

MINUTES OF THE MEETING OF
HOUSE APPROPRIATIONS SUBCOMMITTEE ON ELECTED OFFICIALS
MONTANA HOUSE OF REPRESENTATIVES

February 16, 1977

8:10 a.m.

Attorney General's Office
State Capitol Building

The meeting was called to order at 8:10 a.m. by Chairman Lynch with all members present, except Senator Lockrem who was excused. The subject of the hearing: Department of Justice - Workmen's Compensation.

Chief Special Prosecutor Robert S. Keller discussed and explained some of the workmen's compensation cases and how they are being handled.

Senator Regan asked if there were funds remaining for this purpose from last year that could be used. Mr. Robert Kuchenbrod, Central Services Division Administrator, explained that about \$68,000 was reverted back on December 31, 1976. In 1976, about \$25,000 was left; and in 1975, about \$22,000 was reverted back. This is a total of approximately \$116,000.

If the court should find that Mr. Bretz is not a pauper and that he does have funds, Senator Regan asked, then would the amount of funding needed be reduced? Mr. Keller said the amount would not be reduced because the court appoints attorneys with the understanding that the State will be paying them. The State would still have to pay the attorney, but they could later take actions to collect the money from the client.

On page 8 of the attached cost estimates, it was explained that the item "Unanticipated Defense Costs" includes costs that may have to be incurred if some of the individuals declare themselves indigent and the state would have to pick up the rest of the costs for the case.

Attorney General Mike Greely discussed the budget requests for this program and answered questions regarding some of the cases. He indicated that he took office on January 3, 1977, and they are starting from there and are trying to complete the cases as rapidly as possible. He felt it was better for them to present their own budget and work from that. This would enable the legislature to know where they are and what they need to do the job.

Mr. Greely discussed the newly appointed special prosecutors, saying that there is a wealth of experience and talent on his staff. He feels that he and his staff have a duty as attorneys to the state and the Bar Association to see that the job is being done in the best, most efficient and expeditious manner possible. He indicated that he

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had initially thought their costs would be less than the amount they are requesting, but he now feels that this amount is a very realistic amount of money. He will try everything in his power to keep the costs down.

The Legislative Audit Committee has been a part of the investigation since its inception, Mr. Greely said. They have received periodic reports and will continue to receive these from the Attorney General, regardless of the situation. He did suggest that this also be put in the bill, even though they will make reports whether or not they are required to. He has instructed the Central Services Division to give detailed quarterly reports to the Legislative Audit Committee.

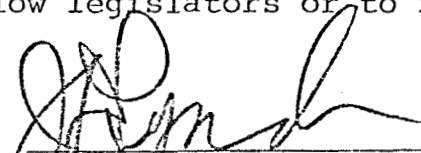
Another point Mr. Greely made was that he is going to try to keep all workmen's compensation costs totally separate from other expenses of his office. He is going to try to keep it as clean and separate as possible.

Mr. Greely also asked that defense costs for workmen's compensation rest with the Department of Administration. He would like to keep that aspect separate from the prosecution. The way it works now, the Central Services Division pays all fees and expenses as ordered by the court. As prosecutors, he said, we will be making sure that the fees are fair and equitable and not excessive; they would review the bills and forward them to the Department of Administration for payment. The defense costs to the state are estimated to be \$116,700 for the biennium.

Senator Nelson asked if a defendant could select his own attorney and expect the state to pay the fees. Mr. Keller explained that the court appoints the attorney for a defendant who declares himself indigent and the person has little discretion in the selection. The defendant does have the right to competent counsel. In the Bretz case, Mr. Keller explained, Mr. Moses was his attorney prior to his declaration of indigence. Therefore, the court appointed him in the case for the appeal.

Mr. Greely, in response to a question, said they are projecting most of the cases would be completed by June 30, 1977. One or two trials may go on into the fall as there are no jury trials during the summer months. They are doing everything they can to bring these cases to trial immediately. The majority of the expenditures they expect to occur between now and June 30. He agreed to pay the counsel and would pay them out of the legal services budget if they don't have the other funding; but he would rather not have to use the legal services funds. He would prefer that the entire budget be considered as soon as possible unless there is a method whereby they could start making payments. Mr. Kuchenbrod and Mr. Gosnell will work together on this.

In closing, Mr. Keller said the legislators have a right to know what is being done with the workmen's comp. cases and the committee members should feel free to discuss them with fellow legislators or to refer them to Mr. Keller or Mr. Greely.



J.D. Lynch, Chairman