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HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the House Labor and Employment Relations Committee was held on Wednesday, February 16, 1977, at 10:00 a.m. in Room 225 of the State Capitol. All members were present.

The first bill heard was HOUSE BILL 700. The sponsor Representative Brand explained that this bill would further pursue the legislative intent of executive reorganization. It would penalize no one except those wedded to the status quo; see prepared statement. Bill Gosnell, Fiscal Analyst's Office, then spoke. This is a centralizing bill; we need a mechanism for nonunion employees to be heard. He stressed that he was neither an advocate nor an opponent, but from the fiscal viewpoint the state does need to do something to gain control over this situation. Duane Johnson then spoke. He is the Administrator of the State Personnel Division, Department of Administration. He submitted a "REVISED LEGISLATIVE REPORT". He stated that the bill represents in part an effort that has gone on for over a year to try to consolidate the fragmented personnel functions of the state which are extremely costly to the taxpayer and also are inefficient. The bill splits off the classification grievances function from the Board of Personnel Appeals and puts it into a board equivalent to the Merit System Council. It will also hear EEO grievances statewide. The bill consolidates into one area many personnel functions which are currently being duplicated. Jack Crosser, Director of the Department of Administration, then spoke; see prepared testimony. He stressed that merit principles were not being done away with, they were merely being extended to all agencies. Contrary to what some opponents may infer, there is no risk to federal funding in the proposed reorganization. George A. Losleben, Staff Attorney for the Personnel Division, Department of Administration then testified. He distributed a handout labeled "Exhibit A"; see attached copy. This will continue the Merit System functions to the Department of Administration.

The opponents to HOUSE BILL 700 then testified. Clifford T. McGillvery, Administrator of the Merit System Council spoke first. He handed out a paper entitled: "STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION". He had talked to the Civil Service Advisor, who intends to submit that body's comments in writing to the sponsors of the bill. He then pointed out several problems with the bill. Under Section 1 of the bill, the Federal agencies do not understand what "merit system continued" means. Stan Gerke then spoke, representing the AFSCME-AFL-CIO; see prepared statement. Tom Schneider, Executive Director of the Montana Public Employees Association then spoke. Over a year ago the Personnel Division drafted a grievance procedure, but did not implement it. Through present law they do have the right to set one up. Nothing says the current Merit System is going to be expanded to anyone. The Board only has the power to review in the bill. The classification, reviewing and appeal functions would be in the same Department. He objects to this. The present system is proper and has worked very well. The Board

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of Personnel Appeals should split the function under their own Board. Every reason to adopt the bill can be done under the current law. Representative Lynch then spoke up, wishing to go on record as an opponent. The Appropriations Subcommittee, which he chairs, has studied this area.

The sponsor of House Bill 700 then referred the closing statements to Mr. Duane Johnson. One of the best ways to kill a proposal, Mr. Johnson stated, is to raise doubts that can not be substantiated. "Denver" has had a copy of the bill, he admitted, but they had made no official comments as yet and he urged that the committee take this into consideration. This is only a realigning of responsibilities, a new board is not being formed; therefore, it is not creating a new bureaucracy. He finished by stating that the Board of Personnel Appeals had never been set up to be an appeals board and if they continue to perform these duties, they will need additional staff. Questions were then asked. This bill will require funding, although the fiscal note is not attached to the bill yet. According to Mr. Schneider, the Board of Personnel Appeals was established to hear appeals when the act was passed. The hearing was closed.

HOUSE BILL 659 was then heard. Representative Lynch as chief sponsor of the bill explained that the bill addresses the problem that when a police officer is injured that he should in fact be paid while he is recuperating and should be assigned to light duty. It is a protection bill for those people. Representative Porter pointed out that this procedure has been followed for years in Billings. Stan Gerke, AFSCME, AFL-CIO, then stated that contracts have recognized this around the state for sometime, also. Gerald Dunbar, Montana Chiefs of Police Association, then spoke. Montana has needed this bill for some time; it is a well-written bill. He urged its passage. There were no opponents to House Bill 659. Questions followed. It was brought out that present policy depends on the municipality the policeman is working in. In many areas the policeman has to go on unemployment or workers' compensation. Workers' Compensation would take care of the permanently disabled person. This bill would not force the police departments to rehire anyone. The hearing was then closed.

HOUSE JOINT RESOLUTION 47, sponsored by Representative Kimble, was heard next. See prepared statement. The Environmental Quality Council initiated this resolution. A letter supporting this resolution was received by Representative Kimble from Mr. Dave Fuller, Department of Labor and Industry. A representative from the Council was available at the meeting to answer any questions. There were no further proponents. There were no opponents. Questions followed. No fiscal note had been ordered for the resolution because no great cost had been anticipated; however, the chairman agreed to order one.

HOUSE BILL 690 was the last bill to be heard. The sponsor, Representative Ramirez, explained that this bill concerned disqualification from benefits under the Unemployment Compensation Act. The bill makes one basic change. Under present law, if the

unemployed person has failed to either apply for or accept suitable work, then he is disqualified. The disqualification period is that time he refuses plus up to two to five more weeks. There is no change to this law. Suitable work is defined as work for which the recipient is physically able and mentally qualified to perform. That rule is not changed. In determining what is suitable work, there are a number of other factors taken into account. These factors will not be changed except two: length of unemployment and previous earnings. This bill would set up a standard for length of unemployment and amount of previous earnings so that the longer the person is unemployed the less desirable from an economic standpoint the job he could take should be. The longer a person is unemployed the more important it is to get him back to work. This amendment would give a definite breakdown of how soon he should start seeking a less attractive job. Rod Wilson, Billings Chamber of Commerce, then spoke. He is in favor of the philosophy of the bill. It would bring encouragement to those who are unemployed, to seek work rather than wait out the entire unemployment period. Forrest Boles, Montana Chamber of Commerce, spoke next. This would help relieve pressure on the unemployment fund.

The opponents to House Bill 690 spoke. First was Mr. Fred Barrett, Employment Security. He feels that the bill does not do what it is intended to do. Under the present criteria, a person is disqualified because he does not accept a job which is equal to the prevailing wage rate. Under this bill, this would be changed. This legislation would make his job more difficult and confusing. Jim Murry, Montana State AFL-CIO spoke next. There is a problem with the bill in that it is in conflict with the U. S. Department of Labor policy concerning prevailing wages. This measure could very well open the door for employer abuse of the minimum wage law. Carried to the extreme this bill would allow an employer to hire the employee back at 75% of his original wage, after a period of time. If the employee refuses to come back to work, he would be disqualified from benefits. He reiterated that the fund is not broke because of increased benefits; rather it is broke because of the economy.

The sponsor then closed. He expressed discontentment with Mr. Barrett for not having come to him previously, knowing as he did that there were problems with the bill. He feels that the state needs to build some kind of incentive into the law for unemployed persons to get back to work. He expressed willingness to work with the committee on the technical problems of the bill. Questions were then asked.

The committee then went into executive session and considered the following bills:

HOUSE JOINT RESOLUTION 47 - Representative Baeth moved it DO PASS;

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Representative Williams seconded it. Discussion took place. Representative Turner was opposed to the resolution. Representative Baeth withdrew his motion. It was agreed to postpone action on the resolution until a fiscal note could be completed.

HOUSE BILL 331 - Representative Lynch moved that it DO NOT PASS; Representative Baeth seconded the motion. Discussion took place and the question was then called for. Motion carried with Representatives Ellerd, Turner, Wyrick, Porter and Sivertsen opposed.

HOUSE BILL 319 - A motion was made and seconded that it DO PASS AS AMENDED. Motion carried with Representative Ellerd opposed.

HOUSE BILL 296 - A straw vote was taken to determine whether or not the committee would accept it if amended to read "may" instead of "shall". Representative Kimble informed the committee that the sponsor was not in favor of this amendment. A motion of DO NOT PASS was made and seconded. Motion carried, with Representatives Lynch, Dassinger and Kimble opposed.

HOUSE JOINT RESOLUTION 25 - Chairman Kimble announced that the chief sponsor would be opposed to any amendments to the resolution.

Representative Lynch then moved that it DO NOT PASS; Representative Baeth seconded the motion. Motion carried unanimously.

HOUSE BILL 370 - This bill had been moved back to committee on the assumption that amendments would be submitted. Nothing had been received. It was elected to give the proponents and opponents one more legislative day to work the amendments out.

HOUSE BILL 458 - Representative Lynch moved DO NOT PASS; Representative Dassinger seconded the motion. Discussion took place. Representative Ellerd moved to amend the bill to 55%. Representative Porter seconded the motion. Further discussion occurred. The question was called for on the motion to amend the bill. The motion failed with Representatives Brand, Lynch, Dassinger, Baeth, Kanduch and Teague opposed. Representatives Porter, Wyrick, Ellerd and Turner were in favor of the motion. The original motion was once again before the committee. Representative Ellerd made a substitute motion that House Bill 458 DO PASS. Question was called for and the motion failed, with Representatives Teague, Brand, Lynch, Dassinger, Baeth, Williams and Kanduch opposed and Representatives Porter, Ellerd, Wyrick, Turner and Sivertsen in favor. The original question was then called for and the votes on the previous motion were switched. The motion of DO NOT PASS carried.

SENATE BILL 141 - Representative Lynch moved to CONCUR; Representative Brand seconded it. Motion carried unanimously.

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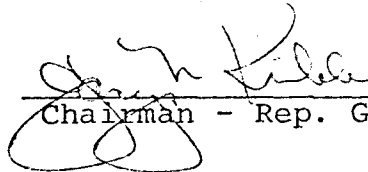
HOUSE BILL 582 - Representative Feda had worked out some amendments; see copy. The amendments were moved and seconded. Motion carried unanimously. It was moved and seconded that the bill DO PASS AS AMENDED. Motion carried with Representative Ellerd opposed.

HOUSE BILL 581 - Representative Dassinger moved that it DO PASS; Representative Baeth seconded the motion. Motion carried with Representative Ellerd opposed.

HOUSE BILL 670 - The chairman was also chief sponsor of this measure. He suggested that the bill be left in committee in view of the fact that all of the parties involved had agreed that nothing should be done about this matter during this session of the Legislature. All members were in agreement that the bill remain in committee.

Representative Menahan presented a proposed committee bill. Via roll call vote later that day the committee approved its drafting.

Meeting was adjourned.



Chairman - Rep. Gary N. Kimble

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Secretary