

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

February 2, 1977

The tenth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lee on the above date in Room 402 of the State Capitol Building at 9:30 a.m.

ROW CALL: All members present with Senator Goodover excused.

CONSIDERATION OF SB 186: An act for providing penalties for filing delinquent contribution reports under the Unemployment Compensation Law.

Harold Kansier, representing Employment Security Division, introduced this bill to the committee. At the present time, the law does not provide for a penalty for late filing. There is an average of 1400 employers a quarter who are delinquent in the filing of reports. A penalty for filing a late report should reduce the number of late reports. These reports are necessary to establish the tax liability and to provide wage credit information for the establishment of benefit eligibility.

Interest charge of 1/2 of 1 percent at the present time is a very low interest charge. This bill would provide a \$10 or 10% penalty, whichever is greater. Increased penalty assessment hopefully would provide for more prompt payment of contributions.

Fred Barrett, representing the Employment Security Division, also appeared in support of this bill. Mr. Barrett explained the process of penalizing a employer. If it is the first time an employer has missed a filing date, in good faith judgment, he will decide whether or not to fine him.

Discussion was then held by the committee.

Senator Lowe moved that Senate Bill 186 DO PASS. The motion carried unanimously.

CONSIDERATION OF SB 187: An act to amend sections to avoid the possibility of double jeopardy.

Fred Barrett, of Employment Security Division, introduced this bill to the committee. The present law provides that a person shall be punished by a fine of not less than \$50 or more than \$500, or by imprisonment for not less than three days or more than thirty days. He is disqualified from benefits for a period of 10 to 52 weeks. This is double jeopardy. No person should be penalized twice. This section of the law comes under scrutiny of federal requirements. They have asked us to amend the law and to get rid of this double jeopardy penalty.

In either circumstance, the employer is required to repay the division either directly or as authorized by the division.

Moody Brickett, representing the Employment Security Division, also appeared in support of this bill. No case in the country contends to double jeopardy. Criminals should be punished, but they don't have to be punished too heavily. Knowing that the fine is only \$50, most people will plead guilty without advice of an attorney. The question is whether or not you people think it is right to penalize them under the present double jeopardy law. This bill would provide that you avoid the possibility of double jeopardy.

Chad Smith, representing the Unemployment Compensation Advisory, appeared in opposition to this bill. It is a very simplified area in the relationship that the State of Montana has with the public. The people are concerned with whether the unemployment funds are being abused. Double jeopardy means that you are twice being tried for the same crime. This statutory has never been jeopardy to the basis of double jeopardy.

Mr. Smith suggested that the following amendments be made. Amend page 2, line 4. Strike: "or", Insert: "and". Amend page 2, line 23. Following: "entitled" Insert: "or by a combination of both". The penalty was intended to be either or both.

Discussion was then held by the committee. A decision was deferred until later so the committee could look the proposed amendments.

CONSIDERATION OF SB 357: An act requiring Workers' Compensation policies written by private insurance carriers be written on a continuous basis until prior notice of termination has been submitted.

Senator Smith moved that SB 357 DO PASS. The motion carried unanimously.

CONSIDERATION OF SB 358: An act concerning the definition of employee under the Workers' Compensation Act.

Senator Himsel moved that SB 358 DO PASS. The motion carried unanimously.

ADJOURN:

There being no further business, the meeting was adjourned at 10:45 a.m.


Robert E. Lee, Chairman

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 2/2

[illegible]

LABOR

COMMITTEE

BILL 186 187

VISITORS' REGISTER

DATE 2/2

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE BILL 186
MONTANA EMPLOYMENT SECURITY DIVISION
PENALTY AND INTEREST

This bill would increase the penalty and interest provisions of the Montana Employment Security Division.

These penalty and interest provisions have not been changed since originally enacted in 1936. They are the lowest penalty and interest provisions of any agency in the state and lower than practically all Employment Security agencies in the United States.

First, this agency, like most others, does not have a penalty for the late filing of reports. Every quarter the agency experiences an average of 1400 delinquencies or at least 5600 reports a year that they must follow up on to obtain reports through notice letters and field staff. This also means a considerable amount of contributions which do not reach the Trust Fund timely.

Currently, there are between 600 and 700 employers who owe contributions in excess of \$237,000. It is anticipated that the change in the penalty provision will result in lower number of delinquencies, a lower amount of accounts receivable and, of course, benefit the Trust Fund by timely payment.

Some employers have even made the statement that they pay the Employment Security Division last, since their penalty and interest charge is less than the Department of Revenue and others.

Presently, the agency's penalty is \$5 or 5% for late payment. The interest assessment is one-half of 1% charged for an entire month. The bill proposes that this be changed to a penalty of \$10 for late filing, a penalty of \$10 or 10%, whichever is greater for late payment of contributions and an interest of 1% per month or any portion thereof.

This section of the law does and will continue to provide for the request of the abatement of the penalty, where the party is able to show that there was no willful intent to avoid the tax and there was good and sufficient reason for delay in reporting their payment.

SENATE

BILL NO. 186

INTRODUCED BY _____

135.

THIS IS A BILL TO PROVIDE:

1. PENALTY FOR LATE FILING OF CONTRIBUTION REPORTS.
2. INCREASED PENALTY FOR LATE PAYMENT.
3. INCREASED INTEREST CHARGE FOR LATE PAYMENT.

1. The present law does not provide for a penalty for late filing. We presently average 1400 employers a quarter who are delinquent in the filing of reports. A penalty for filing a late report should reduce the number of late reports. Reports are necessary to establish the tax liability and to provide wage credit information for the establishment of benefit eligibility.

2. The present penalty of \$5 or 5% is lower than any other state Employment Security agency, as well as our local state Department of Revenue. Increased penalty assessment hopefully would provide for more prompt payment of contributions.

3. $\frac{1}{2}$ of 1% is a very low interest charge and presently can be assessed for only a full month, no part thereof.