MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By Senator Gary C. Aklestad, Chairman, on February 2, 1989, at 1:00 p.m., in Room 415 of the state Capitol.

ROLL CALL

Members Present: All members were present. Senator Tom Keating, Vice-chairman, Senator Sam Hofman, Senator J.D. Lynch, Senator Gerry Devlin, Senator Bob Pipinich, Senator Dennis Nathe, Senator Richard Manning, Senator Chet Blaylock, and Senator Gary C. Aklestad.

Members Excused: There were no members excused.

Members Absent: There were no members absent.

Staff Present: Tom Gomez, Legislative Council Analyst

Announcements/Discussion: There were no announcements or discussion.

HEARING ON SENATE BILL 276

Presentation and Opening Statement by Sponsor:

Senator Blaylock, Senate District 43, Laurel, MT, sponsor of SB 276, stated the bill is an act establishing the Board of Personnel Appeals as a review board for wage claims; revising wage claim procedures; including all prevailing wage cases under wage claim review procedures; amending sections 18-2-407, 39-3-201, and 39-3-212, MCA; and providing an effective date and an applicability date. The purpose of HB 276 is to create a administrative review procedure that will reduce litigation and allow better participation by lay persons in the resolution of wage claim disputes. The bill does not create a new board, but

utilizes the existing Board of Personnel Appeals. There is a slight fiscal impact, which has been tentatively approved by the

budget subcommittee.

List of Testifying Proponents and What Group they Represent:

Bob Jensen, Administrator of Labor and Relations Commission, administrator to the Court of Personnel Appeals, representing the Department of Labor and Industry.

James Tutwiler, representing the Montana Chamber of Commerce.

Testimony:

Bob Jensen, Administrator of Labor and Relations Commission, administrator to the court of Personnel Appeals, stated SB 276 primary effect is to create a new method of administrator review for wage and power complaints registered with the department. Under current law, a wage claim is filed with the department after investigation, and the failure of the parties to settle the matter after the insurer is first investigated. The case is referred to a hearings officer in the department. The hearings officer's decision becomes the final determination of the agency. The only avenue of appeal is to request initial review. Under the proposed law, a wage claim will continue to be referred to a hearings examiner. The hearing's examiner's decision will become final, only if the case is not appealed to the Board of Personnel Appeals. If the case is appealed, the board will review the matter and issue the findings. The board is being established as a review board The board will not hear evidence unless there is good cause shown. The board will review the hearing examiners' decision, will hear arguments by the parties, and will issue the recommendations. If the parties, under the new law, are dissatisfied with the board's decision, a judicial review can be requested in district courts.

Senate Bill 276 creates a procedure to hear appeals involving all collective bargaining matters, classification appeals for state government employees, grievances, unemployment insurance appeals, and others. The additional wage claim step is being proposed to provide additional due process for claimants and employers. Wage claims, on occasion, could involve a large amount of money. The department feels matters involving significant amounts should go though an appeal level hearing first before going to district court. An internal appeal level will also allow for technical error correction in the initial decision without district court interventions. Presently, if the hearing examiners issue a decision, and the problem is a technical error, someone must petition the district court to correct the error. Wage claim hearing, from the Montana Rules of Evidence, will also be exempt. The purpose is to reduce the process formality to allow better

lay person participation and reduce the need for attorneys to represent claimants and employers in the proceedings.

SB 276 simplifies the matter of telephone hearings, and SB 276 conforms with unemployment insurance procedures. The department conducts most wage claim hearings by telephone. SB 276 does not create a new board, but will use the existing Board of Personnel Appeals, a five member board appointed by the Governor. The Board meets one day per month and deals with collective bargaining matters, classification of appeals for state government employees, and grievances for employees in the Highway and Fish Wildlife and Parks division. The Highway and Fish Wildlife and Parks' employees have a special grievance procedure, which goes through the Board of Personnel Appeal. There is a slight fiscal impact: Three thousand dollars biennium year is requested to allow the current five members to remain in Helena one more day in order to hear wage claim cases. Therefore, the members will hear cases two days per month.

The Workers' Compensation Medication Program brings the legislation to the forefront. Currently, 67% of the cases are being resolved by the department concerning Workers' Compensation issues. The department believes people want to settle disputes at the lowest possible level. Some may argue that creating an additional step in the wage claim procedure may create a delay in the resolution of the claims. However, the department's experience shows the argument could be challenged. Currently, the petitions can be filed quickly, but because of backlog, it may be months before the case is heard and decisions issued. Mr. Jensen urged a DO PASS recommendation of SB 276

James Tutwiler, Montana Chamber of Commerce, stated the Montana Chamber supports SB 276. Any bill that expedites grievances without resorting to time and litigation costs is an advantage worth supporting.

LLLLof Testifying Opponents and What Group They Represent:

There were no testifying opponents.

Questions From Committee Members:

Senator Nathe questioned Mr. Jensen about savings. Mr. Jensen stated the savings will be savings on the part of the parties in efforts to litigate lower level cases.

Senator Blaylock asked if the 67% Workers' Compensation Cases coming before the Board of Personnel Appeal are solved. Mr. Jensen replied the 1987 reformed legislation set up the mediation process.

Sixty-seven percent of the Workers' Compensation cases are resolved in mediation without going to Workers' Compensation Court. Senate Bill 276 will help keep wage claimants out of court by utilizing the Board of Personnel Appeals. The procedure will provide one more chance to resolve the issue.

Senator Aklestad asked how many members are on the Board of Personnel Appeals. There are five members. The fiscal note involves $3,000. The additional $50 is for the second day per diem. The travel is already calculated in the budget. The members will meet two days each month.

Closing by Sponsor

Senator Blaylock urged support for SB 276.

HEARING ON HOUSE BILL 21

Presentation and Opening Statement Sponsor:

Representative Marks, House District 75, chief sponsor, stated HB 21 is an act to exempt employment of dependent members of an employers' family from the Worker's Compensation Act; amending section 39-71-401, MCA; and providing an effective date. HB 21 was requested by the Governor's Office. SB 21 takes care of the concern raised by the Supreme Court decision, Cottrill v. State Compensation Insurance Fund, 44 Rep. 1762 (1987). The Cottrill v. State Compensation Insurance Fund Case ruling determined the Legislature did not developed a decent rationale concerning the family members option exclusion. The ruling caused serious concern among family businesses. Agriculture, especially, is an industry that accepts working family members as part of the family farm operation. HB 21 responds to the court's decision and develops the rationale so the intentions can be maintained.

Representative Marks stated the division drafted a similar bill, but found the wordage acceptable in HB 21, therefore, opted to table Representative Smith's bill. The exception definition is the same definition the IRS uses. If the person is a family employee, and meets the IRS Dependency Rule definition, the family will qualify for an exemption, if the employer opts to do so. The people covered as family members will be sons, daughters, parents, aunts, uncles, nephews, and nieces. Representative Marks indicated the bill does not take care of cousins or grandparents. SB 21 is not as broad as hoped for. After discussing SB 21 with the Legislative Council Legal Staff, it was determined that the definition could pass another court test.

List of Testifying Proponents and What Group they Represent:

Bill Palmar, representing the Workers' Compensation Division of Labor and Industry.

Testimony:

Bill Palmar, Interim Administrator of Workers' Compensation Division, stated as Representative Marks pointed out, the Division drafted a bill. After reviewing Representative Marks' bill, the division asked Representative Smith to table the original bill. SB 21 addresses the Cottrill Court Decision. Mr. Palmar urged the committee to accept HB 21.

List of Testifying Opponents and What Group They Represent:

Michael Sherwood, Montana Trial Lawyers Association

Testimony:

Michael Sherwood, Montana Trial Lawyers Association, stated SB 315, passed in the 1987 Legislature, has eliminated the plaintiff attorney in compensation claim. Sherwood stated it is important the committee understands what the bill does. HB 21 states, even though a family does not have disability or health insurance and is operating a business, the family does not have to provide insurance for nineteen year old children living at home. If the child is hurt, the child is out of luck. This is what happened in the Cottrill Case. A company's twenty-two year old son, a fifth year university student, was at home and was working for the family business during the summer at the time of the injury. The Workers' Compensation Court refused the claim, but the Supreme Court remanded the claimant to be paid even though premiums had not been paid by the family.

The Supreme Court struck down the legislation. The classification must have a rational relationship to the government objectives. The objectives are designed to protect a legitimate state interest. This is not a strict scrutiny test. It is a rational basis to the governmental objective. The problem is two fold. 1) There are potential injured victims who will not have any protection. 2) As in the Cottrill Decision, the fund did not receive workers premiums, but the claims had to be paid.

Sherwood stated SB 21 puts the process back to the Supreme Court. The Legislature establishes a classification that bears a rational relationship to the state government's objective. The committee must look at the preamble and decide if the relationship is rational. Mr. Sherwood stated the bill is designed to do the

above, but he is not sure if the bill will accomplish the intended purpose.

Sherwood stated there was correction made in the House by an amendment he submitted: An automatic exclusion could be possible only when other insurance was available. Based on the language now deleted, there is a duplication on line three, page 2. Sherwood offered an amendment that says: When the family does not have duplicated insurance, they must opt for the program. There is no duplicate insurance available. A correction has been made to allow some insurance to overlap. The bottom line is: At some point an eighteen year old person will get hurt again. He/she will not have insurance, and will come to the Supreme Court asking for coverage. If the Supreme Court says the legislation effectively accomplished the rational purpose or stated governmental objective, the eighteen year old will be out because he/she is not covered under other insurance. He/she will have to go on General Assistance or be a drain on family members, who do not have to legally support the injured person. On the other hand, the fund will end up paying the claim.

Questions From Committee Members:

There were no questions from the Committee Members.

Closing by Sponsor:

Representative Marks stated the opposing question was also raised in the House. The House members discussed the situation, as did the division, and decided it would be difficult to require families to have an either or situation. First, the family business can not buy disability insurance like Workers' Compensation Insurance offers. Therefore, the business must have Workers' Compensation Insurance. The committee felt the family insurance verification would be a book work nightmare. Representative Marks stated it seems, in this modern world, everyone thinks there has to be insurance on everything. Insurance is another way for not meeting responsibilities. The Cottrills felt, but fighting the bill, they could determine responsibility relative to their dependents.

HEARING ON HOUSE BILL 99

Presentation and Opening Statement by Sponsor:

Representative Jerry Driscoll, House District 92, stated HB 99 is an act revising the method for charging unemployment compensation benefits to the experience rating account of a claimant's employer; changing the method of assigning contribution rates to new employers; and amending sections 39-51-1212, 3999-51-1214, and 39-

51-1217, MCA. HB 99 is a change concerning how benefits are back charged against an employer's account. Presently, when a person files for unemployment compensation, the employer in the base period that paid the largest amount of wages to the person pays all of the unemployment. The Workers' Compensation Division charges against that account. The proposed legislation will prorate each employer during the base period, and will pay based on a wage percentage wages paid during the base period. At the top of the page, the new language makes sure, if the person works for the government during the base period, the government will also be back charged. On page four the new language is: "if a person had two jobs, one eight hour job and one four hour job, and lost the eight hour job, the person might be entitled to partial unemployment benefits. The language will make sure the employers will not be back charged base period wages due to the fact that employer did not lay the person off. The person is still working for that employer.

The bottom of page four and the rest of page five is for new employers. A new employer starting in the state, or from out of state, is assigned the new rate. The Department will develop industrial classifications and give the new employers the average of the industry. For instance, Montana retail averages is 1.7 percent. The new employer would have to pay three percent. Logger and construction company's average is based on collective bidding. The average is approximately 6 or 6 1.2% for deficit employers. The new logging industry employer would have a 3 percent advantage on the unemployment tax. The change would rate the new employers by the industry group. After three years, the new employer would get an individual rating depending on the number of employees, layoffs, and money in-money out. Representative Driscoll submitted an amendment. The amendment is written due to of federal mandates stating: At no time shall a unrated employers be assigned a rate lower than one percent.

List of Testifying Proponents and What Group they Represent:

Chuck Hunter, Administrator of the Unemployment Division.

Jim Tutwiler, Montana Chamber of Commerce, appearing on behalf of Mr. Bolds, President of Montana's Chamber.

Testimony:

Chuck Hunter, Administrator of the Unemployment Division, stated the bill was introduced at the Department's request.

Jim Tutwiler, Montana Chamber of Commerce, read a prepared statement in behalf of Mr. Bold, President of Montana Chamber of

Commerce. Mr. Bolds serves on the Governor's Advisory Council. The proposal will employ the tax rate to the newest employers of the average category, and not the maximum rate currently required. Tutwiler urged the support of SB 99.

Questions From Committee Members:

Senator Aklestad gave a scenario concerning a person working for a company for ten year and another company for one year The person was laid off from the job he had for one year. Under the existing law, Senator Aklestad asked, who pays what. Representative Driscoll stated the data goes back for five quarters. So, the latest employers would pay the full amount because they would be the largest employers of the base period. If the person worked for one employer for six weeks at prime wage and left the employment, the employer would be the highest wage employer in the base period. The dollar amount would be prorated. If the person made $3,000 from employer A and $2,000 from employer B, the employer A would pay 3/5ths and the employer B would pay 2/5th. The amount would be back charged against the account, regardless of the time amount worked in the base period. If the employee quit "with good cause", the employer would not be charged. The law says when the individual signs up for unemployment, the present quarter or the quarter immediately preceding would not count. If the employee signed up for unemployment today, the first 1989 quarter would not be counted, nor would the last quarter of 1988. The second, third, first of 1988 and the last quarter of 1987 would be used to calculate the base period.

Senator Aklestad stated the thrust of the bill is to get the previous employer to pay some unemployment. This is correct.

Senator Blaylock asked what quarters are considered. The current period, January 1st to March 31, would not be counted. The first quarter is not counted, nor is the last quarter of 1988, and then you go back four. They are the third, second, first of 1988 and fourth of 1987. If the individual worked twenty weeks and made $1,120, the person is not eligible. The benefits is equal to 49% of the average. If the employee is eligible, the employer is back charged based on how much the employee draws and is eligible for. The employee may be off three weeks before going to work. Each year, the division charges the employer's individual account, based on how much money their ex-employees drew.

Senator Aklestad stated the current law pays the high end of the industry. Representative Driscoll said the employer pays the individual rate. Unrated employers pays according to the prescribed schedule. Without three experience years, the employer pays the prescribed amount regardless of the industry.

Closing by Sponsor:

Representative Driscoll stated Senator Lynch will carry the bill, should the bill receive a DO PASS recommendation.

EXECUTIVE ACTION

DISPOSITION OF SENATE BILL 70

Discussion:

Senator Gary Aklestad stated two amendments and a statement of intent have been considered previously. The law states the mother is exempt if she has a child three years old and or under. The mother does not have to leave the child and take a job. The Montana Low Income Coalition has concerns the department would arbitrarily lower the age limit down to one year. Tom Gomez stated the federal welfare reformat requires an exemption of any parent, caretaker, relative of a child, under three years of age. At the state's option, the state may provide the parent, caretaker relative of a child under the age of one would be the person who is exempted from participation. The interim committee's purpose was to allow the provision to apply to a person down to one year of age, if the situation warrants the exception with rules that would be department developed to exercise the state option. The bill is written to provide the department flexibility concerning program administration and requirement.

Senator Aklestad stated the implementation date is July 1, 1990, effective the second biennium half with a 71/29 match for index services, and 50/50 match for administration and support. Senator Aklestad questioned if the program is implemented at a earlier date, July 1, 1989, can the effective date be extended beyond July 1, 1989, so the General Fund match situation can be delayed. Lee Tickell stated the transition child care program must be made available in April 1, 1990.

Sue Mohr stated the 90/10 match is available both years of the biennium up to the old Win state allocation. The match works in this way: July 1, 1989 biennium, the state has the option of running the old Win program, and come up with the ten percent match, or the full Job's Program can be started. If the full blown Job's Program is started the first year of the Biennium, there is more federal money available, but there is more match Montana must come up with. The Montana match is a 10% match up figure, then Montana comes up with the mix of 70/30 match for training and 50/50 match for administration services. The first year the state has the option of only running Win, coming up with a 10 percent match,

and turning back federal money in order to save match money. The Win program will have to run the second year.

Senator Aklestad asked if Montana is eligible to start the program with an effective date any later than July 1,1990.
Tom Gomez stated the Federal Law mandates the program must be implemented before October 1, 1990. The effective bill date is written to correspond with Montana's Fiscal Year, although the program can start earlier than October 1, 1990. Senator Keating ask Ms Mohr if the program deals with a job search program, which will be an improvement and replacement for the WIN Program. Senator Aklestad asked if the Win Program going to stay in place until the new program becomes effective. Yes, the request for a ten percent match for the continuation of Win is currently in the appropriation bill. Senator Keating asked if the Win program could be continued until October 1, 1990 using a ten percent match before the state has to kick in with a 30% match. Mohr replied yes, although, the FTE's being eliminated from the budget are effective July 1, 1989. Although, the department may request the FTE's back. The FTE's are slots, not necessarily people. People will stay, even if the slots go. Mohr stated the FTE's and the Department is cut slim enough. The department is not sure if they can come up with enough vacant positions

Senator Aklestad verified the October 1, 1990 stating date to be calculated at a 71/29 match. Yes. Senator Aklestad stated General Fund could be saved for a three month period. The saving would be approximately $1.2 million. Senator Keating asked if there is a current budget provision in the second part of the Biennium. Mohr replied the subcommittee Administrative Tax Proposal envisioned using a major part of the funds to deal with the match. We are not looking at the child care needs at this particular time. By dumping the 50/50 requirement into the 90/10 portion of the match, the Department believes the state will save the majority of the money reflected in the fiscal note. The current fiscal note may be inaccurate due to the fact that new federal information is being released. The rules are not in place yet, and the department is receiving information concerning the match. Some of the General Fund's fiscal note funding may not be needed.

Senator Pipinich asked if the state would have to come up with the bulk of the $97,000. Mohr replied, if the subcommittee of Human Services elects to use the so-called unemployment insurance administrative text, the $97,000 may not be spent. Senator Keating stated the state is using the advent tax, up to $1.6 million in lieu of General Fund. The money is being used for a number of programs in Labor and SRS. The state is not using the money for the New Horizons or the Displaced Homemakers. Two to three hundred dollars can be saved, and the Win Program will fill in.

Senator Aklestad asked what the WIN program cost at this time. Eight thousand dollars is spent per client. The program is expensive. The labor portion of the $4 million are federally required figures that fund about 546 cases. The department predicts that more cases will be served. The department, at the time the fiscal note was drafted, did not know the required number of cases. The department wanted the legislature to know the minimum number of cases to be served is 546. The department made the assumption of serving each case at $3.70 per client. Part of the reason why the figure is high is because the department believed they had to serve the "hardest served" people under AFDC. This group includes young mothers who do not have high school degrees and need training to be considered employable. The jobs targeted for the young mothers would be approximately $5 or $6 job. The department is also required to serve long term recipients under federal law. The long term recipients are another group of people who are difficult to serve. The department envisions an extensive case management system, in which family counseling is provided. The assumptions is, since the people are not used to having a working parent in the household, pressure will occur. Training literature utilized for the training of AFDC clients emphasizes this counseling is necessary. The long term dependency cycle needs to be broken, but the process is costly.

Senator Aklestad asked how many clients are under the WIN Program. Ms. Mohr said the Win program is ran at a considerably less amount of money. Ms. Mohr asked if the amount was $4.1 million by 546. Ms Mohr stated that the SRS portion is for day care costs alone. Ms Mohr stated the federal funds are available to the extent that matched funds are made available. The $3,070 figures come from the AFDC Model Program currently running using JTPA Funds. The department contracted the three areas running the models at an average cost of $3,070. The department does not know if the estimate is correct. After the legislation is completed, the department can figure the match fund figures. This will drive the amount of federal funds that come into the program. The department will contract out for local program operators to run the program and find the best deal possible by seeing the job after coordinating ATP, Project Work Program. The department may do better than $3,070, hopefully serving many more people.

Senator Aklestad stated he would like to determine when the state gets the federal funds. Are the fund obtained before they are needed. Could these funds be put into an interest bearing account, and in doing so, making more money.

Lee Tickell stated the way the funds flow is the Department will be required to submit a plan to the federal government stated how

the program will be worked in compliance with legislative direction. The department spends the funds and tell the federal government quarterly how much the federal government owes. There is no program where the Federal Government ships money into interest bearing accounts. As the money is spent, a letter of credit is drawn down and the state is reimbursed the allowable program expenditures. Except for the SRS portion reflected in the fiscal note, the amount is recorded in the Current Governors budget. The Congressional statute, not regulation, the laws says the department must serve a minimum of seven percent. If the percentage is not served, fines will be levied. Consideration must be given as to when the legislature wants to start the program, but in the long term the hopefully declining case load will not be getting smaller sooner.

Senator Aklestad stated there is an amendment to SB 70. Tom Gomez stated the amendment would allow performance standards to be developed to measure the extent to which the program is effective. Welfare dependency, increases employment and earnings. The legislative auditor would be required to conduct a performance audit of new program and independently determine if the program is effective, reporting back to the next legislature on the audit results.

Senator Blaylock asked what are the parameters of the Legislative audit. Gomez stated the auditors have worked with Representative Cobb, the vice-chair of the Audit committee, and are aware of what is needed.

Gomez stated the amendment is to lay out objective, quantify measures to determine if the program is doing anything, such as how much each person is getting per hour. Senator Keating inquired about federal annual audits. Lee Tickell stated federal audits are quarterly, monitoring the reimbursement claims. There is a new recording and tracking requirement under the Jobs Program which will require a further computerization of the Teams Project and the on line eligibility system. Tracking of hourly wage, length of employment will probably by incorporated into the federal reporting requirement.

Senator Keating stated the 52nd Legislature will meet in 1991. If this program goes into place, there will only be six months to audit, and the auditor would have difficulty tracking a new program. The 53rd Legislature would have something to audit.

Representative Cobb stated there is no operating standards for the job training programs. The federal government will set standards within three years. Senator Aklestad asked if there is overlapping

action that would take place on other legislation, or would this deal exclusively on SB 70. This is the main work program for AFDC. SB 70 does not go into effect until July 1, 1980, there would be only a six month time until the Legislature met again. Representative stated the effective date will be moved to July 1, 1989 according to the Appropriation Committee. If the date is not moved to July 1, 1989, the performance standards should still be conducted, according to Representative Cobb.

ADJOURNMENT

Adjournment At: 2:39 p.m.

Senator ~~Gary~~ C. Aklestad, Chairman

GCA/mfe

MINUTES.204

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: Feb 2. 1989

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	✓		
SENATOR SAM HOFMAN	✓		
SENATOR J.D. LYNCH	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR BOB PIPINICH	✓		
SENATOR DENNIS NATHE	✓		
SENATOR RICHARD MANNING	✓		
SENATOR CHET BLAYLOCK	✓		
SENATOR GARY AKLESTAD	✓		

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1 page 1 of 3
DATE Feb 2, 1989
BILL NO. SB276

DEPARTMENT OF LABOR AND INDUSTRY
EMPLOYMENT RELATIONS DIVISION
TED SCHWINDEN, GOVERNOR
STATE OF MONTANA
(406) 444-5600
P O BOX 1728
HELENA, MONTANA 59624

TESTIMONY ON SB-276
BY BOB JENSEN
ADMINISTRATOR - EMPLOYMENT RELATIONS DIVISION
DEPARTMENT OF LABOR AND INDUSTRY

This bill's primary effect is to create a new system for administrative wage and hour claim review.

Under current law, a wage claim is filed with the Department. After investigation and the failure of the parties to settle the matter, the case is referred to a hearings officer who holds a hearing. The hearings officer's decision becomes the final determination of the agency and the only avenue of appeal is to seek judicial review in the District Court.

Under the proposed law, a wage claim would continue to be referred to a hearings officer. That officer's decision, however, would become final only if it was not appealed to the Board, the Board would only review the case and would not allow new evidence to be presented except in rare circumstances. If the parties were dissatisfied with the Board's determination, the remedy would be a petition for judicial review to the District Court. Mr. Chairman, members of the committee, this is the same process we currently use for the resolution for appeals involving collective bargaining matters, classification appeals, grievances and unemployment insurance appeals.

The additional review step in the wage claim procedure serves several purposes. First it provides additional due process for claimants and employers. Wage claims can involve a large amount of money and matters of that importance should receive the heightened consideration of an appeal level hearing. An internal appeal level would also allow for the correcting of technical errors in the initial decision without the necessity of judicial intervention.

One of the major effects of the new process would be to reduce the number of judicial reviews filed on wage and hour matters. Once an appellate level review is established, the number of claims going further to judicial review should diminish.

Another effect of the legislation is to exempt wage claim hearings from the Montana Rules of Evidence. The purpose of this is to reduce the formality of the proceedings to allow better participation by lay persons and reduce the need for attorney representation. It also simplifies the matter of telephone hearings and conforms with unemployment insurance hearing procedure.

Mr. Chairman, members of the committee we are not creating a new board in this bill. Instead we are expanding jurisdiction of an existing board, the Board of Personnel Appeals to absorb this responsibility. The Board of Personnel Appeals, a five member Board appointed by the Governor, meets one day each month depending upon its workload. It currently hears appeals on collective bargaining matters, classification appeals for state

government employees, and grievances for employees in the Departments of Highways and Fish, Wildlife and Parks. There is a slight fiscal impact with this bill, $3000 each year of the biennium, to provide for a two day meeting each month for the Board of Personnel Appeals. This amount has been approved, at least tentatively, by our budget subcommittee.

One of the reasons we bring this bill forth at this time is because of our experience with the Workers' Compensation Mediation program. We are currently resolving about 67% of cases filed. This is an indication that parties to a dispute are willing to make a good faith effort to resolve their differences through an administrative procedure and before advancing to a litigation arena.

Some may argue that creating an additional step in the wage claim resolution procedure serves as a hindrance to speedy resolution. In our experience however this argument can be challenged. Granted petitions can be filed in District Court rather quickly under existing law. However it may be months before the matter is actually heard and a decision rendered. There is usually ample time for a Board review, especially since the Board meets monthly.

We would appreciate a do pass recommendation on this bill.

LABOR COMMITTEE

VISITORS' REGISTER

51st LEGISLATIVE SESSION

DATE: February 2, 1989

LEAVE PREPARED STATEMENTS WITH SECRETARY! PLEASE!!!

PRINT: NAME	REPRESENTING	Check One	
		Support	Oppose
Bob Jensen	Board of Personnel Appeals	X SB 276	
Mike Micone	DEPT. OF LABOR & INDUSTRY	X SB 276 HB 99	
Bill Palmer	Work Comp HB 91	✓	
Mike Sherwood		~~[redacted]~~	HB 27 ~~[redacted]~~
CHARLES HUNTER	DEPT. OF LABOR & INDUSTRY	HB 99	
Evelyn Fende	MT State Bldg trades	SB 276	
JAMES W. BORCHARDT	STATE AUDITOR		
JAMES TUTWILER	MT CHAMBER COMMERCE	SB 276 HB 99	