

## **MINUTES**

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

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

**Call to Order:** By Senator Thomas E. Towe, Vice Chair, on March 12, 1991, at 3:10 p.m.

#### **ROLL CALL**

##### **Members Present:**

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

**Members Excused:** Richard Manning, Chairman (D)

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

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

**Announcements/Discussion:** NONE.

#### **HEARING ON HOUSE JOINT RESOLUTION 18**

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

Representative Dan Harrington told the Committee the MacBride Principles are nine equality opportunity guidelines to United States companies doing business in Northern Ireland. Proponents of the MacBride Principles hope by pressuring US firms operating in Northern Ireland to follow non-discriminatory hiring and promotional practices they will combat pervasive religious discrimination in employment practices in the province. He explained Dr. Sean MacBride was an international human rights advocate who received a Nobel Peace Prize in 1974 for his human rights work. The MacBride Principles are: 1) increasing the representation of individuals from under-represented religious groups in the workforce, 2) adequate security for the protection of minority employees, 3) abandoning the provocative secretary and her political emblems from the workplace, 4) all job openings should be publicly advertised and special recruitment efforts should be made to attract applicants from under-represented religious groups, 5) layoff recall termination procedures should

not the practice of favor particularly of religious grouping, 6) the abolition of job reservations after apprenticeship restriction in differential employment criteria, 7) development of training programs to prepare substantial numbers of minority employees for skilled jobs, and creation of new programs to train, upgrade and improve skills of all categories of minority employees, 8) establishment and procedures to assess, identify and actively recruit minority employees for potential for further advancement, and 9) the appointment of senior management staff members to oversee the companies affirmative action efforts. Representative Harrington told the Committee the Irish population in Northern Ireland is 40%. Only 30% of those hold factory jobs due to discriminatory practices. This resolution asks American companies doing business in Northern Ireland be informed of these practices. He explained twelve other states have adopted a similar resolution.

#### Proponents' Testimony:

Don Judge of the Montana State AFL-CIO spoke from prepared testimony in support of House Joint Resolution 18. (Exhibit #1)

James P. Greenan, President of the Montana Ancient Order of Hibernians spoke in support of House Joint Resolution 18 from prepared testimony. (Exhibit #2)

Gene Fenderson of the Montana State Building and Construction Trades Unions asked to go on record in support of House Joint Resolution 18.

J.C. Weingartner, newly elected president of the Thomas Mahr Chapter of the Ancient Order of Hibernians in Helena urged support of House Joint Resolution 18.

Bob Heiser of the United Food and Commercial Workers International Union spoke in favor of House Joint Resolution 18.

#### Opponents' Testimony:

NONE.

#### Questions From Committee Members:

Senator Keating asked Representative Harrington if any Montana companies have been identified as doing business in Northern Ireland. Representative Harrington told the Committee he was not sure if there were any Montana companies, but there were companies which do business in Montana such as Ford Motor Company.

Senator Towe pointed out this may have more impact with the Board of Investments. He asked Representative Harrington if there are other companies. Representative Harrington explained he has not researched that, but if it were investigated it would

be found some money is being invested as it was in South Africa. Senator Towe expressed his surprise that the Board of Investment were not opposing HJR 18.

Senator Aklestad pointed to Page 3, Lines 19 through Lines 22. He asked who the mandate to appoint a senior management individual is addressed to. Representative Harrington told the Committee through HJR 18 is asking major companies to appoint a senior management member to assure the discrimination come to a halt.

Senator Aklestad asked Representative Harrington who the resolution is being sent to. Representative Harrington explained the resolution is making it known the state of Montana favors these principles. There is no movement to "black ball". The effort is to cajole, especially the British government to move in the direction of granting these rights.

Senator Towe asked Representative Harrington if there were someone the resolution should be specifically directed to. Representative Harrington suggested someone representing the Hibernians would want to address the question. He explained by passing the state of Montana it would be known throughout the business community.

Mr. Greenan told the Committee the resolution would be circulated as widely as possible to money managers throughout the state, not just those managing public investment, pension or annuity fund. He explained he serves on the Board of Trustees of the College of Great Falls. He intends to take the resolution once passed to the board asking the investment policy include the MacBride Principles.

Senator Aklestad asked Representative Harrington if he believed in separation of church and state. Representative Harrington told the Committee he definitely does. Senator Aklestad asked if he felt the language on Page 1, Lines 22 through Lines 25 and continuing on Page 2, through Line 2 could have a connotation towards mandating certain religious groups be allowed more employment opportunity. Representative Harrington stated he did not; anymore than if it were said certain women should have a certain percentage of jobs. It points out the discrimination in this area.

Senator Keating asked Representative Harrington if there were bargaining units and unions in Northern Ireland. Representative Harrington stated they do, but even to that extent there is possibly discrimination.

Closing by Sponsor:

Representative Harrington closed on House Joint Resolution 18. He explained there is a real problem facing these people. There is an attempt to address these problems and discontinue the

fighting. He told the Committee one way of accomplishing this is to eliminate discrimination in the labor market.

### HEARING ON HOUSE BILL 506

#### Presentation and Opening Statement by Sponsor:

Representative John Cobb told the Committee House Bill 506 would conform statutory law with a recent Supreme Court ruling on workers' compensation. The Legislative Council presented a list of bills which should be changed. House Bill 506 is one of those. He explained before the 1987 changes in workers' compensation if there were a disagreement between an claimant and an insured as to whether a claimant could receive lump sum payment, it could go to the workers' compensation judge. The 1987 change does not allow this to go to the workers' compensation judge. He presented a copy of Ingraham v. Champion International (Exhibit #3). The Supreme Court ruled the Legislature could not delegate the authority between an insured or claimant. The workers' compensation judge could decide if there were a disagreement between an claimant and an insured. House Bill 506 clarifies the law.

#### Proponents' Testimony:

George Wood, Executive Secretary of the Montana Association of Self Insurers asked to go on record in support of House Bill 506. He explained this will put into statute what the Supreme Court has put in cases.

Michael Sherwood, representing the Montana Trial Lawyers Association spoke in support of House Bill 506. He explained the association supports the "notion that 506 allows court review and a court imposition on some settlements". He pointed out on March 28, House Bill 837 is set for hearing. House Bill 837 specifically addresses this issue as well. He explained HB 837 and HB 506 do not contain the same language. He encouraged a delay of ruling on House Bill 506 until House Bill 837 is heard.

#### Opponents' Testimony:

NONE.

#### Questions From Committee Members:

Senator Towe asked Representative Cobb if he considers there are inconsistencies with HB 837 and HB 506. Representative Cobb asked the Committee to wait until HB 837 is heard to determine that. He explained House Bill 506 may not be needed by the time the Committee makes a decision on House Bill 837.

#### Closing by Sponsor:

Representative Cobb closed on House Bill 506.

### HEARING ON HOUSE BILL 712

#### Presentation and Opening Statement by Sponsor:

Representative Carolyn Squires told the Committee House Bill 712 guarantees workers receive the necessary protection and safety equipment needed in order to provide a safe working environment. It would place the responsibility of a safe workplace with both the employer and employee. The employer would be required to furnish safety equipment and protective clothing at his expense; the worker would be obligated to use the equipment properly and maintain such equipment. House Bill 712 also strengthens existing law. Currently employers are required to provide safety equipment, but some charge the employees for the cost. This legislation makes it clear the employer will be responsible for the cost. She told the Committee safety is the most effective way to address the rising costs of workers' compensation. Representative Squires commented the House Labor Committee amended House Bill 712.

#### Proponents' Testimony:

Robbie Far of the American Federation of State, County and Municipal Employees Union spoke in support of House Bill 712. He explained AFSCME has many employees who are required to pay for their own safety equipment. Many times their pay is not enough to cover those costs. If the employer requires the equipment the employer should provide the equipment.

George Wood, Executive Secretary of the Montana Self Insurers Association spoke in support of House Bill 712. He pointed out an important portion of House Bill 712 is the employee is required to use the equipment.

Bob Heiser of the United Food and Commercial Workers International Union spoke in favor of House Bill 712. He told the Committee many times workers who have been out of work for a long period of time. The safety equipment they are required to wear is expensive. He commented House Bill 712 is neither a labor bill or an employee bill; it is joint labor/management with all parties benefitting. He pointed out workers' compensation premiums will not increase if the workplace is safe.

Don Judge of the Montana State AFL-CIO spoke from prepared testimony in support of House Bill 712. (Exhibit #4)

Gene Fenderson of the Montana Building and Construction Trades Unions spoke in support of House Bill 712. He told the Committee HB 712 is a "fairness bill". He explained in his labor agreements across the state almost all require the employer to provide the safety equipment needed. In many cases non-union

contractors do not. This can raise the workers' compensation classification code for all employers.

Michael Sherwood, representing the Montana Trial Lawyers Association spoke in favor of House Bill 712.

Opponents' Testimony:

NONE.

Questions From Committee Members:

Senator Devlin asked Representative Squires what would happen if an employee refused to use the equipment on the job. Representative Squires told the Committee the individual would be terminated because it is a condition of employment.

Senator Towe asked Representative Squires if there were a provision which specifically states this. Representative Squires told the Committee it is statutorily required, and can be used for cause of termination. She explained the individual is warned and then terminated if they refuse.

Senator Devlin asked who determines the equipment. Representative Squires told the Committee the Fiscal Note states the Occupational Safety and Health Administration supersedes state enforcement in the private sector where OSHA has jurisdiction.

Senator Devlin asked if this should appear in the bill rather than the Fiscal Note. Representative Squires explained OSHA standards are standards which are applicable to places of employment. Employers are aware of those OSHA standards.

Senator Devlin asked if the bill addresses those cases in which either side fails to "live up to their side of the bargain". Representative Squires explained contracts, OSHA, and the state safety bureau deals with this.

Senator Towe asked about the amendment on Page 2. He pointed out it appears the legislation would only have effect where both the state or federal law, and the terms of the contract of employment would require the safety equipment. Representative Squires explained the Columbia Falls Aluminum company has already negotiated a portion of their contract in regards to safety equipment.

Senator Towe pointed out it appears to substantially weaken the issue. Both the law and a contract requiring this would be needed. Representative Squires commented those individuals such as Stone Container, Champion International, Columbia Aluminum and those with contracts containing negotiated safety equipment are being addressed. She explained this is a bargain issue. Those who are not providing equipment need to be addressed.

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Senator Towe asked what would happen if there were no employment contract. Representative Squires told the Committee the employee has the right to go to OSHA or the state safety bureau. She explained the legislation is much "weaker" than she intended but is a compromise between the industry and others.

Senator Towe asked George Wood to respond. Mr. Wood explained without the "and", it "projects a potential conflict between state and federal and the employment contracts". There would be no conflict with employment contracts already in effect. He explained some employment contracts require more than state and federal.

Senator Towe pointed out House Bill 712 will take affect only if the state or federal law requires it, the employer requires, and it is part of the terms of employment contract. Mr. Wood commented and, if the employer requires it whether the contract is a written contract between unions or oral.

Senator Towe commented if the state or federal law does not require it this law is not effective. Mr. Wood stated the employment contract already covers it.

Senator Towe asked Don Judge to respond. Mr. Judge told the Committee he does not agree with Mr. Wood. He commented there appears to be a drafting error; it should say "or". If this were not the case, current law applying to all people without contracts would not apply.

Senator Towe explained Mr. Wood is saying this may not apply to a collective bargaining agreement, it may be an employment contract which may be an oral understanding; which may technically correct. Mr. Judge stated he is technically correct about an employment contract being something which is oral as well as written; but the Aluminum plant workers (not the employer) said if the terms of their collective bargaining agreement provided for something other than state or federal law, that would be the applicable contract for those safety items. He commented "or" would be more appropriate than "and".

Mr. Wood told the Committee he felt a problem was being created which does not exist, and then a solution which may or may not solve the problem.

Representative Squires cautioned the Committee not to upset the balance of the compromise reached previously.

Senator Blaylock asked Michael Sherwood if it would be "safer" to not list items such as those on Page 1, Lines 24 and 25 and Page 2, Line 1. He pointed out if items were not listed someone could "get out of it". Mr. Sherwood told the Committee when citing the "particular" there is a risk of overruling the "general". He suggested adding "including, but not limited to".

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Closing by Sponsor:

Representative Squires closed. She requested Senator Doherty carry House Bill 712 to the Senate.

HEARING ON HOUSE BILL 465Presentation and Opening Statement by Sponsor:

Representative Fred Thomas told the Committee House Bill 465 makes revisions to the workers' compensation law. It will clarify rules of evidence will not apply in a workers' compensation hearing, allowing hearing to be more formal and less costly. The state fund will pay its fair share of both direct and indirect costs to the workers' compensation assessment. It reduces claims reporting requirements to insurers, streamlines administration, expedites payments to claimants, allows the department of labor to accept medical fee schedules based upon the industry data rather than solely the state fund data, revises the procedure for resolving disputes over impairment ratings, establishes a time frame for application or certification as vocational handicapped, requires the department of labor require additional security under Plan 1 or a self-insurer, amends the occupational disease act and allows optional occupational disease claims be paid from the subsequent injury fund, and repeals outdated procedures.

Proponents' Testimony:

Bob Jensen of the Department of Labor and Industry told the Committee House Bill 465 is at the request of the department. It contains a number of unrelated issues pertaining to the workers' compensation regulatory functions. It does deal with benefit levels or issues which would adversely effect claimants or employers. He explained House Bill 465 was discussed with an ad hoc advisory committee including representation from claimants, attorneys, rehabilitation services, and all three insurer groups. Although all council members may not totally agree with every section there was consensus House Bill 465 is an appropriate department bill.

Mr. Jensen told the Committee there were three considerations when drafting the legislation:

- 1) Drafting oversights in Senate Bill 428 (1989 reorganization bill). SB 428 abolished the workers' compensation division, established the state fund as a separate entity and transferred the regulatory function to the Department of Labor and Industry. He explained Section 2 is needed to clarify what assessments against the state fund the department can make for the workers' compensation administration fund. Presently the statute mandates the department "assess the state fund an amount to fund the



state funds direct cost". The amendment clarifies a drafting oversight and eliminates a potential funding dispute between the department and the state fund. It authorizes the department to assess the state fund in the same manner as the department assesses self-insurers and private carriers for their cost of regulation.

- 2) Section 6, Page 7. The current language of the section restricts the department to establishment of a medical fee schedule based on the medium fees billed to the state fund. The data is costly and time consuming to retrieve from the funds records. He explained it may not meet the intent of Senate Bill 428 by requesting information only from the state fund. The proposed language would allow the department to take advantage of current fee schedule research now being conducted by various public and private organizations. The schedule would be developed in cooperation with all insurers. Several of the insurers have some problem with this language. Mr. Jensen suggested a task force be established to ensure various insurers have input in how the fee schedule is established. Section 8, Page 12 and Section 12, Page 18. These refer to the subsequent injury fund, which is a program designed to bring vocationally handicapped persons into the workforce. The Section 8 amendment would clarify an individual may be eligible for certification by the subsequent injury fund if application is made prior to or within 60 days of employment. The department has interpreted the current language to mean an applicant is not eligible for certification unless unemployed or off work due to impairment. This interpretation has been disputed. It has been argued an individual should be allowed to return to work pending certification. The amendment is proposed to satisfy the intent of the workers' compensation act regarding the return of injured workers to work rather than delay the return waiting for an administrative process to take place. Section 12 provides for an inclusion of occupational disease benefits under the subsequent injury fund to all claimants certified as vocational handicapped by the subsequent injured fund. The purpose of the subsequent injury fund is to provide an incentive to employers to hire the handicapped by limiting liability to 104 weeks on subsequent injuries. Presently occupational diseases are not covered by the fund. He explained this amendment would allow the subsequent injury fund to accept liability on occupational diseases after the employer's insurer paid 104 weeks of benefits. Section 13 Page 19 repeals language which was intended to limit an employers liability for worker's pre-existing occupational disease. This is what the subsequent injury fund does with pre-existing injured. He commented it is an outdated section of law to allow an employer to require an applicant for employment to submit to a medical exam to determine if the applicant suffers from an occupational disease. The report of the examining physician

must be sent to the department for approval or disapproval. If the report is disapproved the employer would be liable for the worker's occupational disease, the employer may discharge the applicant from employment, perhaps without liability. By including occupational disease in the subsequent injury fund process, employers and workers would have one procedure to utilize. Employer liability can be more efficiently established. Section 9 Page 13 allows the department to require an applicant for self-insurance to place a larger deposit with the department which demonstrates ability to pay, or offers sufficient financial security. He commented the present law limits the amount of security deposits the department may require and maintain from self-insurers. If the department were to require a security deposit in an amount larger than the law provides, and the self-insurer should become bankrupt, the difference could be seized as an asset by a bankruptcy court. Workers' compensation claimants are classified as unsecured creditors with no priority in a bankruptcy proceeding. The claimants may never receive benefits unless the security deposit maintained by the department is sufficient. Two previous self-insurers in Montana recently filed for Chapter 11 reorganization and ceased making benefits payments to their Montana claimants. The deposits held by the department may not be sufficient to cover the outstanding liabilities. He explained the amendment would allow the department to require a minimum deposit of \$250,000 or the average amount of incurred liabilities over the preceding three years whichever is greater, and increase the deposit as necessary.

- 3) Streamlining of functions and setting new directions taken by the department in the administration of the regulatory function. Section 1 Page 1; Section 10 page 15; Section 11 Page 17 provide the statutory and common law rules of evidence do not apply in contested case hearing before the department involving workers' compensation contested cases, or to mediation. He told the Committee the purpose is to make workers' compensation contested case hearings uniform with all other contested case hearings the department conducts, i.e., wage and hour, collective bargaining, unemployment insurance, and grievances. He explained none of these procedures are bound by the rules of evidence. The intend is to also exempt the workers' compensation hearings. Section 3 Page 4, reduces and simplifies insurers recording requirements to the department regarding compensation and medical expenditures. The department would collect qualitative data which is used to calculate the rehabilitation and subsequent injury fund assessments while streamlining the departments procedures and reducing processing time. The statute presently requires monthly reporting of five categories. The amendment would require quarterly reporting of only two categories. He pointed to stricken language Section 4 Page 4, a new section 4 Page 5. Section 5 Page 5 and the stricken Section 14 Page 19. These

remove the requirement certain claims be filed with the department. He explained the department contends to diminish its role as a clearing house for documentation on workers' compensation claims. The purpose being to shift the focus of claims reporting from the department to the insurers. He commented administratively initiatives have been taken which will result in approximately 33% reduction in paper flow. He asked for legislative approval to go further in this regard. He explained this area was amended by the House Labor Committee. The amendments were struck from the bill after hearing testimony from claimants representatives who believe it is the proper role of the department to be a clearing house for workers' compensation claims. Section 7 Page 9 repeals the impairment rating dispute resolution procedures administered by the department. Insurers, claimants, and medical providers voice numerous complaints about these procedures. The proposed legislation repeals a cumbersome and expensive procedure and provides for dispute resolution through the mandatory mediation process. The mediation process was initiated by the 1987 legislature. It has consistently resolved approximately 70%.

George Wood, Executive Secretary of the Self-Insurers Association told the Committee he agrees in part. He suggested an amendment on Page 14, Line 4 by striking the word "require" and inserting "accept". He explained a situation in which an employer wished to self-insure in Montana and offered a security deposit in the amount of \$500,000. The department's attorney concluded since the department could not require more than \$250,000, they could not accept more than \$250,000. He pointed to Section 2, Page 14, Line 7 which gives the department the authority to require additional security deposits under certain circumstances. If the wording is changed on Line 4 the department will be allowed to accept more than the maximum and there is still a guarantee the department can require a greater deposit. He commended the department for clarifying the sections dealing with paperwork, certification and the occupational disease act, and the agreement on the medical section.

Michael Sherwood, representing the Montana Trial Lawyers Association spoke in support of House Bill 465. He told the Committee he would support the amendment suggested by Mr. Wood. He explained the language about the rules of evidence not being applicable only apply to mediation. It will now apply to all workers' compensation hearings which will give the department more discretion on how to handle the hearings. Rules of evidence do increase expense and time. He commented the system has gotten too complex. He explained there were comments by claimant's representatives wishing the department still have control specifically in the area of the statute of limitations and areas dealing with occupational disease. He told the Committee he spoke with John Whiston (an attorney in Missoula). In 1986 and 1987 before the occupational disease law changed there were 33

hearings. In 1987-88 there were 105; 1988-89, 248; 1989-90, 442. He cited an example of an individual injuring his back on the job today is a workers' compensation injury; an individual injuring his back yesterday, and then again today, may be considered an occupational disease. Benefits could be only 25% of what it would be with a workers' compensation injury. He believes a problem is developing and believes claimant attorneys want the department to continue to monitor this.

Pat Sweeney of the State Compensation Mutual Insurance Fund spoke in support of House Bill 465.

Opponents' Testimony:

NONE.

Questions From Committee Members:

Senator Towe asked about hearings in which the rules of evidence are applicable under current law. Diane Ferriter of the Department of Labor and Industry told the Committee before the department there are two hearings which can come there depending upon the dispute. She explained these are mediation and contested case hearings. Both appeal processes from there belong to the workers' compensation court.

Senator Towe asked if there were any change in House Bill 465 over existing law. Ms. Ferriter stated this were true. House Bill 465 removes it from the mediation process making it applicable to mediation and contested cases. She explained contested case hearings are held on disputes of department orders. Mediation is held to resolve disputes concerning benefit issues between insurers and claimants.

Senator Towe asked Ms. Ferriter about the nature of such department orders. She explained these could be orders regarding settlement, approving or denying settlement, the subsequent injury fund, the uninsured employers fund, etc.

Senator Towe asked Ms. Ferriter why is the physical examination section being repealed (Section 13). Ms. Ferriter explained the section being repealed is a statute under the occupational disease law which allows an employer to have an employee submit to a physical examination to determine whether or not they have an occupational disease. That evaluation is conducted through the department. There is language which states the department will review the evaluation and render an order. It does not say what the order will say. It is not clear if the determination is whether there was an occupational disease or not. If the department does not approve the order the employer can terminate the worker. She commented it is a section of law which has never been requested, is unclear, and the department believes it is not needed with the amendments to the subsequent injury fund which limits employers liabilities.

Senator Towe asked about Section 6. He commented the previous law allowed the establishment of a fee schedule. Ms. Ferriter explained the current law requires the department to use the preceding twelve month status on the state compensation insurance fund database. From this information medium fees are established. The process in retrieving this information is expensive and time consuming. She stated there are nationally recognized relative-unit value schedules which could be used.

Senator Pipinich asked Bob Jensen about changing the language on Page 14, Line 4 from "required" to "accept". Mr. Jensen told the Committee the department's position is there could be three different efforts to change the section. He explained Senate Bill 28 (which is the concurrence bill) deletes this entire section. He told the Committee the department would object to such an amendment.

Senator Towe asked George Wood why it is the language change on Page 14, Line 4 necessary. Mr. Wood told the Committee if it is "may accept", it is a voluntary presentation of an additional security deposit by the employer seeking.

Senator Pipinich asked Ms. Ferriter to comment. Ms. Ferriter explained the department believes it is necessary to have the discretion to ask for a larger deposit is because of recent experience with self-insurers who declared bankruptcy and were not protected by the guarantee fund. It is the guarantee fund's position any injury incurred by self-insurers prior to July 1, 1989, will not become a liability of the guarantee fund. The deposit amounts in House Bill 465 may not be sufficient. There are approximately 20 self-insurers which may not be actively self-insured but were for some period in the past. They are still liable for those outstanding liabilities. She commented on sub (2) on Page 14 the department has the ability to obtain a larger deposit, but if the department finds the employer has lost solvency or financial ability to pay the department may not be able to obtain an additional deposit.

Senator Towe asked George Wood to comment on Ms. Ferriter's statement. Mr. Wood explained the question of the security deposit has to do with the solvency of the employer. Retroactive requirements of security deposits cannot be made. He explained for those since July 1, 1989, the responsibility for any bankruptcy falls with the guarantee fund. This language was only to say if the employer wishes to give more than the law requires it can be accepted.

#### Closing by Sponsor:

Representative Thomas suggested amending Page 14 Line 4 by inserting after the word "require", "or accept". He closed on House Bill 465. He asked that Senator Nathe carry House Bill 465 to the Senate.

EXECUTIVE ACTION ON HOUSE BILL 465

Motion:

Senator Nathe moved House Bill 465 BE CONCURRED IN as amended.

Discussion:

Senator Aklestad asked if there could be a retroactive requirement for fees and deposits.

Senator Towe commented they would be able to accept but not require after the effective date of the bill.

Senator Keating stated the department can only require the \$250,000 or the average of the three years or may accept a larger deposit offered.

Amendments, Discussion, and Votes:

Senator Aklestad moved to strike "require" on Page 14, Line 4 and insert "accept". Motion CARRIED with Senator Pipinich and Senator Towe voting NO. Senator Doherty was absent.

Recommendation and Vote:

Nathe motion to BE CONCURRED IN as amended CARRIED UNANIMOUSLY. Senator Nathe will carry House Bill 465 in the Senate.

EXECUTIVE ACTION ON HOUSE BILL 712

Motion:

Senator Aklestad moved House Bill 712 BE CONCURRED IN as amended.

Amendments, Discussion, and Votes:

Senator Blaylock moved to amend House Bill 712 on Page 1, Line 25 after the word "including" insert ", but not limited to". Motion CARRIED UNANIMOUSLY.

Discussion followed regarding the language on Page 2, Lines through Lines 3.

Senator Keating stated if an individual is "going into a risky job" they do not have to belong to the bargaining unit, but they can enter into a private with the employer which states the

employer will provide safety equipment. He explained this is an employment contract and does not have anything to do with a collective bargaining unit. He told the Committee they were "tampering with the intent of this language by involving it with a collective bargaining agreement".

Senator Towe pointed to Page 1, Line 18. He commented this language is conjunctive, and these only have to be furnished when 1) there is a state or federal law requiring it, 2) the employer requires it, and 3) the employer has a contract requiring it. By inserting "or" the employer shall purchase and furnish these items, 1) when state or federal law requires it, or 2) when the employer requires, or 3) the terms of the employment contract require it.

Senator Doherty moved to amend Page 2, Line 2 before "employer" insert the word "or"; insert after "the employer," "unless terms of collective bargaining agreement provide otherwise"; strike "or AND the terms of an employment contract".

Senator Aklestad pointed out by striking employment contract and adding collective bargaining agreements it would only address those under a union contract. He commented the sponsor of the bill stated is at a balance. He suggested not amending further.

Senator Towe asked Don Judge to comment. Mr. Judge explained if these provisions are required by state law, required by federal law, required by the employer, required by the terms of an employee contract the employer shall provide these items. He explained this addresses one side of the issue. The aluminum workers had reached an agreement in which the workers pay for a portion of the equipment themselves, and they were trying to provide coverage for their contracts which allow them to pay for a portion. He explained if the bill passes with simply changing the "and" to an "or", the aluminum workers' concerns are not addressed. He suggested leaving in "the terms of an employment contract" and insert "unless provided in the terms of a collective bargaining agreement".

Senator Lynch offered a substitute motion to amend Page 2, Line 2 by striking "and" after the word "employer" inserting "or"; Line 3 after the word "contract" strike ";" insert "unless the terms of collective bargaining agreement provide otherwise;". Motion CARRIED with Senator Devlin voting NO.

Senator Keating pointed to Page 1, Line 18. He commented there is redundancy in: each employer shall provide equipment which is required by the employer.

#### Recommendation and Vote:

The Aklestad motion House Bill 712 BE CONCURRED IN as amended CARRIED with Senator Devlin voting NO.

EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 18

Motion:

Senator Lynch moved House Joint Resolution 18 BE CONCURRED IN.

Discussion:

Senator Keating commented he did not believe in sanctions. He stated "people ought to take care of themselves out there and negotiate individually".

Senator Lynch stated nothing is being forced. A letter is being written supporting the ideas of the MacBride Principles.

Senator Keating pointed out Mr. Greenan said he was taking the resolution if passed to the Bishop, the College of Great Falls and "tell them to disinvest in any company in the United States" doing business with any company in Northern Ireland.

Senator Towe stated the resolution is an urging to state agencies, it does require a private agency.

Recommendation and Vote:

Lynch motion BE CONCURRED IN with Senator Devlin, Senator Keating, and Senator Aklestad voting NO. Senator Lynch will carry House Joint Resolution 18 to the Senate.

EXECUTIVE ACTION ON HOUSE BILL 60

Motion:

Senator Lynch moved House Bill 60 BE CONCURRED IN.

Discussion:

Senator Keating asked if HB 60 would impact unemployment insurance or workers' compensation premiums. Tom Gomez explained for the purposes of unemployment insurance and workers' compensation there is a separate definition of wage.

Recommendation and Vote:

Lynch motion BE CONCURRED IN CARRIED with Senator Devlin voting NO. Senator Lynch will carry House Bill 60 to the Senate.



EXECUTIVE ACTION ON HOUSE BILL 152Motion:

Senator Lynch moved House Bill 152 BE CONCURRED IN. After discussion Senator Lynch withdrew his motion.

Discussion:

Senator Aklestad reminded the Committee there are no tip credits in Montana and no training wage in HB 152; and on the national level in many states tip credits go into 40% of that wage. He stated he did not propose that as tip credits have not been "popular in Montana". This Committee voted against tip credit two years ago. He commented this bill will be detrimental to small business.

Senator Keating stated every time a minimum wage law is passed the people needing training jobs are put out of work. The minimum wage does not affect head of household, or a bread winner with skills. The minimum wage will impact those individuals who are entry level and need the work and training.

Senator Lynch commented the Chamber of Commerce, the Montana Retail Association, the Montana State AFL-CIO and others spoke in support of House Bill 152.

Amendments, Discussion, and Votes:

Senator Devlin pointed out there was testimony from a restaurant owner in Boulder. The "\$110,000" would cause her to not hire as many employees.

Senator Devlin moved to amend House Bill 152 on Line 22 by striking "\$110,000" and inserting "\$400,000". Motion FAILED by Roll Call Vote with four (4) YES (Senator Aklestad, Senator Devlin, Senator Keating and Senator Nathe), five (5) NO (Senator Blaylock, Senator Doherty, Senator Lynch, Senator Pipinich, and Senator Towe).

Senator Devlin moved to amend House Bill 152 on Line 22 by striking "\$110,000" and inserting "\$300,000". Motion FAILED with four (4) YES (Senator Aklestad, Senator Devlin, Senator Keating and Senator Nathe), five (5) NO (Senator Blaylock, Senator Doherty, Senator Lynch, Senator Pipinich, and Senator Towe).

Senator Towe told the Committee there has been reference to Federal Fair Labor Standards Act (29 USC 206). Under 206 there is a provision for tips to be included. He commented there is need to clarify. He stated the tip should not be included.

Senator Lynch pointed out Montana has excluded that provision.

Senator Towe commented "somebody is going to be in court" because Montana requires it must be the same as the Fair Labor Standards Act the tip has to be included even if the tip is excluded some other place. He explained what needs to be clarified is the rate of \$4.25 is the same but all other provisions in 29 USC 206 are not automatic.

Senator Towe suggested an amendment be drafted to address this issue.

#### EXECUTIVE ACTION ON HOUSE BILL 232

##### Motion:

Senator Nathe moved House Bill 232 BE CONCURRED IN.

##### Discussion:

Senator Aklestad stated the individuals (Colonel Griffith) being directly affected spoke in opposition to House Bill 232.

Senator Pipinich pointed out Colonel Griffith had told the Committee he represented both union and non-union and had to "treat them both the same".

##### Recommendation and Vote:

Nathe motion BE CONCURRED IN CARRIED with Senator Aklestad and Senator Devlin voting NO. Senator Nathe will carry House Bill 232 to the Senate.

#### EXECUTIVE ACTION ON HOUSE BILL 336

##### Motion:

Senator Keating moved House Bill 336 BE CONCURRED IN.

After amendments Senator Pipinich moved House Bill 336 BE CONCURRED IN as amended.

##### Amendments, Discussion, and Votes:

Senator Lynch moved to amend Page 2, Line 15 striking "exceed" and inserting "be less than". Motion CARRIED UNANIMOUSLY.

Senator Blaylock moved to amend Page 1, Line 25 striking "may" and inserting "must". Senator Aklestad pointed out the department asked for latitude in this area. Senator Keating commented the reason "may" was included was to allow for negotiation of settlement. If the law requires a penalty there

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

March 12, 1991

Page 19 of 21

would be no negotiation. Motion CARRIED five (5) YES (Senator Blaylock, Senator Doherty, Senator Lynch, Senator Pipinich, and Senator Towe), four (4) NO (Senator Aklestad, Senator Devlin, Senator Keating, and Senator Nathe).

Senator Aklestad told the Committee with the amendments he will vote against House Bill 336 because the department will not be able to negotiate penalties.

Recommendation and Vote:

Pipinich motion BE CONCURRED IN as amended CARRIED with five (5) YES (Senator Blaylock, Senator Doherty, Senator Lynch, Senator Pipinich, and Senator Towe), four (4) NO (Senator Aklestad, Senator Devlin, Senator Keating, and Senator Nathe).

EXECUTIVE ACTION ON HOUSE BILL 342

Motion:

Senator Keating moved House Bill 342 DO NOT BE CONCURRED IN.

Discussion:

Senator Aklestad told the Committee major contractors should be demanding evidence of workers' compensation coverage from sub-contractors. He commented current statute (37-71-405 MCA), an exemption, should be strengthened because there is abuse. House Bill 342 would be hard on small employers.

Senator Pipinich stated he spoke with four people who told him they were "done" if House Bill 342 passes.

Senator Aklestad pointed out larger employers work in the office more than the smaller employer which would give the larger employer a reduced rate.

Senator Nathe asked if there is a penalty incurred by a general contractor if the sub-contractors are not covered.

Senator Lynch offered a substitute motion to PASS FOR THE DAY on House Bill 342 in order to spend more time looking at the legislation. Motion CARRIED with Senator Aklestad, Senator Devlin, and Senator Keating voting NO.

EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 29

Motion:

Senator Keating moved House Joint Resolution 29 BE CONCURRED

LA031291.SM1

IN as amended.

Amendments, Discussion, and Votes:

Senator Keating moved to amend House Joint Resolution (HJ002901.ATG). Motion CARRIED UNANIMOUSLY.

Recommendation and Vote:

Keating BE CONCURRED IN motion CARRIED with Senator Aklestad voting NO. Senator Keating will carry House Joint Resolution 29 to the Senate.

EXECUTIVE ACTION ON HOUSE BILL 356

Motion:

Senator Doherty moved House Bill 356 BE CONCURRED IN as amended.

Discussion:

Senator Keating commented House Bill 356 is "DO NOT CONCUR" because union people on a board but are not including management people.

Amendments, Discussion, and Votes:

Senator Doherty moved the amendments by the Department of Administration. He explained these would address Senator Keating's concern. Motion CARRIED UNANIMOUSLY.

Recommendation and Vote:

Doherty motion to BE CONCURRED IN as amended CARRIED with Senator Aklestad, Senator Devlin, and Senator Keating voting NO. Senator Doherty will carry House Bill 356 to the Senate.

EXECUTIVE ACTION ON HOUSE BILL 663

Motion:

Senator Aklestad moved House Bill 663 NOT BE CONCURRED IN.

Senator Blaylock moved, as a substitute motion, House Bill 663 BE CONCURRED IN.

Discussion:

Senator Aklestad commented under 27-5-115 MCA, House Bill

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

March 12, 1991

Page 21 of 21

663 may supersede the National Labor Relations Board.

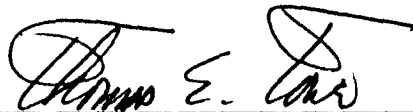
Recommendation and Vote:

Aklestad motion FAILED with four (4) YES (Senator Aklestad, Senator Devlin, Senator Keating, and Senator Nathe), five (5) YES (Senator Blaylock, Senator Doherty, Senator Lynch, Senator Pipinich, and Senator Towe).

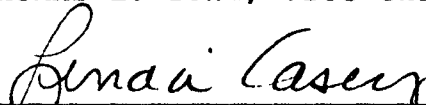
Blaylock motion CARRIED with five (5) YES (Senator Blaylock, Senator Doherty, Senator Lynch, Senator Pipinich, and Senator Towe), four (4) NO (Senator Aklestad, Senator Devlin, Senator Keating, and Senator Nathe). Senator Towe will carry House Bill 663 on the Senate floor.

ADJOURNMENT

Adjournment At: 6:15 p.m.



SENATOR THOMAS E. TOWE, Vice Chairman



LINDA CASEY, Secretary

TET/llc

LA031291.SM1

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 3/12/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR AKLESTAD	P		
SENATOR BLAYLOCK	P		
SENATOR DEVLIN	P		
SENATOR KEATING	P		
SENATOR LYNCH	P		
SENATOR MANNING			E
SENATOR NATHE	P		
SENATOR PIPINICH	P		
SENATOR TOWE	P		
Senator Doherty	P		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 14, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 336 (third reading copy -- blue), respectfully report that House Bill No. 336 be amended and as so amended be concurred in:

1. Page 1, line 25.

Following: "must"

Strike: "HAY"

Insert: "must"

2. Page 2, line 15.

Following: "NOT"

Strike: "EXCEED"

Insert: "be less than"

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

Thomas E. Towe, Vice-Chairman

LB 3/14/91

And. Coord.

3/15/91

Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 14, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 356 (third reading copy -- blue), respectfully report that House Bill No. 356 be amended and as so amended be concurred in:

1. Title, line 8.

Following: "BOARD;"

Insert: "TO REQUIRE APPOINTMENT OF TWO FULL-TIME MANAGEMENT  
EMPLOYEES TO THE BOARD OF PERSONNEL APPEALS;"

2. Page 1, lines 22 and 23.

Following: "members" on line 22

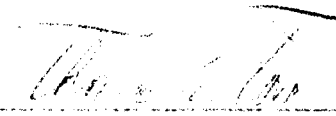
Strike: remainder of line 22 through "bargaining" on line 23

Insert: "who are full-time management employees in organizations  
with collective bargaining units or who represent management  
in collective bargaining activities"

3. Page 2, line 7.

Strike: "represented by their experience"

Insert: "of the organizations they represent"

Signed: 

Thomas R. Towe, Vice Chairman

LB 3/14/91  
Amd. Coord.

51 2 14 91  
Sec. of Senate

550950SC.SBB



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 14, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 712 (third reading copy -- blue); respectfully report that House Bill No. 712 be amended and as so amended be concurred in:

1. Page 1, line 25.

Following: "including"

Insert: "but not limited to"

2. Page 2, line 2.

Following: "or"


Strike: "AND"

Insert: "or"

3. Page 2, line 3.

Following: "contract"

Insert: ", unless the terms of a collective bargaining agreement provide otherwise"

Signed: 

Thomas E. Towe, Vice-Chairman

48 3/14/91  
And. Conc'd.

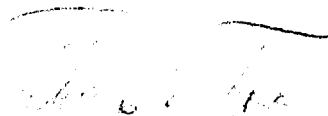
122  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 13, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 60 (third reading copy -- blue), respectfully report that House Bill No. 60 be concurred in.

Signed: 

Thomas E. Tove, Vice Chairman

16 13-91  
And. Coord.

Sec. of Senate

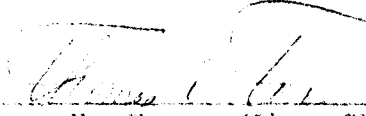
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 13, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 232 (third reading copy - blue), respectfully report that House Bill No. 232 be concurred in.

Signed:   
Thomas E. Towe, Vice Chairman

  
Amd. Concord.

  
Sec. of Senate

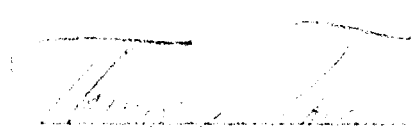
SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 13, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 663 (third reading copy - blue), respectfully report that House Bill No. 663 be concurred in.

Signed:

  
Thomas E. Towe, Vice-Chairman

43 3/15/91  
And. [unclear]

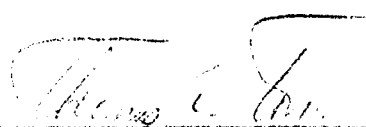
Recd. of Senate [unclear]

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 13, 1991

HR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Joint Resolution No. 18 (third reading copy -- blue), respectfully report that House Joint Resolution No. 18 be concurred in.

Signed: 

Thomas E. Towe, Vice Chairman

*13-4*  
And. Coord.

*13-19 10-15*  
Sec. of Senate

540916SC.Sji

SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
March 13, 1991

MR. PRESIDENT.

We, your committee on Labor and Employment Relations having had under consideration House Joint Resolution No. 29 (third reading copy - blue), respectfully report that House Joint Resolution No. 29 be amended and as so amended be concurred in:

1. Title, line 7.

Strike: "REPRESENTATIVE"

Insert: "REPRESENTATIVES"

2. Title, line 8.

Following: "ALLOCATE"

Strike: "NATIONAL"

Following: "FUNDS"

Insert: "AVAILABLE UNDER TITLE III OF THE JOB TRAINING  
PARTNERSHIP ACT"

3. Page 1, line 12.

Following: "WHEREAS,"

Insert: "funds available under Title III of"

Following: "Act"

Strike: "Title III"

4. Page 1, line 13.

Strike: "funds"

5. Page 1, line 20.

Following: "from the"

Strike: "effects of the oil recession"

Insert: "decline in the nation's economy"

6. Page 1, line 21.

Following: line 20

Insert: "WHEREAS, Montana's dislocated worker program was  
developed as an exemplary program that has served as a model  
for programs established in other states; and

WHEREAS, section 322(a)(2) of the Job Training  
Partnership Act provides for the allocation of Title  
III reserve funds for exemplary dislocated worker  
programs; and"

7. Page 2, line 5.

Following: "allocate"

Strike: "national"

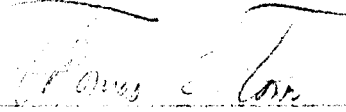
Following: "funds"

Insert: "available under Title III of the Job Training  
Partnership Act"

8. Page 2.

Following: line 7

Insert: "BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the U.S. Secretary of Labor, the appropriate standing committees of the U.S. Senate and U.S. House of Representatives, and each member of Montana's Congressional delegation."

Signed: 

Thomas E. Towe, Vice Chairman

*1991 3-12-91*  
And, Comd.

*1991 3-12-91*  
Sec. of Senate



DONALD R. JUDGE  
EXECUTIVE SECRETARY

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

(406) 442-1708

Testimony of Don Judge on House Joint Resolution 18 before the Senate Labor Committee, March 12, 1991

-----

Mr. Chairman, members of the Committee, for the record my name is Don Judge representing the Montana State AFL-CIO, and we are here today to give our strong support to House Joint Resolution 18.

This resolution would support the McBride principle of fair employment in Northern Ireland and urge private companies and the state to consider these principles before doing business in Northern Ireland. The question arises, how does employment in Northern Ireland affect Montana, or even the United States and why should we be concerned with it? One does not have to look far to find the answer.

Northern Ireland is an occupied land, controlled under the arms of Great Britain. The conflict in that country is over a century old and was said to have come about because of religion. Perhaps, but the consequences are fully economic. This occupied land should be of as much concern to Americans as any other occupied country, Kuwait for example.

In 1989, ten percent of all workers in Northern Ireland were employed by American companies. In that same year, the AFL-CIO adopted a resolution at our national convention that supports any legislation that would require American firms operating in Northern Ireland to adhere to the McBride principles. We firmly believe in fair employment world wide regardless of race, color, creed, sex, or religion.

Mr. Chairman, Members of the Committee, in this country we know all too well the ramifications of high unemployment among workers of our cities. Drug abuse, violent crime, poverty, homelessness, broken families, and much more can be attributed to workers not having meaningful productive jobs.

We know too, that we could address many of those problems if people could simply find meaningful work. In Northern Ireland, the problems are much the same. Until a significant sector of that nation's society becomes gainfully employed, and until this discrimination ends, we can expect the conflict will continue.

We strongly urge you to give House Joint Resolution 18 a do pass recommendation.

Thank you.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1

DATE 3/12/91

BILL NO. HJR 18



WITNESS STATEMENT

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

Dated this 12<sup>th</sup> day of MARCH, 1991.

Name: JAMES P. GREENAN

Address: 36 CLOVERVIEW DRIVE  
HELENA, MT. 59601

Telephone Number: 442-2913

Representing whom?

ANCIENT ORDER OF HIBERNIANS

Appearing on which proposal?

H. J. RES. 18

Do you: Support? X Amend?        Oppose?       

Comments:

PREPARED STATEMENT FILED WITH  
SECRETARY

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Statement of James P. Greenan, President  
Montana Ancient Order of Hibernians  
HOUSE JOINT RESOLUTION NO. 18  
March 12, 1991

Mr. Chairman and members of the Committee - on behalf of the more than 300 members of the Montana Hibernians, I urge you to endorse and report favorably to the Senate H. J. Res. 18, declaring support for the MacBride Principles and calling upon American employers doing business in Northern Ireland to engage in non-discriminatory and fair employment practices in the six counties of Ireland which comprise that political entity.

The MacBride Principles were authored by Sean MacBride, Nobel Peace Prize Winner, one of the founders of Amnesty International, and a jurist of international reputation. At last count, the Principles had been adopted by the legislatures of 12 states and are presently pending for consideration in at least a dozen other states. Cities and counties from Honolulu to New York City have adopted the Principles and are applying them to the investment policies in their jurisdictions. Corporations as diverse as American Brands, DuPont, Lockheed, Federal Express, Digital Equipment, Honeywell and United Technologies - all with business interests in Northern Ireland - have agreed to implement the fair employment standards embodied in the Principles. They have also been endorsed by both Catholic and Protestant religious groups affiliated with the Interfaith Center for Corporate Responsibility, a nationally recognized organization.

At present, many forces are at work seeking to bring an end to the violence in Northern Ireland and achieve a lasting political settlement that will enable both the Catholic and Protestant - Nationalist and Unionist - communities to live and work together in peace for the benefit of all of Ireland. For these communities to achieve political progress, it is essential that equal justice and fair employment opportunities be made available to all of the people of Northern Ireland.

As you consider the substance of this resolution, I ask you to note carefully that it is, very plainly, a statement of investment policy and nothing more. It does not seek to establish hiring quotas, to have anyone lose present employment or practice any form of reverse discrimination to achieve its objectives. You may rightly ask yourselves the question:

Why should the State of Montana adopt such a resolution? The simple answer is because it is just. The citizens of Montana can send a message to those U. S. corporations that are going along with employment discrimination in Northern Ireland as a matter of convenience or a course of least resistance. Montana can forcefully tell those corporations that they must not be allowed to do overseas that which they are prohibited by law from doing here at home.

I understand that questions of injustice and discrimination in Northern Ireland seem very distant from this hearing room. Let me assure you, however, that they are close at hand for Montanans of Irish heritage who have immediate and distant family members living in Northern Ireland and contesting for jobs there. These Montanans, I am confident, are joined by all who have an abiding interest in defeating discrimination wherever it is found.

Many states in the past decade have adopted legislation which targets their economic power and gives tangible expression to the concerns of its citizens on foreign policy issues. These include "Buy American" statutes to promote American products over foreign imports; statutes to counteract the Arab boycott of Jewish owned or led businesses, or to adopt economic sanctions against South Africa, Iran or Russia. We ask that Montana join this nationwide effort and use the investment leverage it possess by adopting the MacBride Principles as a positive investment standard. This will create an additional incentive for U. S. Corporations to engage honestly in affirmative action and equal opportunity measures.

Finally, in adopting this pending resolution you do great honor to not only yourselves and Irish Americans in Montana, but to all who cherish human and civil rights. American corporations abroad - in effect our ambassadors without portfolio - must be a showcase for our values. I submit, the citizens of Montana would not have it otherwise.

Thank you, Mr. Chairman and members of the Committee.

S T A T E R E P O R T E R

Box 749

Helena, Montana 59624

VOLUME 47

No. 89-159

KEITH INGRAHAM,

Claimant and Petitioner,

v.

Submitted: Mar. 1, 1990

Decided: Mar. 23, 1990

CHAMPION INTERNATIONAL, a Self-insured  
Plan I Employer,

Defendant and Respondent.

CONSTITUTIONAL LAW--WORKERS' COMPENSATION, Petition for declaratory judgment on original proceeding requesting that parts of secs. 39-71-741(1)-(3), MCA, be declared unconstitutional. The Supreme Court held:

1. The constitutionality of a legislative enactment is prima facie presumed, and every intendment in its favor will be made unless its constitutionality appears beyond a reasonable doubt.
2. The legislature has improperly and unconstitutionally delegated its authority to private parties as to what terms, and under what circumstances, and in what amounts, a lump-sum conversion can occur.
3. Subdivision (2) of sec. 39-71-741 abrogates the principle that the judicial power cannot be taken away by legislative action.
4. Where an enactment contains a severability clause, the presumption is that the valid portions would have been enacted without the invalid parts.

ORIGINAL PROCEEDING

For Petitioner: Bulman Law Associates, Missoula

For Respondent: Garlington, Lohn & Robinson, Missoula  
Agency Legal Services, Helena

For Amicus Curiae: John Bothe; Bothe & Lauridsen, Columbia Falls

Mr. Thomas C. Bulman argued the case orally for Petitioner; Mr. Bradley J. Luck and Mr. James Scheier for Respondent.

Opinion by Justice Harrison; Chief Justice Turnage and Justices Sheehy, Barz, Hunt, Weber and McDonough concur. Justice Sheehy filed a specially concurring opinion.

\_\_\_\_ Mont. \_\_\_\_

\_\_\_\_ P.2d \_\_\_\_

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 3

DATE 3/12/91

BILL NO. HB 506



DONALD R. JUDGE  
EXECUTIVE SECRETARY

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

(406) 442-1708

TESTIMONY OF DON JUDGE ON HOUSE BILL 712 BEFORE THE SENATE LABOR COMMITTEE,  
MARCH 12, 1991.

-----

Mr. Chairman, members of the Committee, for the record my name is Don Judge, representing the Montana State AFL-CIO, and we are here today in support of House Bill 712.

The AFL-CIO has a long and proud history of leading the charge for a safe workplace for Montana's working men and women. Today, with House Bill 712, that fight continues. This bill would guarantee that workers receive the necessary safety and protective equipment that is needed in order to provide a less threatening work environment.

House Bill 712 would place responsibility for maintaining a safe workplace squarely on the shoulders of both the employer and worker. The employer would be required to furnish safety equipment and protective clothing at his expense. The worker would then be obligated to use the equipment properly and to maintain such equipment.

This bill also clarifies existing law. Currently, employers are required to provide safety equipment, but some employers have charged employees with the cost of the equipment. House Bill 712 makes it clear that employers will pay for these items. Additionally, House Bill 712 clarifies the definition of safety equipment to include health-related devices and protective clothing, both of which may be necessary for a safe workplace.

The sponsor has worked to make this bill agreeable to all by calling for an exemption for safety constructed footwear. We understand the compromise which provided this exemption because of the high cost involved and are supportive of any effort to make this a workable piece of legislation.

There have been a multitude of attempts this session to deal with the rising cost of workers' compensation insurance premiums. In our minds, improved safety standards represents the best way to address these costs. A safer workplace means fewer accidents, and encouraging more safety awareness should help employers hold down their workers' compensation premium rates. Most importantly, it could help reduce the human toll associated with workplace injuries, diseases, and fatalities.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4

DATE 3/12/91

BILL NO. HB 712

Testimony of Don Judge, HB 712  
Senate Labor Committee  
March 12.

Some jobs are hazardous by their very nature. There is no way to make every job one hundred percent safe. But with the help of House Bill 712 we can all feel better knowing that we have done something to help workers, their families, and their employers.

For these reasons we urge your favorable consideration of House Bill 712.

Thank you.



ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date 3/12/91 House Bill No. 152 Time 5:25pm

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

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: \_\_\_\_\_

Amendment Change  
"\$110,000" to "\$400,000"

MOTION FAILS