

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
February 1, 1979

The regular meeting of the Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building on Thursday, February 1. All members were present except Representatives Eudaily and Seifert, excused. Bills scheduled for hearing were House Bills 426, 432 and 438.

HOUSE BILL NO. 426: Representative Moore. What this bill does is, it saves money on the rapidly depleting unemployment fund. Ten and one half million left now and we have tried to cut down on the money that goes out. Any individual that has earned over \$20,000 gross income, they will be ineligible for a three week period. I realize there are some types of workers that only work part of the time. He discussed some of the types of employment that are seasonal and thus work only part of a year.

There were no proponents.

FRED BARRETT: Administrator, Employment Security Division. We recommend that the committee does not endorse this concept because it is directly opposed to the federal law. He passed out copies of an earnings inquiry for disqualification for unemployment insurance from the national office of the bureau, U.S. Department of Labor. In the case of two other states that have attempted to enact this law, in South Dakota, for example. The state was held out of conformity and at the next session of the legislature they had to repeal the law.

JOE CROSSWHITE: Operating Engineers. This legislation, in my opinion, is directed at the construction industry. If we have openings anywhere it is usually way out in the boonies. In the construction business \$20,000 isn't much anymore because you have to drive so far away to go to work. You have to have two cars and need both because of the different phases of construction. He gave reasons that would penalize the industry. They have to have some kind of insurance that they will make it in the wintertime. They can't do it because of the weather. This is one of the most unfair bills ever to come before this committee.

PAT MCKITTRICK: Joint Council of Teamsters. Everyone should be encouraged to stay in the labor market. I think this particular bill, while very well drafted is not fair. There is the possibility of court action, but there are also some mechanical problems with this bill. As you will note, the individual will be ready, willing and able to go into the labor market. In the philosophical sense, a man and his wife have a joint income of \$20,000, a family of 6 could have a lot of difficulties. I don't think this bill is properly addressing that situation. He gave other objections to the bill.

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JIM MURRAY: AFL-CIO. This bill calls for legislation that would penalize an unemployed worker for three months from collecting unemployment benefits if his or his wife's earnings together reach or exceed \$20,000 or more in wages. This bill discriminates against workers who try to earn more than the median wage for their families and then become unemployed. He discussed the South Dakota law which prescribed that wage insurance was relief of the unemployed and to compensate for wage loss resulting from unemployment due to lack of work, without regard to time penalty or wage limitation. A decision was upheld that such limitation was not in conformity with the federal law, under definition of the Federal Unemployment Compensation laws. I am sure that I need not tell this committee of the intended purpose of the Montana Unemployment Compensation law which serves to lighten the terrible burden that falls with such crushing force on the unemployed worker and his family. That weight falls on low to moderate-income people, as well as the affluent, regardless of their wages. That is why I oppose HB 426. He presented a copy of written testimony.

There was no discussion and no questions and the hearing closed on House Bill 426.

HOUSE BILL NO. 432: Representativ Menahan. This bill I have this morning is to get the Highway Patrol to protect rest areas. He discussed the fact that vandals might not be so active if they knew that the areas were being patrolled. He then mentioned the fact that so many rest areas are not kept up and perhaps this would help in that respect also.

JIM BECK: Department of Highways. We suggested the bill. In the rest areas vandalism is a problem. The question is, who has the opportunity to be in contact with them.

BUD GARRICK: Highway Patrol. We don't have any particular position on this bill. We go into these areas now and check them. I am here for questions mostly, if the committee should want to ask me.

JOHN FITZPATRICK: Program Planner. We want to go on record as suggesting this bill. We have an increasing cost in these areas because of the vandalism. This is money that could be better used somewhere else.

There was discussion about who is in charge in these rest areas.

REPRESENTATIVE KEYSER: He mentioned that since he is a Highway Patrolman he wanted to tell the committee that they have had direct orders to patrol these areas already.

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Representative Scully asked Representative Menahan if this was the first step in a state-wide militia. There was much laughter. Representative Menahan said, yes, and that it has been recommended that they put a coffee shop in each one.

There were no further questions and no further discussion and the hearing closed on House Bill Number 432.

HOUSE BILL NO. 438: Representative Ramirez. This bill was introduced at the request of the Administrative Code Committee. They oversee all agencies and see that the procedure act has been followed. They must prepare a statement of the estimated economic impact of the adoption or repeal of a rule as proposed. An estimate of the cost to the state of administering and enforcing a rule and the aggregate cost of compliance by all persons affected. Very often these departments go beyond what the legislature would recommend. These would have to be mailed to the people who would be affected.

CHAD SMITH: Montana Hospital Association. This we like to call the credibility bill. There has to be some check on the indiscriminate writing of rules by a state agency. He discussed the rules that hospitals have to contend with. He also discussed the aggregate costs of all the persons affected. I support this bill.

PETER JACKSON: Environmental Trade Association. It seems like a good bill and we are very much in favor of it. He gave figures as an example of what it could cost. He commented briefly on SB 310, the streambed conservation act. He went through this step by step, through how they developed state rules, and then local rules, 59 of those. Lewis and Clark County had some 200 permits granted. He talked of the innocuous effect and the number of follow-ups. These are some of the things you should look at ahead of time and see what we are getting ourselves into if we don't pass this bill.

DON ALLEN: Montana Petroleum Association. I would like to support this bill. This is one of the areas of concern. He gave an example of the unleaded gasoline, and what could happen. I use that as an example on the federal level when you go full-speed ahead without figuring out the cost. It is costing 12 cents per gallon to work the Department of Energy annually.

PAT STEWART: Montana Coal Council. We are in support of this bill.

JOE CROSSWHITE: Operating Engineers. We are in support of this bill.

DEAN ZINNECKER:

Montana Association of Counties. We support the concept but our concern is that it does not go far enough in regulating the regulators. He gave statistics of the cost of regulation. In some areas we must be protected from ourselves. What is the economic impact of a rule on local government. He went through other questions that he felt should be answered. We want you to hold this proposal until we get the other bill.

OPPONENTS:

BRUCE McGINNIS:

Montana Department of Revenue. We do not appear as an opponent to the bill but we do like to bring it to the attention of the committee when we are concerned. At the present time, already introduced, is a bill at the request of the Revenue Oversight Committee which would make this a permanent standing committee of the legislature. It appears to be the intent of that bill that those rules would be scrutinized by the Revenue Oversight Committee rather than the Administrative Code Committee. Some consideration should be given to whether or not this bill should be amended. In section 1, subsection 3, I think it would be an impossible task to make an adequate or worthwhile estimate. He discussed MELDA, which had been a controversial bill in the last session of the legislature. The rules encompassed land planning throughout the state. For example, one portion of the bill stated that if a person or property owner within a certain area did not remodel their property the Department of Revenue could raise the assessment for a period of 10 years. We're not saying that we would not try to live with this rule but in many cases the estimate if made will be a big ballpark guess. We would have to use section 3 and guess in making an estimate.

JOHN MEREDITH:

Social and Rehabilitation Services. We are not here in opposition particularly, we are in basic compliance with the concept of this bill. I would like to tell of the impact of it with SRS. We have 150 pages of administrative rule from the federal government. It could affect 50 to 60 regulations of Medicaid. Another thing, a decreased staff makes an increased cost.

REPRESENTATIVE RAMIREZ:

I think the Department of Revenue demonstrated why we need section 3 in the bill. One of the reasons that we proceeded in the way that we did with the Administrative Code Committee is that we don't want this in every instance. We particularly discussed any rule that was required because of the 2 federal requirements. This gives the discretion to the Code Commissioner when they are necessary but not in every instance. I think we owe it to ourselves. We will authorize by resolution to nullify any authority and with this bill we can keep some of these agencies in check rather than turning them loose and letting them go.

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REPRESENTATIVE KEYSER: He asked about the Revenue Oversight Committee. Would there be a conflict between the two committees.

REPRESENTATIVE RAMIREZ: The other bill exempts the Department of Revenue from any authority of the Administrative Code Committee.

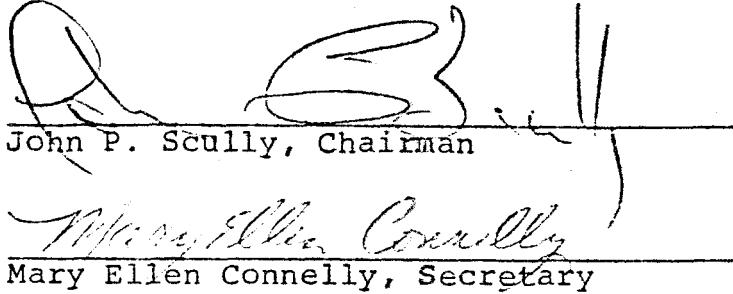
REPRESENTATIVE CURTISS: How many rules have been written and what is the cost, and Representative Ramirez said, it comes out monthly and it is an enormous quantity. The cost of the code of rules and there is an update each month, comes to about \$300 a year.

Representative Roth asked about the exemption of the Department of Revenue.

REPRESENTATIVE KEMMIS: These estimates would be helpful but can you clarify them for me. The economic cost to some members, and the economic benefit to some members. There was lengthy discussion following this.

With no further discussion and no further questions the hearing closed on HB 438.

There was no further business to come before the committee and the committee took a brief recess before going into executive session to take action on bills still pending.



John P. Scully, Chairman

Mary Ellen Connelly, Secretary