

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

#### JOINT SUBCOMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIRMAN JOHN COBB, on January 6, 1995, at  
8:00 a.m.

#### ROLL CALL

**Members Present:**

Rep. John Cobb, Chairman (R)  
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)  
Rep. Beverly Barnhart (D)  
Sen. James H. "Jim" Burnett (R)  
Rep. Betty Lou Kasten (R)  
Sen. John "J.D." Lynch (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Mark Lee, Legislative Fiscal Analyst  
Lois Steinbeck, Legislative Fiscal Analyst  
Connie Huckins, Office of Budget & Program  
Planning  
Ann Boden, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: Department of Health and Environmental  
Sciences Overview  
Department of Labor and Industry  
Overview  
Executive Action: None

*{Tape: 1; Side: A; Approx. Counter: 000; Comments: This meeting was recorded  
on two 60-minute audiocassettes on a Sony at slow speed - 2.4}*

#### OVERVIEW ON DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Bob Robinson, Director, Department of Health and Environmental  
Sciences (DHES), introduced personnel from the Department. Bill  
Opitz, Deputy Director; Chuck Stohl, Administrator of Centralized  
Services; Denzel Davis, Administrator, Health Facilities  
Division; Dale Taliaferro, Administrator, Health Services  
Division. He said these individuals would be the only people

from the Department testifying on issues affecting the Department.

**Mr. Robinson** said the primary mission of the DHES is to protect, promote and enhance the public health and the environmental quality for the benefit of all Montana citizens. They accomplish this mission through an extremely dedicated staff to carry out the various statutory responsibilities assigned to the Department.

**CHAIRMAN COBB** said the environmental issues that the Department handles will be heard by the Natural Resources Subcommittee, since this subcommittee, Human Services and Aging, is not that familiar with the environmental issues. **Mr. Robinson** agreed that was a reasonable arrangement. He said the part of the budget this subcommittee will be dealing with is the public health side of the Department, which provides surveillance for disease outbreak indicators, and provides assistance to the public to help them avoid exposure, and prevention from the sources of exposure.

**Mr. Robinson** said a good strong public health network is necessary to avoid potential disasters. In the last year, county health departments did a self-evaluation on their effectiveness in providing for public health services, as just described. Forty-four out of 56 counties responded. The large counties rated themselves around 50% effective; small counties are closer to 25% and on the average were below 50%. He said there are new drug-resistant strains of many diseases they thought were under control during the past 30-40 years. For instance, in 1993, hanta virus appeared in Montana. He described research studies being done to track the virus. E-coli bacteria has been a problem as well and he described their emphasis on prevention. New strains of tuberculosis have surfaced that are very difficult to treat. He described how this disease must be treated over a long period. Sexually transmitted diseases are on the increase.

The quality of the water supply is driven by public health concerns. He mentioned possible contamination that could occur in the water supply and treatment plants that exist in Montana that are not equipped to properly filter or chlorinate the water.

They joined forces with the Department of Agriculture recently to address a "likely intentional" nitrate contamination of wheat located on the Hi-Line. Because premiums are paid for the high-protein content of wheat, they believe there was spraying of a nitrate fertilizer prior to harvest to put a non-natural protein in the product. Once it enters the food chain, it becomes a public health responsibility of the Department.

**Mr. Robinson** said fees are received for food establishment licenses to provide the necessary surveillance, so they must address that. He discussed modifying the fees to cover the costs, but heard loud and clear from the legislature not to

increase fees or taxes. He stated that when tourists visit the state, there may be places where they should tell them "buyer beware," because there is no guarantee that government has ensured that a food establishment is healthful and clean.

**SEN. J.D. LYNCH** asked why the Department has higher water quality standards than the Environmental Protection Agency (EPA). **Mr. Robinson** said these standards are based on a 1:100,000,000 chance of somebody dying from that water, which is EPA's standard. Drinking water standards for arsenic are less stringent than they are for arsenic in naturally-occurring water.

**SEN. LYNCH** asked again why the Department's standard is higher than the EPA. **Mr. Robinson** responded that their standards are virtually the same.

**SEN. CHUCK SWYSGOOD** asked about the efficiency of county health departments being only at 50% and wondered why it's so low. **Mr. Robinson** explained that in some counties, the county commission does not authorize the full mill levy because they're up against full county mills for other services. Because a health disaster has not yet occurred, money is not allocated for that resource. Some urban areas are putting more into the health departments. Fees that were set some time ago do not cover the cost of doing inspections and funding the services of the local health departments.

**SEN. SWYSGOOD** asked how they rated their services. **Mr. Robinson** said they identified in the survey document a schedule of identified core of public health services and asked what they were doing, such as immunizations, the MIAMI program (high risk pregnancies), inspections of food handling establishments.

**CHAIRMAN COBB** discussed the priorities that were set in counties when the state said they wouldn't raise the fees and the counties didn't want to hold an election, they had to find other avenues for funding.

**SEN. BARNHART** asked if the fee is the same for small establishments as well as large ones. **Mr. Robinson** said yes, and said those fees are the same for a wide variety of food establishments. They would like fees to be set on a risk-based setting, so an espresso bar would have a low fee and a place with a history of problems would have a higher fee, because the sanitarian would have to visit more often. They said it's a policy decision.

**Mr. Robinson** discussed the responsibilities of the EMS Bureau. He said they train EMTs, keep track of vital statistics, and exercise the police power of state to quarantine people with TB.

**SEN. LYNCH** asked where they would be quarantined. **Mr. Robinson** said they had to arrest someone and take him to the hospital for treatment, keep him on medicine for 14 days, and put him into a

trailer where they monitored his medication. **SEN. LYNCH** asked who paid for that and **Mr. Robinson** replied the county. He said this person was on the run and he was hard to manage.

**CHAIRMAN COBB** said they would like a follow-up on the TB part of the budget to know what happens to people who are being treated. **Mr. Robinson** said he may invite someone from a county health department to come in and talk to the subcommittee.

**Mr. Robinson** discussed earlier testimony stating the Department's responsibilities: sexually transmitted diseases; immunization; maternal and child health (MIAMI); and quarantine authority. They wanted the 1993 Legislature to remove septic tank, cesspool, and similar regulations as well as the regulation of flour enrichment standards and mattress materials, but couldn't get a bill sponsor.

The Food, Drug and Cosmetic Act is a critical part of their food and consumer safety program. He described other acts that guide them in their public health and safety work. Each one is a statutory responsibility and they have done nothing in the last two years that isn't required by law.

**CHAIRMAN COBB** asked about the three acts to be addressed stating the committee could look at them, but will need more information in order to do this.

**Mr. Robinson** said that almost everybody, starting with family planning to getting a death certificate, is going to deal with the health department in a number of ways. Through the public health service, the department receives millions of dollars and functions as the conduit for federal public health money to Montana, and operates to a great extent on that federal money which is funneled to county health departments. The department deals with the Center for Disease Control to provide specific assistance when outbreaks of certain diseases occur, such as hanta virus and e-coli.

He said the EPA is not involved much in public safety except where water quality standards are concerned. They work with the U.S. Department of Agriculture on food and consumer safety issues. Health care groups such as nursing homes, hospitals, family planning clinics, and private laboratories are licensed and inspected by the Department. They work with a combination of the media to do public health education, and work closely with the Office of Public Instruction (OPI) and local county health departments to promote health education. There are specific programs in the schools in addition to programs run through OPI, for instance, dental hygiene and health.

**Mr. Robinson** described how immunization, nutrition, and public health nursing programs are run. In the last two years, they've worked with the Department of Livestock to deal with dairies; Fish, Wildlife and Parks in dealing with rabies outbreaks;

Department of Agriculture on groundwater protection and grain inspections; Social and Rehabilitative Services, with whom they have a close connection, for instance, the MIAMI program which receives partial funding from Medicaid; and the Department of Family Services, for which they provide licensing functions. He named some others that involve the environmental side of the Department.

He described the department organization and responsibilities of the management in each division, such as the director's office, including the legal unit and centralized services.

**Mr. Robinson** said they are focusing resources on health programs that address problems specific to Montana, not necessarily buying into federal public health programs. He discussed managing of state and federal funds.

He said the laboratories are in the Centralized Services Division, and are self-supporting since being "weaned" off the general fund. The Department will be asking for some assistance to help manage them as a business. The labs are a source of technical support for many of the medical providers in Montana. They are the "check" lab for hospital labs and other private labs; they use them to verify their results.

He described other services: information services, personnel and payroll, and support services.

He described functions of the Health Services Division: medical services, certificate of need, preventive health services, family and maternal and child health programs, and food and consumer safety.

He described the functions of the Health Facilities Division: inspection and licensing entity for all public health providers (nursing homes, hospitals, clinics), including Medicare and Medicaid eligibility.

**Mr. Robinson** said the Department's highest priority is on public health. Over the years, they've been focusing more on environmental concerns, and public health issues have been ignored or neglected. Efficiency has suffered.

He discussed some issues related to contracting. He mentioned efforts to contract with personnel in the field rather than adding employees in Helena. He said that when they have millions of dollars in contracts, it takes personnel to oversee those contracts, and the involvement of many people in the Department to make sure the contractors are accountable for the work and they are as cost-effective as can be.

He discussed problems they've had with their indirect rate, which they undercollected. In 1996, the process requires that they "even that up" and now they've seen a big increase in the

indirect rate in order to balance it. He said they will need to work with the LFA and the Budget Office to correct that problem in the next biennium.

The certificate of need (CON) is another policy issue that the legislature can address. He said they are severely underfunded in their ability to manage the CON program, because they have \$38,000 to a \$200,000 job. They expected generating some fees from applicants, but the kind of applications they are receiving now are primarily home health care and don't have physical facilities or capital improvements, so there's no base on which to assign a fee. He said the process is "rife with conflict."

When they end up with a value for a CON for any kind of a health service facility, it is so great that the applicants "play hard ball" and if the applicant is not granted a certificate, they can file a law suit against the Department or challenge it for reconsideration. The department only receives \$500 to conduct the CON process and it's not covering the costs. They are requesting that this be eliminated as a statutory responsibility of the Department of Health.

**Mr. Robinson** said if the Health Care Authority continued in its capacity, perhaps the certificate of need process ought to be maintained.

**CHAIRMAN COBB** asked if the certificate of need would still be necessary if they had a managed care program. **Mr. Robinson** said according to **Dr. Peter Blouke**, there would be an increased number of people receiving the service.

**Mr. Robinson** said they are concerned about the county health departments' ability to manage public health programs and the assistance that the department would like to provide to address the needs of counties.

**Mr. Robinson** reminded the committee that the department had several across-the-board budget cuts in the amount of \$288,000 in fiscal 1994. He described the items included in the budget cut. During the special session, the legislature said the money should not have been cut from the programs he chose to cut; but then the legislature took those out in addition, and then said to find an additional \$288,000. The reduction in FY95 was \$288,000 plus \$200,000 that was already cut. They've had nearly a \$600,000 reduction in general fund. He explained how they were able to offset the reduction, in part, with some carryover funds.

He listed the key contact people from the Department: Bill Opitz, Deputy Director; Curt Chisholm, Administrative Officer; Dr. Pratt and Dr. Jacobson, Health Services Division; and Katherine Orr, Chief Legal Counsel.

**Charles Stohl**, Acting Administrator, Central Services Division, said the division provides a wide variety of services for the

department as well as the general public. They account for state and federal financial resources, financial reporting, testing of children with metabolic disorders, microbiological and chemical testing of laboratory samples, negotiates all contracts, provides central purchasing and receiving, personnel services, and maintains the centralized data processing bureau. There are four bureaus in the division: The support services bureau, chemistry/laboratory bureau, public health laboratory bureau, and information services bureau. The two units are the personnel unit, and contracting and purchasing unit.

The support services bureau is responsible for the accounting function, accounts receivable/payable, cash receipts, budget preparation and monitoring, grant reporting, cash management and auditing. Currently, they're operating at approximately 134 accounting entities, which is equivalent of doing business with 134 different businesses.

The chemistry/laboratory bureau is responsible for analyzing public water supplies, soil samples, wastewater samples, air samples, and clinical specimens; certifying private labs; determining hazardous waste; and providing consulting services to other labs.

The public health laboratory bureau is responsible for screening newborns, testing drinking water, investigating disease outbreaks, testing and surveillance, lab training for emerging diseases, certifying water labs, and as a reference lab for other labs in the state.

The information service bureau is responsible for the central coordination and support of all data processing services for the Department.

The personnel unit handles all Departmental personnel functions, classifies all positions, maintains personnel records and produces payroll.

The contract purchasing unit provides assistance to all department personnel in negotiating all contracts, trains personnel in contract management, and provides a central purchasing and receiving function for the Department.

He said the increase and availability of federal funds has increased demands on the resources of the central services division. They have many automated functions. The increased use of contracting has put additional burdens on the contracting unit to produce more contracts.

**CHAIRMAN COBB** asked **Mr. Stohl** to discontinue reading from his handout and to just summarize the main points of his presentation.

**Mr. Stohl** explained why there was a large increase in equipment, which was to upgrade computer hardware and software. He described the current condition of computer systems and the necessity for upgrading.

**Mr. Stohl** said they also need to improve their laboratories. In the last session all of the general fund was taken from the labs, which are put on a fee structure that has not generated enough funds after a year and a half. He reiterated testimony previously given by **Mr. Robinson** regarding cost recovery problems for the labs.

**Mr. Stohl** addressed information systems and automation. He said the support services bureau has an advanced cash receipts system, and process approximately 70,000 - 90,000 cash receipts with 1.0 FTE.

**CHAIRMAN COBB** asked if they were asking for more FTE. **Mr. Stohl** said they were not. They contract with a programmer to update and keep the system running, which comes out of the support services budget.

**Mark Lee, LFA**, stated in reference to the contract for a programmer, the present law adjustments have some increases built in to cover this.

**CHAIRMAN COBB** referred to an audit report and said that a question will rise during the session, and if the department's request will correct the problems. **CHAIRMAN COBB** informed **Mr. Davis** that he wasn't asking him to answer the question now, but wondered if there would still be unlicensed health care facilities.

**Mr. Davis** said he believed they could adequately answer those questions and thought they'd be able to show that the requested increase, with the modifications they've made, will adequately support the licensing function.

**SEN. SWYSGOOD** asked about the present law adjustments as shown in the budget book, and wondered if they would take inflation into account. He asked why they wouldn't put an increase in operating expenses as large as those showing for the licensure operation (\$77,000) in a new proposal. He asked the LFA and the budget office to respond.

**Mr. Lee** explained that the idea behind the present law is to make adjustments so that agencies can enforce and fulfill the present law. If it's been determined the department is not fulfilling the present law according to the statutes, than the adjustment is used.

**Connie Huckins, Office of Budget and Program Planning**, responded that present law is defined as that level of funding needed to



maintain the activity of the department as the legislature authorized it.

**SEN. SWYSGOOD** discussed the information on page B-184 in the Budget Analysis book. He didn't have a problem but wanted to understand the appropriations process and commented that he thought the book was put together better than in the past. He was concerned for those legislators who don't know the budget, and knew that there was a way the present law can be explained. He said there was potential for misconception as to exactly why the figures shown under present law are very large. He thought they made a mistake if the statute required a certain number of people and dollars to get the job done and the funding has proved to be inadequate, resulting in handicapping the department from performing their statutory requirements. He believed the increase should be a new proposal, so they could see what the normal inflationary increases were in the state budget in comparison to their level of efficiency.

**CHAIRMAN COBB** informed the committee that the issues will be examined when they have a formal hearing.

**REP. BEVERLY BARNHART** asked **SEN. SWYSGOOD** if he wished to decrease the funds for the department. **SEN. SWYSGOOD** said yes, that he may not want to approve the full \$77,000, and he would like to have more information to help with the decision. He was wondering how much the department would need to bring them back up to a level they would feel comfortable with.

**CHAIRMAN COBB** said he believed the licensure issue would show up as a modification to the budget, and the issue of vacancy savings could be voted on or they could make some cuts.

**Dale Taliaferro, Administrator of Health Services Division**, said the division is directed to prevent disease and reduce the affects of disease. He said there are no local or field staff, and the responsibility is placed on the local public health agents and non-profit agencies. The staff in the division perform functions at the state level or the development of program planning, training, functions relating to sanitation, and technical consultation support for local programs.

He gave a brief summarization of the Emergency Medical Services Bureau, which handles the medical services in various counties. The Family/Maternal and Child Health Bureau includes family planning, services for handicapped children, nutrition services, nursing, and a variety of other programs that serve that population.

*{Tape: 1; Side: B; Approx. Counter: 000; Comments: n/a.}*

The Preventative Health Services Bureau works with both chronic and communicable diseases to control those diseases and reduce their effects. The Vital Records & Health Statistics Bureau

operates the records program and coordinates data with a variety of interests and health programs in Montana. He reiterated the three main issues pertaining to the division's budget. He said the Children's Special Health Services program is a success, and said it is one of the changes that occurred in the 1993 Legislature to track the clients of this service. The bureau not only made it informational, but made it a local base tracking system that served performance. **Mr. Taliaferro** said the program has three functions to reimburse for medical services for handicapped or potentially handicapped children; to operate clinics where diagnostic services are available for cleft palate, cardiac, and metabolic disorders; and to implement the follow-me project.

The follow-me project involves local public health nurses who have helped identify any children who need these services. Changes in Medicaid over the past few years have made more children eligible for Medicaid; which is now more comprehensive than in the original program. He said this has allowed the program to shift funds into the local nursing services and the tracking system. The result is better coordination of services through early identification, and getting the kids in sooner for immunizations. The budget for the division requests an increase for this portion of the program, and the federal law requires that 30% of the block grant be spent on this program.

**Mr. Taliaferro** addressed local public health services, specifically the sanitarian services. Traditionally, these services were funded through state funds, local funds, and fees. But the responsibility for these services is written in the law to be the joint responsibility of state and local public health agencies. He said this has resulted in both the legislature and the commissioners backing off on their share feeling that the funding should be paid for on the "other" side, leaving the programs short of funds. He said the sanitarian programs are unique in that they do not have any federal funding compared to other programs that have significant federal support. He said the local health departments have asked the assistance of his division to participate in initiating a health improvement plan to solve the problem of deteriorating services. He said there needs to be a reevaluation of the necessity and resources of policies in public health for a uniform program statewide.

**Mr. Taliaferro** addressed one of his concerns regarding the recent departmental reorganization. The Vital Records Bureau was moved from Central Services to the Health Services Division due to the need for quicker and adequate access to the data collected by the bureau. He also addressed the need for local public health data to help in setting priorities and conducting activities at the local level. He said there is pressure from all of their funding sources to provide more data in the assessment of the population and evaluation in what the division does, plus the various specific and detailed requirements from both block grants. The department is proposing rather than develop a data capacity in

every single program, to place it in the Vital Records and Health Statistics Bureau. This will avoid duplication, use less FTE, and provide better access to the public and other public health agencies.

**SEN. SWYSGOOD** asked **Mr. Taliaferro** if he asked OBPP which programs would be considered a new proposal and which ones would be placed under present law when he had presented these programs to the budget office. **Mr. Taliaferro** said yes. He was given specific instructions where the programs were to be placed.

**SEN. SWYSGOOD** addressed the elimination of the rural residency program due to the cutback, and asked if this program had ever been initiated. **Mr. Taliaferro** said yes and showed on a chart the cuts made by the legislature. He said that Rural Family Practice Residency was appropriated \$200,000 per year for FY94. The chart shows a cut of \$100,000 per year. He said the department was heavily criticized by the legislature for taking that cut after the 1994 Special Session, and this committee took that same \$100,000 that the department had cut out of the second year, FY 1995, and informed the department they could not make further cuts in end-stage renal disease, rural physician residency, and MIAMI. He said the department took \$288,000 from other programs, plus the appropriation reduction from the legislature of \$236,200.

**SEN. SWYSGOOD** asked if there is still \$100,000 left in the rural residency program. **Mr. Taliaferro** said yes. The \$100,000 has been distributed to the program. He said it was a difficult process in determining if the \$100,000 that is requested now for the rural residency program is a new proposal or present law. He said the \$100,000 was eliminated in FY94 up to the present law base, but was added back in as a present law adjustment. He informed the committee when they deal with this he will have additional information in regard to the rule.

**SEN. SWYSGOOD** said his perception of the increases under the "old system" was a four or five percent increase totally across the budget has now evolved into a 13% or 14% increase because of incorporating all the present base adjustments which he felt should have been placed into new proposals.

**Connie Huckins, OBPP**, informed the committee how OBPP and the LFA developed this budget. She said by using HB 7, the OBPP and LFA worked together by placing the issues into the technical part of the budget to determine what would be used as base, used as present law adjustments, and what would be used to define new proposals. She explained to the committee how the LFA and the OBPP arrived at their decisions. She said they started with FY94 actuals, i.e., expenditures from each department that was on the books when FY94 was closed. She said they made accounting adjustments in the areas of one-time-only expenditures and rural residency was one of the issues which the LFA and OBPP made the decision to cut from the base.

**Ms. Huckins** admitted in hindsight this should have been new proposal, and accepted the blame. She said OBPP and the LFA used specific language in HB 7 that states "that level of services authorized by the previous legislature" was the criteria used to determine what would be considered a present law adjustment. She said this had been a problem with the previous budgeting method, and by using the current budget there were buried increases that are driven by automatic changes, i.e., Medicaid matching rate, that were not seen.

**CHAIRMAN COBB** asked **Mr. Taliaferro** about the state information immunization system and wanted the exact federal statute that he (**Mr. Taliaferro**) had referred to that says the state "has to do this." **CHAIRMAN COBB** said he needs this information to determine the final costs and if there are other alternatives available to receive the federal immunization funds. **Mr. Taliaferro** said the CDC requires the department to keep these records for the immunization grant, and said the department is challenging this issue.

*{Tape: 1; Side: B; Approx. Counter: 17.5; Comments: Mike Craig, Director of Planning/Research Health Care Authority.}*

**CHAIRMAN COBB** informed the subcommittee that the House Health Care Committee has asked him to defer review of the Health Care Authority budget until that committee determines what to do with the Health Care Authority, expand it, or wipe it out. He said it is his recommendation to not hear **Mike Craig** at this time nor take any kind of action until whatever action will be taken by the House Health Care Committee. He said there are studies that need to be done, health care data bases, and it needs to be determined if they should be combined. He said there is another committee working on this, and until they make a decision, this committee will not work on it at this time. **SEN. SWYSGOOD** said he will check with his leadership and explain the position the House has taken and then inform the subcommittee when he receives this information.

*{Tape: 1; Side: B; Approx. Counter: 20.1; Comments: n/a.}*

**Mike Craig** informed the committee what he will be presenting when the committee is ready for the information.

*{Tape: 2; Side: A; Approx. Counter: 1.0; Comments: The committee took a 20 minute break during which the time the tape recorder was left running.}*

HEARING ON  
DEPARTMENT OF LABOR AND INDUSTRY

**Laurie Ekanger**, Commissioner of the Department of Labor and Industry, said they are in charge of four divisions with two other divisions attached to the first four. She introduced the administrators in charge of those divisions. David Scott,

Administrator of Centralized Services Division, Gary Curtis, Administrator of Job Services Division, Rod Sager, Administrator of Unemployment Insurance Division, (**EXHIBIT 1**), Chuck Hunter, Administrator of Employment Relations Division, and attached for administrative purposes is the Human Rights Commission (Ann MacIntyre is the Executive Director), and Workers' Compensation Court, Judge Mike McCarter, presiding. She said the reorganization cut out four administrators and eliminated the Deputy Commissioner's position.

**CHAIRMAN COBB** asked **Ms. Ekanger** how long it took to remove those positions. **Ms. Ekanger** said it took approximately 1½ years.

**Ms. Ekanger** addressed the department's budget in the LFA's Budget Analysis Book - Vol. 1, Page B-1. The table at the bottom of the page shows the department has 24 fewer FTEs in their budget request than in their current budget year. She informed the committee they have a bill that will be introduced that does not show in the budget, but is included in general fund authority, and is called the Wage Simplification Act. The department has worked with the Department of Revenue this last year to find a way to merge their tax collections. She referred to pages 33 and 34 of Exhibit 2. The information depicts that it is not easy for an employer when it comes to payroll taxes. She said one of the initiatives the department has is a three phase consolidation of employment and wage reporting to state government. **Ms. Ekanger** said that licensing professionals and facilities inspections are also being combined at the Department of Commerce to benefit employers in another bill.

**Ms. Ekanger** addressed the work preparation programs that deal with employment training. She said the community level does an outstanding job of utilizing federal funds. She spoke of the work force preparation council that provides single consistent advise and oversight to the welfare to work, lay off to work, and etc., all work related issues.

**Ms. Ekanger** addressed the change in congress at the federal level and the Clinton Administration's proposed vouchers for welfare and related training programs.

**Ms. Ekanger** addressed the unemployment insurance administrative tax. She said the employer's contribution towards the tax is one-tenth of one percent for unemployment insurance that reaches the account. This is due to a change in the law in the early 1980s that was intended to maintain 23 local job services throughout the state. Due to a drop in federal funds for services, many of the programs of been dropped. She said there are no longer any reserves in the unemployment insurance administrative tax account (UI admin. tax).

**SEN. SWYSGOOD** asked **Ms. Ekanger** for a list of all the functions/programs that are funded through the Unemployment Insurance. **Ms. Ekanger** said she would get that information to

the committee. She informed the committee that most of the programs listed were special projects and one time only and have been dropped off. They are not included in the budget.

**SEN. SWYSGOOD** asked what happens to the money if the projects are no longer being implemented. **Ms. Ekanger** said the money goes back into projects that the legislature said it should be appropriated for. **Ms. Ekanger** said that the special projects were funded with a surplus of UI admin. tax funds. She said that three or four years ago the legislature passed a law stating that the department could not transfer money from the U.I. account to the trust fund without the legislature having an opportunity to review it. **SEN. SWYSGOOD** asked if the programs are gone, has the contribution rate for employers created an excess. **Ms. Ekanger** said there was excess early on. But overtime regular programs moved in to take over the tax and the excess was spent in other areas instead of going into the U.I. trust fund.

**CHAIRMAN COBB** said the excess money was found by this committee when money was short and started spending it. The next session, the governor's office started spending it, so the money was being spent faster than what was coming in. **CHAIRMAN COBB** said when the non-job service activities are eliminated, the surplus could go back into U.I. admin. tax account.

**Ms. Ekanger** reviewed page B-1 of the Budget Analysis book, and informed the committee the department's new proposals for the coming biennium show 24 less FTE positions.

**Ms. Ekanger** addressed the independent hearings section. She said that any of the contested decisions by employees or administrators are made by other divisions outside of that division. If the person is not satisfied with the hearing they can appeal to the Board of Personnel Appeals or the Board of Labor then on to the Supreme Court. She said the board members are appointed by the Governor and not involved with the department.

*{Tape: 2; Side: A; Approx. Counter: 37.1; Comments: n/a.}*

**Mark Lee, LFA** asked **Ms. Ekanger** if he understood that she said the department will not be back two years from now asking for general fund to replace the overspending in U.I. **Ms. Ekanger** said that is correct. **Mr. Lee** said the table at the bottom of page B-1 shows that U.I. is spending approximately \$700,000 more than what is coming in for FY97, and asked what will happen to the budget in 1998/1999. **Ms. Ekanger** said there is a problem. **Mr. Lee** asked if the department will be cutting programs. **Ms. Ekanger** said she does not know what will happen in two years, but felt the department will come in with a balanced budget. She said in two years the budget will not support what is currently being spent.

**SEN. SWYSGOOD** asked what was the original intent of the U.I. admin. tax. **Ms. Ekanger** said the bill was passed in 1982, and was not present at that time. **Gary Curtis, Administrator for Job Service Division**, said the bill was originally written to support rural job services including unemployment insurance and the Wagner Piesner Process.

**CHAIRMAN COBB** asked if this came about because of jobs being lost at the federal level. **Mr. Curtis** said the account sat for two years with no action because expectations that there would be a cut in federal funds didn't happen until the Reagan administration. He said there was an appropriation for \$350,000 in the Job Service Division in fiscal 1989. He said at that time the account was accumulating over \$2 million each year, which was transferred into the U.I. trust fund. **Mr. Curtis** gave a summary of how the money has been spent through the years.

*{Tape: 2; Side: A; Approx. Counter: 44; Comments: n/a.}*

**Ms. Ekanger** introduced **Mary Blake, Coordinator for the Montana Community Services Program**, which is part of the Governor's office. **Ms. Ekanger** said this program is in the DOLI budget, because there is a proposal to move it from the Governor's office to the Department of Labor and Industry.

**Ms. Ekanger** said the Montana Career Information System will be transferred from the Commissioner of Higher Education to the DOLI because it relates to employment career information services.

**Gary Curtis, Administrator of Job Service Division**, said it is his division's duty to support the 23 local job service offices' efforts to be more effective and provide better service. He said each of the 23 job service offices in Montana offer job match services to employers and applicants and try to make the best match they can. The offices offer special programs for veterans, training programs under the Job Training Partnership Act (JPTA), some of the offices offer welfare training programs, and take claims for U.I.

He said there are several attachments to the division. There is the four person apprenticeship unit which provides oversight and administers training throughout the state. There is a state job training bureau that provides jobs from around the state to JPTA. There is a one-person unit that operates the Jobs for Montana graduates and helps kids achieve a better school situation and find employment at the end of their high school careers. He said they started a job service employers committee about five years ago to provide information on the needs of the employers. **Mr. Curtis** spoke of the division's new computer technology system called Kiosk, a Russian word meaning "a little market place," but to the division it means "touch screen computer." It helps the job service reach out to rural communities in the state to provide better service.

*{Tape: 2; Side: A; Approx. Counter: 59.7; Comments: n/a.}*

**Rod Sager, Administrator of Unemployment Insurance Division,** addressed a program that has been brought into the division about one year ago through the reorganization. The Research/Analysis Bureau administers programs that provide comprehensive data and analysis of unemployment, unemployment wages, and wages and occupations in Montana. The division consists of four bureaus. He said over 95% of the division's funding comes from the federal government with the balance coming from state special and proprietary funds. He said in FY 1994 the division paid out \$61 million in benefits, and collected \$67 million in U.I. taxes from employers.

**Mr. Sager** said the Research/Analysis Bureau performs the calculations in Montana to determine the unemployment rate which is passed on to the federal government by request of the block grant and is used for national statistics. **EXHIBIT 2**

**Mr. Sager** addressed the status of the U.I. trust fund. He said the current balance is approximately \$106 million. He said the department feels it is adequate, but the federal government would like to see more dollars in the trust fund.

*{Tape: 2; Side: A; Approx. Counter: 73.9; Comments: n/a.}*

**Chuck Hunter, Administrator of the Employment Relations Division,** gave an overview of the division stating they are in charge of the wage and hour function, personnel appeals, and collective bargaining that is funded by the U.I. admin. tax. The Safety Bureau is attached to this division relating to safety functions and the Worker's Compensation functions. He addressed OSHA and its equivalent for public sector employers. He said the division's largest function is workers' compensation regulation and is operated by two-thirds of the staff.

**Anne MacIntyre, Administrator for the Human Rights Commission,** said that the Commission is the only place in state government where Montana directs its efforts to enforce important rights to the citizens of Montana to be free of discrimination. The Commission's primary responsibility is to enforce Montana's laws that prohibit discrimination in employment, housing, and public accommodations, for instance. She addressed the complaint process and the how the investigations occur. She distributed a handout on Civil Rights in Montana and discussed the issues. **EXHIBITS 3 and 4**

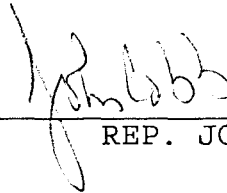
**Mike McCarter, Administrator for Workers Compensation Division,** distributed a handout that summarizes the court programs. He said that major rules revisions have made the process simpler by standardizing hearing flexibility, tele-conferences, and bench rules. **EXHIBIT 5**



**Mary Blake, Coordinator for the Office of Community Service,**  
distributed handouts reviewing the programs and community  
services offered throughout the state. **EXHIBITS 7 and 8**

ADJOURNMENT

Adjournment: 11:55 p.m.



REP. JOHN COBB, Chairman



CLAUDIA JOHNSON, Recording Secretary



PATTI BORNEMAN, Recording Secretary

Note: These minutes were proofread by Mark Lee, LFA.

JC/cj/pb

# HUMAN SERVICES AND AGING

## Joint Appropriations Subcommittee

ROLL CALL

DATE 1-6-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. John Cobb, Chairman	X		
Rep. Beverly Barnhart	X		
Rep. Betty Lou Kasten	X		
Sen. Chuck Swysgood, Vice Chairman	X		
Sen. J.D. Lynch	X		
Sen. Jim Burnett	X		

1/5/95

# DEPARTMENT OF LABOR AND INDUSTRY UNEMPLOYMENT INSURANCE DIVISION

## BUDGET PRESENTATION

Introduction - Rod Sager, Administrator,

### A. Division Mission

To administer a program which provides short-term economic assistance to eligible workers from a fund financed by employers. This program not only lightens the burden of unemployment upon the worker and the worker's family, but also helps local communities maintain a stable workforce and economy. In addition, we administer a program to provide comprehensive data and analysis of employment, unemployment, wages and occupations in Montana.

### B. Organizational Structure

The division consists of four bureaus; Administrative Services, Benefits, Contributions, and Research and Analysis. (Organization chart attached)

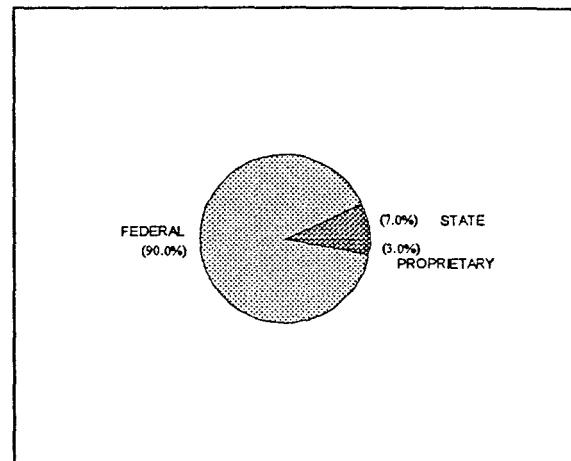
### C. Division Funding

Funding for the Division is a mixture of state, federal and proprietary sources. The majority, however, is from federal sources.

General fund	-0-
State Special Revenue	7%
Federal Special Revenue	90%
Proprietary Fund	3%

Total administrative funding for the Division is projected to be \$6,217,886 in SFY 1996 and \$6,228,873 in SFY 1997.

Funds for administration of the Unemployment Insurance (UI) program are paid by employers through the Federal Unemployment Tax (FUTA) to the Internal Revenue Service.



Funds for UI benefit payments come from the UI Trust Fund. UI taxes collected from employers are placed in the U.S. Treasury in a state specific account for payment of benefits. In SFY 1994 the Division paid \$61 million in UI benefits and collected \$67 million in UI taxes from employers. The benefits paid include those paid for regular UI, the state's share of Extended Benefits (EB), Reimbursables, benefits to ex-federal employees, and combined wage claims (CWC) to claimants in Montana from other states. Taxes to pay the benefits are from each of the above sources as well.

D. Recent Accomplishments

Listed below are some of the things we accomplished over the last two years:

- \* Processed 52,824 initial claims in SFY 1993 and 55,687 in SFY 1994. Processed 451,163 weeks claimed in SFY 1993 and 482,652 in SFY 1994.
- \* Processed wage reports each quarter of SFY 1993 from 25,776 employers and from 26,600 employers in SFY 1994.
- \* All incoming funds are deposited within 3 days of receipt and the accounts receivable balance was reduced from \$2.13 million in June, 1992 to \$1.91 million in June, 1994.
- \* Participated in a Partnership Task Force with the Department of Revenue which resulted in recommendations to improve and coordinate wage reporting and other activities to lessen the burden on Montana employers.
- \* Made changes to several UI tax forms and procedures as a result of input by employer advisory groups.
- \* Began implementation of an Interactive Voice Response (IVR) system to allow claimants to file weekly claim cards by phone rather than mail. The system will be full implemented by June 30, 1995.
- \* Conducted a feasibility study to determine the financial and service benefits of a telephone-based initial claims system.
- \* Closed-out the Emergency Unemployment Compensation Act (EUCA) which began in November of 1991. Montana paid out over \$43 million in EUCA benefits since 1991.
- \* Our Research and Analysis Bureau program produced and distributed almost 100,000 publications during the last two years. These included information on occupations,

industries, and other labor market characteristics.

- \* Research and Analysis Bureau staff made numerous labor market and career information presentations at conventions and training sessions across the state.

E. Future Plans

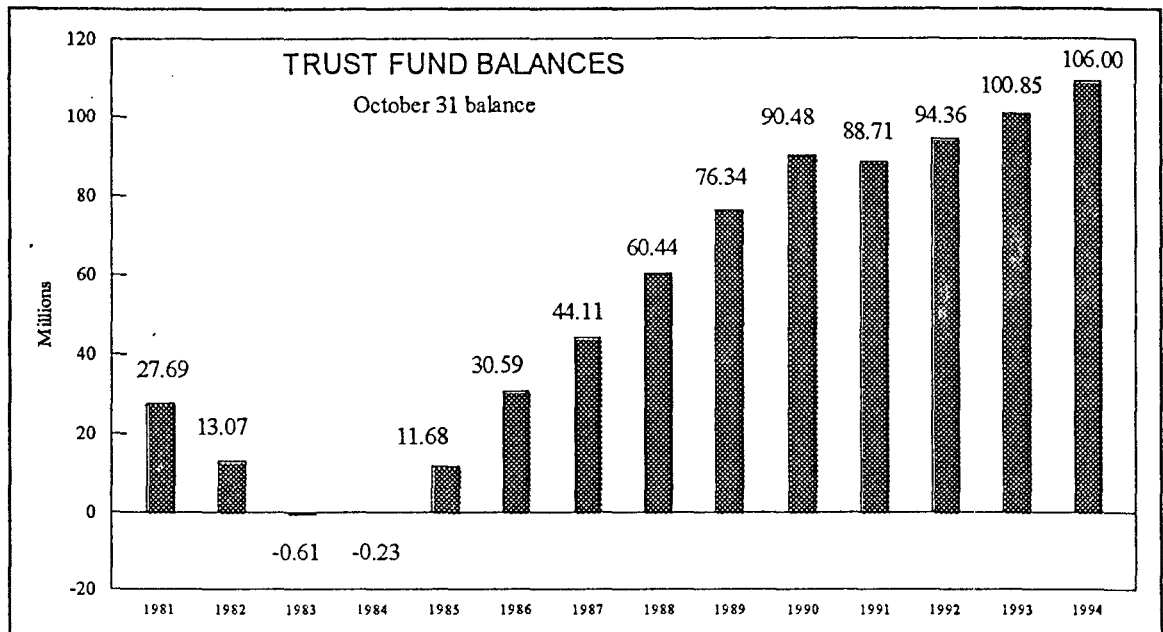
Some of our plans for the next two years include:

- \* Implement automation projects, including the new Tax Computer System and the second phase of automated wage reporting. Educate and fully train employers in the new procedures that will result from the automation.
- \* Implement plans to streamline the payroll tax functions with the Department of Revenue, to include employer registration, independent contractor determinations, and coordination of audit and enforcement activities.
- \* Complete implementation of Interactive Voice Response and add additional features which will enable claimants and employers ready access to claim and tax information.
- \* Implement a Claimant Profiling System which will identify claimants most likely to exhaust benefits and refer them for reemployment services.
- \* Develop a long range automation plan to address problems of an aging claims system.
- \* Address technological improvements such as phone claims and begin implementation of appropriate technology.
- \* Provide timely information to assist policy makers with decisions regarding the labor market.
- \* Help reduce frictional unemployment by providing information to shorten the length of time between the match of job openings with job seekers.
- \* Provide input that results in a positive impact on curriculum development in the schools, job training, and dislocated worker programs.

F. UI Trust Fund Status

The Trust Fund has experienced its ups and downs, as can be seen in the graph below. The current balance appears to be adequate, but what is the definition of adequate? A simulation of a 1983-1985 level recession in the years 1995-1997 completely depletes reserves by May

1997. This simulation, therefore, indicates the current balance is sufficient to ride out the recession. Minimal



\*\* 1994 Trust Fund Balance is an estimate.

borrowing from the U.S. Treasury would occur only at the end of the recession when the fund is beginning to recover.

#### G. Status of Recent Legislative Audit Recommendations

During the winter and spring of 1994, the UI Division underwent an EDP audit by the Legislative Auditor. This audit (report dated June 1994) resulted in 14 recommendations relating to computer access and security aspects of our computer systems. Of the 14 recommendations, we have implemented or are in the process of implementing eleven. Most are complete. The few that have yet to be addressed are resource intensive and in all cases the manpower simply has not been available to work on them. The recommendations or portions of recommendations which have not been complete relate primarily to documentation of systems or procedures, including development of a formal contingency plan for the computer systems, certainly a high priority in this agency.

H. Significant Budget Items

Base Adjustments:

The majority of these adjustments are due to the following:

Operating Expense

- \* \$300,000 for postage costs transferred from Feds to state.
- \* 100,000 due to transfer of MCIS program from Higher Ed.
- \* 100,000 to make Benefits System programming changes.
- \* 40,000 for National BLS conference.
- \* 30,000 for increased ISD charges to run new Tax System.

Equipment Expense

- \* \$ 60,000 to replace 20% of our PCs on a 5-year cycle.
- \* 12,000 to replace 20% of our printers on a 5-year cycle.
- \* 11,000 to upgrade software for federal programs.

New Proposals:

The majority of these adjustments are due to the following:

Personal Services

- \* A 5.40 FTE staff reduction.

Operating Expense

- \* \$ 15,000 for a toll-free phone number for employers.

Equipment Expense

- \* \$ 15,000 for new computer equipment required by Feds.
- \* 13,000 for FAX machines, keyboards and laptop computer.

I. Legislation and Other Issues

The Division has requested a Housekeeping Bill to resolve a variety of issues including some federal compliance requirements. Also included is a proposal to limit the use of Penalty and Interest funds to UI Division us only. In recent years, a portion of the UI generated funds have been diverted away from the UI Program. We are proposing that \$100,000 per year be used for programming enhancements to the Benefit Payment System.

In addition, in a joint bill with the Department of Revenue we are proposing to use \$125,000 of the Penalty and Interest funds to pay for UI's share of a contract to evaluate how to proceed with the concept of combining the two agencies tax collection/payroll reporting systems.



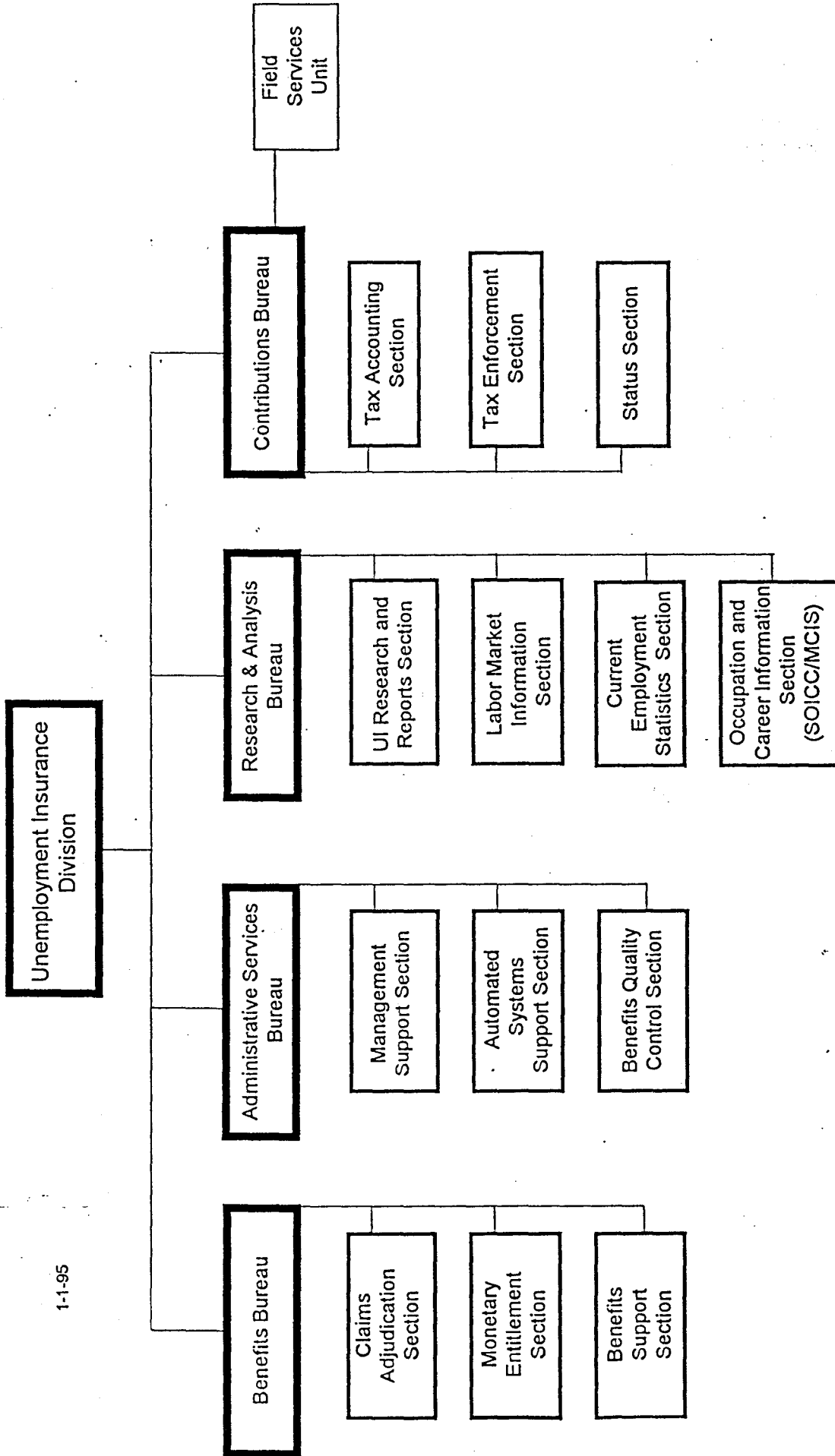


EXHIBIT 2  
DATE 1-6-95  
1

Department of Labor & Industry  
1st Annual



September 1994  
Research & Analysis Bureau  
Montana Department of Labor & Industry

Labor Day Report



The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

PROFILE

OF THE

MONTANA WORKER

EXHIBIT 3  
DATE 1-6-95  
1

# **ADMINISTERING AND ENFORCING MONTANA'S HUMAN RIGHTS LAWS WANTED: A MORE JUST, EFFECTIVE, AND EFFICIENT RESOLUTION OF CASES AND COMPLAINTS**

**A Report to the Governor and 54th Legislature**

**November 1994**

**Published by**

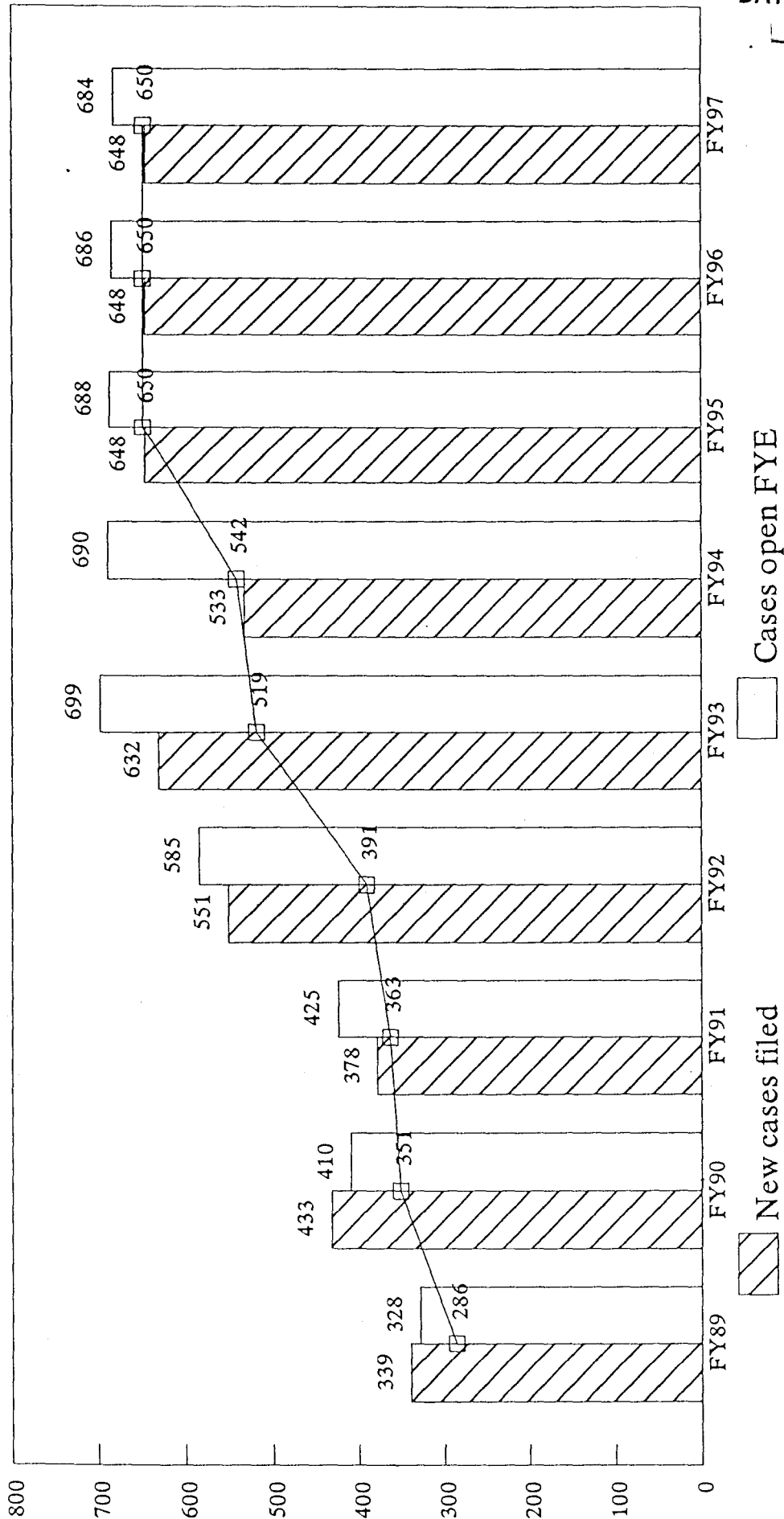


**Montana Legislative Council**

Montana Legislative Council  
State Capitol, Room 138  
Helena, Montana 59620-1706  
PHONE: (406) 444-3064  
FAX: (406) 444-3036

# HUMAN RIGHTS COMMISSION CASELOAD

July 1, 1988 projected through June 30, 1997



— Cases closed

FY95 filings are projected based on actual filings through 11/30/94  
We assume filings will remain constant in FY96 and FY97

EXHIBIT 4  
DATE 1-6-95

**WCC Presentation to Joint Appropriations Subcommittee - Human Services**  
**January 6, 1995**  
**Page 1**

I. Court workload: No significant change over last 4-5 years:

A. More trials in fiscal 94 than any year since 1990

1994	70**
1993	50
1992	64
1991	49
1990	101

\*\* Prior to 1994 fiscal year, trials were split between the judge and a hearing examiner. The hearing examiner position has been eliminated, resulting in 1 less FTE, and judge is presiding at all trials. 69 of the 70 in 1994.

Based on 1st 6 months of fiscal 95, we expect number of trials this year to return to the 50-60 level.

B. Number of Petitions filed is fairly static:

1991	290
1992	286
1993	297
1994	237
1995 (est)	236 (118 filed in first 6 months)

C. Number of WCC Decisions is stable:

1990	64
1991	104
1992	75
1993	58
1994	63
1995 (est)	84 (42 already issued this year)

D. CHANGE IN CASE MIX: Still hearing significant number of old law - pre-1987 cases -- 25%, but vast majority of cases involve post-1987 injuries. *Pie chart provided in handouts.*

**WCC Presentation to Joint Appropriations Subcommittee - Human Services**  
**January 6, 1995**  
**Page 2**

**WORK LOAD SUMMARY:** Work load over the past 4-5 years has been stable but we are doing the job with less personnel.

**II. Goals of Court**

- ☐ Fair and even handed atmosphere for all parties appearing before Court.
- ☐ Speedy Trials.
- ☐ Speedy Decisions.
- ☐ Fair decisions.
- ☐ Well reasoned decisions.
- ☐ Consistent and predictable decisions.

**III. Court accomplishments during last year**

1. Major revision of Court rules: Streamlines and simplifies process.
2. Standardized trial settings in 6 cities:
  - ☐ GF
  - ☐ BLG
  - ☐ MSO
  - ☐ KAL
  - ☐ HLN
  - ☐ BTM
- ☐ Trials for 1 week every three months in each City.
- ☐ Schedule set a year in advance.
3. Flexibility in trial settings: Judge available in Helena anytime he's not trying cases in another city.
4. Increased used of telephone conference calls to dispose of pretrial disputes.
5. Increased the use of Bench Rulings and quick decisions.
6. Gamesmanship and sharp practice by attorneys vigorously discouraged.
7. Docketing & case management system computerized. This was accomplished internally within the Court. The new system is quicker and more efficient than old system and it provides far more detailed information about cases: We can track:
  - ☐ types of injuries

WCC Presentation to Joint Appropriations Subcommittee - Human Services

January 6, 1995

Page 3

- ☐ Types of issues
- ☐ Dates of injuries
- ☐ Appeals
- ☐ Motions
- ☐ Calendaring
- ☐ A host of other information

8. Elimination of one hearing examiner position accomplished by:

- ☐ Assumption of increased responsibilities by other staff.
- ☐ Computerization.
- ☐ Hard work.

IV. Court goals over next biennium

- A. Continuation of what we are doing.
- B. Reduce the time between submission of cases and decision:

- ☐ Use Bench rulings as much as possible when appropriate.
- ☐ Reduce time in other cases to 30-45 days.

V. Brief Budget Remarks.

- ☐ The Court has realized significant savings by eliminating a hearing examiner. Those savings are already largely reflected in our 1994 expenditures since the hearing examiner was eliminated effective 10/30/93.
- ☐ Elimination of hearing examiner increased some other costs,. Not every dollar of the position is saved but *most* are. We spent \$18,500 less than generally budgeted for fiscal 1994 even with one time expenditures for computer system upgrading.

**WORKERS' COMPENSATION COURT  
DECISIONS & SUBSTANTIVE ORDERS  
1990 - 1995**

DECISIONS	1990	1991	1992	1993	1994	1995*
Findings	62	90	55	45	54	66
Department Appeals	2	14	20	13	9	18
<b>TOTAL DECISIONS</b>	<b>64</b>	<b>104</b>	<b>75</b>	<b>58</b>	<b>63</b>	<b>84</b>
 SUBSTANTIVE ORDERS	 96	 56	 93	 81	 83	 76
 TOTALS DECISIONS & SUBSTANTIVE ORDERS	 160	 160	 168	 139	 146	 160

\* Projected for 1995 based on first six months.



**WORKERS' COMPENSATION COURT STATISTICS**  
**JULY 31, 1994 to DECEMBER 31, 1994**

**FILINGS**

Original Petitions	113
Appeals from the Department of Labor	<u>5</u>
TOTAL	118

**BY PLAN**

Plan 1 - Self-Insured	19
Plan 2 - Other Insurance	37
Plan 3 - State Fund	57
Plan 4 - UEF	3
Plan 5 - Subsequent Injury	<u>2</u>
	118

**BY TYPE**

Workers' Compensation Act	108
Occupational Disease Act	6
Rehab Panel Determination	3
Miscellaneous	<u>1</u>
	118

**TRIALS**

Trials Held	23
[Bench Rulings 4]	

**SUBSTANTIVE WRITTEN DISPOSITION**

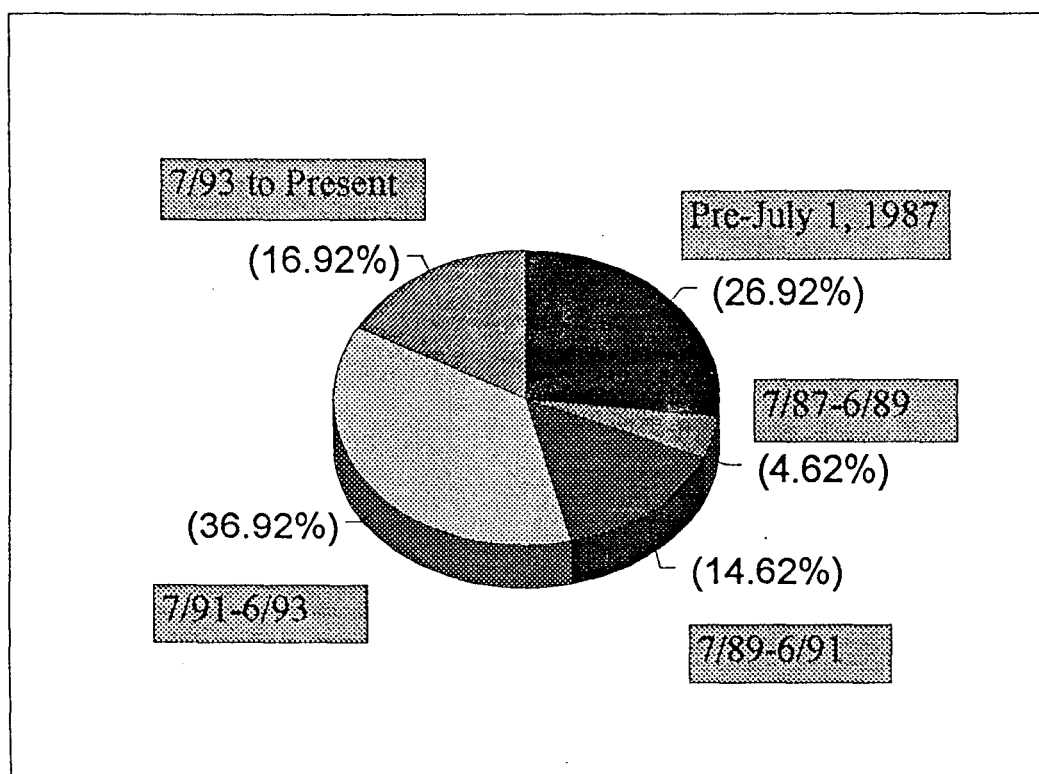
Findings Issued	33
Orders on Appeal	9
Substantive Orders	38
Attorney Fees	3
Costs	5
Reconsiderations	3
Other	27

Montana Workers' Compensation Court

Injury dates involved in petitions filed between July 1 and December 31, 1994

Dates of injuries	Number of petitions	% of total
Pre-July 1, 1987 injuries	35	26.92%
7/1/87 to 6/30/89	6	4.62%
7/1/89 to 6/30/91	19	14.62%
7/1/91 to 6/30/93	48	36.92%
Post-July 1, 1993 injuries	22	16.92%
TOTAL*	130	

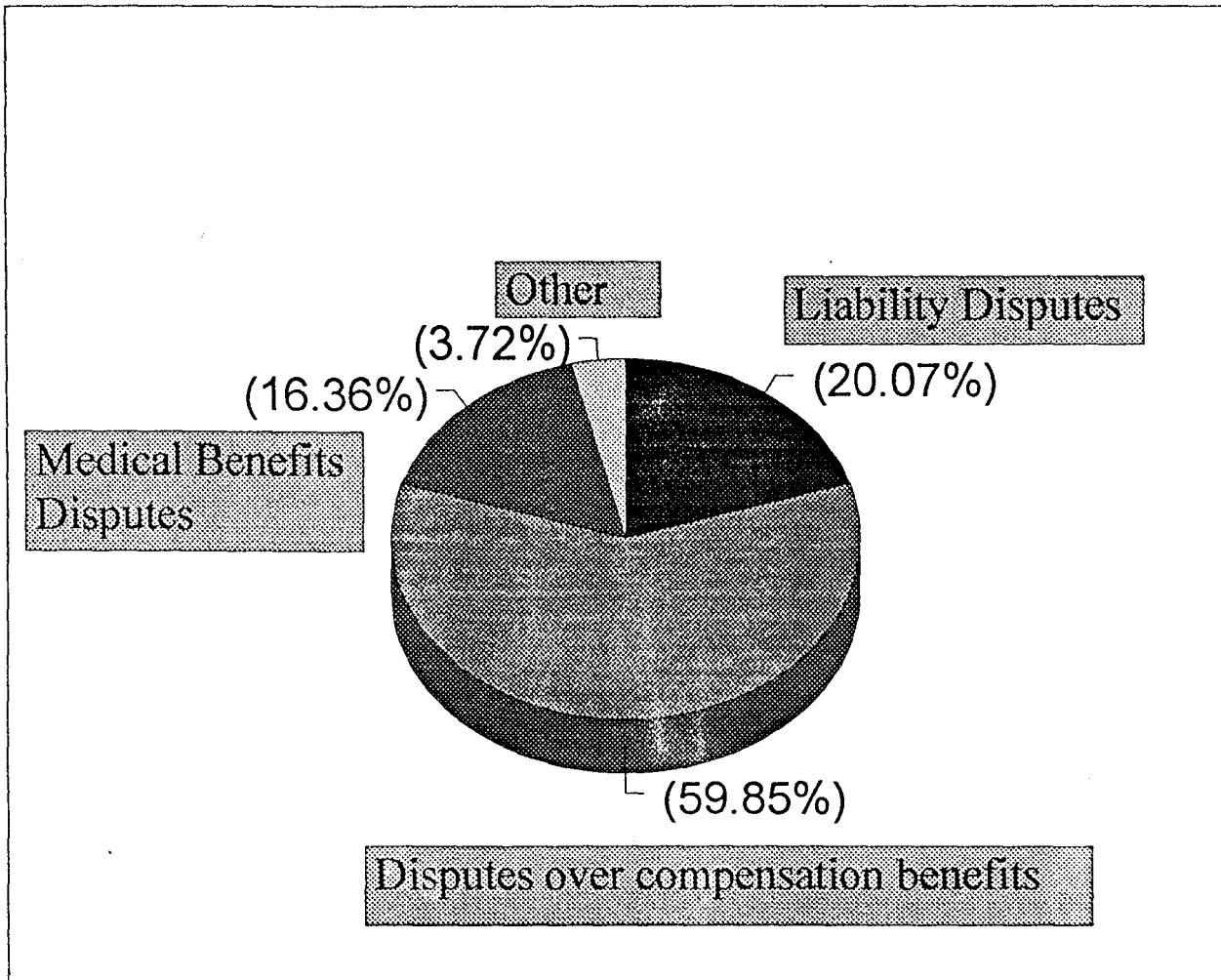
\* Total is greater than the number of petitions since some petitions raise issues regarding more than one injury.



Montana Workers' Compensation Court

Types of issues raised in petitions filed between 7/1/94 and 12/31/94

	Number	Percent
Liability Disputes	54	20.07%
Benefits Disputes	161	59.85%
Medical Benefits issues	44	16.36%
Other	10	3.72%
Total issues*	269	



# WORKERS' COMPENSATION COURT CASE MANAGEMENT SYSTEMS SCREENS

W  
C  
C  
D  
A  
T  
A  
B  
A  
S  
E

WCC #	9407-7084	Petitioner	Jerry G. McNeese
VENUE	BIL	Respondent	State Compensation Insurance Fund
		3rd Party	

SCREEN #1

Date Filed	Description	Type	Pages
7/1/94	Petition For Hearing	PLD	2
7/1/94	Scheduling Order (11/14/94 BIL)	SCH	3
7/1/94	~Clerk's Certificate Of Service	CCS	1
7/27/94	Response To Petition	PLD	4
9/30/94	Notice Of Service	NOT	2
10/3/94	Clarify And Amend Pleadings	MOT	3
10/7/94	Amended Response To Petition	PLD	2
10/11/94	Notice Of Exchange	NOT	3

Today : 1/6/95

W  
C  
C  
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A  
T  
A  
B  
A  
S  
E

WCC#	9407-7084	Petitioner	Jerry G. McNeese
		Respondent	State Compensation Insurance Fund

SCREEN #2

DIARY	Diary Date	Instruction
	1/11/95	Submit

Submitted Items	Date Sub	Date Dec	Item submitted	X = N/A

Today : 1/6/95

# WORKERS' COMPENSATION COURT CASE MANAGEMENT SYSTEMS SCREENS

W  
C  
C  
D  
A  
T  
A  
B  
A  
S  
E

WCC# **9407-7084** Petitioner: **Jerry G. McNeese**  
Respondent: **State Compensation Insurance Fund**

SCREEN #3

Petition Date: **7/1/94** Trial Week:  **KEY DATES**  
Service Date: **7/1/94** Trial Date:   
Response Date: **7/27/94** Trial Place:  Final Decision:

Appeal Date:  Date of SC Dec:  **APPEAL INFORMATION**  
X-Appeal Date:  Date Rmtr rcvd:   
Transmittal:  Aff'd, Aff'd in part, Reversed:

☐ Inactive if checked Closure Date:  Closure Box #:

Today : **1/6/95**

W  
C  
C  
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A  
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A  
B  
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S  
E

WCC# **9407-7084** Petitioner: **Jerry G. McNeese**  
Respondent: **State Compensation Insurance Fund**

SCREEN #4

CLAIMANT: First Name: **Jerry** Last Name: **McNeese** SS#:   
Pet/Res/3rd: **Pet**

Employer: **Associated Glass, Incorporated** Plan: **3**

Injury Date  
**12/1/89**

Injury Code  
**26**  
**91**  
**93**

List of Plans  
1 Self Insured  
2 Private Insurer  
3 State Fund  
4 JEF  
5 Subsequent Injury

Today : **1/6/95**

WORKERS' COMPENSATION COURT CASE MANAGEMENT SYSTEMS SCREENS

W  
C  
C  
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A  
B  
A  
S  
E

WCC#	9407-7084	Petitioner	Jerry G. McNeese
		Respondent	State Compensation Insurance Fund
Jurisdiction	Judicial Review	Case Type	1
DLI Hearing Officer		Issue Code	
		1A1	
ATTORNEYS		Pet	Pro Se
		Res	Whyte, Daniel J.
		3rd	
Special Instructions		[MEMO]	

SCREEN #5

Today : 1/6/95

WCC#	9407-7084	Petitioner	Jerry G. McNeese
		Respondent	State Compensation Insurance Fund
Decision Type		Att'y Fees?	
		Penalty?	
JUDGMENT			
[MEMO]			

SCREEN #6

Today : 1/6/95

# WORKERS' COMPENSATION COURT CASE MANAGEMENT SYSTEMS SCREENS

W  
C  
C  
D  
A  
T  
A  
B  
A  
S  
E

WCC#	9407-7084	Petitioner	Jerry G. McNeese
		Respondent	State Compensation Insurance Fund

SCREEN #7

DECISION  
CODES

Issue Code

Statute	Year

Last Page

Today : 1/6/95



**FACT SHEET FOR  
ACCESSING THE STATE BULLETIN BOARD SYSTEM [SBBS]  
WORKERS' COMPENSATION COURT FORUM**

**To access the State Bulletin Board Phone Numbers:** 444-5648 (Helena)  
1-800-962-1729 (Outside Helena)

Any communications software package can be used to dial into the network. A 14,400 modem is suggested and the proper settings for the SBBS are: 8 bits, no parity, and 1 stop bit.

Once you establish connection to the SBBS, you will be asked if you like graphics. Press the ENTER key. You will see the "WELCOME" sign.

If you are entering the SBBS for the first time, you must choose a password, and fill out your company name and address. This will be the only time you will be asked to choose a password. PLEASE REMEMBER YOUR PASSWORD as you can't get back on without it.

Once you sign on, you will need to press the ENTER key to access the MAIN MENU. Press "A" on the keyboard to access an Agency's Conference [ Workers' Compensation Court]. An AGENCY MENU A-L will appear, select "V" for Labor and Industry. Once you select "V", the CONFERENCE MENU will show up for the Department of Labor and the Court. Select "W" and the Court's CONFERENCE MENU will appear as below:

INFO - Get Information About This Agency  
EMAIL - Read and Send Electronic Mail to this Agency  
FILES - Locate, View and Download Available Files [Where you generally will be]  
MAIN - Return to the Main Menu  
GOODBYE - Leave this Bulletin Board System [Hang Up!]

Access the file area by pressing "F". The file area is grouped by the following topics:

- 1 - General Information and Bulletins
- 2 - Rules
- 3 - **Decisions**
- 4 - Trial Calendar
- 5 - Other Files and Information

To download a file - you will need to flag the file to mark it for downloading. There are two methods for flagging files for download: type the letter F and enter and type the file name or hit the SPACE BAR, the cursor will jump to the first file name found on the top of the screen. You can select that file and return to the "more?" prompt. If you keep pressing the SPACE BAR the cursor will continue moving down the screen. After file(s) is flagged you can download it to your computer or continue into other areas of the SBBS. The files remain marked until you log off.



When ready to download, return to the CONFERENCE MENU and select "D" to download. It asks what protocol you would like to use to download. If you call into the SBBS via modem, (Z) Zmodem is the fastest way to download information.

At the top of the screen it asks where you would like the downloaded file to go. You can place it on a disk or directly on your computer's hard drive. Your communication software program may already have a directory specifically for downloads or you may want to set up a temporary directory on your hard drive just for downloads.

All the SBBS files will have .zip extensions. Zipping a file compresses all of the spaces and other redundancies so the file doesn't take up as much space on the computer. To access a file you will need to unzip the downloaded file. To do this you will need to download "unzip.exe." Return to the MAIN MENU by hitting "M". Next type "F" for files, highlight with the SPACE BAR the file named: unzip.exe; type "N" for More. Next, download the file in accordance with the previous instructions. You should put UNZIP.EXE in the same directory you use for downloading the other files.

Before you can read a downloaded file you must unzip it. Each .zip file actually consists of two files. One is a text file (.txt) which contains the file description. It unzips as "filedesc.txt". This name is used in every zip file and contains a description of the main file. The second file which is unzipped is the main file. If it is the text of a case, the file will be the case name with the extension ".W51". The extension means that it is in WordPerfect 5.1 format. Thus, the decision in Glaude v. State Fund will be unzipped as "Glaude.W51". If you unzip more than one file, or have previously unzipped a file and not yet expunged it, you will need to rename the "filedesc.txt" file so you don't overwrite the old one. You will be prompted by the "unzip.exe" to do this. We suggest you rename it using the name of the case followed by the extension ".txt" or ".des". For example, in the Glaude case, you could rename "filedesc.txt" as "Glaude.txt" or "Glaude.des". Once you have unzipped the files, you can use WP51 or WP60 to read and print the files. Because of SBBS limitations, we have had to put these files in Courier 10 CPI. Your printouts will therefore not be as nice as the Court's unless you go into the document and change the font.

**REMEMBER THE STATE BULLETIN BOARD IS STILL UNDER CONSTRUCTION AND SUBJECT TO CHANGE.** This information sheet is only a guide to get you started. If you need basic SBBS assistance you can call Bob Schleicher at Research and Analysis [444-2992]. If you have questions about something in the Court's area of the bulletin board you can call the Court [444-7794].

AN OVERVIEW OF RECENT  
AMENDMENTS TO THE RULES OF THE WORKERS' COMPENSATION COURT

by

Mike McCarter, Judge of the Workers' Compensation Court

Since taking office in September, 1993, I have been meeting with the Rules Committee of the Workers' Compensation Court to consider a number of changes in the procedural rules of the Court. The committee consists of more than a dozen attorneys who practice before the Court. Their participation, recommendations, and consensus have been invaluable.

Two sets of amendments have been approved by the committee and the Court. The first set was noticed in the Montana Administrative Register (MAR) on November 24, 1993, and was formally adopted as of January 14, 1994. The second set will be published in MAR on February 10, 1994, and is scheduled to take effect on April 1, 1994.

Some of the changes are non-substantive, including changes to make the rules gender neutral, to refer to parties as "petitioner" and "respondent," to delete provisions which are repetitious of statutes, and to clarify. This article will discuss only the substantive changes.

The discussion will be topical and include both the amendments already adopted and those scheduled to take effect in March.

The Petition And Response, ARM 24.5.301 and 24.5.302: The provision requiring the Clerk to "issue a receipt for each document received" by the Court has been eliminated. Attorneys wishing to obtain an acknowledgment of filing may do so by sending a self-addressed postcard, letter, or conformed copy of the document. The rule governing the response to a petition has also been amended by adding requirements that the response contain a statement of uncontested facts and a representation that the respondent has exchanged, and will continue to exchange, pertinent medical records.

Service And Computation Of Time, ARM 24.5.303: Under past practice the Court has assumed responsibility for serving the petition by mail. This practice will continue. However, provision has been added for personal service in accordance with Rule 4(b), Mont.R.Civ.P., where service cannot be effected by mail. A provision clarifying computation of time has also been added. It states that "weekends and holidays shall be included" in the computation. The inclusion applies to all calculations

of time, including periods which are 10 days and less, and thus differs from the rule applied in district court.

Joinder And Intervention ARM 24.5.308 and 24.5.309: The rule regarding joinder has been changed to state that joinder "shall be governed by the considerations set forth in Rules 19, 20 and 21 of the M.R.Civ.P." Similarly, the rule regarding intervention has been changed to reference Rule 24, Mont.R.Civ.P. The time for joining a third party or moving to intervene is limited to 30 days after service of the petition unless the time is lengthened by order of the Court.

Scheduling Orders And Time Of Trial, ARM 24.5.310: Specific provision has been made for the use of scheduling orders fixing deadlines for discovery, pretrial motions, the pretrial order, and a pretrial conference. The Court is now routinely issuing a scheduling order at the time the petition is served. The deadline for filing a petition has also been moved back from 60 days prior to trial (old rule) to 75 days prior to trial (new rule). This will allow additional time to complete discovery and other pretrial matters. It is intended to reduce post-trial deposition practice and to shorten the time between trial and the parties' submission of proposed findings of fact and conclusions of law.

Motions, ARM 24.5.316: As amended the rule regarding motions provides that the time for filing certain motions may be set by scheduling order. Oral argument of motions is not permitted unless the Court specifically orders it. An extension of time may be granted on an ex parte application but only upon certification by the applicant attorney that s/he has attempted but been unable to contact the opposing attorney. Finally, the rule has been amended to allow motions regarding discovery to be presented and decided informally by telephone conference call among the Court and the parties' attorneys. Informal resolution of discovery issues is encouraged in light of the short time between the filing of a petition and trial.

Medical Records, ARM 24.5.317: Under the prior rule, medical records were automatically admitted. The amended rule provides a procedure for a party to object to the admission of medical records,

but further provides that the failure to object shall be deemed an admission that the records are authentic and admissible under Rule 803(6), Mont.R.Evid. Records to which objections are made are not automatically admissible. However, where an objection is based on authenticity or hearsay, the rule permits the Court to award attorney fees to the party successfully offering the records at trial unless it finds that there was "a good and substantial reason for the objection."

Pretrial Conference And Order, ARM 24.5.318: Court practice regarding pretrial orders and the pretrial conference are substantially changed. Under the revised rule the parties are to prepare the pretrial order without the assistance of the Court's hearing examiner unless assistance is specifically requested. The final pretrial order must be presented at the time of the final pretrial conference, which will typically be conducted a week before the trial. The revised rule also requires that a final list of exhibits, accompanied by the objections of any party to any exhibits, be submitted with the pretrial order. All exhibits, including those to which objections are interposed, must be provided to the Court at the pretrial conference, preferably in a notebook or binder with tabs for each exhibit. Exhibits must be numbered consecutively using numbers.

Depositions, ARM 24.5.322: This rule has been amended to allow videotaped depositions and depositions upon written questions. A stenographic transcript is still required for videotaped depositions.

Interrogatories, ARM 24.5.323: The amendments allow interrogatories to be served with the petition and provide that interrogatory answers may be used to the extent allowed by the rules of evidence and civil procedure. The rule has also been amended to state that an interrogatory "is not objectionable merely because it is phrased in the form of a request for admission." However, the Court has not adopted other provisions of Rule 36, Mont.R.Civ.P.

Requests For Production, ARM 24.5.324: The amendments allow service of requests for production with the petition and change the procedure for reviewing objections which are based on attorney-client privilege and work product doctrine. Documents to which such objections are interposed will no longer be routinely reviewed by the Court. The objecting party is required to provide basic identifying information regarding withheld documents. The burden is then on the requesting party to move to compel production. The subsection permitting a party to provide a written release or authorization for medical records has been expanded

to cover other documents not within the physical possession of a party but within the party's custody or control. The revised rules on interrogatories and requests for production forbid routine filing of written discovery and production.

Limiting Discovery, ARM 24.5.325: The Court has adopted most of Rule 26(c), Mont.R.Civ.P., which governs protective orders.

Settlement Conferences, ARM 24.5.334: The rule has been revised to provide that settlement conferences will be conducted by the Court's hearing examiner or an outside mediator. It also permits the Court to direct that a person with ultimate settlement authority for each party attend the conference.

Attorney Fees, 24.5.343: A deadline has been added for filing objections to a claim for attorney fees. The deadline is 20 days following service of the claim.

Stay Of Judgment, ARM 24.5.346: The language of the rule has been revised to allow waiver of bond where the court determines that "adequate security exists for payment of the judgement" or the parties stipulate that bond is not required.

Judicial Review, ARM 24.5.350: The rule governing appeals of decisions of the Department of Labor and Industry has been changed to allow filing of the appeal with either the Department or the Court. The time for preparing a transcript has also been extended to 30 days. Finally, the rule now allows the parties to agree to alternative arrangements for transcribing the proceeding.

New Rule -- Brevity and Form Of Paper, ARM 24.5.306: The Court has adopted the district court requirement that all papers filed with the Court set forth at the top left hand corner of the first page of each document the name, address and telephone number of the attorney preparing the document. The Supreme Court rule regarding use of recycled paper has also been adopted. Documents may be single spaced, with double spacing between paragraphs. Line numbers are not required. Finally, the new rule encourages brevity and provides that rambling and verbose documents may be returned for rewriting.

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Attorneys practicing before the Court should be familiar with the changes. Copies of the amended rules may be obtained by calling or writing the Court.

# OFFICE OF COMMUNITY SERVICE

## OVERVIEW

- ▶ **AMERICORPS** (National Service Program, like a domestic Peace Corps): By State and Federal Statute, administer AmeriCorps funds, providing state match, technical assistance, training and program support for successful operation. AmeriCorps members work in the areas of human needs, education, public safety and environment. In FY 95 with \$110,000 state match, these programs will provide:
  - \* 201 Montanans with commitments to community service;
  - \* 274,500 hours of community service to hundreds of projects across the state;
  - \* Over \$2,000,000 federal funds leveraged to Montana communities; and
  - \* \$733,900 in educational awards to AmeriCorps members.
  - \* Serving areas around Billings, Lewistown, Bozeman, Helena, Missoula, Pablo/Ronan area, Kalispell, Browning, Fort Belknap and Great Falls.
- ▶ **LOCAL VOLUNTEER DEVELOPMENT GRANTS:** Competitive "Getting Things Done" grants of \$12,000 each to support a strategic planning process to accomplish community needs through volunteer/community service projects.
  - \* Lewistown
  - \* Butte-Silver Bow
  - \* Libby
  - \* Anaconda-Deer Lodge
  - \* Superior
  - \* Ravalli County
- ▶ **COLLABORATION WITH SCHOOLS, HIGHER EDUCATION AND JOB TRAINING PROGRAMS:** Promoting and supporting the opportunity of community service as a tool for learning the "real life" application of school curriculum and employment choices.
- ▶ **SUPPORT LOCAL VOLUNTEER EFFORTS:** Through technical assistance, providing support for training in areas of volunteer recruitment, retention and management for non-profits, schools, local and state government; advocacy for use of volunteers, young and old, to contribute to their communities; encourage individuals, families, businesses and organizations to encourage community service in everyday life.

For information, contact:

Mary Blake, Coordinator  
Office of Community Service  
State Capitol Building  
444-5547

# AMERICORPS

## ► BUILDING MEMBERS:

- \* 1700 hours of Service per year
- \* \$7,660/year Living Allowance
- \* \$4,725 Educational Award
- \* Skill and Leadership Training
- \* Medical and Limited Child Care Benefits

## ► BUILDING COMMUNITIES:

- \* Provide Community Service in the Areas of:
  - Human Needs
  - Public Safety
  - Education
  - Environment
- \* Support Existing Organizations Efforts in Community Service