikebreaker two times and not be doing anything wrong in a five-year period. This is a building of a black list. The union representatives are opposed to that. The employer would be at a disadvantage. After asking a perspective employee if he has ever been a professional strikebreaker, the employer may not have a way of checking the information. An employer would be permitted to ask a perspective employee this question, but he can't ask about health, marital status, etc.

Bob Mullen, Department of Labor and Industry, said this bill will not substantially affect the Agency. There are some concerns about Page 2, Paragraph 3, Lines 6-11. There may be other employment relationships or classifications of employees that need to be considered, such as employees that may be part-time on an annual basis, or seasonal staff. The one-year requirement may be too stringent.

Questions From Committee Members:

REP. WHALEN referred to **Mr. Bowles'** previous testimony about asking people to furnish information prior to employment and the concern of a violation of civil liberties. He asked **Mr. Bowles** if he would be concerned about an individual having to submit to a urine or blood test prior to employment. **Mr. Bowles** said he didn't have a problem with asking questions as long as they are permitted by law. If an employer asks this question and it is answered dishonestly, how can the employer check it out. In the workplace, there isn't time to go into the prospective employee's work history and have him waiting for two weeks before deciding to hire him.

REP. WHALEN asked **SEN. TOWE** if an employer asked the questions that are required in this bill and receives a dishonest answer, can he be held liable unless he knows that the information he is receiving is false. **SEN. TOWE** said Page 3, Lines 16-20, says a prospective employee who knowingly makes a statement, or an employer who knowingly hires an employee who has made a false statement. The word "knowingly" makes it clear the employer isn't guilty if he doesn't know an individual is making a false statement.

REP. HANSON referred to an individual driving a bus across the state line coming from an area that does not have this law. Page 2, Lines 23-25, says a professional strikebreaker may not take or offer to take the place of an employee involved in a labor dispute WITHIN the state. He can be an individual from out-of-state that's driving the bus on a route into the state and would be subject to the law if, for example, Greyhound is on strike. **SEN. TOWE** said yes he would be subject to the law if he is taking the place of employment during a labor dispute. If he is a scab, and he starts his route in Bismarck and drives into Glendive, he will be employed within the State of Montana for the last 25 miles from Wibaux to Glendive and will be taking the place of employment.

REP. FAGG asked **SEN. TOWE** if, for example, a school district hired people who are not regularly school teachers during a teachers' strike, could they be hired as long as they have not come into a strike situation three times within the last five years. **SEN. TOWE** said it is two times, and the third time is illegal. **REP. FAGG** asked if the bill was aimed against professional strikebreakers that move around the country.

SEN. TOWE said yes; it is aimed against people who go from one strike to another.

REP. PAVLOVICH asked **REP. TOWE** to address the Department's concern about Page 2. **REP. TOWE** said the Department didn't have the concern when testifying in the Senate. Page 2, Subsection 3 says that a strikebreaker doesn't include a person who has been employed for at least one year prior to the commencement of the strike. That person should be excluded. It just says employed for one year, whether the job is part-time or full-time. If the Department would like to write a regulation, they are welcome to do that. If a year is too long, it could be changed.

REP. SOUTHWORTH said he was involved in a six-month strike on Cennex in 1984, and they brought in the same scabs that had been in the previous strike.

REP. JOHNSON asked if Page 2, Line 3, meant a person who has offered to work for the same employer three times. **SEN. TOWE** said the bottom of Page 1 refers to a person who has been employed two or more times. The top of Page 2 refers to a person who has offered himself. The possibility may be that he offered himself for employment and was turned down. He is just as much a professional strikebreaker, only he is given one more opportunity, so he can offer himself three times. **REP. JOHNSON** asked if that is to the same employer. **SEN. TOWE** said no. **REP. JOHNSON** asked how it would be monitored. **SEN. TOWE** said Page 3 says when someone submits for employment during a strike, the employer must ask for the names and addresses of all previous employers within the last five years. There is a possibility that he could lie. On Page 3, if he knowingly makes a false statement to get that job, he would be guilty of a misdemeanor. If it is not brought to anybody's attention, it is likely that nothing will happen.

Closing by Sponsor:

SEN. TOWE said this is a clarification of the law enacted in 1975. The law is not used because it doesn't define a professional strikebreaker. The intent of this bill is to provide a definition.

EXECUTIVE ACTION ON SB 14

Motion: **REP. BENEDICT** MOVED SB 14 BE CONCURRED IN.

Discussion:

REP. JOHNSON said if certificates of deposit (CDs) will be included as security deposits, the CDs should not be greater in size than they are federally insured for. **REP. BENEDICT** said someone indicated in a previous meeting that under the Department's rulemaking authority, a CD wouldn't be accepted for more than it was federally insured for, and the federally insured

amount was going to be reduced to \$50,000. It was discussed and it would be handled. REP. DRISCOLL said they have \$8 million worth of CDs in the Workers' Compensation Division now for deposits on non-self-insurers. A person can put up a CD for a deposit if he is buying insurance from the Division now. They have rules about this.

Vote: SB 14 BE CONCURRED IN. Motion carried 13 to 1 with Rep. Johnson voting no. Reps. Hoffman, Lee, Thomas, and O'Keefe were absent for the vote.

EXECUTIVE ACTION ON SB 28

Motion/Vote: REP. DRISCOLL MOVED SB 28 BE CONCURRED IN. Motion carried 12 to 2 with Reps. Fagg and Johnson voting no. Reps. Hoffman, Lee, Thomas, and O'Keefe were absent for the vote.

HEARING ON SB 220

Presentation and Opening Statement by Sponsor:

SEN. CHET BLAYLOCK, House District 43, Laurel, said SB 220 cleans up archaic language in the Codes in regard to railroads. It strikes language that is no longer necessary or applicable.

Proponents' Testimony:

Leo Berry, Attorney, Burlington Northern Railroad, presented a handout of the archaic language. EXHIBIT 5. The language in the law for railroads hasn't been changed since the 1800s. He worked closely with the Public Service Commission (PSC) and the Department of Livestock so the language wouldn't affect their authority. Some of the language in the Code is duplicative. Page 4, Line 10, relieves the PSC from preparing an annual report, setting out what efforts it has made to comply with the provisions of the Chapter. It is not done, so there is no need for the requirement. In Section 7, the language has been changed according to how bills of lading are handled today. People are no longer filling out bills of lading by hand. It is done by computers and fax machines. However, if a shipper wants a bill of lading prepared he can get one. In Section 11, Page 9, there are Rules of Civil Procedure that govern how a complaint is filed if it goes to court. That language isn't needed in this section of Code. It is inconsistent with the Rules of Civil Procedure as they read today. In the Senate, the rail unions opposed the bill. Their concern was on Page 14 pertaining to the penalty for intoxication. It is immaterial whether the section is left in the bill or not. They have argued that 61-8-401, MCA, would be applicable to locomotive engineers. That is not the case. A definition in that section is referred to. On page 2 of the handout, 69-14-205, Subsection 2, doesn't occur any more; therefore, it is not necessary in the Codes. Subsection 1, 69-14-208, MCA, refers to employees wearing badges. That is not applicable any longer. On the next to the last page of the

handout, 69-14-712, where a cow is killed or injured by the train, it provides on line 4 that the company shall skin the animal and preserve the whole hide including the head and ears. The bill updates the Codes.

Pat Keim, Director of Government Affairs, Burlington Northern Railroad (BN), presented written testimony. EXHIBIT 6

John Skufca, Department of Livestock, said the Department supports SB 220 and has worked with Mr. Keim and others involved in drafting the bill regarding the reporting of killed or injured livestock. The Department is comfortable with the proposed changes.

Opponents' Testimony:

James Mular, Montana Joint Rail Labor, said right now BN is actually in the passenger business, and it maintains and staffs facilities for the loading and unloading of passengers along their highline. They have written to the National Rail Passenger Corporation that they want to close the stations at Wolf Point, Malta, and Browning. The other two would be Havre and Whitefish where Amtrack ticket people are employed. His last job with the railroad ten years ago was the Amtrack ticket agent in Butte. During his schooling with Amtrack, he was required to wear a badge so the public would know who he was. The train crews presently wear uniforms. It is questionable whether state law applies to what type of identification is needed as a passenger agent. A recent legislator is attempting to have an intra-state train, and these laws would be applicable to intra-state passenger train operations. There are two cases pending in state district court relating to the very statute about livestock that is being amended to the likeness of the railroad. In Hysham, this statute has been used as a pleading in briefs, and it looks like Mr. Berry is "backdoor" the court. Chester, Montana, has the same problem. The law was put into place because a local agent had to keep a book and a record for freight claims for animals killed along the right-of-way. The sheriff would be called and identify the carcass to know its owner. Skinning the carcass is a little far fetched. Not everybody has a fax machine, and there are agencies open that are required under law to have a stack of bills of lading. The issuance of those bills of lading are centered around agency service. The purpose of this is to possibly make Montana a "bridge" state, which means if the train is 52 to 104 cars long it will then stop. Referring to the DUI (Driving Under the Influence) charge, that change is okay. There is a definition in the law, and the railroad is already subjected to a standard of testing on railroad through the National DOT (Department of Transportation). Section 69-14-116 has been amended where the telemetry device was included, which was heard by this Committee. There is some conflict in language between the amendment that Mr. Berry is offering and what is in the law. The railroad has closed about 41 stations in the last four years. In the station closing hearings, the first

thing the railroad does is "gut out" the station; they take the bills of lading and all instruments out, they tell the shippers to deal with a toll-free number, and one to two years later they will say the agent has nothing to do. This proves exactly what their motive is in the modifications. There are some archaic words in here, but it could be worked out in a study.

Raymond West, United Transportation Union, said there are issues that are still usable, and they should be placed in a study.

Darrell Holzer, AFL-CIO, said the employees and their representatives who would be involved by these large changes have not been consulted.

Questions From Committee Members:

REP. SOUTHWORTH asked **SEN. BLAYLOCK** if the PSC took a position for or against the bill. **SEN. BLAYLOCK** said no.

REP. HANSON asked **Wayne Butt, PSC**, if the bill changes the PSC's duties or functions in regard to railroad regulations. **Mr. Butt** said the PSC's ability to regulate would not be changed. To correct **Mr. Berry's** previous testimony, the PSC does do an annual report.

REP. WHALEN said Sections 69-14-118 and 119 address where connecting rail lines join. Repealing Section 119 takes authority away from the PSC where rail lines meet. Burlington Northern is on both ends of Montana Rail Link (MRL), and there is a link of railroad in Butte-SilverBow where the PSC would no longer have the authority to order interchange of cars if those entities couldn't come to an agreement. With that authority gone, the state wouldn't be able to allow the continued maintenance of the southern line of BN with MRL. **Mr. Butt** said Section 118 pertains to a station where a number of lines come together. **REP. WHALEN** referred him to Section 119. **Mr. Butt** said he wasn't sure he could answer the question. He was under the impression that it did not affect practically the PSC's ability to do that.

Closing by Sponsor:

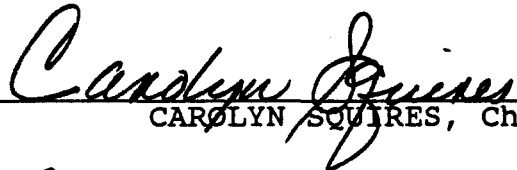
SEN. BLAYLOCK said the struck language is archaic. Unless there is clear harm coming to a group, corporation, or business, the language should be cleaned up and the issues removed from the law that are no longer needed. Rep. Joe Quilici will carry the bill.

EXECUTIVE ACTION ON SB 30

Motion/Vote: **REP. DRISCOLL MOVED SB 30 BE CONCURRED IN.** Motion carried 10 to 5 with Reps. Benedict, Hanson, Hoffman, Johnson, Thomas voting no. Reps. Pavlovich, O'Keefe, and Dolezal were absent for the vote.

ADJOURNMENT

Adjournment: 4:45 p.m.


CAROLYN SQUIRES, Chair


JENNIFER THOMPSON, Secretary

CS/jt

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL

DATE 3/7/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JERRY DRISCOLL	✓		
REP. MARK O'KEEFE	✓		
REP. GARY BECK			✓
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. ROYAL JOHNSON	✓		
REP. THOMAS LEE	✓		
REP. BOB PAVLOVICH	✓		
REP. JIM SOUTHWORTH	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		
REP. TIM WHALEN	✓		
REP. TOM KILPATRICK, V.-CHAIR	✓		
REP. CAROLYN SQUIRES, CHAIR	✓		

HOUSE STANDING COMMITTEE REPORT

March 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that Senate
Bill 130 (third reading copy -- blue) be concurred in.

Signed: Carolyn Squires
Carolyn Squires, Chairman

Carried by: Rep. Wanzenried

HOUSE STANDING COMMITTEE REPORT

March 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that Senate
Bill 14 (third reading copy -- blue) be concurred in .

Signed: Carolyn Squires
Carolyn Squires, Chairman

Carried by: Rep. Driscoll

HOUSE STANDING COMMITTEE REPORT

March 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that Senate Bill 28 (third reading copy -- blue) be concurred in.

Signed: Carolyn Squires
Carolyn Squires, Chairman

Carried by: Rep. Driscoll

HOUSE STANDING COMMITTEE REPORT

March 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that Senate Bill 30 (third reading copy -- blue) be concurred in.

Signed: Carolyn Squires
Carolyn Squires, Chairman

Carried by: Rep. Driscoll

Thank you for the opportunity to present Senate Bill 130 to this committee for consideration.

Senate Bill 130 will cause no increase in staff or expenses, and will show a very substantial savings in the State Workers' Compensation Fund.

Senate Bill 130, is a bill that will save a considerable amount of money in the financially troubled State Compensation Mutual Insurance Fund. The Fund's potential deficit is estimated at more than Two Hundred Million Dollars (\$200,000,000.00)

Senate Bill 130 simply requires a pharmacy to use generic drugs on Workers' Compensation prescriptions. This is not a new concept to the State of Montana, or pharmacy's in the state. The Medicaid program in the state presently requires this.

The proceedings involved in a Workers' Compensation prescription is this: The physician sees an injured worker. The physician writes a prescription to treat the injury. The patient takes the prescription to a pharmacy. The pharmacy fills the prescription, and gets the required information from the patient, i.e. employer, date of accident, claim number, etc. The pharmacy bills the State Compensation Fund. The Fund pays the pharmacy the amount billed. None of this would change under the amended Senate Bill 130, except the pharmacy would be required to fill

the prescriptions with a generic drug with the following possible exceptions:

1. The doctor may specify "no substitution" on the prescription.
2. The patient may request no substitution, and pay the difference in cost between the brand name and generic to the pharmacy.
3. The generic drug is not available to the pharmacist.

Please refer to handout.

Thank you for your consideration.

Senate Bill 130

Sponsor - Senator Kennedy and 20 other legislators

1. Provider Bulletin.
2. Product selection permitted. Savings passed on.
3. State Fund Letter of 01-15-91.
4. Fiscal Impact.
5. Definitions.

EX. 1
3/7/9/



STATE COMPENSATION MUTUAL INSURANCE FUND
P.O. BOX 4759
HELENA, MONTANA 59604-4759

Stan Stephens, Governor
GENERAL INFORMATION (406) 444-6500

MAY 1990

PROVIDER BULLETIN

SUBJECT: PRESCRIPTION MEDICINES

Montana law requires workers' compensation insurance carriers to provide reasonable and necessary medical benefits to injured workers.

In keeping with its costs containment efforts, the State Compensation Mutual Insurance Fund (State Fund) believes this statutory requirement will be met if generic instead of "brand name" drugs are dispensed, when possible, to patients insured by the State Fund.

Prescriptions for medicines which do not have a generic equivalent or for which the physician has indicated "no substitutions" will be honored.

Through your cooperation in this program, considerable cost savings can be achieved, at no detriment to the patient.

Questions or comments concerning this program may be directed to:

P. J. Strizich, Benefits Support Director
State Compensation Mutual Insurance Fund
P. O. Box 4759
Helena, MT 59604-4759
Phone (406) 444-6484

Page 2

37-7-505

37-7-505. Product selection permitted -- limitation. (1) Except as limited by subsection (2) of this section and unless instructed otherwise by the purchaser, the pharmacist who receives a written or oral prescription for a specific drug product by brand or proprietary name may select a less expensive drug product with the same generic name, the same strength, quantity, dose, and dosage form as the prescribed drug which is, in the pharmacist's professional opinion, therapeutically equivalent, bioequivalent, and bioavailable.

(2) If, in the professional opinion of the prescriber, it is medically necessary for his patient that an equivalent drug product not be selected, the prescriber may so indicate by certifying that in his professional judgment the specific brand-name drug product is medically necessary for that particular patient. In the case of a prescription transmitted orally, the prescriber must expressly indicate to the pharmacist that the brand-name drug product prescribed is medically necessary.

History: En. 66-1530 by Sec. 3, Ch. 403, L. 1977; R.C.M. 1947, 66-1530.

37-7-507

37-7-507. Savings passed on. (1) A pharmacist selecting a less expensive drug product must pass on to the purchaser the full amount of the savings realized by the product selection. In no event may the pharmacist charge a different professional fee for dispensing a different drug product than the drug product originally prescribed.

(2) If the prescriber prescribes a drug product by its generic name, the pharmacist must, consistent with reasonable judgment, dispense the lowest retail priced, therapeutically equivalent brand which is in stock.

History: En. 66-1532 by Sec. 5, Ch. 403, L. 1977; R.C.M. 1947, 66-1532.



STATE COMPENSATION MUTUAL INSURANCE FUND
P.O. BOX 4759
HELENA, MONTANA 59604-4759

Stan Stephens, Governor
GENERAL INFORMATION (406) 444-6300

January 15, 1991

Senator Ed Kennedy
Montana Legislature
CAPITOL STATION
Helena, MT 59620

Dear Senator Kennedy:

This is in response to your telephone call to our receptionist requesting information concerning the cost of drugs.


For fiscal years 1989 and 1990, the State Compensation Mutual Insurance Fund (State Fund) cost for drugs was \$1,422,544 and \$1,617,11 respectively. This, of course, does not include the costs incurred by insurance carriers or self-insurers who also adjust workers' compensation claims.

As shown by the attached "Provider Bulletin" which was mailed in June of 1990, the State Fund has attempted to encourage the use of generic drugs where possible.

We have not performed a study regarding any savings which are generated through the use of generic drugs, but it is generally agreed, such savings do exist. Perhaps the Blue Cross/Blue Shield Company or the Department of Social and Rehabilitative Services, in regard to their medicare/medicaid programs, have performed such studies. We are not sure such studies would be totally applicable to workers' compensation claims, but they may be able to provide you with additional information. Many drugs prescribed for workers' compensation claimants do not have a generic equivalent. In addition, some physicians specifically prescribe a brand name drug and indicate "no substitutions."

Please contact us if we can be of further assistance.

Sincerely yours,


JAMES J. MURPHY
Executive Vice President

JJM/bac

enclosure

SENATE BILL 130

A list of the most current 200 prescription billings to the State Compensation Fund were requested and received by Senator Kennedy.

197 of these were used. Some did not have medication strength and could not be used.

23% 45 Had no generic available.

48% 95 Were already generic.

29% 57 Were brand name that have a generic available.

Results: 197 prescriptions.

Cost of 197 prescriptions as billed to Workers' Compensation is \$6,889.38.

Cost of 197 prescriptions if generics were used on the other 57 is \$5,424.32 (could vary somewhat from pharmacy to pharmacy).

Savings: \$1,465.06

% Savings: 21%

Total Prescriptions Paid by Workers' Compensation:

1989

\$1,422,544.00

21% X \$1,422,544.00 = \$298,734.24

1990

\$1,167,110.00

21% X \$1,167,110.00 = \$339,593.10

Pharmaceutical Equivalents: Same active ingredients, and are identical in strength of concentration, dosage, form, and route of administration.

Therapeutic Equivalents: Can be expected to have the same clinical effect when administered to patients under the conditions specified in the labeling.

Bioavailability: The ratio and extent to which the active drug ingredient or therapeutic ingredient is absorbed from a drug product and becomes available at the site of drug action.

Bioequivalent: Display comparable bioavailability when studied under similar experimental conditions.

In Vitro: Within a glass. Observable in a test tube.

In Vivo: Within the living body.



EXHIBIT 2
DATE 3/7/91
HB SB 130

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

TESTIMONY OF DARRELL HOLZER ON SENATE BILL 130 BEFORE THE HOUSE
LABOR COMMITTEE, MARCH 7, 1991.

Madam Chair, members of the Committee, for the record my name is Darrell Holzer representing the Montana State AFL-CIO. We are here in support of Senate Bill 130.

While we were never concerned about the intent of SB130, we were however, concerned about some of the language contained in it's original form. We are now pleased to say that our concerns have been addressed and dealt with in a matter more favorable to workers.

While Senate Bill 130 will serve to relieve some of the financial burden of the ~~US~~^{WC} system, it will most importantly insure that injured workers receive the adequate medical treatment they so richly deserve. We would therefore, request that this committee give SB130 a "DO PASS" recommendation. Thank you.



EXHIBIT 3
DATE 3/7/91
HB SB 30

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

TESTIMONY OF DARRELL HOLZER ON SB 30, PROFESSIONAL STRIKEBREAKERS
HOUSE LABOR COMMITTEE, THURSDAY, MAR. 7, 1991, RM. 312-1, 3 P.M.

Madam Chair and members of the Committee, I'm Darrell Holzer representing the Montana State AFL-CIO, and I'm here in strong support of Senate Bill 30 regarding professional strikebreakers.

SB 30 tightens up the restrictions against professional strikebreakers and requires that the Department of Labor maintain a list of those who have repeatedly offered themselves as strikebreakers. In addition, the misdemeanor penalty clause puts some teeth into enforcement of the law.

This bill would make it clear to employers that they can't bring in professional strikebreakers to walk all over their employees. It would also send a clear message to professional strikebreakers, telling them that vultures of the non-bird kind are not welcome in the state of Montana.

This is a good step in the right direction, and we strongly support it.

Nationally, Congress is considering legislation that would protect workers from being permanently replaced whenever they are forced to strike.

Permanent replacements for a workforce have been used time and time again in recent years, starting most visibly with the Professional Air Traffic Controllers who were all fired by President Reagan when they dared to strike.

We have seen a similar situation here in Montana by the Peter Kiewit & Sons coal company in Decker. They hired replacement workers and strikebreaking security personnel during the course of their three-year dispute with the United Mine Workers of America.

The National Labor Relations Board has ruled that the company engaged in an unfair labor practice against the union and has ordered it to rehire many of the original workers. Unfortunately, the company is slow to comply and many workers are still out on the street.

The laws and Supreme Court decisions that have allowed many employers to simply hire a new workforce when confronted with a strike must be changed if workers are to have any real protection.

In the employer-employee relationship, almost all of the power rests in the hands of the employer. The employer sets the hours of work, the work schedule, lunch hours, breaks, vacation policy, sick-leave policy, production quotas, quality standards, etc. About the only effective way for employees to deal with these issues is through the collective bargaining process. And with or without a union, the only thing employees can really control with any certainty is whether or not they work.

TESTIMONY OF DARRELL HOLZER
SENATE BILL 30
MARCH 7, 1991

No one likes a strike, not the workers who are forced into it, not their kids and families, not the company, not the community, no one. Bringing professional strikebreakers into a workplace just makes a difficult situation even more difficult.

I want to stress that the vast majority -- more than 95 percent -- of all collective bargaining agreements are reached without any strike activity. The vast majority of employers are interested in obtaining a fair and reasonable settlement.

But when employers set unreasonable standards or propose unacceptable changes in the working conditions, withholding your labor sometimes is a worker's only option. We ought not allow bad employers to take that power away, too. There have to be some checks and balance between employers and employees.

SB 30 helps to move us toward that balance in Montana, and is a good first step.

We support Senate Bill 30 and we urge you to give it a "do pass" recommendation.

Thank you.

OCAW

Oil, Chemical & Atomic Workers
International Union, AFL-CIO



EXHIBIT 4

DATE 3/7/91

Dan C. Edwards
International Representative
HR SB 30

P.O. Box 21635
Billings, MT 59104

406 / 669-3253 (Home)

March 6, 1991

TO: HOUSE LABOR AND EMPLOYMENT RELATIONS

RE: SB-30

Dear Carolyn and members of the Committee:

For the record I am:

Dan C. Edwards, International Representative
Oil, Chemical and Atomic Workers Int'l Union, AFL-CIO
P.O. Box 21635
Billings, MT 59104
(406) 669-3253

Testimony: March 7, 1991, before the House Labor and Employment Relations Committee, in SUPPORT of SB 30.

My schedule does not permit my personal appearance before the Committee today. However, on behalf of the OCAW members in the State of Montana, I strongly support SB-30.

This Bill is specifically designed to tighten up the restrictions on the use of professional strikebreakers by employers during a labor dispute. These are people whose purpose in a labor dispute is frequently to assist employers in "busting the union. Often they instigate trouble and violence with the objective putting the blame on the union.

The Bill does not adversely affect the rights of legitimate Montana based supervisors and management officials to work during a labor dispute. It does prevent the importation of out-of-state people whose objective is to break a strike.

Thank you for your consideration of our position. Your support of SB-30 will be appreciated.

Yours truly,

Dan C. Edwards,
International Representative

69-14-118. Maintenance of stations where several rail lines come together. (1) Whenever the line of one railroad or railway shall cross, intersect, or parallel (overhead, at grade, or otherwise) the railroad or railway of another company or corporation, the commission shall have power and authority, in addition to all other powers hereafter vested in said commission, after notice and hearing, to order and compel the installation of suitable platforms and station houses for the convenience of passengers desiring to transfer from one road to the other and for the transfer of passengers, baggage, or freight, whenever the same shall be ordered by the commission. Such company or corporation shall, when so ordered by the commission, keep such passenger station warmed, lighted, and opened to the ingress and egress of all passengers a reasonable time before the arrival and after the departure of such trains as accommodate such station, carrying passengers on such railroad or railway. Said railroad or railway companies crossing, intersecting, or paralleling (overhead, at grade, or otherwise) shall stop such trains at said station house so located for the transfer of baggage, passengers, and freight, so as to furnish reasonable facilities for that character of a station when so ordered by the commission.

(2) The expense of construction and maintenance of such station house and platform shall be paid by such corporations in such proportions as they may agree, and if they fail to agree, as may be fixed by order of the commission.

History: En. Sec. 1, Ch. 105, L. 1913; re-en. Sec. 3834, R.C.M. 1921; re-en. Sec. 3834, R.C.M. 1935; amd. Sec. 20, Ch. 315, L. 1974; R.C.M. 1947, 72-156(part).

Cross-References

Authority to erect and maintain buildings.
 69-14-532.

69-14-119. Connection of lines where several rail lines come together. (1) Such corporation connecting by crossing, intersecting, or paralleling (overhead, at grade, or otherwise) shall also, when so ordered, after notice and hearing by the commission, unite and connect the tracks of said several corporations so as to permit the transfer, from the tracks of said several corporations to the tracks of each other, of loaded and unloaded cars designed for transportation on both roads; provided, however, that no such union or connection shall be ordered except where and when necessary to properly serve the public.

(2) The expense of construction and maintenance shall be apportioned and the material to be used and the route to be followed shall be determined by such corporations as they may agree, and in the event that they fail to agree, as may be fixed by order of the commission; and the expense thus incurred by the commission shall be paid by the railroad or railway companies jointly interested on such basis as the commission may order.

History: En. Sec. 1, Ch. 105, L. 1913; re-en. Sec. 3834, R.C.M. 1921; re-en. Sec. 3834, R.C.M. 1935; amd. Sec. 20, Ch. 315, L. 1974; R.C.M. 1947, 72-156(part).

69-14-120. Violations of provisions relating to rails coming together. Any railroad or railway company and its officers or agents who shall refuse or fail to comply with the provisions of 69-14-118 or 69-14-119 or any order or rule relative thereto made by the commission shall be subject to a fine of not less than \$25 or more than \$50. Each day of such refusal or failure shall be deemed a separate offense and shall be subject to the penalty herein prescribed, such fine to be recovered in a civil action upon complaint of the commission in any court of competent jurisdiction.

History: En. Sec. 7, Ch. 105, L. 1913; re-en. Sec. 3841, R.C.M. 1921; re-en. Sec. 3841, R.C.M. 1935; amd. Sec. 20, Ch. 315, L. 1974; R.C.M. 1947, 72-163(part).

69-14-205. Accommodations for and care to be taken of passengers. (1) Every railroad corporation must furnish on the inside of its passenger cars sufficient room and accommodations for all passengers to whom tickets are sold for any one trip and for all persons presenting tickets entitling them to travel thereon.

(2) When fare is taken for transporting passengers on any baggage, wood, gravel, or freight car, the same care must be taken and the same responsibility is assumed by the corporation as for passengers on passenger cars.

History: En. Sec. 973, Civ. C. 1895; re-en. Sec. 4326, Rev. C. 1907; re-en. Sec. 6560, R.C.M. 1921; Cal. Civ. C. Sec. 483; re-en. Sec. 6560, R.C.M. 1935; R.C.M. 1947, 72-604.

Cross-References

Transport of passengers, 69-11-203.

Provision of conveniences and services required, 69-14-532, 69-14-562.

69-14-206. Rules for fare and conduct of passengers. (1) Every railroad corporation must have printed and conspicuously posted on the inside of its passenger cars its rules regarding fare and conduct of its passengers.

(2) In case any passenger is injured on or from the platform of a car or on any baggage, wood, gravel, or freight car, in violation of such printed regulations or in violation of positive verbal instructions or injunctions given to such passenger in person by any officer of the train, the corporation is not responsible for damages for such injuries unless the corporation failed to comply with the provisions of 69-14-205.

History: En. Sec. 974, Civ. C. 1895; re-en. Sec. 4327, Rev. C. 1907; re-en. Sec. 6561, R.C.M. 1921; Cal. Civ. C. Sec. 484; re-en. Sec. 6561, R.C.M. 1935; R.C.M. 1947, 72-605.

Cross-References

Damages, Title 27, ch. 1, parts 2 and 3.

Liability, Title 27, ch. 1, part 7.

Requirements for carriers of persons for reward, 69-11-201.

69-14-207. Expulsion of passengers refusing to pay fare. If any passenger refuses to pay his fare or to exhibit or surrender his ticket when reasonably requested to do so, the conductor and employees of the corporation may put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place or near any dwelling house, on stopping the train.

History: En. Sec. 975, Civ. C. 1895; re-en. Sec. 4328, Rev. C. 1907; re-en. Sec. 6562, R.C.M. 1921; Cal. Civ. C. Sec. 487; re-en. Sec. 6562, R.C.M. 1935; R.C.M. 1947, 72-606.

Cross-References

Payment of fare by passengers, 69-11-205.

Ejection of passengers, 69-11-209.

69-14-208. Officers and employees of corporation to wear badges.

(1) Every conductor, baggage master, engineer, brakeman, or other employee of any railroad corporation employed on a passenger train or at stations for passengers must wear, upon his hat or cap or in some conspicuous place on the breast of his coat, a badge indicating his office or station and the initial letters of the name of the corporation by which he is employed.

(2) No collector or conductor without such badge is authorized to demand or to receive from any passenger any fare, toll, or ticket or exercise any of the powers of his office or station, and no other officer or employee without such badge has any authority to meddle or interfere with any passenger or property.

History: En. Sec. 976, Civ. C. 1895; re-en. Sec. 4329, Rev. C. 1907; re-en. Sec. 6563, R.C.M. 1921; Cal. Civ. C. Sec. 488; re-en. Sec. 6563, R.C.M. 1935; R.C.M. 1947, 72-607.

69-14-209. Issuance of passenger tickets. (1) Every railroad corporation must provide and, on being tendered the regular rates of fare, furnish a ticket to every person desiring a passage on its passenger cars, which entitles the purchaser to a ride and to the accommodations provided on its cars from the depot or station where the same is purchased to any other depot or station on the line of its road. Every such ticket entitles the holder thereof to ride on its passenger cars to the station or depot of destination or any intermediate station and from any intermediate station to the depot of destination designated in the ticket at any time within 6 months thereafter.

(2) Any corporation failing to provide and furnish tickets or refusing the passage which the same calls for when sold must pay to the person refused the sum of \$200.

History: En. Sec. 977, Civ. C. 1895; re-en. Sec. 4330, Rev. C. 1907; re-en. Sec. 6564, R.C.M. 1921; Cal. Civ. C. Sec. 490; re-en. Sec. 6564, R.C.M. 1935; R.C.M. 1947, 72-608; amd. Sec. 34, Ch. 43, L. 1979.

69-14-210. Baggage checks. A check must be affixed to every package or parcel of baggage when taken for transportation by any agent or employee of such railroad corporation and a duplicate thereof given to the passenger or person delivering the same in his behalf. If such check is refused on demand, the railroad corporation must pay to such passenger the sum of \$20, to be recovered in an action for damages, and no fare or toll must be collected or received from such passenger, and if such passenger has paid his fare, the same must be returned by the conductor in charge of the train. On producing the check, if his baggage is not delivered to him by the agent or employee of the railroad corporation, he may recover the value thereof from the corporation.

History: En. Sec. 970, Civ. C. 1895; re-en. Sec. 4323, Rev. C. 1907; re-en. Sec. 6557, R.C.M. 1921; Cal. Civ. C. Sec. 479; re-en. Sec. 6557, R.C.M. 1935; R.C.M. 1947, 72-601.

Cross-References

Bailments, Title 70, ch. 6.

Carriage of baggage by carriers of persons,
69-11-204.

69-14-211. Certificate of authority for ticket agents. (1) It shall be the duty of the owners of any railroad or steamboat for the transportation of passengers to provide each agent who may be authorized to sell, within the state, tickets or other evidence entitling the holder thereof to travel upon their railroad or steamboat with a certificate setting forth the authority of such agent to make such sales. The certificate shall be duly attested by the corporate seal of any corporate owner of such railroad or steamboat and shall, for the information of travelers, be kept posted in a conspicuous place in the office of such agent.

(2) It shall be the duty of every agent residing or acting within this state who shall be authorized to sell therein tickets or other evidence of the holder's title to travel upon any railroad or steamboat to exhibit to any person desiring to purchase a ticket or to any officer of the law who may request him to do so such certificate of his authority thus to sell.

History: (1) En. Sec. 1, p. 150, L. 1893; re-en. Sec. 978, Civ. C. 1895; re-en. Sec. 4331, Rev. C. 1907; re-en. Sec. 6565, R.C.M. 1921; re-en. Sec. 6565, R.C.M. 1935; amd. Sec. 1, Ch. 5, L. 1943; amd. Sec. 1, Ch. 60, L. 1949; Sec. 72-609, R.C.M. 1947; (2) En. Sec. 4, p. 151, L. 1893; re-en. Sec. 981, Civ. C. 1895; re-en. Sec. 4334, Rev. C. 1907; re-en. Sec. 6568, R.C.M. 1921; re-en. Sec. 6568, R.C.M. 1935; amd. Sec. 3, Ch. 60, L. 1949; Sec. 72-612, R.C.M. 1947; R.C.M. 1947, 72-609, 72-612.

69-14-212. Unlawful sale of tickets. (1) It shall be unlawful for any person not a duly authorized ticket agent and in possession of such certificate, so posted as aforesaid, to sell, barter, or transfer within this state for any consideration the whole or any part of any ticket or other evidence of the holder's title or right to travel on said railroad or steamboat, whether such railroad or steamboat be situated, operated, or owned within or without the limits of this state.

(2) Whoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding 1 year or both, in the discretion of the court in which such offender shall be convicted.

History: (1) En. Sec. 2, p. 150, L. 1893; re-en. Sec. 979, Civ. C. 1895; re-en. Sec. 4332, Rev. C. 1907; re-en. Sec. 6566, R.C.M. 1921; re-en. Sec. 6566, R.C.M. 1935; amd. Sec. 2, Ch. 60, L. 1949; Sec. 72-610, R.C.M. 1947; (2) En. Sec. 3, p. 151, L. 1893; re-en. Sec. 980, Civ. C. 1895; re-en. Sec. 4333, Rev. C. 1907; re-en. Sec. 6567, R.C.M. 1921; re-en. Sec. 6567, R.C.M. 1935; Sec. 72-611, R.C.M. 1947; R.C.M. 1947, 72-610, 72-611.

69-14-213. Redemption of unused tickets. (1) It shall be the duty of the owners of every railroad or steamboat situate or operated in whole or in part within this state to provide for the redemption, under reasonable precautions, of the whole or of any coupon of any ticket theretofore sold by any agent, authorized as aforesaid, which the purchaser, for any reason other than the expiration of the time limited in said ticket for the use thereof, has not used, at cost in case of the ticket not used and at a rate which shall be equal to the difference between the price paid for the whole ticket and the cost of a ticket between the points for which the used portion of said ticket was actually used in case of a coupon of a ticket partially used; provided, that such ticket or coupon shall be presented for such redemption to any agent, authorized as aforesaid, before the time therein limited for the use thereof shall have expired. The deposit of such ticket or part of ticket in the post office, addressed to any such agent, with postage thereon duly prepaid, before the expiration of the time limited on such ticket or part of ticket shall be deemed such presentation.

(2) When any ticket-selling agent, so licensed as aforesaid, or any common carrier subject to the provisions of 69-14-211 through 69-14-214, shall sell, barter, or transfer to any person any mileage book or commutation tickets or excursion ticket at any reduced rate authorized by law and when such mileage book, commutation ticket, or excursion ticket shall by the terms thereof be limited in respect of the time in which the same shall be used, then and in that case, such mileage book, commutation ticket, or excursion ticket shall not be redeemed by said common carrier subject to the provisions of 69-14-211 through 69-14-214.

(3) The sale by any person of such ticket or of the unused portion of any such ticket or coupon otherwise than by the presentation of the same, for

69-14-214. Penalty for failure to redeem ticket. Any railroad company or steamboat company which shall by any of its authorized ticket-selling agents within this state unreasonably refuse to redeem any coupon of a ticket or any ticket as required by 69-14-213 shall pay to the state a fine not exceeding \$500 for each offense.

History: En. Sec. 6, p. 152, L. 1893; re-en. Sec. 983, Civ. C. 1895; re-en. Sec. 4336, Rev. C. 1907; re-en. Sec. 6570, R.C.M. 1921; re-en. Sec. 6570, R.C.M. 1935; R.C.M. 1947, 72-614.

69-14-216. Restriction on contractual time limitations for notification of injury to transported livestock. Any provision, stipulation, or condition in any shipping contract, bill of lading, or other agreement made or entered into by or between any common carrier and the owner or shipper of any shipment of livestock providing that written or verbal notice of loss, injury, or damage thereto or of claim therefor shall be made or given to any common carrier, to any agent or officer of any common carrier, or to any other person within any period less than 4 months from the date of the occurrence of any such loss, injury, or damage shall be void and of no effect.

History: En. Sec. 1, Ch. 138, L. 1909; re-en. Sec. 6550, R.C.M. 1921; re-en. Sec. 6550, R.C.M. 1935; R.C.M. 1947, 72-411.

Cross-References

Relationship to Uniform Commercial Code,
30-1-111.

Duty of care — contractual limitation of carrier's liability, 30-7-309.

69-14-304. Prohibition on tunnel charges. (1) It shall be unlawful for any person, association, or corporation operating, leasing, or owning a railroad in the state to accept, demand, or receive any tunnel charges or to accept, demand, or receive any extra mileage or any extra compensation for or on account of any tunnel through which said line of railroad may run. None of the provisions of this section shall apply to rates or charges for travel to or from points outside of the state.

(2) Any person, association, corporation, agent, or manager who shall violate any provision of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than \$200 or more than \$1,000 for each offense.

History: (1)En. Sec. 1, p. 164, L. 1901; re-en. Sec. 4353, Rev. C. 1907; re-en. Sec. 6590, R.C.M. 1921; re-en. Sec. 6590, R.C.M. 1935; Sec. 72-635, R.C.M. 1947; (2)En. Sec. 2, p. 165, L. 1901; re-en. Sec. 4354, Rev. C. 1907; re-en. Sec. 6591, R.C.M. 1921; re-en. Sec. 6591, R.C.M. 1935; Sec. 72-636, R.C.M. 1947; R.C.M. 1947, 72-635, 72-636.

69-14-712. Disposition of carcass and hide of destroyed animals.

(1) In all cases where a corporation, association, company, or person kills an animal or injures an animal to such extent that it is necessary to kill the animal, as provided in this part, they shall skin the animal and preserve the whole hide or so much thereof as can be preserved, including the head and ears, and are entitled to the carcass and hide thereof unless the owner or owners thereof claim the animal, in which event the amount of the value thereof shall be deducted from the amount of damages which would otherwise be due. In case such corporation, association, company, or person so entitled thereto takes the carcass and hide, they shall skin the animal as herein provided and shall deposit the hide thereof at the station designated on their line, such station to be designated by the department of livestock, during the space of 60 days, for the inspection of persons claiming to be interested therein. If no person claims the animal, then before the corporation, association, company, or person disposes of the hide, they shall notify the stock inspector of the district within which the animal was killed, who shall inspect the hide for marks and brands, and receive from the stock inspector his authority in writing to dispose of the hide. The stock inspector shall notify all owners of the stock, if known or ascertainable from the inspection, of the death of the animal, and if the owner is unknown, the stock inspector shall notify the department of the death of the animal.

(2) The corporation, association, company, or person may dispose of the whole animal, including the carcass and hide, to any licensed rendering plant or licensed renderer in the state if the owner or owners do not claim the animal. Upon receiving the animal, the licensed rendering plant or licensed renderer shall skin the animal and shall preserve the hide or so much thereof as can be preserved, including the hide of head and ears, and the hide shall be stored separate and apart from hides received from other sources. Within 5 days after receipt of the hide, the licensed rendering plant or licensed renderer shall notify the department of possession of the hide. The department shall make an inspection thereof within 10 days after being so notified and shall immediately notify the owner thereof, if ownership be ascertainable, of the death of the animal. If no person claims the hide of the animal within 30 days after notice given to the department by the licensed renderer or licensed rendering plant, the department shall give written authorization to the licensed rendering plant or licensed renderer to dispose of the hide. Before making disposition thereof under the written authorization, the licensed rendering plant or licensed renderer shall obtain the consent of the corporation, association, company, or person from which the animal was received.

History: En. Sec. 726, 5th Div. Comp. Stat. 1887; re-en. Sec. 958, Civ. C. 1895; re-en. Sec. 4317, Rev. C. 1907; amd. Sec. 3, Ch. 99, L. 1919; re-en. Sec. 6548, R.C.M. 1921; re-en. Sec. 6548, R.C.M. 1935; amd. Sec. 1, Ch. 147, L. 1949; amd. Sec. 17, Ch. 315, L. 1974; R.C.M. 1947, 72-409.

Cross-References

Dead or fallen animal records, 81-9-313.
81-9-315, 81-9-316.

69-14-922. Action by shipper to render cars suitable. (1) In case such railroad or railway company shall fail within 24 hours after written complaint has been made by the shipper or his representative to clean and safely cooper such car or cars, then such shipper or his representative shall have authority to enter upon such car or cars and properly and safely cooper and clean the same. Said railroad or railway company shall pay for the labor expended in such repairs at the rate of \$3 per 8-hour day and the actual cost of material used, providing that such charge shall in no case exceed \$5 for each car so coopered.

(2) In case any car or cars are placed at a station or siding where there is no representative of said railroad or railway company upon whom complaint may be served, then and in such case the shipper or his representative may at once enter upon the said car or cars and clean and make such repairs as are necessary and shall be paid for the labor and material expended, as provided in subsection (1).

History: (1)En. Sec. 3, Ch. 52, L. 1917; re-en. Sec. 6615, R.C.M. 1921; re-en. Sec. 6615, R.C.M. 1935; Sec. 72-658, R.C.M. 1947; (2)En. Sec. 4, Ch. 52, L. 1917; re-en. Sec. 6616, R.C.M. 1921; re-en. Sec. 6616, R.C.M. 1935; Sec. 72-659, R.C.M. 1947; R.C.M. 1947, 72-658, 72-659.

TESTIMONY IN SUPPORT OF SB 0220
SUBMITTED BY
BURLINGTON NORTHERN RAILROAD

MT. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD MY NAME IS PAT KEIM. I AM DIRECTOR OF GOVERNMENT AFFAIRS FOR BNRR AND I LIVE IN HELENA, MONTANA. I AM HERE TODAY TO TESTIFY AS A PROPONENT FOR SENATE BILL 220. SB 220 WOULD SEEK TO MODERNIZE THE STATUTES GOVERNING MONTANA RAILROADS. THE PUBLIC SERVICE COMMISSION AND THE DEPARTMENT OF LIVESTOCK HAVE HAD INPUT INTO THIS BILL. IT IS NOT AN ATTEMPT TO EITHER REDUCE OR INCREASE THE STATE'S REGULATION OF RAILROADS IN MONTANA. IT IS DESIGNED TO MODERNIZE THE STATUTES, AND TO UPDATE THE PROVISIONS OF REGULATIONS WHERE TECHNOLOGY AND EVENTS HAVE OUTDATED CURRENT REQUIREMENTS. IT IS NOT AN ATTEMPT TO DECREASE THE RESPONSIBILITY FOR RAILROAD COMPLIANCE WITH STATE REQUIREMENTS NOR ELIMINATE STATUTES WHERE THERE ARE NEEDED. IN WORKING TO PREPARE THIS LEGISLATION THE RAILROAD CONSULTED WITH THE COMMISSION TO AVOID ANY CHANGES WHICH WOULD BE CONTROVERSIAL.

THE MAJOR CHANGES ARE AS FOLLOWS:

REFERENCES TO NOW NONEXISTENT ENTITIES LIKE EXPRESS CAR AND, SLEEPING CAR COMPANIES ON PAGE 2 LINE 17, AND STEAMBOATS IN THE HAND OUT OF REPEALED PROVISIONS PAGE 3, NUMBER 69-14-211 ARE DELETED. THE SIMPLE FACT IS THAT THERE ARE NO MORE EXPRESS AND SLEEPING CAR COMPANIES OPERATING ON THE RAILROAD. STEAMBOATS HAVE FOR THE MOST PART ALSO DISAPPEARED FROM MONTANA. THEREFORE REGULATING THEM IS NOT NECESSARY.

THE PROPOSED CHANGES GIVE THE COMMISSION MORE LATITUDE TO EXERCISE DISCRETION IN INVESTIGATING ACCIDENTS. THE CHANGE ON PAGE 3 LINE 13 REPLACES THE WORD "MUST" WITH THE WORD "MAY" THEREBY RELIEVING THE COMMISSION OF THE REQUIREMENT TO UNNECESSARILY INVESTIGATE ACCIDENTS. IT ALLOWS THEM THE DISCRETION TO DECIDE WHAT DOES NEED TO BE INVESTIGATED, AND FREES THEIR RESOURCES TO DO A MORE THOROUGH JOB IN INVESTIGATING THOSE ACCIDENTS.

THE BILL REMOVES REQUIREMENTS FOR UNNEEDED COMMISSION REPORTING ON PAGE 4 LINES 10 THRU 16 THEREBY ALLOWING THE COMMISSION PERSONNEL TO CONCENTRATE ON MORE IMPORTANT FUNCTIONS.

THE BILL MODERNIZES THE RULES REGARDING THE PREPARATION OF SHIPPING DOCUMENTS ON PAGE 6 LINES 4 THRU 25 TO TAKE INTO ACCOUNT ELECTRONIC DATA PROCESSING TECHNOLOGY. PRESENTLY THESE RULES REQUIRE OUTDATED METHODS OF PREPARING AND HANDLING THESE DOCUMENTS. ELECTRONIC DATA PROCESSING TODAY PROVIDES BETTER METHODS OF PREPARATION, STORAGE, AND TRANSMISSION OF THESE DOCUMENTS. THE REVISED TEXT PROTECTS THE NEEDS OF ALL OF THESE WHO NEED ACCESS TO THESE DOCUMENTS. THIS STATUTORY CHANGE MAKES NO SUBSTANTIVE CHANGE TO THE OPERATION.

ON PAGE 8 LINES 11 THRU 23 THE BILL GIVES THE COMMISSION GREATER FLEXIBILITY IN CARRYING OUT ITS OBLIGATION IN PUBLISHING RATE SCHEDULES. AT PRESENT, THERE IS VERY LITTLE NEED FOR THE COMMISSION TO PUBLISH RATES. BUT WHEN IT IS NECESSARY, THE PRESENT REQUIREMENT IS RESTRICTIVE AS TO HOW AND WHERE THE COMMISSION CAN PUBLISH THESE RATES AND DOES NOT NECESSARILY SERVE THE BEST INTERESTS OF THE PUBLIC. THIS REVISION WOULD LEAVE IT TO THE DISCRETION OF THE COMMISSION AS TO HOW BEST TO PUBLISH AND DISSEMINATE RATE SCHEDULES.

IT PROVIDES FOR AN IMPROVED METHOD OF REPORTING AND ACCOUNTING FOR LIVESTOCK KILLS IN SECTION 13 PAGE 10 LINES 22 THRU 25, PAGE 11 LINES 1 THRU 25, AND PAGE 12 LINES 1 THRU 6. IT WOULD REQUIRE THE RAILROAD COMPANY TO REPORT LIVESTOCK KILLS TO THE LIVESTOCK DEPARTMENT, RATHER THAN TO MAINTAIN A BOOK OF LIVESTOCK KILLS IN EACH COUNTY. THIS CHANGE WOULD PROVIDE FOR A CENTRAL PLACE IN THE STATE FOR THE RECORDING OF THAT INFORMATION. THE PUBLIC WOULD KNOW WHERE TO GO IF THEY NEEDED IT. IT WOULD ALSO PROVIDE COORDINATION WITH THE LIVESTOCK DEPARTMENT ASTRAY FUND AS REQUIRED. THE LIVESTOCK DEPARTMENT CONCURS THAT THIS WOULD BE A GOOD PLAN.

OTHER MAJOR CHANGES INCLUDE:

- ELIMINATING THE REQUIREMENT TO POSTING PASSENGER FARES IN PASSENGER CARS
- ELIMINATING THE REQUIREMENT FOR EMPLOYEES TO WEAR BADGES
- ELIMINATING THE REQUIREMENT FOR RAILROAD AND STEAMBOAT PASSENGER AGENTS TO DISPLAY CERTIFICATES OF AUTHORITY
- ELIMINATING THE REQUIREMENT FOR MAINTAINING UNNECESSARY FACILITIES WHICH IN MOST CASES HAVE ALREADY LONG SINCE CEASED TO EXIST, SUCH AS PLATFORMS AND PASSENGER FACILITIES WHERE TWO RAILROADS CROSS, JOIN OR PARALLEL EACH OTHER, EVEN THOUGH THERE IS NO NEED AND THE MAINTENANCE OF CONNECTING TRACKS BETWEEN TWO SUCH RAILROADS WHERE THERE IS NO NEED.

THE BILL WOULD ALSO ELIMINATE REQUIREMENTS FOR THE COOPERING AND REPAIR OF FREIGHT CARS BY SHIPPERS. CHANGES IN FREIGHT CAR DESIGN HAVE ELIMINATED COOPERING, WHICH IS THE COVERING OF BOXCAR DOORS FOR GRAIN SHIPMENTS. ALL GRAIN IS NOW SHIPPED IN COVERED HOPPER CARS. BY THE SAME TOKEN, RAILROADS GENERALLY DO NOT WANT SHIPPERS REPAIRING FREIGHT CARS. WHEN A SHIPPER FINDS A CAR UNFIT FOR LOADING RAILROADS HAVE THE CAPABILITY OF GOING TO THE SHIPPERS ' SIGHT TO MAKE REPAIRS. IN MOST INSTANCES SHIPPERS ARE NOT EQUIPPED OR TRAINED TO MAKE REPAIRS TO MODERN RAILROAD EQUIPMENT.

THERE IS NOTHING IN THIS BILL WHICH REDUCES PUBLIC SERVICE COMMISSION AUTHORITY, EMPLOYEE SAFETY OR PROTECTION, PUBLIC SAFETY OR CONVENIENCE, OR CUSTOMER SERVICE.

IN CONCLUSION, I RECOMMEND PASSAGE OF THIS BILL.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

LABOR & EMPLOYMENT RELATIONS

COMMITTEE

BILL NO.

SB 130

DATE 3/7/91

SPONSOR(S) Sen. Ed Kennedy, Jr.

PLEASE PRINT

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DEWEY HALL	LOCAL 10 MT	X	
DARRELL HOLZER	MONT. STATE AFL-CIO	X	
Bob Jensen	Dep't. of Labor & Industry	X	
MARK LANGBORT	ASSUME	X	
PAT Sweeney	STATE FUND	X	
George Wood	SELF INS'DS	X	
Roger Tippy	Mt. St. Pharmaceutical Assn	X	
Bob Heiser	UFCW	X	
James T MULAR	TCLU	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

LABOR & EMPLOYMENT RELATIONS

COMMITTEE

BILL NO.

SB 30

DATE 3/7/91

SPONSOR(S) Tom Towe

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DEWEY HALL HELENA	LOCAL 10 MT	X	
DARRELL HOLZER HELENA	MONT. STATE AFL-CIO	X	
MARK LANGDOFF Helena	ASSCME	X	
AA Buck Bob	MT Chamber		X
John Malee	M.F.T - M.F.S.F.	X	
Bob Heiser	UFCW	X	
JAMES T. MULAR	MONT JOINT RAIL LABOR LEGIS COUNCIL	X	
Charles R. Brooks	MT. Rep / Assoc		X
Bob Mullen	Dept of Labor & Industry		X

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

LABOR & EMPLOYMENT RELATIONS

COMMITTEE

BILL NO. SB 220

DATE 3/7/91

SPONSOR(S) Chet Blaylock

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DEWEY HALL HELENA	LOCAL 10		X
DARRELL HOLZER	MONT. STATE AFL-CIO		X
MARK LANGBORG	AFSCME		X
RAYMOND R. WEST	UTU HELENA		X
PAT KEIM	Burlington Northern	X	
LEO BEARY JAMES T. MUIR	MONT JOINT RAIL LABOR COUNCIL BLMW TCU UTA BLE	X	X

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3-7-91

PROXY FOR WANZENRIED

3-7-91

YES —

ALL BILLS

ALL MOTIONS

James E. Wenzel

Rep Squines

7 Mar 91

has my proxy vote on
all Bills & Amend.

Gary Beck