

HOUSE BILL NO. 281

INTRODUCED BY DOXIER

IN THE HOUSE

January 17, 1983	Introduced and referred to Committee on Labor and Employment Relations.
February 18, 1983	Committee recommend bill do pass as amended. Report adopted.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass as amended.
February 23, 1983	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Labor and Employment Relations.
March 24, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 25, 1983	Second reading, concurred in.
March 28, 1983	Third reading, concurred in. Ayes, 41; Noss, 6.

IN THE HOUSE

March 28, 1983	Returned to House with amendments.
April 1, 1983	Second reading, amendments not concurred in.

April 1, 1983

On motion, Conference
Committee requested and
appointed.

April 16, 1983

Conference Committee reported.

April 18, 1983

Second reading, report
adopted.

Third reading, report adopted.

April 19, 1983

Conference Committee report
adopted by Senate.

April 20, 1983

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 281
 2 INTRODUCED BY DJ

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROMOTE THE GENERAL
 5 WELFARE IN IMPLEMENTATION OF ARTICLE XII, SECTION 2, OF THE
 6 MONTANA CONSTITUTION BY ALLOWING EMPLOYEES OF MUNICIPAL AND
 7 COUNTY GOVERNMENTS TO AGREE TO WORK MORE THAN 8 HOURS A DAY
 8 AND TO AGREE TO A 14-DAY, 80-HOUR WORK PERIOD AND BY
 9 ALLOWING FIRE DEPARTMENT EMPLOYEES TO WORK A MUTUALLY
 10 AGREEABLE WORKDAY OR SHIFT AND WORK PERIOD; AMENDING
 11 SECTIONS 7-33-4126, 39-3-406, AND 39-4-107, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 7-33-4126, MCA, is amended to read:

15 "7-33-4126. Hours of work of members of paid fire
 16 departments in cities of first or second class. (1) The city
 17 council, city commission, or other governing body in cities
 18 of the first or second class shall divide all members of the
 19 paid fire department into platoons of three shifts. The
 20 members of each shift shall not be required to work or be on
 21 duty more than 8 hours of each consecutive 24 hours except
 22 in the event of a conflagration or other similar emergency
 23 when any of such members may be required to serve so long as
 24 the necessity therefor exists.

25 (2) Each member shall be entitled to at least 1 day

1 off duty out of each 8-day period of service without loss of
 2 compensation.

3 ~~(3) This section does not apply to the extent that one~~
 4 ~~or more of its provisions relates to a matter that is the~~
 5 ~~subject of a mutual agreement made under 39-4-107(4)."~~

6 Section 2. Section 39-3-406, MCA, is amended to read:

7 "39-3-406. Exclusions. (1) The provisions of 39-3-404
 8 and 39-3-405 shall not apply with respect to:

9 (a) students participating in a distributive education
 10 program established under the auspices of an accredited
 11 educational agency;

12 (b) persons employed in private homes whose duties
 13 consist of menial chores such as babysitting, mowing lawns,
 14 cleaning sidewalks;

15 (c) persons employed directly by the head of a
 16 household to care for children dependent upon the head of
 17 the household;

18 (d) immediate members of the family of an employer or
 19 persons dependent upon an employer for half or more of their
 20 support in the customary sense of being a dependent;

21 (e) any persons not regular employees thereof who
 22 voluntarily offer their services to a nonprofit organization
 23 on a fully or partially reimbursed basis;

24 (f) handicapped workers engaged in work which is
 25 incidental to training or evaluation programs or whose

1 earning capacity is so severely impaired that they are
2 unable to engage in competitive employment;

3 (g) apprentices or learners, who may be exempted by
4 the commissioner for a period not to exceed 30 days of their
5 employment;

6 (h) learners under the age of 18 who are employed as
7 farm workers, provided that such exclusion shall not exceed
8 a period of 180 days from their initial date of employment
9 and further provided that during this exclusion period wages
10 paid such learners may not be less than 50% of the minimum
11 wage rate established in this part;

12 (i) retired or semiretired persons performing
13 part-time incidental work as a condition of their residence
14 on a farm or ranch;

15 (j) any individual employed in a bona fide executive,
16 administrative, or professional capacity as these terms are
17 defined and delimited by regulations of the commissioner;

18 (k) any individual employed by the United States of
19 America.

20 (2) The provisions of 39-3-405 do not apply to:

21 (a) an employee with respect to whom the United States
22 Secretary of Transportation has power to establish
23 qualifications and maximum hours of service pursuant to the
24 provisions of 49 U.S.C. 304;

25 (b) an employee of an employer subject to the

1 provisions of part I of the Interstate Commerce Act;

2 (c) an individual employed as an outside buyer of
3 poultry, eggs, cream, or milk, in their raw or natural
4 state;

5 (d) a salesman, partsman, or mechanic paid on a
6 commission or contract basis and primarily engaged in
7 selling or servicing automobiles, trucks, mobile homes,
8 recreational vehicles, or farm implements if he is employed
9 by a nonmanufacturing establishment primarily engaged in the
10 business of selling such vehicles or implements to ultimate
11 purchasers;

12 (e) a salesman primarily engaged in selling trailers,
13 boats, or aircraft if he is employed by a nonmanufacturing
14 establishment primarily engaged in the business of selling
15 trailers, boats, or aircraft to ultimate purchasers;

16 (f) an employee employed as a driver or driver's
17 helper making local deliveries who is compensated for such
18 employment on the basis of trip rates, or other delivery
19 payment plan, if the commissioner finds that such plan has
20 the general purpose and effect of reducing hours worked by
21 such employees to or below the maximum workweek applicable
22 to them under 39-3-405;

23 (g) an employee employed in agriculture or in
24 connection with the operation or maintenance of ditches,
25 canals, reservoirs, or waterways not owned or operated for

1 profit and not operated on a sharecrop basis and which are
2 used exclusively for supply and storing of water for
3 agricultural purposes;

4 (h) an employee with respect to his employment in
5 agriculture by a farmer, notwithstanding other employment of
6 such employee in connection with livestock auction
7 operations in which such farmer is engaged as an adjunct to
8 the raising of livestock, either on his own account or in
9 conjunction with other farmers, if such employee is:

10 (i) primarily employed during his workweek in
11 agriculture by such farmer; and

12 (ii) paid for his employment in connection with such
13 livestock auction operations at a wage rate not less than
14 that prescribed by 39-3-404;

15 (i) an employee of an establishment commonly
16 recognized as a country elevator, including an establishment
17 which sells products and services used in the operation of a
18 farm, if no more than five employees are employed by the
19 establishment;

20 (j) a driver employed by an employer engaged in the
21 business of operating taxicabs;

22 (k) an employee who is employed with his spouse by a
23 nonprofit educational institution to serve as the parents of
24 children who are orphans or one of whose natural parents is
25 deceased or who are enrolled in such institution and reside

1 in residential facilities of the institution so long as the
2 children are in residence at the institution and so long as
3 such employee and his spouse reside in such facilities and
4 receive, without cost, board and lodging from the
5 institution and are together compensated, on a cash basis,
6 at an annual rate of not less than \$10,000;

7 (l) an employee employed in planting or tending trees;
8 cruising, surveying, or felling timber; or transporting logs
9 or other forestry products to a mill, processing plant,
10 railroad, or other transportation terminal if the number of
11 employees employed by his employer in such forestry or
12 lumbering operations does not exceed eight; or

13 (m) an employee of a sheriff's department who is
14 working under an established work period in lieu of a
15 workweek pursuant to 7-4-2509(1); or

16 (n) an employee of a municipal or county government
17 if, prior to the performance of the work, the employer and
18 employee agree to a 14-day, 80-hour work period or, in the
19 case of a fire department employee, to any other mutually
20 agreeable work period, including what is known as the Kelly
21 shift. Employment in excess of 80 hours in a 14-day, 80-hour
22 work period or in excess of an amount of time mutually
23 agreed to when fire department employees agree to any other
24 work period must be compensated at a rate of not less than
25 1 1/2 times the hourly wage rate for the employee."

Section 3. Section 39-4-107, MCA, is amended to read:

"39-4-107. State and municipal governments, school districts, mines, mills, and smelters. (1) A period of 8 hours constitutes a day's work in all works and undertakings carried on or aided by any municipal or county government, the state government, or a first-class school district, and on all contracts let by them, and for all janitors (except in courthouses of sixth- and seventh-class counties), engineers, firefighters, caretakers, custodians, and laborers employed in or about any buildings, works, or grounds used or occupied for any purpose by such municipal, county, or state government or first-class school district. A period of 8 hours constitutes a day's work in mills and smelters for the treatment of ores, in underground mines, and in the washing, reducing, and treatment of coal. ~~in cases of emergency when life or property is in imminent danger this~~ This subsection does not apply in the event of an emergency when life or property is in imminent danger or to the situations specified in subsections (2) through (4).

(2) For firefighters in cities of the first and second class, a workweek consists of a maximum of 40 hours during a 5-day week unless a different work period is agreed to under subsection (4).

(3) In counties where regular road and bridge departments are maintained, the county commissioners may,

with the approval of the employees or their duly constituted representative, establish a 40-hour workweek consisting of 4 consecutive 10-hour days. No employee may be required to work in excess of 8 hours in any one workday if he prefers not to.

~~(4) Every person, corporation, stock company, or association of persons who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 or more than \$600 or by imprisonment in the county jail for not less than 30 days or more than 7 months or by both such fine and imprisonment.~~

(4) In municipal and county governments, the employer and employee may agree, prior to the performance of the work, to a workday of more than 8 hours and to a 14-day, 80-hour work period or, in the case of fire department employees, to any other mutually agreeable workday or shift and work period, including what is known as the Kelly shift."

-End-

Approved by Committee
on Labor & Employment
Relations

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

~~Section 1. Section 7-33-4126, MCA, is amended to read:~~

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~~(2) Each member shall be entitled to at least 1 day~~

~~off-duty out of each 8-day period of service without loss of compensation.~~

~~---(3) This section does not apply to the extent that one or more of its provisions relates to a matter that is the subject of a mutual agreement made under 39-4-107(4)."~~

Section 1. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 shall not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores such as babysitting, mowing lawns, cleaning sidewalks;

(c) persons employed directly by the head of a household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) any persons not regular employees thereof who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) handicapped workers engaged in work which is incidental to training or evaluation programs or whose

1 earning capacity is so severely impaired that they are
2 unable to engage in competitive employment;

3 (g) apprentices or learners, who may be exempted by
4 the commissioner for a period not to exceed 30 days of their
5 employment;

6 (h) learners under the age of 18 who are employed as
7 farm workers, provided that such exclusion shall not exceed
8 a period of 180 days from their initial date of employment
9 and further provided that during this exclusion period wages
10 paid such learners may not be less than 50% of the minimum
11 wage rate established in this part;

12 (i) retired or semiretired persons performing
13 part-time incidental work as a condition of their residence
14 on a farm or ranch;

15 (j) any individual employed in a bona fide executive,
16 administrative, or professional capacity as these terms are
17 defined and delimited by regulations of the commissioner;

18 (k) any individual employed by the United States of
19 America.

20 (2) The provisions of 39-3-405 do not apply to:

21 (a) an employee with respect to whom the United States
22 Secretary of Transportation has power to establish
23 qualifications and maximum hours of service pursuant to the
24 provisions of 49 U.S.C. 304;

25 (b) an employee of an employer subject to the

1 provisions of part I of the Interstate Commerce Act;

2 (c) an individual employed as an outside buyer of
3 poultry, eggs, cream, or milk, in their raw or natural
4 state;

5 (d) a salesman, partsman, or mechanic paid on a
6 commission or contract basis and primarily engaged in
7 selling or servicing automobiles, trucks, mobile homes,
8 recreational vehicles, or farm implements if he is employed
9 by a nonmanufacturing establishment primarily engaged in the
10 business of selling such vehicles or implements to ultimate
11 purchasers;

12 (e) a salesman primarily engaged in selling trailers,
13 boats, or aircraft if he is employed by a nonmanufacturing
14 establishment primarily engaged in the business of selling
15 trailers, boats, or aircraft to ultimate purchasers;

16 (f) an employee employed as a driver or driver's
17 helper making local deliveries who is compensated for such
18 employment on the basis of trip rates, or other delivery
19 payment plan, if the commissioner finds that such plan has
20 the general purpose and effect of reducing hours worked by
21 such employees to or below the maximum workweek applicable
22 to them under 39-3-405;

23 (g) an employee employed in agriculture or in
24 connection with the operation or maintenance of ditches,
25 canals, reservoirs, or waterways not owned or operated for

1 profit and not operated on a sharecrop basis and which are
2 used exclusively for supply and storing of water for
3 agricultural purposes;

4 (n) an employee with respect to his employment in
5 agriculture by a farmer, notwithstanding other employment of
6 such employee in connection with livestock auction
7 operations in which such farmer is engaged as an adjunct to
8 the raising of livestock, either on his own account or in
9 conjunction with other farmers, if such employee is:

10 (i) primarily employed during his workweek in
11 agriculture by such farmer; and

12 (ii) paid for his employment in connection with such
13 livestock auction operations at a wage rate not less than
14 that prescribed by 39-3-404;

15 (i) an employee of an establishment commonly
16 recognized as a country elevator, including an establishment
17 which sells products and services used in the operation of a
18 farm, if no more than five employees are employed by the
19 establishment;

20 (j) a driver employed by an employer engaged in the
21 business of operating taxicabs;

22 (k) an employee who is employed with his spouse by a
23 nonprofit educational institution to serve as the parents of
24 children who are orphans or one of whose natural parents is
25 deceased or who are enrolled in such institution and reside

1 in residential facilities of the institution so long as the
2 children are in residence at the institution and so long as
3 such employee and his spouse reside in such facilities and
4 receive, without cost, board and lodging from the
5 institution and are together compensated, on a cash basis,
6 at an annual rate of not less than \$10,000;

7 (l) an employee employed in planting or tending trees;
8 cruising, surveying, or felling timber; or transporting logs
9 or other forestry products to a mill, processing plant,
10 railroad, or other transportation terminal if the number of
11 employees employed by his employer in such forestry or
12 lumbering operations does not exceed eight; or

13 (m) an employee of a sheriff's department who is
14 working under an established work period in lieu of a
15 workweek pursuant to 7-4-2509(1)+1.0c

16 ~~that an employee of a municipal or county government~~
17 ~~if prior to the performance of the work, the employer and~~
18 ~~employee agree to a 14-day, 88-hour work period or in the~~
19 ~~case of a fire department employee to any other mutually~~
20 ~~agreeable work period, including what is known as the Kelly~~
21 ~~shift. Employment in excess of 88 hours in a 14-day, 88-hour~~
22 ~~work period or in excess of an amount of time mutually~~
23 ~~agreed to when fire department employees agree to any other~~
24 ~~work period must be compensated at a rate of not less than~~
25 ~~1 1/2 times the hourly wage rate for the employee~~

(N1) AN EMPLOYEE OF A MUNICIPAL OR COUNTY GOVERNMENT WHO IS WORKING UNDER A WORK PERIOD NOT EXCEEDING 40 HOURS IN A 7-DAY PERIOD ESTABLISHED THROUGH:

(II) A COLLECTIVE BARGAINING AGREEMENT WHEN A COLLECTIVE BARGAINING UNIT REPRESENTS THE EMPLOYEE; OR

(III) BY MUTUAL AGREEMENT OF THE EMPLOYER AND EMPLOYEE WHERE NO BARGAINING UNIT IS RECOGNIZED, EMPLOYMENT IN EXCESS OF 40 HOURS IN A 7-DAY, 40-HOUR WORK PERIOD MUST BE COMPENSATED AT A RATE OF NOT LESS THAN 1 1/2 TIMES THE HOURLY WAGE RATE FOR THE EMPLOYEE."

Section 2. Section 39-4-107, MCA, is amended to read:

"39-4-107. State and municipal governments, school districts, mines, mills, and smelters. (1) A period of 8 hours constitutes a day's work in all works and undertakings carried on or aided by any municipal or county government, the state government, or a first-class school district, and on all contracts let by them, and for all janitors (except in courthouses of sixth- and seventh-class counties), engineers, firefighters, caretakers, custodians, and laborers employed in or about any buildings, works, or grounds used or occupied for any purpose by such municipal, county, or state government or first-class school district. A period of 8 hours constitutes a day's work in mills and smelters for the treatment of ores, in underground mines, and in the washing, reducing, and treatment of coal, in

cases of emergency when life or property is in imminent danger--this. This subsection does not apply in the event of an emergency when life or property is in imminent danger or to the situations specified in subsections (2) through (3) AND (4).

(2) For firefighters in cities of the first and second class, a workweek consists of a maximum of 40 hours during a 5-day week unless a different work period is agreed to under subsection (1).

(3) In counties where regular road and bridge departments are maintained, the county commissioners may, with the approval of the employees or their duly constituted representative, establish a 40-hour workweek consisting of 4 consecutive 10-hour days. No employee may be required to work in excess of 8 hours in any one workday if he prefers not to.

(4) Every person, corporation, stock company, or association of persons who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 or more than \$600 or by imprisonment in the county jail for not less than 30 days or more than 7 months or by both such fine and imprisonment.

(5) In municipal and county governments, the employer and employee may agree prior to the performance of the

1 ~~work to a workday of more than 8 hours and to a 14-day~~
2 ~~88-hour work period or in the case of fire department~~
3 ~~employees to any other mutually agreeable workday or shift~~
4 ~~and work periods including what is known as the Kelly shift~~
5 ~~to a workday of more than 8 hours and to a 7-day, 40-hour~~
6 ~~work period:~~
7 (I) THROUGH A COLLECTIVE BARGAINING AGREEMENT WHEN A
8 COLLECTIVE BARGAINING UNIT PRESENTS THE EMPLOYEE; OR
9 (II) BY THE MUTUAL AGREEMENT OF THE EMPLOYER AND
10 EMPLOYEE WHEN NO BARGAINING UNIT IS RECOGNIZED."

-End-

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(2) Each member shall be entitled to at least 1 day

off-duty out of each 8-day period of service without loss of compensation.

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1 earning capacity is so severely impaired that they are
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1 provisions of part I of the Interstate Commerce Act;

2 (c) an individual employed as an outside buyer of
3 poultry, eggs, cream, or milk, in their raw or natural
4 state;

5 (d) a salesman, partsman, or mechanic paid on a
6 commission or contract basis and primarily engaged in
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8 recreational vehicles, or farm implements if he is employed
9 by a nonmanufacturing establishment primarily engaged in the
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21 business of operating taxicabs;

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23 nonprofit educational institution to serve as the parents of
24 children who are orphans or one of whose natural parents is
25 deceased or who are enrolled in such institution and reside

1 in residential facilities of the institution so long as the
2 children are in residence at the institution and so long as
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4 receive, without cost, board and lodging from the
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13 (m) an employee of a sheriff's department who is
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16 ~~for an employee of a municipal or county government~~
17 ~~if, prior to the performance of the work, the employer and~~
18 ~~employee agree to a 14-day 88-hour work period or, in the~~
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~~(II) AN EMPLOYEE OF A MUNICIPAL OR COUNTY GOVERNMENT WHO IS WORKING UNDER A WORK PERIOD NOT EXCEEDING 40 HOURS IN A 7-DAY PERIOD ESTABLISHED THROUGH:~~

~~(1) A COLLECTIVE BARGAINING AGREEMENT WHEN A COLLECTIVE BARGAINING UNIT REPRESENTS THE EMPLOYEE; OR~~

~~(II) BY MUTUAL AGREEMENT OF THE EMPLOYER AND EMPLOYEE WHERE NO BARGAINING UNIT IS RECOGNIZED. EMPLOYMENT IN EXCESS OF 40 HOURS IN A 7-DAY, 40-HOUR WORK PERIOD MUST BE COMPENSATED AT A RATE OF NOT LESS THAN 1 1/2 TIMES THE HOURLY WAGE RATE FOR THE EMPLOYEE."~~

Section 2. Section 39-4-107, MCA, is amended to read:

"39-4-107. State and municipal governments, school districts, mines, mills, and smelters. (1) A period of 8 hours constitutes a day's work in all works and undertakings carried on or aided by any municipal or county government, the state government, or a first-class school district, and on all contracts let by them, and for all janitors (except in courthouses of sixth- and seventh-class counties), engineers, firefighters, caretakers, custodians, and laborers employed in or about any buildings, works, or grounds used or occupied for any purpose by such municipal, county, or state government or first-class school district. A period of 8 hours constitutes a day's work in mills and smelters for the treatment of ores, in underground mines, and in the washing, reducing, and treatment of coal. In

~~cases of emergency when life or property is in imminent danger--this~~ This subsection does not apply ~~in the event of an emergency when life or property is in imminent danger or to the situations specified in subsections 121 through 131 AND 141.~~

(2) For firefighters in cities of the first and second class, a workweek consists of a maximum of 40 hours during a 5-day week ~~not a 5-day work period is agreed to under subsection 141.~~

(3) In counties where regular road and bridge departments are maintained, the county commissioners may, with the approval of the employees or their duly constituted representative, establish a 40-hour workweek consisting of 4 consecutive 10-hour days. No employee may be required to work in excess of 8 hours in any one workday if he prefers not to.

~~(4) Every person, corporation, stock company, or association of persons who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 or more than \$600 or by imprisonment in the county jail for not less than 30 days or more than 7 months or by both such fine and imprisonment.~~

~~(4) In municipal and county governments, the employer and employee may agree prior to the performance of the~~

1 ~~work to a workday of more than 8 hours and to a 7-day~~
2 ~~40-hour work period or, in the case of fire department~~
3 ~~employees to any other mutually agreeable workday or shift~~
4 ~~and work periods including what is known as the Kelly shift~~
5 ~~to a workday of more than 8 hours and to a 7-day, 40-hour~~
6 ~~work period:~~

7 ~~(i) through a collective bargaining agreement when a~~
8 ~~collective bargaining unit presents the employee; or~~

9 ~~(ii) by the mutual agreement of the employer and~~
10 ~~employee when no bargaining unit is recognized."~~

-End-

April 14, 1983

19

CONFERENCE COMMITTEE ON
SENATE LABOR AND EMPLOYMENT COMMITTEE AMENDMENTS TO HOUSE BILL 281
(Report No. 1)

Mr. Speaker :

We, your Conference Committee on Senate amendments to House Bill 281,
met and considered:

Senate Labor and Employment Relations Committee amendments
of March 24, 1983.

We recommend as follows:

That the House accede to Senate amendments 1 through 6 and
8 through 10;

That the Senate recede from Senate amendments 7 and 11; and

That this Conference Committee Report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1) Page 7, line 9

Strike: "COLLECTIVE" and through "NEGOTIATED" on line 10

Insert: "bargaining unit is recognized"

2) Page 9, line 25

Strike: "COLLECTIVE" and through "NEGOTIATED"

Insert: "bargaining unit is recognized"

FOR THE HOUSE

FOR THE SENATE

Dozier
DOZIER, CHAIR

Keenan
KEENAN

Smith
SMITH

Akkestad
AKKESTAD, CHAIR

Fuller
FULLER

Keating
KEATING

March 24, 1983

SENATE STANDING COMMITTEE REPORT
(Labor & Employment Relations)

That House Bill No. 281 be amended as follows:

1. Title, line 9.
Following: line 8
Insert: "AND BY ALLOWING EMPLOYEES OF HOSPITALS AND SIMILAR
ESTABLISHMENTS TO AGREE TO A 14-DAY, 80-HOUR WORK PERIOD"
2. Page 6, line 15.
Following: ";"
Strike: "or"
3. Page 7, line 3.
Following: "THROUGH"
Strike: ":"
4. Page 7, line 4.
Following: line 3
Strike: "(I)" at the beginning of line 4
5. Page 7, line 5.
Following: "EMPLOYEE"
Strike: "i"
6. Page 7, line 6.
Following: line 5
Strike: "(I)" at the beginning of line 6
7. Page 7, line 7.
Following: "NO"
Strike: "BARGAINING UNIT IS RECOGNIZED"
Insert: "COLLECTIVE BARGAINING AGREEMENT EXISTS OR IS IN THE
PROCESS OF BEING NEGOTIATED"
8. Page 7, line 10.
Following: "EMPLOYEE"
Strike: " " "
Insert: " ; or"
9. Page 7.
Following: line 10
Insert: "(O) AN EMPLOYEE OF A HOSPITAL OR OTHER ESTABLISHMENT
PRIMARILY ENGAGED IN THE CARE OF THE SICK, DISABLED, AGED, OR
MENTALLY ILL OR DEFECTIVE WHO IS WORKING UNDER A WORK PERIOD
NOT EXCEEDING 80 HOURS IN A 14-DAY PERIOD ESTABLISHED THROUGH
EITHER A COLLECTIVE BARGAINING AGREEMENT WHEN A COLLECTIVE
BARGAINING UNIT REPRESENTS THE EMPLOYEE OR BY MUTUAL AGREEMENT
OF THE EMPLOYER AND EMPLOYEE WHERE NO BARGAINING UNIT IS
RECOGNIZED. EMPLOYMENT IN EXCESS OF 8 HOURS PER DAY OR 80 HOURS
IN A 14-DAY PERIOD MUST BE COMPENSATED FOR AT A RATE OF NOT LESS
THAN 1 1/2 TIMES THE HOURLY WAGE RATE FOR THE EMPLOYEE"

SENATE STANDING COMMITTEE REPORT
LABOR & EMPLOYMENT RELATIONS H.B. NO. 281
March 24, 1983
Page 2

10. Page 9, line 8.
Following: "UNIT"
Strike: "PRESENTS"
Insert: "REPRESENTS"
11. Page 9, line 10.
Following: "NO"
Strike: "BARGAINING UNIT IS RECOGNIZED"
Insert: "COLLECTIVE BARGAINING AGREEMENT EXISTS OR IS IN THE
PROCESS OF BEING NEGOTIATED"

HOUSE BILL NO. 281

INTRODUCED BY DOZIER

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROMOTE THE GENERAL WELFARE IN IMPLEMENTATION OF ARTICLE XII, SECTION 2, OF THE MONTANA CONSTITUTION BY ALLOWING EMPLOYEES OF MUNICIPAL AND COUNTY GOVERNMENTS TO AGREE TO WORK MORE THAN 8 HOURS A DAY AND TO AGREE TO A ~~14-DAY, 80-HOUR~~ 7-DAY, 40-HOUR WORK PERIOD ~~AND BY ALLOWING EMPLOYEES OF HOSPITALS AND SIMILAR ESTABLISHMENTS TO AGREE TO A 14-DAY, 80-HOUR WORK PERIOD AND BY ALLOWING FIRE DEPARTMENT EMPLOYEES TO WORK A MUTUALLY AGREEABLE WORKDAY OR SHIFT AND WORK PERIOD; AMENDING SECTIONS 7-33-4126, 39-3-406, AND 39-4-107, MCA."~~

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

~~Section 7-33-4126, MCA, is amended to read:~~

~~"7-33-4126. Hours of work of members of paid fire departments in cities of first or second class--(1) The city council, city commission, or other governing body in cities of the first or second class shall divide all members of the paid fire department into platoons of three shifts. The members of each shift shall not be required to work or be on duty more than 8 hours of each consecutive 24 hours except in the event of a conflagration or other similar emergency when any of such members may be required to serve~~

~~so long as the necessity therefor exists.~~

~~(2) Each member shall be entitled to at least one day off duty out of each 8-day period of service without loss of compensation.~~

~~(3) This section does not apply to the extent that one or more of its provisions relates to a matter that is the subject of a mutual agreement made under 39-4-107(4).~~

Section 1. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 shall not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores such as babysitting, mowing lawns, cleaning sidewalks;

(c) persons employed directly by the head of a household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) any persons not regular employees thereof who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

1 (f) handicapped workers engaged in work which is
2 incidental to training or evaluation programs or whose
3 earning capacity is so severely impaired that they are
4 unable to engage in competitive employment;

5 (g) apprentices or learners, who may be exempted by
6 the commissioner for a period not to exceed 30 days of their
7 employment;

8 (h) learners under the age of 18 who are employed as
9 farm workers, provided that such exclusion shall not exceed
10 a period of 180 days from their initial date of employment
11 and further provided that during this exclusion period wages
12 paid such learners may not be less than 50% of the minimum
13 wage rate established in this part;

14 (i) retired or semiretired persons performing
15 part-time incidental work as a condition of their residence
16 on a farm or ranch;

17 (j) any individual employed in a bona fide executive,
18 administrative, or professional capacity as these terms are
19 defined and delimited by regulations of the commissioner;

20 (k) any individual employed by the United States of
21 America.

22 (2) The provisions of 39-3-405 do not apply to:

23 (a) an employee with respect to whom the United States
24 Secretary of Transportation has power to establish
25 qualifications and maximum hours of service pursuant to the

1 provisions of 49 U.S.C. 304;

2 (b) an employee of an employer subject to the
3 provisions of part I of the Interstate Commerce Act;

4 (c) an individual employed as an outside buyer of
5 poultry, eggs, cream, or milk, in their raw or natural
6 state;

7 (d) a salesman, partsman, or mechanic paid on a
8 commission or contract basis and primarily engaged in
9 selling or servicing automobiles, trucks, mobile homes,
10 recreational vehicles, or farm implements if he is employed
11 by a nonmanufacturing establishment primarily engaged in the
12 business of selling such vehicles or implements to ultimate
13 purchasers;

14 (e) a salesman primarily engaged in selling trailers,
15 boats, or aircraft if he is employed by a nonmanufacturing
16 establishment primarily engaged in the business of selling
17 trailers, boats, or aircraft to ultimate purchasers;

18 (f) an employee employed as a driver or driver's
19 helper making local deliveries who is compensated for such
20 employment on the basis of trip rates, or other delivery
21 payment plan, if the commissioner finds that such plan has
22 the general purpose and effect of reducing hours worked by
23 such employees to or below the maximum workweek applicable
24 to them under 39-3-405;

25 (g) an employee employed in agriculture or in

1 connection with the operation or maintenance of ditches,
2 canals, reservoirs, or waterways not owned or operated for
3 profit and not operated on a sharecrop basis and which are
4 used exclusively for supply and storing of water for
5 agricultural purposes;

6 (h) an employee with respect to his employment in
7 agriculture by a farmer, notwithstanding other employment of
8 such employee in connection with livestock auction
9 operations in which such farmer is engaged as an adjunct to
10 the raising of livestock, either on his own account or in
11 conjunction with other farmers, if such employee is:

12 (i) primarily employed during his workweek in
13 agriculture by such farmer; and

14 (ii) paid for his employment in connection with such
15 livestock auction operations at a wage rate not less than
16 that prescribed by 39-3-404;

17 (i) an employee of an establishment commonly
18 recognized as a country elevator, including an establishment
19 which sells products and services used in the operation of a
20 farm, if no more than five employees are employed by the
21 establishment;

22 (j) a driver employed by an employer engaged in the
23 business of operating taxicabs;

24 (k) an employee who is employed with his spouse by a
25 nonprofit educational institution to serve as the parents of

1 children who are orphans or one of whose natural parents is
2 deceased or who are enrolled in such institution and reside
3 in residential facilities of the institution so long as the
4 children are in residence at the institution and so long as
5 such employee and his spouse reside in such facilities and
6 receive, without cost, board and lodging from the
7 institution and are together compensated, on a cash basis,
8 at an annual rate of not less than \$10,000;

9 (l) an employee employed in planting or tending trees;
10 cruising, surveying, or felling timber; or transporting logs
11 or other forestry products to a mill, processing plant,
12 railroad, or other transportation terminal if the number of
13 employees employed by his employer in such forestry or
14 lumbering operations does not exceed eight; or

15 (m) an employee of a sheriff's department who is
16 working under an established work period in lieu of a
17 workweek pursuant to 7-4-2509(1)=1 or

18 ~~that an employee of a municipal or county government~~
19 ~~if prior to the performance of the work, the employer and~~
20 ~~employee agree to a 14-day, 88-hour work period or, in the~~
21 ~~case of a fire department employee, to any other mutually~~
22 ~~agreeable work period, including what is known as the Kelly~~
23 ~~shift. Employment in excess of 88 hours in a 14-day, 88-hour~~
24 ~~work period or in excess of an amount of time mutually~~
25 ~~agreed to when fire department employees agree to any other~~

1 ~~work-period-must-be-compensated-at-a-rate-of-not-less-than~~
 2 ~~1-1/2-times-the-hourly-wage-rate-for-the-employee~~
 3 ~~IN AN EMPLOYEE OF A MUNICIPAL OR COUNTY GOVERNMENT~~
 4 ~~WHO IS WORKING UNDER A WORK PERIOD NOT EXCEEDING 40 HOURS IN~~
 5 ~~A 7-DAY PERIOD ESTABLISHED THROUGH:~~
 6 ~~1. A COLLECTIVE BARGAINING AGREEMENT WHEN A~~
 7 ~~COLLECTIVE BARGAINING UNIT REPRESENTS THE EMPLOYEE; OR~~
 8 ~~2. BY MUTUAL AGREEMENT OF THE EMPLOYER AND EMPLOYEE~~
 9 ~~WHERE NO BARGAINING UNIT IS RECOGNIZED COLLECTIVE BARGAINING~~
 10 ~~AGREEMENT EXISTS OR IS IN THE PROCESS OF BEING NEGOTIATED.~~
 11 ~~EMPLOYMENT IN EXCESS OF 40 HOURS IN A 7-DAY, 40-HOUR WORK~~
 12 ~~PERIOD MUST BE COMPENSATED AT A RATE OF NOT LESS THAN 1 1/2~~
 13 ~~TIMES THE HOURLY WAGE RATE FOR THE EMPLOYEE.~~
 14 ~~(1) AN EMPLOYEE OF A HOSPITAL OR OTHER ESTABLISHMENT~~
 15 ~~PRIMARILY ENGAGED IN THE CARE OF THE SICK, DISABLED, AGED,~~
 16 ~~OR MENTALLY ILL OR DEFECTIVE WHO IS WORKING UNDER A WORK~~
 17 ~~PERIOD NOT EXCEEDING 80 HOURS IN A 14-DAY PERIOD ESTABLISHED~~
 18 ~~THROUGH EITHER A COLLECTIVE BARGAINING AGREEMENT WHEN A~~
 19 ~~COLLECTIVE BARGAINING UNIT REPRESENTS THE EMPLOYEE OR BY~~
 20 ~~MUTUAL AGREEMENT OF THE EMPLOYER AND EMPLOYEE WHERE NO~~
 21 ~~BARGAINING UNIT IS RECOGNIZED. EMPLOYMENT IN EXCESS OF 8~~
 22 ~~HOURS PER DAY OR 80 HOURS IN A 14-DAY PERIOD MUST BE~~
 23 ~~COMPENSATED FOR AT A RATE OF NOT LESS THAN 1 1/2 TIMES THE~~
 24 ~~HOURLY WAGE RATE FOR THE EMPLOYEE."~~

25 Section 2. Section 39-4-107, MCA, is amended to read:

1 "39-4-107. State and municipal governments, school
 2 districts, mines, mills, and smelters. (1) A period of 8
 3 hours constitutes a day's work in all works and undertakings
 4 carried on or aided by any municipal or county government,
 5 the state government, or a first-class school district, and
 6 on all contracts let by them, and for all janitors (except
 7 in courthouses of sixth- and seventh-class counties),
 8 engineers, firefighters, caretakers, custodians, and
 9 laborers employed in or about any buildings, works, or
 10 grounds used or occupied for any purpose by such municipal,
 11 county, or state government or first-class school district.
 12 A period of 8 hours constitutes a day's work in mills and
 13 smelters for the treatment of ores, in underground mines,
 14 and in the washing, reducing, and treatment of coal. In
 15 cases--of--emergency--when--life--or--property--is--in--imminent
 16 danger--this This subsection does not apply in the event of
 17 an emergency when life or property is in imminent danger or
 18 to the situations specified in subsections (2)--through (3)
 19 AND (4).

20 (2) For firefighters in cities of the first and second
 21 class, a workweek consists of a maximum of 40 hours during a
 22 5-day week ~~unless a different work period is agreed to under~~
 23 ~~subsection (4).~~

24 (3) In counties where regular road and bridge
 25 departments are maintained, the county commissioners may,

1 with the approval of the employees or their duly constituted
2 representative, establish a 40-hour workweek consisting of 4
3 consecutive 10-hour days. No employee may be required to
4 work in excess of 8 hours in any one workday if he prefers
5 not to.

6 ~~(4) Every person, corporation, stock company, or~~
7 ~~association of persons who violates any of the provisions of~~
8 ~~this section is guilty of a misdemeanor and upon conviction~~
9 ~~thereof shall be punished by a fine of not less than \$100 or~~
10 ~~more than \$600 or by imprisonment in the county jail for not~~
11 ~~less than 30 days or more than 7 months or by both such fine~~
12 ~~and imprisonment.~~

13 (4) In municipal and county governments, the employer
14 and employee may agree prior to the performance of the
15 work to a workday of more than 8 hours and to a 14-day
16 88-hour work period or in the case of fire department
17 employees to any other mutually agreeable workday or shift
18 and work periods including what is known as the Kelly shift
19 to a workday of more than 8 hours and to a 7-day, 40-hour
20 work period.

21 (A) THROUGH A COLLECTIVE BARGAINING AGREEMENT WHEN A
22 COLLECTIVE BARGAINING UNIT PRESENTS REPRESENTS THE EMPLOYEE;
23 OR

24 (B) BY THE MUTUAL AGREEMENT OF THE EMPLOYER AND
25 EMPLOYEE WHEN NO BARGAINING UNIT IS RECOGNIZED COLLECTIVE

1 BARGAINING AGREEMENT EXISTS OR IS IN THE PROCESS OF BEING
2 NEGOTIATED."

-End-

HOUSE BILL NO. 281

INTRODUCED BY DOZIER

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROMOTE THE GENERAL WELFARE IN IMPLEMENTATION OF ARTICLE XII, SECTION 2, OF THE MONTANA CONSTITUTION BY ALLOWING EMPLOYEES OF MUNICIPAL AND COUNTY GOVERNMENTS TO AGREE TO WORK MORE THAN 8 HOURS A DAY AND TO AGREE TO A 14-DAY, 80-HOUR 1-DAY, 40-HOUR WORK PERIOD AND BY ALLOWING EMPLOYEES OF HOSPITALS AND SIMILAR ESTABLISHMENTS TO AGREE TO A 14-DAY, 80-HOUR WORK PERIOD AND BY ALLOWING FIRE DEPARTMENT EMPLOYEES TO WORK A MUTUALLY AGREEABLE WORKDAY OR SHIFT AND WORK PERIOD; AMENDING SECTIONS 7-33-4126, 39-3-406, AND 39-4-107, MCA."

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

Section 1. Section 7-33-4126, MCA, is amended to read:

"7-33-4126. Hours of work of members of paid fire departments in cities of first or second class--(1) The city council, city commission or other governing body in cities of the first or second class shall divide all members of the paid fire department into platoons of three shifts. The members of each shift shall not be required to work or be on duty more than 8 hours of each consecutive 24 hours except in the event of a conflagration or other similar emergency when any of such members may be required to serve

so long as the necessity therefor exists.

(2) Each member shall be entitled to at least 1 day off duty out of each 8-day period of service without loss of compensation.

~~(3) This section does not apply to the extent that one or more of its provisions relates to a matter that is the subject of a mutual agreement made under 39-4-107(4).~~

Section 1. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 shall not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores such as babysitting, mowing lawns, cleaning sidewalks;

(c) persons employed directly by the head of a household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) any persons not regular employees thereof who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

1 (f) handicapped workers engaged in work which is
2 incidental to training or evaluation programs or whose
3 earning capacity is so severely impaired that they are
4 unable to engage in competitive employment;

5 (g) apprentices or learners, who may be exempted by
6 the commissioner for a period not to exceed 30 days of their
7 employment;

8 (h) learners under the age of 18 who are employed as
9 farm workers, provided that such exclusion shall not exceed
10 a period of 180 days from their initial date of employment
11 and further provided that during this exclusion period wages
12 paid such learners may not be less than 50% of the minimum
13 wage rate established in this part;

14 (i) retired or semiretired persons performing
15 part-time incidental work as a condition of their residence
16 on a farm or ranch;

17 (j) any individual employed in a bona fide executive,
18 administrative, or professional capacity as these terms are
19 defined and delimited by regulations of the commissioner;

20 (k) any individual employed by the United States of
21 America.

22 (2) The provisions of 39-3-405 do not apply to:

23 (a) an employee with respect to whom the United States
24 Secretary of Transportation has power to establish
25 qualifications and maximum hours of service pursuant to the

1 provisions of 49 U.S.C. 304;

2 (b) an employee of an employer subject to the
3 provisions of part I of the Interstate Commerce Act;

4 (c) an individual employed as an outside buyer of
5 poultry, eggs, cream, or milk, in their raw or natural
6 state;

7 (d) a salesman, partsman, or mechanic paid on a
8 commission or contract basis and primarily engaged in
9 selling or servicing automobiles, trucks, mobile homes,
10 recreational vehicles, or farm implements if he is employed
11 by a nonmanufacturing establishment primarily engaged in the
12 business of selling such vehicles or implements to ultimate
13 purchasers;

14 (e) a salesman primarily engaged in selling trailers,
15 boats, or aircraft if he is employed by a nonmanufacturing
16 establishment primarily engaged in the business of selling
17 trailers, boats, or aircraft to ultimate purchasers;

18 (f) an employee employed as a driver or driver's
19 helper making local deliveries who is compensated for such
20 employment on the basis of trip rates, or other delivery
21 payment plan, if the commissioner finds that such plan has
22 the general purpose and effect of reducing hours worked by
23 such employees to or below the maximum workweek applicable
24 to them under 39-3-405;

25 (g) an employee employed in agriculture or in

1 connection with the operation or maintenance of ditches,
2 canals, reservoirs, or waterways not owned or operated for
3 profit and not operated on a sharecrop basis and which are
4 used exclusively for supply and storing of water for
5 agricultural purposes;

6 (h) an employee with respect to his employment in
7 agriculture by a farmer, notwithstanding other employment of
8 such employee in connection with livestock auction
9 operations in which such farmer is engaged as an adjunct to
10 the raising of livestock, either on his own account or in
11 conjunction with other farmers, if such employee is:

12 (i) primarily employed during his workweek in
13 agriculture by such farmer; and

14 (ii) paid for his employment in connection with such
15 livestock auction operations at a wage rate not less than
16 that prescribed by 39-3-404;

17 (i) an employee of an establishment commonly
18 recognized as a country elevator, including an establishment
19 which sells products and services used in the operation of a
20 farm, if no more than five employees are employed by the
21 establishment;

22 (j) a driver employed by an employer engaged in the
23 business of operating taxicabs;

24 (k) an employee who is employed with his spouse by a
25 nonprofit educational institution to serve as the parents of

1 children who are orphans or one of whose natural parents is
2 deceased or who are enrolled in such institution and reside
3 in residential facilities of the institution so long as the
4 children are in residence at the institution and so long as
5 such employee and his spouse reside in such facilities and
6 receive, without cost, board and lodging from the
7 institution and are together compensated, on a cash basis,
8 at an annual rate of not less than \$10,000;

9 (l) an employee employed in planting or tending trees;
10 cruising, surveying, or felling timber; or transporting logs
11 or other forestry products to a mill, processing plant,
12 railroad, or other transportation terminal if the number of
13 employees employed by his employer in such forestry or
14 lumbering operations does not exceed eight; or

15 (m) an employee of a sheriff's department who is
16 working under an established work period in lieu of a
17 workweek pursuant to 7-4-2509(1); ~~or~~

18 ~~that no employee of a municipal or county government~~
19 ~~if, prior to the performance of the work, the employer and~~
20 ~~employee agree to a 15-day, 80-hour work period or, in the~~
21 ~~case of a fire department employee, to any other mutually~~
22 ~~agreeable work period, including what is known as the Kelly~~
23 ~~shift. Employment in excess of 80 hours in a 15-day, 80-hour~~
24 ~~work period or in excess of an amount of time mutually~~
25 ~~agreed to when fire department employees agree to any other~~

~~work-period-must-be-compensated-at-a-rate-of-not-less-than
1-1/2-times-the-hourly-wage-rate-for-the-employee~~

(1) AN EMPLOYEE OF A MUNICIPAL OR COUNTY GOVERNMENT
WHO IS WORKING UNDER A WORK PERIOD NOT EXCEEDING 40 HOURS IN
A 7-DAY PERIOD ESTABLISHED THROUGH:

~~(1) A COLLECTIVE BARGAINING AGREEMENT WHEN A
COLLECTIVE BARGAINING UNIT REPRESENTS THE EMPLOYEE; OR~~

~~(2) BY MUTUAL AGREEMENT OF THE EMPLOYER AND EMPLOYEE
WHERE NO BARGAINING UNIT IS RECOGNIZED COLLECTIVE BARGAINING
AGREEMENT EXISTS OR IS IN THE PROCESS OF BEING NEGOTIATED
BARGAINING UNIT IS RECOGNIZED. EMPLOYMENT IN EXCESS OF 40
HOURS IN A 7-DAY, 40-HOUR WORK PERIOD MUST BE COMPENSATED AT
A RATE OF NOT LESS THAN 1 1/2 TIMES THE HOURLY WAGE RATE FOR
THE EMPLOYEE.~~

(1) AN EMPLOYEE OF A HOSPITAL OR OTHER ESTABLISHMENT
PRIMARILY ENGAGED IN THE CARE OF THE SICK, DISABLED, AGED,
OR MENTALLY ILL OR DEFECTIVE WHO IS WORKING UNDER A WORK
PERIOD NOT EXCEEDING 80 HOURS IN A 14-DAY PERIOD ESTABLISHED
THROUGH EITHER A COLLECTIVE BARGAINING AGREEMENT WHEN A
COLLECTIVE BARGAINING UNIT REPRESENTS THE EMPLOYEE OR BY
MUTUAL AGREEMENT OF THE EMPLOYER AND EMPLOYEE WHERE NO
BARGAINING UNIT IS RECOGNIZED. EMPLOYMENT IN EXCESS OF 8
HOURS PER DAY OR 80 HOURS IN A 14-DAY PERIOD MUST BE
COMPENSATED FOR AT A RATE OF NOT LESS THAN 1 1/2 TIMES THE
HOURLY WAGE RATE FOR THE EMPLOYEE."

Section 2. Section 39-4-107, MCA, is amended to read:

"39-4-107. State and municipal governments, school
districts, mines, mills, and smelters. (1) A period of 8
hours constitutes a day's work in all works and undertakings
carried on or aided by any municipal or county government,
the state government, or a first-class school district, and
on all contracts let by them, and for all janitors (except
in courthouses of sixth- and seventh-class counties),
engineers, firefighters, caretakers, custodians, and
laborers employed in or about any buildings, works, or
grounds used or occupied for any purpose by such municipal,
county, or state government or first-class school district.
A period of 8 hours constitutes a day's work in mills and
smelters for the treatment of ores, in underground mines,
and in the washing, reducing, and treatment of coal. In
cases of emergency when life or property is in imminent
danger this subsection does not apply in the event of
an emergency when life or property is in imminent danger or
to the situations specified in subsections (2) through (3)
and (4).

(2) For firefighters in cities of the first and second
class, a workweek consists of a maximum of 40 hours during a
5-day week ~~unless a different work period is agreed to under
subsection (1).~~

(3) In counties where regular road and bridge

1 departments are maintained, the county commissioners may,
 2 with the approval of the employees or their duly constituted
 3 representative, establish a 40-hour workweek consisting of 4
 4 consecutive 10-hour days. No employee may be required to
 5 work in excess of 8 hours in any one workday if he prefers
 6 not to.

7 ~~(4) Every person, corporation, stock company, or~~
 8 ~~association of persons who violates any of the provisions of~~
 9 ~~this section is guilty of a misdemeanor and upon conviction~~
 10 ~~thereof shall be punished by a fine of not less than \$100 or~~
 11 ~~more than \$600 or by imprisonment in the county jail for not~~
 12 ~~less than 30 days or more than 7 months or by both such fine~~
 13 ~~and imprisonment.~~

14 ~~(4) In municipal and county governments, the employer~~
 15 ~~and employee may agree prior to the performance of the~~
 16 ~~work to a workday of more than 8 hours and to a 4-day~~
 17 ~~80-hour work period or in the case of fire department~~
 18 ~~employees to any other mutually agreeable workday or shift~~
 19 ~~and work periods including what is known as the Kelly shift~~
 20 ~~TO A WORKDAY OF MORE THAN 8 HOURS AND TO A 7-DAY, 40-HOUR~~
 21 ~~WORK PERIOD:~~

22 ~~(A) THROUGH A COLLECTIVE BARGAINING AGREEMENT WHEN A~~
 23 ~~COLLECTIVE BARGAINING UNIT PRESENTS REPRESENTS THE EMPLOYEE;~~
 24 ~~OR~~

25 ~~(B) BY THE MUTUAL AGREEMENT OF THE EMPLOYER AND~~

1 EMPLOYEE WHEN NO BARGAINING UNIT IS RECOGNIZED COLLECTIVE
 2 BARGAINING AGREEMENT EXISTS OR IS IN THE PROCESS OF BEING
 3 NEGOTIATED BARGAINING UNIT IS RECOGNIZED."

-End-