

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON LABOR & EMPLOYMENT RELATIONS**

**Call to Order:** By Senator Richard Manning, on February 14, 1991,  
at 3:20 p.m.

#### **ROLL CALL**

**Members Present:**

Richard Manning, Chairman (D)  
Thomas Towe, Vice Chairman (D)  
Gary Aklestad (R)  
Chet Blaylock (D)  
Gerry Devlin (R)  
Thomas Keating (R)  
J.D. Lynch (D)  
Dennis Nathe (R)  
Bob Pipinich (D)

**Members Excused:** NONE.

**Staff Present:** Tom Gomez (Legislative Council).

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

**Announcements/Discussion:** NONE.

#### **HEARING ON SENATE BILL 267**

#### **Presentation and Opening Statement by Sponsor:**

Senator Towe told the Committee Senate Bill 267 deals with "goons". He explained very frequently before and during a large an employer will contact a professional security agencies such as Baker and Associates. The security agency provides security to the employer during the strike with elaborate electronic, high technology equipment that allows for eavesdropping and surveillance. He explained the agencies set up before the strike. They make establish a excellent relationship with local law enforcement. They keep track of strikers by following them. Senator Towe commented while the agency is hired for security, "their principle purpose is disruption" by causing violence and instigating incidents that can be blamed on the strikers to turn public opinion against the union. He cited an example. Baker and Associates had just come off the Hormel strike and were hired by Decker. Their personnel were put in caravans with caravans of miners crossing the picket line, the equipment was set to watch

striking miners at all times, they attended all demonstrations, etc. He told the Committee there were two witnesses who saw a Baker and Associates employee (the second in command) slash tires on a Decker truck. The incident was blamed on the striking miners. These incidents are intended to disrupt, cause violence, and discredit the striking employees. He stated Senate Bill 267 does not stop these agencies from operating. It simply requires them to register (file) with the Department of Labor and Industry. Senator Towe presented the Committee with a sworn affidavit from James V. Guyette and portion of the law from other states dealing with this issue. (Exhibit #1) Senator Towe expressed dissatisfaction with the Fiscal Note. He said it was "absolutely ridiculous" the Department of Labor and Industry asked for one FTE for one full year to prepare the regulations and forms; and another full year to implement the program.

### Proponents' Testimony:

Don Judge, Executive Secretary of the Montana State AFL-CIO spoke in support of Senate Bill 267 from prepared testimony. (Exhibit #2)

Dan Edwards, International Representative from the Oil, Chemical and Atomic Workers International Union told the Committee about two cases in which security agencies were used as Senator described. One involves a London, Kentucky company, Securex. Securex was hired by the New York Daily News to provide security guards during the strike taking place at the present time against the paper. The company recruited scabs through newspaper ads from around military bases in the South where local economies were hardest hit by the developments over the Persian Gulf and deployment of troops. He explained several scabs quit their jobs in November, and revealed they were "hired as bait" to video tape themselves and other security personnel being beaten as evidence to be used against the drivers union in court. The New York City police officials testified before a state legislative hearing "there was no coordinated effort by the union to commit violence against the scabs". Another involves testimony of Rich Trumpka in which he speaks about the Pittston Coal strike which has been settled. Mr. Trumpka states "We understand violence is our enemy; and that from a practical and strategic perspective the company needs violence to get the full force of the courts and the government behind it". Pittston Coal hired a security agency which "guaranteed" an injunction within ten days of their arrival on the scene. The agency provoked violence, where they could not provoke it they manufactured it. When Pittston Coal was shown to have operated in bad faith, violence occurred. When the National Labor Relations Board issued a complaint, violence occurred.

Bob Heiser of the United Food and Commercial Workers International Union asked to go on record in support of Senate Bill 267.

Opponents' Testimony:

Mike Micone, Commissioner of the Department of Labor and Industry told the Committee the bills being presented by Senator Towe have technical problems, or in some cases violate court decisions. He believes if Senate Bill 267 is passed it could not be enforced. He pointed to the permit process. To obtain the permit the applicant must inform the department the employers they have worked for in the past 15 years who were involved in a strike, and whether the applicant were involved in violence during the employment. He commented attempting to obtain that information could possibly violate rights of freedom from self-incrimination. He believes the bills purpose is to prohibit a person who may cause violence from employment. He told the Committee it would be the department's responsibility to make that determination "which is almost impossible to do". He told the Committee a more appropriate agency would be the Department of Commerce. The DOC has in place a permit structure to private investigators. The DOLI has never been involved in issuing permits. He told the Committee, regarding the Fiscal Note, he "wished it were as easy as Senator Towe purports it to be". He explained it involves more than the promulgation of rules; staff would need to be trained, procedures need to be developed, forms must be created. He stated the additional year would be used to work of the "bugs" in the system.

Jim Mockler, Executive Director of the Montana Coal Council told the Committee when looking at the legislation, reading the "Whereas", it "points up the absurdity". He mentioned the Decker strike and Baker and Associates. He told the Committee Baker and Associates are one of the most respected security firms in the United States. They have for the Department of Defense, Tobacco and Fire Arms, etc. Mr. Mockler also pointed to Page 1, Line 24 and 25. He stated this was coercion, which is a crime punishable by law. He told the Committee to blame security personnel solely is absurd. He explained during the Decker strike there was violence and surveillance on both sides. He explained other problems with Senate Bill 267. He stated the bill has no effective date, but if it becomes effective as other bills do on October 1, there is a period not covered.

John Fitzpatrick, Director of Community and Governmental Affairs for Pegasus Gold Corporation told the Committee he came from union family. He explained he knew from personal experience labor/management situations get out of control, and there is violence. Some violence is perhaps caused by security representatives, some representing management; and in other cases the opposite is true. He commented he did not wish to be put in a position of condoning violence. He asked if violence (particularly violence caused by security firms) were a significant problem in Montana. He cited only two instances in the last decade in which violence occurred; the Decker case cited by Senator Towe; and the Haines Pipeline. He said unions have a legitimate right to be concerned about violence, but questions

whether or not a bill should be passed in Montana based on the strikes in Kentucky or New York. He explained there are legitimate security functions these firms need to perform such as fire watch, checking locks on gates, and serving as emergency personnel. He told the Committee a problem with this legislation is it "laps over into" the legitimate security function. He suggested the bill be amended to avoid unintentionally creating problems with security functions already regulated by the state of Montana. He explained there is a comprehensive bill [statute] requiring the licensure of private patrolmen in Title 37, Chapter 60. He pointed to technical problems. One is the definition of a security agent on Page 2 to Page 3. He pointed to the "or" clause which he feels is open-ended, ("or to assist the employer with activities directly relating to and necessitated by the strike"). Another is the identification of individuals who may cause disruption. He told the Committee he shared Mike Micone's view, it is an unenforceable function.

James Tutwiler of the Montana Chamber of Commerce spoke in opposition to Senate Bill 267 concurring with those testifying in opposition.

Questions From Committee Members:

NONE.

Closing by Sponsor:

Senator Towe spoke to Mr. Micone's concern regarding self-incrimination. He explained self-incrimination is one which prevents an answer to a question not prevents asking the question. He explained a complaint was voiced with the Department of Commerce during the Decker strike. Baker and Associates said they were not security agents. He said the licensing already in existence in the Department of Commerce is simply not effective. He addressed the issues voiced by Mr. Micone. He said he understood the amount of legislation introduced may possibly require a full-time staff person. He pointed out the Fiscal Note on Senate Bill 267 indicates a FTE for only this piece of legislation. He explained a bill not having an effective date, takes effect on October 1. He told the Committee he did not choose an earlier effective date in order to give the Department of Labor and Industry time to prepare before the law takes affect. He pointed out the bill does not apply to those individuals involved in "normal operations". He explained in a "hotly-contested" strike (it is unlikely Montana would have one per year), where new tactics are employed, this legislature must address problems because of the advance of time and technology; strikes are no longer like they used to be.

A newspaper article was offered as committee information.  
(Exhibit #3)

HEARING ON HOUSE BILL 152Presentation and Opening Statement by Sponsor:

Representative Dan Harrington told the Committee House Bill 152 dealt with the minimum wage in Montana. In 1989 a minimum wage was passed which set two different wage rates. House Bill 152 proposes a sub-minimum wage set for businesses whose annual gross sales are \$110,000. He explained upon passage minimum wage would be \$4.25 with the sub-minimum wage at \$4.00. He expressed his reservations about the wage because of concerns for the people trying to "get by" on it. He explained a great many people can raise a family on this wage, but he does not understand how that is possible. He feels House Bill 152 is a compromise in the right direction.

Proponents' Testimony:

Mike Micone, Commissioner of the Department of Labor and Industry spoke in support of House Bill 152. He told the Committee it is the hope of the department all provisions of the legislation would comply with federal provisions.

James Tutwiler of the Montana Chamber of Commerce spoke in support of House Bill 152. He explained previously the minimum wage was proposed to become one of the highest minimum wages paid in the United States. He expressed early concern, not so much for chamber members because not many of the members pay minimum wage, but the chamber attempts to represent all business in Montana. They looked at sales volume by industry in retail association and restaurant association and concluded the bill as amended would be supported.

Charles Brooks of the Montana Retail Association spoke in support of House Bill 152. He told the Committee over 3000 businesses in the retail, restaurant trade with sales volume of \$110,000 or less. He commented the federal minimum wage of \$4.25 will go into effect in April. He suggested House Bill 152 coincide with the federal increase. He told the Committee through research done on minimum wage, nationally 70% of the recipients of minimum wage are from families with income 200% above the poverty level.

Laurie Shodoan of the Eozeman Chamber of Commerce spoke in support of House Bill 152. She recommended the effective date be April 1 for consistency between federal and state. She told the Committee the lower tier for smaller businesses is appreciated.

Bob Heiser of the United Food and Commercial Workers International Union spoke in support of House Bill 152. He told the Committee he is not in favor of the two tier portion. He explained the cost of living for the employees in businesses below \$110,000 is the same as for an employee in a business above the limit.

Stuart Doggett representing the Montana Innkeepers Association spoke in support of House Bill 15.

Christian MacKay of the Montana State AFL-CIO read from prepared testimony in support of House Bill 152. (Exhibit #4)

**Opponents' Testimony:**

Riley Johnson, State Director of the National Federation of Independent Businesses read from prepared testimony in opposition to House Bill 152. (Exhibit #5)

Kathy Kirsch, owner and operator of the Boulder Dairy Queen told the Committee opposes House Bill 152.

A letter from Mary Ann Garpestad is entered into the record. (Exhibit #6)

**Questions From Committee Members:**

Senator Devlin asked Kathy Kirsch if her business was over the \$110,000 limit. Ms. Kirsch stated that is correct.

Senator Devlin asked Ms. Kirsch how many employees she had. Ms. Kirsch told the Committee there were 10 parttime employees. Senator Devlin asked if the employees were young people. She explained one employee works for the Montana Developmental Center to supplement her income; the other nine are high school students.

Senator Towe asked Ms. Kirsch if there were anything she wished to tell the Committee regarding House Bill 152. Ms. Kirsch stated she would not go out of business if the minimum wage was raised. She has employees which are second wage earners. She had to cut two jobs after the last increase. She explained the economy of Boulder does not allow her to hire all individuals needing a job in Boulder. There are more people in Boulder who need jobs than she has. She told the Committee she will be forced to cut two or three more jobs if the minimum is raised to \$4.25. She commented she will not hire high school students. She told the Committee she calculated her cost is \$5.15 an hour between wages, unemployment, workers' compensation, etc. She explained the high school students have never held other jobs and she is training them to work elsewhere.

Senator Towe asked Representative Harrington about the adoption of the federal minimum wage which goes to \$4.25 an hour after March 31. He explained the federal has two provisions, one is an allowance for tip credit and a \$3.61 maximum for a training period. He asked if Representative Harrington's intent was to incorporate that. Representative Harrington explained the bill definitely does not put tip credit in. He told the Committee it will \$4.25 and \$4.00 for any \$110,000 below.

Senator Towe pointed out by reference to the federal the bill may be doing exactly what is not intended. Representative Harrington commented if there is a problem he suggests the Committee work it out.

Senator Towe asked Mr. Micone to comment. Mr. Micone introduced Elaine Eidum, compliance officer with the Investigations Unit of the Employment and Relations Division of the Department of Labor and Industry to answer the question. Senator Towe explained the reference is to Section 206 of the Fair Labor Standards Act which refers to \$4.25 an hour for wages. Wages in another section is defined to allow tip credit. Ms. Eidum told the Committee under the Fair Labor Standards Act there is a tip credit provision. Senator Towe asked Ms. Eidum if it should be clarified in Montana statute. Tom Gomez clarified the issue. He explained the definition of wage for Montana law purposes excludes tips.

Closing by Sponsor:

Representative Harrington commented about the third and fourth jobs in families. He agreed that is the case but the jobs are probably held by the same person. Many of the individuals on minimum wage jobs must work two and three jobs in order to make a living. He told the Committee he had serious reservations about the sub-minimum wage.

HEARING ON HOUSE BILL 204

Presentation and Opening Statement by Sponsor:

Representative Sheila Rice told the Committee the Montana Constitution, Article 7 says, "The maximum period of eight hours a day is a regular days work in all industries and employment except agriculture and stock raising. The Legislature may change this maximum period to promote the general welfare." In Section 39-3-405 is a 40-hour work week, followed by a list of exemptions. In Section 39-4-101 is a list of 8-hour work week definitions including a 10-hour work week county bridge and road crews. She explained House Bill 204 proposes identifying an 8-hour five day work week or 10-hour four day work week for construction workers only. An amendment will be proposed to change the definition of construction. Representative Rice told the Committee many existing construction contracts deal with eight and ten hour work days. She explained some contractors pay overtime after eight and ten hours and currently are "playing on an unlevel playing field" with contractors choosing to work their employers longer without overtime paid until 40 hours. The safety of the worker involved is important also.

Proponents' Testimony:

Gene Fenderson of the Montana State Building and Construction Trades Council spoke in support of House Bill 204 explaining it was one of their "major pieces of legislation this year". Mr. Fenderson told the Committee a number of bills are working at this time which refer to construction only. He explained an agreement has been arrived at with both employers and unions to define construction and the industrial code is the most adequate. He commented all are in agreement. There has been an 8-hour overtime law has been in effect for the construction industry for many years. In 1985 (or 1986) the federal laws changed to a 40-hour week. Around that time many (not all - perhaps 95%) of labor agreements in Montana were changed from overtime after 8 hours if a 5 day week was worked; overtime after 10 hours if a 4 day week was worked or less. He explained as contractors became more mobile it became convenient for the company and the workers to allow them at home. Mr. Fenderson stated many contractors and union have "make up" days. House Bill 204 does not address this. He explained the intent should be clearly understood. A "make up" day is for weather. If a 4-day work week is scheduled (Monday through Thursday), it rains on Monday; work is generally done Tuesday through Friday.

Robert Nommensen representing Sletten Construction spoke in favor of House Bill 204. (Exhibit #7)

Dennis Lind of Washington Corporation and the Washington Contractors Group in Missoula spoke in support of House Bill 204. He told the Committee it promotes cooperation between unions and owners.

Christian MacKay representing the Montana State AFL-CIO spoke from prepared testimony in support of House Bill 204. (Exhibit #8)

Bob Murphy, Business Manager for the International Brotherhood of Electrical Workers spoke in support of House Bill 204. He told the Committee this bill may be looked at as a union v. non-union bill. He explained this is a "bill of people v. wrongs". He commented it is only fair working people be given the opportunity to work a decent work-day for a decent day's pay with anything beyond that being compensated for.

Jim Stucky of Local 400 of the International Union of Operating Engineers spoke in favor of House Bill 204.

Richard Abraham with Montana Metal Buildings local contracting firm told the Committee as a small contractor their firm deals with a large area in Southwest Montana. He explained they prefer transporting the employees. When working two or three hours from home a ten hour day is preferred both the workers and his firm. (Mr. Abraham did not sign the Visitor's Register but his testimony is entered here.)

Opponents' Testimony:

NONE.

Questions From Committee Members:

Senator Nathe asked Gene Fenderson if he wished to have House Bill 204 amended to address the "make up" day. Mr. Fenderson told the Committee he did not wish to amend the bill. He explained he wanted it on record in case a question arose about "make up" days. He explained these are called "make up" days but are weather days.

Senator Keating asked Gene Fenderson why he opposed a 10-hour work day during a previous session. Mr. Fenderson told the Committee the previous legislation was concerned with the mining industry, cement plants, etc. He explained the unions and workers in that industry opposed the 10-hour day. This legislation is the construction industry which believes in a 10-hour day.

Senator Pipinich told the Committee there were 480 union employees. There will twelve members here (testifying) which the Senators questioned as to why they did not make this a part of the bargaining. The members explained they could not because it would not be "voted in".

Senator Keating asked Mr. Abraham how his day was broken out for rest periods and lunch when working 10-hour days. Mr. Abraham explained the day is broken in thirds. Starting a 7:00 a.m. and breaking around 10:00 a.m. (left up to the worker in most cases) with noon to 12:30 p.m. for lunch; breaking again from 2:00 p.m. to 2:30 p.m.; working up until 5:30 p.m. Senator Keating asked if that works out and the workers do not get too tired. Mr. Abraham said that was correct.

Closing by Sponsor:

Representative Rice closed on House Bill 204. She told the Committee this bill passed House Labor unanimously, and passed the Floor easily.

HEARING ON HOUSE BILL 280Presentation and Opening Statement by Sponsor:

Representative Thomas presented House Bill 280 at the request of the Governor. He told the Committee it would provide a financial incentive to employers to develop and modify alternative positions for injured workers. It would provide a financial incentive to injured workers to accept those positions. The current statute allows a worker who has not reached maximum

healing to refuse a position offered by his employer without effecting his current benefits. House Bill 280 would change this. If the treating physician releases the injured worker to the same, modified or alternative position (by the same employer), the worker is able and qualified to perform by determination of parties involved, at equivalent or higher wage at time of injury, the worker would no longer be eligible for temporary total disability benefits. This position would get the employee back in the workforce and would save the system money. He explained when working with the department (DOLI) and the Governor it was determined the language on Line 11 ("the individual is able and qualified to perform") makes it clear the worker would be kept in the same area of work.

#### Proponents' Testimony:

Mike Micone, Commissioner of the Department of Labor and Industry spoke from prepared testimony in support of House Bill 280. (Exhibit #9)

George Wood, Executive Secretary of the Montana Self Insurers Association told the Committee there is a re-qualification procedure also. If the employer creates the position and the employee accepts it; then the position made available ends, the employee can return to temporary total disability.

James Tutwiler of the Montana Chamber of Commerce spoke in support of House Bill 280. He explained it would offer advantages for injured workers; has the prospect of returning them to a position which will not impede their recovery. The legislation poses advantages for the employer because they would have an experienced worker returning. He commented on the concern about the "health and vitality" of the workers' compensation fund. He explained some studies show Montana's payments for temporary total disability rank very high.

Bob Heiser of the United Food and Commercial Workers spoke in support of House Bill 280. He explained the legislation was examined. All concerns are addressed in the bill.

Pat Sweeney of the Montana State Compensation Mutual Insurance Fund spoke in favor of House Bill 280. He explained the bill is codifying the efforts the state fund is already undertaking.

#### Opponents' Testimony:

NONE.

#### Questions From Committee Members:

Senator Towe asked Pat Sweeney what would happen if the worker who has been released by the doctor cannot perform after a

period of time and the doctor determines the worker's condition has been worsened and the worker should not go back to the job.

Mr. Sweeney pointed to the provisions where the employee can go directly back on temporary total disability benefits. He explained the physician is the qualifier in these cases. If the employee is determined unable, he is no longer qualified for the position because of the employee's condition.

Senator Towe asked where the physician is mentioned in the bill. Mr. Sweeney said it does not. He explained the intent is the physician can be the qualifier as to the employee's qualification as mentioned on Page 2, Line 15 through 19 which states "A worker re-qualifies for temporary total disability benefits if the MODIFIED OR ALTERNATIVE position is no longer available FOR ANY REASON to the worker and the worker continues to be temporarily totally disabled".

Senator Towe asked Mr. Wood the same question. Mr. Wood explained he did not feel there was a problem. He explained it would be addressed both in the present law and in House Bill 280. He said if the physician does not certify the employee to take the position the employee is entitled to temporary total disability. The physician saying the employee is no longer able to perform the job is the same thing as the position is no longer available (it is no longer available to that employee).

Senator Manning asked Bob Heiser to respond to this issue. Mr. Heiser explained it had been one of his concerns. He explained his understanding is if the physician releases the employee to return to work (for a job the employee is qualified to do), the employee is no longer qualified for temporary total disability. If the injury becomes aggravated by returning to work and the attending physician no longer qualifies the employee for the work, the employee would go back to temporary total disability.

Closing by Sponsor:

Representative Thomas closed on House Bill 280.

EXECUTIVE ACTION ON HOUSE BILL 280

Motion:

Senator Blaylock moved House Bill 280 DO PASS.

Recommendation and Vote:

Motion to DO PASS CARRIED UNANIMOUS by Voice Vote. Senator Thayer will carry House Bill 280.

EXECUTIVE ACTION ON SENATE BILL 237

Motion:

Senator Blaylock moved to reconsider the DO NOT PASS motion on Senate Bill 237 for the purposes of amending.

Senator Blaylock moved to amend (SB023701.ATG).

Senator Blaylock moved Senate Bill 237 DO PASS as amended.

Discussion:

Senator Blaylock explained the amendments.

Recommendation and Vote:

Blaylock motion to reconsider CARRIED by Voice Vote with Senator Manning voting NO.

Blaylock motion to amend CARRIED by Voice Vote.

Blaylock motion to DO PASS as amended CARRIED by Roll Call Vote (6, YES; 3, NO).

EXECUTIVE ACTION ON SENATE BILL 216

Motion:

Senator Towe moved Senate Bill 216 DO PASS.

Discussion:

Senator Aklestad pointed to Page 3, Section 3. He explained it the portion the judge has determined Montana is out of compliance. Tom Gomez explained Senator Aklestad had legislation in the last session which was intended to conform the statutes in Title 39 (being amended in SB 216) to eliminate the provision on determination by the DOLI of a violation. He explained both bills contained language to conform with federal law. The terms of purpose and the approach to amendment of the existing statute are different.

Senator Pipinich commented Senate Bill 216 required further discussion.

Senator Aklestad pointed out the decision is whether Judge Battin's ruling will hold or is in error. He maintained adding Section 4 to Section 3 (which is already unconstitutional) is compounding the problem.

Recommendation and Vote:

Motion to DO PASS CARRIED by Roll Call Vote (5, YES; 4, NO).

EXECUTIVE ACTION ON SENATE BILL 267

Motion:

Senator Towe moved Senate Bill 267 DO PASS.

Discussion:

Senator Aklestad asked where the licenses were issued now. Senator Towe explained to qualify as a security person a license must be obtained from the Department of Commerce. The department had determined the individuals in this bill do not come under their act.

Senator Aklestad asked Senator Towe how Senate Bill 267 can be enforced. He explained the department is put in a position of not being able to enforce it. He commented the individual applying for the permit could hold information from the department in regard to their previous employment.

Senator Towe explained it is not a bill to ban the security firms. It is disclosure, knowing who they are, where they previously worked, what strikes they have worked before, or involved in violence before. The issue in Texas and Tennessee where there are laws similar to Senate Bill 267 is aimed at individuals carrying arms. He explained Senator Aklestad is correct, "they probably are going to lie". If they show other employment on the application, the deception may be a basis for revoking the permit.

Senator Devlin asked who would keep the record. Senator Towe explained there would only be about 15 application a year, the Department of Labor and Industry would keep the records but would not require the FTE as indicated in the Fiscal Note.

Recommendation and Vote:

Motion to DO PASS CARRIED by Roll Call Vote (5, YES; 4, NO).

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

February 14, 1991

Page 14 of 14

ADJOURNMENT

Adjournment At: 5:27 p.m.

  
RICHARD E. MANNING, Chairman

\_\_\_\_\_  
LINDA CASEY, Secretary

REM/llc

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 2/14/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR AKLESTAD	P		
SENATOR BLAYLOCK	P		
SENATOR DEVLIN	P		
SENATOR KEATING	P 3:25		
SENATOR LYNCH	P		
SENATOR MANNING	P		
SENATOR NATHE	P		
SENATOR PIPINICH	P		temp. E
SENATOR TOWE	P		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 15, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 216 (first reading copy -- white), respectfully report that Senate Bill No. 216 do pass.

Signed: \_\_\_\_\_  
Richard E. Manning, Chairman

*JA* 2-15-91  
Asst. Coord.

*OP* 2-15 10:25  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 15, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 237 (first reading copy -- white), respectfully report that Senate Bill No. 237 be amended and as so amended do pass:

1. Title, line 4.

Following: "EXCLUDE"

Insert: "CERTAIN"

2. Title, line 5.

Following: "SALESMEN"

Insert: "WHO ARE EMPLOYED IN SELLING OFFICE EQUIPMENT"

3. Page 3, lines 14 through 17

Following: "newspaper"

Strike: remainder of line 14 through "Act" on line 17

Insert: "an outside salesman paid on a commission or contract basis who is primarily employed in selling advertising for a newspaper"

4. Page 4, line 4.

Following: line 3

Insert: "(g) an outside salesman paid on a commission or contract basis who is primarily employed in selling office supplies, computers, or other office equipment for an office equipment dealer;"

Renumber: subsequent subsections

Signed: \_\_\_\_\_

Richard E. Manning, Chairman

*RM* 2-15-91  
And. Coord.

*EP* 2-15 10:25  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 15, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 267 (first reading copy -- white), respectfully report that Senate Bill No. 267 do pass.

Signed: \_\_\_\_\_  
Richard E. Manning, Chairman

*ML 2-15-91*  
Amd. Coord.

*SR 2-15 10:25*  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 15, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 280 (third reading copy - blue), respectfully report that House Bill No. 280 be concurred in.

Signed: \_\_\_\_\_  
Richard E. Hanning, Chairman

*JRH* 2-15-91  
Asst. Coord.

SR 2-15 10:25  
Sec. of Senate

AFFIDAVIT OF JAMES V. GUYETTE

I, JAMES V. GUYETTE, STATE THE FOLLOWING:

- 1) Since January of 1984, I have been the duly elected President of Local P-9, which up until March of 1986, was affiliated with the United Food & Commercial Workers International Union (U.F.C.W.)
- 2) Local P-9 was the duly certified bargaining representative for the employees at various locations including the Geo. A. Hormel & Co. facility in Austin, Minnesota, which went on strike against the Hormel Company on August 17, 1985.
- 3) In March of 1986, the U.F.C.W. placed Local P-9, U.F.C.W. into trusteeship, removing all of the elected officers, and took control of the local union, appointing an International Union official, which is currently under protest in the Civil Courts, and elsewhere.
- 4) The U.F.C.W. has since renamed the local union, made up of individuals who crossed a sanctioned picket line, in Austin, Minnesota to U.F.C.W. Local Number 9. There remains a majority of P-9 members, who with certain rights have been left out of the U.F.C.W. and the Hormel Company labor agreement, of whom I still represent in trying to get their jobs back.
- 5) I have in my capacity, have been involved in and responsible for becoming familiar with the various aspects and functions of the meat packing industry, the companies and unions that make up the meat packing industry, as well as specific research, analysis, and an understanding of the structure of the Geo. A. Hormel & Co., and its agents.

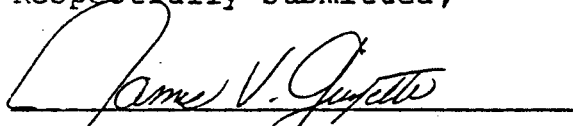
- 6) The Hormel Co. has engaged several agents to carry out various functions and responsibilities on behalf of the company. One of the Hormel Company's agents has been Gary Baker and Associates the firm, as well as Gary Baker himself, who was hired by the Hormel Company to work with Thos. Krukowski, of Krukowski and Associates, a law firm that specializes in assisting companies with a comprehensive program to coerce unions to accept lesser pay and working conditions, as part of an overall union busting strategy.
- 7) Prior to our strike against Hormel, security functions on behalf of the Company went through various stages starting with Hormel's own security, who were then replaced by Pinkerton Guards, who in turn were replaced by California Plant Security Inc, which were directed by Gary Baker and Associates. It was my understanding that Gary Baker was in charge of Hormel's overall security and initiative programs, both on and away from the picket line.
- 8) I have attended various intown and out of town meetings and conventions in which Gary Baker and/or his representatives, have been following me. In some instances they identified themselves to me, and others.
- 9) On behalf of the union as a result of many instances and complaints, I have discussed with our Police Chief Don Hoffman, early in our strike, the constant surveillance, in some instances while they were armed, of myself and our members by Gary Baker and his representatives, and was assured that he would look into it further. It was my understanding from our meetings, that he was aware that Gary Baker and his representatives, was carrying out these functions.

- 10) Many of our members, as well as myself, were the victims of harassing and life threatening phone calls, vandalism, which was skillfully conveyed to the media that it was union instigated, when it was not. The union believed and voted overwhelmingly that a nonviolent strike was the approach we wished to take in the dispute, and always denounced all acts of violence.
- 11) It was in Hormel's best interest to induce violence and it is my belief that outside forces were responsible for the vandalism.
- 12) Gary Baker, and his representatives were working closely with law enforcement officials throughout our strike, obtaining names and addresses of union members and supporters through motor vehicle identification checks.
- 13) I am aware that Gary Baker and Associates were involved in other meat packing pre and post strike situations, conducting the same kind of surveillance, and other kinds of coercive activities.
- 14) Our members were run off of the road late at night, and supporters found their vehicles vandalized and burned, with no one ever caught or charged or convicted, by the law enforcement authorities, for these actions. A union member on the picket line was forced to defend himself against an attack by Company hired personnel.
- 15) The union, as part of its program of exposing Hormel's financial relationships, were active in Minnesota, Wisconsin, North Dakota, South Dakota, and Montana, where 1st Bank System, Inc. had charter operations. We were aware that various Hormel agents were following our people, photographing and video taping in these various places, as well as following our people all over the country.

I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Dated: November 5, 1987

Respectfully submitted,

A handwritten signature in cursive script, reading "James V. Guyette", is written over a horizontal line.

James V. Guyette  
President Local P-9  
302 5th St. S.W.  
Austin, Minnesota 55912  
(507) 433-7055

## 50-1-102. False or deceptive representations in procuring employees

— **Hiring armed guards.** — (a)(1) It shall be unlawful for any person to induce, influence, persuade, or engage workers to change from one place to another in this state, or to bring workers of any class or calling into this state to work in any of the departments of labor in this state through or by means of false or deceptive representations, false advertising or false pretenses, concerning the kind and character of the work to be done, or amount and character of the compensation to be paid for such work, or the sanitary or other conditions of the employment, or as to the existence or nonexistence of a strike, or other trouble pending between employer and employees, at the time of or prior to such engagement.

(2) Failure to state in any advertisement, proposal, or contract for the employment of workers that there is a strike, lockout, or other labor troubles at the place of the proposed employment, when in fact such strike, lockout, or other labor troubles then actually exist at such place, shall be deemed as false advertisement and misrepresentation for the purposes of this section.

(b) Any person guilty of violating any of the provisions of subsection (a) shall be fined not less than five hundred dollars (\$500), or confined in the county jail or workhouse not exceeding one (1) year, or both, in the discretion of the court.

(c) Any worker who shall be influenced, induced, or persuaded, to engage with any persons mentioned in subsection (a) through or by means of any of the things therein prohibited, shall have a right of action for all damages that he has sustained in consequence of the false or deceptive representations, false advertising, and false pretenses used to induce him to change his place of employment, against any person, who directly or indirectly, causes such damage; and in addition to all actual damages such worker may have sustained, he shall be entitled to recover such reasonable attorney's fees as the court shall fix, to be taxed as costs.

(d) Any person who shall in this or another state, hire, aid, abet, or assist in hiring, through agencies or otherwise, persons to guard with arms or deadly weapons of any kind for any such purpose, without a permit from the governor of this state, shall be guilty of a felony, and on conviction thereof, shall be imprisoned in the penitentiary not less than one year, nor more than five (5) years; provided, that nothing contained in this subsection shall be construed to interfere with the right of any person, in guarding or protecting his private property or private interests, as is now provided by law.

(e) This section shall be construed only to apply in cases where workers are brought into this state, or induced to go from one place to another in this state by any false pretenses, false advertising, or deceptive representations, or brought into this state under arms, or removed from one place to another in this state under arms. [Acts 1901, ch. 104, §§ 1-4; Shan., §§ 6886a1-6886a4; Code 1932, §§ 11363-11366; T.C.A. (orig. ed.), §§ 50-204 — 50-207.]

**Collateral References.** Employer's misrepresentations as to employee's or agent's future earnings as actionable fraud. 16 A.L.R.3d 1311.

Legality of peaceful labor picketing on private property. 10 A.L.R.3d 846.

Libel and Slander: employer's privilege as to communications to news media concerning employees. 52 A.L.R.3d 739.

Validity and construction of statutes punishing commercial bribery. 1 A.L.R.3d 1350.

## Art. 5205. [603] Immunity of witness

Any person so summoned and examined shall not be liable to prosecution for any violation of any provision of this chapter about which he may testify fully and without reserve.

Acts 1907, 30th Leg., p. 142.

### Law Review Commentaries

Texas immunity law. 10 Houston L.Rev. 1120 (1973).

### Library References

Labor Relations §1056.  
Witnesses §297(1) to (14).  
C.J.S. Labor Relations § 1011.

## Art. 5205a. Witness must testify

No witness shall refuse to testify as to any violation of this chapter on the ground that his testimony may incriminate him, but any witness so examined shall not be liable to prosecution for any violation of any provision of this chapter about which he may testify fully and without reserve.

Acts 1907, 30th Leg., p. 142, ch. 67.

### Historical Note

This article was transferred from Vernon's Ann.P.C. (1925) art. 1621 by authority of § 5 of Acts 1973, 63rd Leg., p. 995, ch. 399, enacting the new Texas Penal Code.

### Derivation:

From Rev.P.C.1911, art. 1199, which read: "Upon the application of the attorney general, or of any district or county attorney, made to any justice of the peace in this state, and stating that he has reason to believe that a witness, who is to be found in the county of which such justice of the peace is an officer, knows of a violation of any of the provisions of this chapter, it shall be the duty of the justice of the peace to whom such application is made, to have summoned and to have examined such witness in relation to violations of any of the provisions of this chapter, said witness to be summoned as provided for in criminal

## Art. 5206. [604] Statement of cause of discharge

Any written statement of cause of discharge, if true, when made by such agent, company or corporation, shall never be used as the cause for an action for libel, either civil or criminal, against the agent, company or corporation so furnishing same.

Acts 1907, 30th Leg., p. 142.

### Library References

Libel and Slander §44(3).  
C.J.S. Libel and Slander §§ 89, 107.

## Art. 5207. [2475-2476] Detectives

Any person, corporation, or firm who shall employ any armed force of detectives, or other persons not residents of this State, in the State of Texas, shall be liable to pay to the State as a penalty not less than twenty-five nor more than one thousand dollars, to be recovered before any court of competent jurisdiction in this State. Nothing herein shall be construed to deprive any person, firm or corporation of the right of self-defense, or defense of the property of said person, firm, or corporation by such lawful means as may be necessary to such defense.

Acts 1893, p. 159; G.L., vol. 10, p. 589.

### Cross References

Detective agencies, bond required, see art. 1302-3.04.  
Licensing private detectives, etc., see art. 4413(29bb).

### Library References

Detectives §1.  
Labor Relations §1056.  
C.J.S. Detectives § 3.  
C.J.S. Labor Relations § 1011.

## Art. 5207a. Right to bargain freely not to be denied; membership in labor union

Sec. 1. The inherent right of a person to work and bargain freely with his employer, individually or collectively, for terms and conditions of his employment shall not be denied or infringed by law, or by any organization of whatever nature.

Sec. 2. No person shall be denied employment on account of membership or nonmembership in a labor union.

Sec. 3. Any contract which requires or prescribes that employees or applicants for employment in order to work for an employer shall or



DONALD R. JUDGE  
EXECUTIVE SECRETARY

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

(406) 442-1708

Testimony of Don Judge before the Senate Labor Committee on Senate Bill 267,  
February 14, 1991

-----

Mr. Chairman, members of the committee for the record my name is Don Judge, Executive Secretary of the Montana State AFL-CIO and I am here today to testify in support of Senate Bill 267 which would require security agents to obtain permits from the state of Montana.

Newspaper articles, affidavits and documentation sent to us by the National AFL-CIO dramatize union busting by so-called "security firms". These articles point out that security during a strike is not only big business but sometimes a very dirty business.

The Decker strike incidents that Senator Towe describes are not isolated incidents. They happen around the country and are the "modus operandi" of the modern union busting security firm.

I would like to read to you just one account of a former security agent, George Johns, of the security agency Nuckols and Associates: "Our purpose was to break strikes. We could guarantee any employer we'd have an injunction for him within two weeks."

Johns described blowing up an electric transformer on one occasion, and setting \$148,000 worth of lumber on fire on another. Both of these incidents were blamed on unions in order to get injunctions.

"We used video cameras, 35mm cameras and tape recorders, 24 hours a day. We wore riot gear -- helmets, face shields, jumpsuits -- and carried nylon batons 36 inches long. Each guard carried a gun, mace, handcuffs, and soft gloves with lead in the knuckles."

Johns spoke recently at a joint Mine Workers/Autoworkers rally in Kentucky in support of the A.T. Massey strike, and described some other techniques the Nuckols firm used:

"One of our guys would walk up to a striker in front of a plant -- especially if he had a wedding band -- and say he had gone to bed with his wife. When the guy got mad and went after our guy, we'd get his picture and take it to the judge.

"Sometimes we'd use rubber bands and paper clips. They can puncture the skin and draw blood. When one would hit a striker, he'd come at the security officer and we'd take his picture.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 2

DATE 2/14/91

BILL NO. SB267

Testimony of Don Judge, SB 267  
February 14, 1991  
Page Two

"When a union and a company would be negotiating, something would often happen inside the plant. Or something would be destroyed. It would be blamed on the union and the company would break off negotiations.

"In one strike we knew there was a snitch inside, telling the strikers everything. I followed one of the secretaries home one evening and got a picture of her hugging one of the pickets. Soon after that, she was fired. Not for that, or course."

Senate Bill 267 may not make it illegal to operate a disgusting union busting security firm in Montana, but it is a start. If a security firm is legitimately protecting the property of the employer, what reason would they have not to register with the state. If their intentions are otherwise, maybe this bill will help expose these people as the slimy bugs that they are.

We urge you to support Senate Bill 267 not only because it is the right thing to do for Montana, but because it is the just thing to do.

Thank you.

# OPINION

The Billings Gazette is dedicated to the Billings and Montana while recognizing quality of life must be maintained and

## Public target in coal strike

There is a difference between "civil disobedience" and "hooliganism," and it's about time the striking Decker Coal Co. workers learned that.

About 53 union members were arrested and charged last week with disorderly conduct, blocking a road and failure to disperse after they blocked the highway from Sheridan to Decker's southern Montana mines.

### GAZETTE OPINION

Strikers blocked Wyoming Highway 228 about two miles north of the Wyoming border despite a Montana state district court order prohibiting them from stopping traffic to and from Decker's two mines.

Big Horn County Sheriff Ed Whaley and deputies opened the road seven hours after the blockade was emplaced and began arresting strikers. The arrests were mostly peaceful, although those arrested later in the day were less cooperative.

Whaley said later, "They intend to get arrested, at least that's what I think. We don't have the money to handle this. Our budget doesn't reflect this because it is something that happens once every three or four or five years."

And a union official stamped "suspicions confirmed" on Whaley's conjecture.

Whitey Wells, UMWA Local 1972 spokesman, said, "We intend to overload the system. We are not going to bail people out as soon as they get them in. We're going to overwhelm the court system in the southern

Montana area. The state has to be greatly concerned, (so) maybe it will put some pressure on Decker.

"... The main thing is the disruption of mine life, the pattern of operations. We blocked buses (carrying replacement workers) for five hours and that causes a tremendous disruption in their daily working schedule.

"This is civil disobedience, and I believe the country was formed on civil disobedience. This union struggle is nothing more than a continuation of the very principles on which the country was founded."

And that's nonsense.

The strike is not civil disobedience: it is hooliganism.

The UMWA is not representative of any general unrest running through the countryside. It represents only the special interest of its members in a labor dispute with Decker Coal Co. The public interest is not served by men who block highways and set out to "overwhelm the court system in southern Montana."

We are not privy to the negotiations between the union and the coal company, and we are not taking sides in the negotiations. Those considerations are matters for the interested parties to decide.

But just as we have no right to interfere with negotiations, the union has no right to interfere with our highways and our court systems and our tax bills.

Strikers are holding the Montana public hostage to further their own self interests. There is nothing civil about that kind of disobedience.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 3

DATE 2/14/91

BILL NO. SB267



DONALD R. JUDGE  
EXECUTIVE SECRETARY

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

(406) 442-1708

Testimony of Don Judge House Bill 152 before the Senate Labor and  
Employment Relations Committee, Thursday, February 14, 1991

-----

Mr. Chairman and members of the committee, I'm Don Judge, representing the Montana State AFL-CIO, and I'm here to support raising the state minimum wage to match the federal minimum wage.

We testified in support of a higher minimum wage in the 1989 legislative session, and we continue to support increasing the state's minimum wage.

With inflation heating up and the economy cooling off, it's getting harder and harder for people to make ends meet. In fact, at its current level, even the federal minimum wage isn't enough to lift a family out of poverty.

When the federal minimum wage raises to \$4.25 per hour this summer, a full-time minimum wage job will bring in only \$8,840 a year -- and that's before taxes and Social Security and so forth. The poverty level for a family of four in 1989 was \$12,675, and it likely will pass \$13,000 when the 1990 guidelines are issued.

Clearly, \$4.25 an hour is not a living wage. It's a poverty wage. But, it's a start, and we urge you to raise the state minimum wage when the federal minimum goes up this summer.

The argument is often made that raising the minimum wage might cause someone to lose an employment opportunity somehow. That's just not borne out by the statistics.

From 1988, the last year before the minimum wage went up, to 1990, employment in the lowest-paid sectors of the Montana labor market went up sharply. In fact, those low-paying jobs are one of the biggest sources of new employment in the state's economy. That's a pretty sad commentary on the kinds of jobs being created.

Employment in the retail trade sector went up by about 4,400 people from 1988 through 1990, and over half of that was in the restaurants and bars -- one of the state's single largest employment sectors, and one of the lowest paying.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4

DATE 2/14/91

BILL NO. HB 152

An amendment to this bill was made in the House to allow those businesses whose gross annual sales are \$110,000 or less to pay a minimum wage of \$4.00 an hour. We don't necessarily agree with this amendment as it may exempt many of Montana's small businesses, and, therefore, their workers from receiving a livable wage. But getting an increase for some is better than nothing for all.

Clearly, minimum wage jobs are on the rise. There's no loss of employment due to an increasing minimum wage. However, there is a loss of economic vitality for many workers. The minimum wage is simply too low to support a family. We urge you to take a small step to improve things by approving HB 152.

Thank you.

# NFIB Montana

National Federation of  
Independent Business

## SUBMITTED STATEMENT OF NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Before: Labor Committee, Montana Senate  
Sen. Richard Manning, Chairman

Subject: HB-152, Minimum Wage Revisions of 1991

Date: February 14, 1991

Presented by: J. Riley Johnson, State Director NFIB/Montana

Mr. Chairman and members of the committee, on behalf of the more than 6,000 members of the National Federation of Independent Business (NFIB) in Montana, I submit this statement which outlines the views of our state's small employers regarding the proposed changes in the minimum wage.

A brief profile of NFIB/Montana members might help you understand why this issue of minimum wage is so important to our members. The average NFIB/Montana member employs 3 to 5 people and has a gross sales volume of less than \$350,000 annually. In

ate Office  
91 S. Park Ave.  
Helena, MT 59601  
(406) 443-3797

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 5

DATE 2/14/91

BILL NO. HB152



The Guardian of  
Small Business

NFIB is a very democratic organization, also. Just as your constituents vote for you to gain public office, our members vote on NFIB's policies and positions. As state director of governmental affairs for NFIB/Montana, I must support those "balloted" positions. And, as to minimum wage, NFIB/Montana members have voted loud and clear...71% of our members responding to our annual ballots favor "NO CHANGE" in the minimum wage bill passed in 1989. Only 23% voted to increase the minimum wage.

Consequently, NFIB/Montana must go on record as opposing HB-152 in any form.

Montana's small businesses proportionately employ old people, youths, women and minorities in larger percentages than our competitors in larger firms. According to 1986 employment data compiled by the Bureau of Labor Statistics (BLS), teenagers and young adults make up over 60% of Montana's minimum wage earners.

- \*Teenagers (16-19) represent almost 36% of all minimum wage earners.

- \*Young adults (20-24) represent an additional 23% of minimum wage earners.

Two other facts about the minimum wage earners should be of interest to this committee.

- \*Almost half of all minimum wage earners are single and live in homes with a relative as head of household.

- \* 65% of all minimum wage earners are employed part-time (34 hours or less per week).

What these statistics illustrate is that the minimum wage is primarily a wage for youths, new entrants into the work force and part-time employees looking to supplement household incomes. The typical minimum wage earner is NOT a single head of a household with two or three or four dependents. In fact, according to the same BLS figures, that profile fits only about 10% of all minimum wage earners.

Because we are the employer of the young, the new and the part-time, we are asking that you keep our option open for paying the reduced state minimum wage of \$4.00 per hour. In 1991, we will experience a 5.8% increase from \$3.80 to \$4.00 per hour. To mandate a 12% increase to \$4.25 is, we feel, excessive to our small employers.

Interestingly, NFIB has always supported letting the open market set wages. A minimum wage can be an emergency floor, if you will, but let supply and demand set the going wages in a community and state. In surveying members for this hearing today, I found in reality that the market IS setting going wages in most of Montana's urban areas. In checking with three major employment offices in Billings, Bozeman and Helena, I found that workers were beginning at a minimum of \$4.25 per hour right today, and most entry jobs or "lower paying" jobs were paying \$4.50 per hour and up. As one employment office owner said: "You can't get people at minimum wage today." I also found that when the federal minimum moves to \$4.25 per hour, most urban Montana employers will be paying that amount to compete and to meet the demands of the marketplace.

But NFIB has literally thousands of small business members in the smaller towns and cities of Montana and the rural areas of our state. Here the volume of business is less...the labor market is different...and the profit margins and opportunities to absorb another 12% increase in wages in 1991 (or to pass it through to the consumer) are very limited. These folks need that OPTION to pay the lower state rate that I was talking about earlier. Look around your own rural communities and tell me that the little shops and stores aren't the only opportunity for your high school kids and young adults to get a job and earn some money. And then tell me that another 6% increase in wages won't make a difference in how many jobs are available in the Deer Lodges...the Hamiltons...the Circles...and the Maltas of Montana.

One way to insure this OPTION for our small business employers in Montana would be to amend the \$110,000 exemption in HB-152 up to match the federal exemption of \$500,000. If matching the federal minimum wage is so fair and righteous, then why would it not be fair and righteous to also match the federal exemption limit? The only thing you stand to lose are jobs for kids, young adults and part-time wage earners in Montana's rural cities and towns.

And, one more word on the abolishment of the training wage by HB-152.

Two-thirds of all Montanans get their start in a small business. Many of the youths hired by small employers come to the job with few if any skills. The small business person takes

these young people and provides them with skills they need to develop into active and productive members of the Montana work force.

Small business needs that incentive to be able to reward serious and eager young folks who have proven themselves as worthy employees...have demonstrated knowledge of good work habits...and have moved beyond being a mere liability to being a trusted benefit to that small business. The fear in 1989 that employers would "take advantage of the training wage period to underpay their employees" has simply not happened. What has happened is that in the urban areas where the market dictates no training wage hires, the training wage period has not been used. However, in the smaller communities of Montana, many small main street businesses have used the training wage concept to work young folks into their work force...test them out for quality...and then be able to reward them substantially with a nice raise in 90 or 180 days. And this is being done without serious hindrance to minimal cash flow opportunities of these small employers.

In other words, the market is working in Montana. Let's let the market continue to work and not micromanage this issue of minimum wage.

NFIB/Montana thanks you for this opportunity to present the views of our state's small and independent employers. And we request that, if you can not see fit to reject HB-152 entirely, we ask that you amend HB-152 to raise the exemption amount to \$500,000 and to also amend back the training wage program. These

efforts, as well-meaning as they may be intended, are not serving the best interests of the minimum wage population in Montana's small communities. Nor are you serving the best interests of the truly small businesses in your rural towns and cities of Montana, which are the largest employers of your teenagers, your young adults and your part-time work force.

-END-

February 5th, 1971

The Honorable Cecil Weeding  
Senate Chamber  
State Capitol  
Helena, Montana, 59620

Dear Senator Weeding:

RE: HOUSE BILL 152

I would like to have the Bill amended in the following ways:

1. STUDENTS TO BE EXEMPT FROM THE MINIMUM WAGE.
2. TRAINING PERIOD FOR FULL TIME AND PART TIME EMPLOYEES.
3. ANNUAL GROSS SALES AT \$500,000 INSTEAD OF \$110,000.

REASONS:

1. Students can only work certain hours due to school hours and school activities, and not the hours the business demands like full or part-time employees can. Students generally stay with you only 2-3 months to a year in most cases.
2. Until employees are trained to be self-productive they are an expense to the business, which normally is 3 month to a year depending upon the business.
3. Gross income is misleading. Say a business nets 6% of gross of 110,000, that leaves \$6,600 net. A business netting 15% of gross of \$110,000, that leaves \$16,500 net income. The bottom line is the net income as that's what you live on.

I would really appreciate you giving this serious consideration, because with the economy the way it is in small rural Montana, the money just isn't there and most of us are just barely getting by now.

I will be following this with a letter explaining more reasons why I feel this issue is very important to rural Montana.

Respectively yours,

*Mary Ann Garpestad*  
*Caroli, Montana*

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 6

DATE 2/14/91

BILL NO. HB 152

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 14 day of FEBRUARY, 1991.

Name: ROBERT N. NOMMENSEN

Address: HOME 124 15TH AVE NW OFFICE 1000 25TH ST. NORTH  
GREAT FALLS, MT 59404 GF, MT 59403

Telephone Number: (406) 761-7920 WORK

Representing whom?

SETTEN CONSTRUCTION COMPANY

Appearing on which proposal?

HB 204

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

DESIRE CLARIFICATION TO ALLOW: 4/10 HR DAY WORK WEEK  
WED - SATURDAY FOLLOWED BY 4/10 HR DAY WORK WEEK  
SUNDAY - WED. (FOLLOWED BY 6 DAYS OFF)

DESIRE CLARIFICATION TO ALLOW: WHEN A REGULAR  
8 HR. DAY ~~OR~~ OR 10 HOUR DAY IS LOST DUE TO WEATHER  
A MAKE UP DAY MAY BE SCHEDULED DURING THE SAME  
WORK WEEK AT THE REGULAR RATE OF PAY (UNLESS  
8 OR 10 HOURS IN A DAY WERE WORKED OR 40 HOURS  
FOR THE WEEK ARE WORKED)

SENATE LABOR & EMPLOYMENT  
EXHIBIT NO. 7  
DATE 2/14/91  
BILL NO. HB 204

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



DONALD R. JUDGE  
EXECUTIVE SECRETARY

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

(406) 442-1706

Testimony of Don Judge on HB 204 before the Senate labor and  
Employment Relations Committee, February 15, 1991

Mr. Chairman, members of the committee, for the record, I'm Don Judge, Executive Secretary of the Montana State AFL-CIO, here today to present testimony on House Bill 204.

The Montana State AFL-CIO joins the Montana State Building and Construction Trades Council and construction industry unions in support of House Bill 204. This legislation brings state law up to speed with changes in the construction industry already recognized by employers and unions alike in many collective bargaining agreements.

The changes proposed by this legislation point to the benefits of collective bargaining, and present the positive aspects of management and labor working together. Many unions and contractors responding to the need for efficient construction timelines, and in an effort to improve productivity, have agreed to the provisions outlined in House Bill 204.

Working 4 day weeks, 10 hours per day has become an acceptable option in the construction industry with overtime provisions spelled out in the collective bargaining agreement.

House Bill 204 seeks to align state law with these collective bargaining agreements, and we are supportive of that.

As always, we need to be mindful of the need for an aggressive enforcement mechanism and encourage the Department of Labor to fulfill its obligation to police the law requiring the payment of overtime. In that vein, we also support the penalties for violation of this law as provided for in new section 2, subsection (3) on page 2 of the bill.

Organized labor urges you to support House Bill 204 and give it a "do pass" recommendation.

Thank you.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 8

DATE 2/14/91

BILL NO. HB 204

# DEPARTMENT OF LABOR AND INDUSTRY

## COMMISSIONER'S OFFICE



STAN STEPHENS, GOVERNOR

P.O. BOX 1728

STATE OF MONTANA

(406) 444-3555

HELENA, MONTANA 59624

February 14, 1991

TESTIMONY BEFORE THE SENATE LABOR AND EMPLOYMENT RELATIONS  
COMMITTEE ON HOUSE BILL 280

BY MIKE MICONE, COMMISSIONER OF LABOR AND INDUSTRY

Mr. Chairman and members of the committee.

I want to express to you the importance Governor Stephens places on the passage of this legislation.

The first issue is obvious. That is, the sooner an injured worker can be returned to work, the lower the cost to the system which results in holding premiums in line for the employer. But more important, the sooner an injured worker can be returned to a productive role, the faster the healing process of his/her injury.

Montana's labor force is very proud of the work they do and want to be part of the team that has their signature on the finished product. They can't be involved in this effort if they are sitting on the sidelines.

This legislation will require a great deal of cooperation from employers as they are being asked to maintain the level of wages of the employee even though the worker is performing a less productive task. The Governor will ask the insurers in the state to work with their policyholders in implementing the program. The Governor is committed to this program and we will intercede where necessary to obtain the cooperation of employers that have questions or fears.

This in no way reduces our responsibility to enforce safety standards in the public sector. And we will continue our efforts to make all workplaces - safe workplaces.

We encourage your approval of HB 280.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 9

DATE 2/14/91

BILL NO. HB 280

\*AN EQUAL OPPORTUNITY EMPLOYER\*

COMMITTEE ON

## Senate Labor

DATE

2/14/91

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Ron Pering - Billings	International BEW	HB-204	✓	
" " "	" " "	SB 267	✓	
Ron Burke	IBEW	SB 267	✓	
" "	" "	HB 204	✓	
DON EDWARDS	OLAH	HB 204	✓	
" "	" "	HB 152	✓	
" "	" "	SB 267	✓	
Riley Johnson	NFIB	HB 152		X
Charles Brooks	MT. RPT. / ASSOC	HB 152	✓	
Nike Mione	DLT	HB 280 HB 152	✓ ✓	
Nike Mione	DLT	SB 267		✓
Rolfert Ammann	SLATTEN CONST. CO.	HB 204	✓	
Georgewald	Mt. Self Insurance	HB 280	✓	
Kathy Kirsch	Boulders D.	H.B. 152		✓
E FENDERSON	MT ST BLY TRADES	HB-204	✓	
HERMIT JAMES	IBEW	HB-204	✓	
Robert K. Murphy	INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS	HB 204	✓	
Jim Stucky	Operating Eng. Local 900	HB 204	✓	
Stuart Poggert	MT Inkpress Assoc	HB 152	✓	
Bob Heiser	UFCW	HB 152 SB 267	✓	
JOHN FITZPATRICK	Pog 1525 Gold 10-1	SB 267		✓
Laure Shadon	Bozeman Chamber	HB 152	✓	
ARISTIAN MACKAY	AFL-CIO	HB 204	✓	
" "	" "	HB 152	✓	
Don Judge	" "	SB 267	✓	
Dennis Lind	Washington Contractors	HB 204	✓	

2/14/91

DATE \_\_\_\_\_  
Senate Labor

(continued)

[illegible]

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date 2/14/91 Senate Bill No. 237 Time 5:10pm

NAME	YES	NO
SENATOR AKLESTAD	X	
SENATOR BLAYLOCK	X	
SENATOR DEVLIN	X	
SENATOR KEATING	X	
SENATOR LYNCH		X
SENATOR MANNING		X
SENATOR NATHE	X	
SENATOR PIPINICH		X
SENATOR TOWE	X	

Linda Casey  
Secretary

Sen. Richard E. Manning  
Chairman

Motion: SB 237 as amended  
DO PASS

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date 2/14 Senate Bill No. 216 Time 5:20

NAME	YES	NO
SENATOR AKLESTAD		X
SENATOR BLAYLOCK	X	
SENATOR DEVLIN		X
SENATOR KEATING		X
SENATOR LYNCH	X	
SENATOR MANNING	X	
SENATOR NATHE		X
SENATOR PIPINICH	X	
SENATOR TOWE	X	

Linda Casey  
Secretary

Sen. Richard E. Manning  
Chairman

Motion: DO PASS SB 216

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date 2/14/91 Senate Bill No. 267 Time 5:26

NAME	YES	NO
SENATOR AKLESTAD		X
SENATOR BLAYLOCK	X	
SENATOR DEVLIN		X
SENATOR KEATING		X
SENATOR LYNCH <i>attached</i>	X	
SENATOR MANNING	X	
SENATOR NATHE		X
SENATOR PIPINICH	X	
SENATOR TOWE	X	

Linda Casey  
Secretary

Sen. Richard E. Manning  
Chairman

Motion: DO PASS SB 267

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\_\_\_\_\_

Lynne  
Votag  
Votag

5/14/97

~~Adlyne~~

Sen. Richard C. Manning