MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIRMAN THOMAS F. KEATING**, on February 4, 1997, at 3:00 p.m., in 413/415.

ROLL CALL

Members Present:
Sen. Thomas F. Keating, Chairman (R)
Sen. James H. "Jim" Burnett, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Benedict (R)
Sen. C.A. Casey Emerson (R)
Sen. Dale Mahlum (R)
Sen. Debbie Bowman Shea (D)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Eddye McClure, Legislative Services Division
Gilda Clancy, Committee Secretary

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

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 115; 1-29-97
Executive Action: SB 98, DO PASS AS AMENDED
SB 185, TABLED
SB 45, DO PASS AS AMENDED

HEARING ON HB 115

Sponsor: **REP. DUANE GRIMES, HD 39, CLANCY**

Proponents: **Dennis Zeiler, Department of Unemployment Insurance, Department of Labor & Industry**
Jerry Driscoll, Montana Trades Council

Opponents: **None**

Opening Statement by Sponsor:

REP. DUANE GRIMES, HD 39, Clancy, presented HB 115. He stated this is a straight-forward bill, a typical housekeeping bill.

There are a couple of things in it beyond that, however, which are required because of federal regulations. One is a voluntary withholding of income tax from Unemployment Insurance benefits and the recovery of the over-issuance of food stamps. Basically, because of federal regulations this bill requires us to crack down on fraud a little more.

Proponents' Testimony:

Dennis Zeiler, Department of Unemployment Insurance, Department of Labor & Industry, presented **(EXHIBIT 1).** He stated this exhibit contains a section by section analysis of the proposed changes for easy reference. The first two sections of the bill are new sections they are proposing to be added to the Montana Unemployment Insurance statutes. The Unemployment Insurance Program in Montana as in all other states, is a federal state partnership. The Montana legislature enacts most of the body of law in unemployment insurance. The employer tax structure, the worker qualifying requirements, the benefit levels, the disqualification provisions, just to name a few.

From time to time, Congress does enact federal laws establishing certain requirements that each state's unemployment insurance program must meet to add or keep uniformity in the program from state to state. That is the case with the first two sections of the bill. They are both simple and straight-forward additions.

The first new section adds a provision which provides claimants, purely on a voluntary basis, to elect to have 15% of their benefits withheld from their unemployment insurance benefits for federal income tax purposes. The purpose of this is so that when April 15 rolls around, if they choose, they don't have a large tax bill to face. This is a convenience for claimants.

The addition of that new section does require the revision of two other U.I. statutes which are 39-51-403 in Section 5 of the bill and 39-51-3105 which is in Section 10 of the bill, to conform the language in those statutes to allow a voluntary withholdings.

The second new section allows an intercept by the state food stamp agency and in our case that would be the Department of Health and Human Services on U.I. benefits to offset for the over-issuance of food stamps.

The addition of this provision also necessitates the revision of the same two sections, Section 5 and Section 10 of the bill to conform the language to allow this intercept.

Their next proposal is in Section 3 of the bill to clarify the definition of base period. This will make the two parts of the definition of base period consistent. In 39-51-201, in subsection (2), completed calendar is inserted to make the second half of the definition consistent with the first. The first, subsection (1) also refers to completed calendar. This is simply

a clarification to avoid confusion, to make it clear that completed quarters is the only way the Unemployment Insurance Division systematically collects wage information from employers. Next, he clarified the limited liability partnerships and the liability for U.I. taxes. They are adding limited liability partnerships to the various references and definitions in the unemployment insurance statutes. Those are contained in Section 3, 4, 7 and 8 of the bill. The Limited Liability Partnership Act was passed in the 1995 legislative session, however, there are no provisions in the Limited Liability Partnership Act or in the Unemployment Insurance law at that time to deal with this new type of business entity for U.I. tax purposes.

The next proposal is to amend the penalty rate which is currently assigned to employers who have either not filed all of the required payroll reports or paid all of the taxes and penalties and interest due by the cut-off date. The current law provides that the maximum contribution rate in each rating classification be assigned to these delinquent employers. This is an equity issue. A deficit employer who has a 3.6% rate who is delinquent if currently assigned a penalty rate of 6.4% as the penalty. An employer who is already at the 6.4% rate is not penalized. In calendar year 1996, 425 employers were assigned the penalty for either not submitting their reports on time or not paying their taxes. Of those 178, 42% were already at the 6.4% rate and not penalized. This proposal acts as an across-the-board 50% penalty or one and one half times the current computer tax rate for employers. For example, an employer who had a 3.6 assigned rate with the proposed penalty rate would be accessed the penalty of one and one half times that or be assigned a rate of 5.4% An employer at 6.4% who is currently not penalized would be assigned a penalty rate of one and one half times 6.4% or 9.6%

Mr. Zeiler said the next proposal is in Section 9 of the bill, to remove a statutory disincentive to work and remedy inequitable denial of benefits. The revision proposed is in 39-51-2302, Section 9 of the bill. It is amended to exclude from disqualification of individuals who leave temporary work which they have accepted during a period of unemployment that is caused by a lack of work from their regular employer, if upon leaving that temporary work they immediately return to their regular employer. What happens is that if the individual was laid off again within six weeks of returning to their regular employment, that person would be disqualified from benefits because of leaving their temporary employment. An example is a construction worker who is laid off because of weather and takes a temporary job with another employer and then the weather improves and they are called back to their regular job and they quit that temporary job to go back to their regular job. Then they get weathered out again and they are laid off. When they go to apply for benefits, if the second lay-off occurs within six weeks of the first, that person would be disqualified for benefits and the proposed change would eliminate this inequity. Had the individual not taken the

temporary job in between, when they were laid off again, they would have been eligible for benefits.

The next proposed change is a penalty for a claimant allowing someone other than themselves to file a U.I. claim. That is in Section 11 of the bill, 39-51-3201. They are amending that to provide for a claimant who allows another individual to file for them, this would allow the Department to access an administrative penalty against a claimant who allows another person to file his or her claim. In order to receive benefits an individual must be able and available in seeking work and having another individual file their claim for them, suggests that the person is not able or available. So the penalty is intended as a deterrent against this action. This concluded the proposals in the bill.

Jerry Driscoll, Montana Building and Construction Trades Council, stated Section 1 of the bill on federal taxes owed on unemployment is presently in a booklet, but a lot of people just don't read or understand that unemployment benefits are taxable for federal purposes. The way the bill is written they will have to give these people this information and ask them whether or not they want their taxes withheld.

In reference to Section 2 on withholding for over-use of food stamps, there are several things the Department does now on overpayments. They always work with the claimant, they do not take their whole check in a week, they work on payments. This should be the same, if a person has an over-issuance of food stamps, maybe $200, the Department may take $25 to $30 a week until this was paid. Right now on fraud investigations, if you are working and drawing unemployment, every quarter they run a report of the people who drew unemployment against Social Security taxes paid on their behalf. If the **Department of Labor** finds out a person has been working, then they send the employer a statement asking which days that person worked. They catch almost everybody who is involved in this fraud.

The next issue on page 15 on temporary work, Mr. Zeiler explained it pretty good but it discourages people from taking temporary work. If you take temporary work, and you draw unemployment and you find a full time job in a different field, you quit that job and return to your regular employment, you are disqualified when you sign up again. This bill will change the penalty. There is no penalty for people who are serious about looking for work.

Lastly, **Mr. Driscoll** said that on page 17, where somebody could file on another person's behalf, in Billings and possibly Missoula they are doing it by telephone. It is computer generated and some people's voices do not make the computer work correctly, so somebody else has to file the claim in that case. That would not be a violation. Also, is a person cannot use the phone in the situation of a hearing or sight problem, someone else can file the claim.

Opponents' Testimony:

None.

{Tape: 1; Side: A; Approx. Time Count: 3:32 p.m.}

Questions From Committee Members and Responses:

SEN. MAHLUM asked **Dennis Zeiler** in the section of the bill where he is requiring if an employer has not paid his unemployment taxes. When **SEN. MAHLUM** was a small employer and did not have any office help, and he was doing these things himself, he had money in the bank to pay these taxes and he did not forget about it, now when you bring the 6.4% to 9.6% it looks like you are really taking a whack at them. **Mr. Zeiler** stated that is the case if you look at it that way, but right now any employer who is at the 6.4% rate who does not pay the tax or does not send the report on a timely basis is not penalized at all. The employers who are assigned the lower rate are penalized. As **Mr. Driscoll** mentioned, in cases where an employer calls the Department and they look at their record and their reports have been on time and their payments on time for a long period of time and they have a reason that they can use, the Department does not apply the penalty. For example if they say they have been on vacation, or they forgot and it's in the mail and those things the Department works with the employers on. This is for the employers who the Department is not able to work with and not able to get their reports.

SEN. MAHLUM asked **Mr. Zeiler** if this is a new policy because years ago when he would forget these things, which didn't amount to much, he wasn't worked with at all, he was given the penalty right away. **Mr. Zeiler** responded he is relatively new himself but the Department and the Unemployment Insurance Division has become very much customer-service oriented over the past years and they have those policies in place a in lot of areas. If these people have made an honest mistake and their past record of payment and reporting is good, the Department will work with them. If a claimant owes money they can take up to 50% of their check but if that is going to keep food off the table or keep them from paying their rent, we will work with them on a payment plan.

CHAIRMAN KEATING asked **Mr. Zeiler** regarding the two new sections of law, if this is the same model language from other states who are already working this now. **Mr. Zeiler** answered this is model language, it is federal suggestive model language. It is a conformity issue. All states need to add these two sections to the bill and the federal government, the United States Department of Labor, does suggest the appropriate language. **SEN. KEATING** said he questioning the over-issuance of food stamps, how that is determined and whether the deduction is voluntary or mandatory. **Mr. Zeiler** answered they have not worked closely with the Department of Health & Human Services on this subject yet. This

is something they have been able to do optionally in the past that is now required by a federal conformity issue, but it is the Department of Health & Human Services that determines whether there has been a food stamp over-issuance or not, then they alert the Department of the over-issuance.

CHAIRMAN KEATING asked if the Department of Health & Human Services notifies the Department of Unemployment that they have over-issued food stamps and that person is on unemployment, the Department of Unemployment can withhold a cash equivalent of the food stamps. **Mr. Zeiler** responded they do and preserve that money for the Department of Health & Human Services. **CHAIRMAN KEATING** stated this is a new type of garnishing. **Mr. Zeiler** said it is very similar to the way it works with child support right now.

CHAIRMAN KEATING asked about unemployment recording. If an employer does not withhold the correct amount of unemployment insurance premiums and does not file a report does he get a 50% increase in his rate? **Mr. Zeiler** responded this is correct. Under the current law, they are able to assign the maximum contribution rate in each rating classification assigned to a delinquent employer. For example, the maximum contribution rate for a deficit employer is 6.4%. Currently, if a deficit employer who is assigned a 3.6% rate fail to send in reports or pay their U.I. taxes the Department can assign them the 6.4% rate, which is the highest rate for a deficit employer. The inequity occurs in that of the 425 employers that they assigned the penalty rate to last year, 178 or 42% were already at the 6.4% rate. **CHAIRMAN KEATING** asked if they don't pay at 3.6% why do you think they will pay at 6.4%. **Mr. Zeiler** answered that is a function of the collection people. The inequity is that if it is assigned at 6.4%, they really don't have any reason to pay or send the reports because there is really nothing the Department can do about it. **CHAIRMAN KEATING** asked how many of those file bankruptcy. **Mr. Zeiler** answered he does not know the answer to that.

CHAIRMAN KEATING asked if an employer has overpaid the employment insurance, how does he recover that overpayment? **Mr. Zeiler** answered the employer has the choice of either having that amount credited to the next quarter or being refunded. **CHAIRMAN KEATING** asked if there is a statute of limitations on notifying the Department of the overpayment. **Mr. Zeiler** responded three years. **SEN. EMERSON** asked **Mr. Zeiler** regarding page 9, lines 10 through 19, if the installer has to qualify by all six clauses in order to be exempt or does any one exempt him. **Mr. Zeiler** responded he believes all six of those criteria have to be in place in order for that person to be exempt.

Closing by Sponsor:

REP. GRIMES thanked the committee for hearing HB 115.

EXECUTIVE ACTION ON SB 45

Amendments: SB009807.AEM **(EXHIBIT 2)**; SB004501.AEM **(EXHIBITS 3 & 4)**

Discussion: **CHAIRMAN KEATING** asked **SEN. BARTLETT** if she had an opportunity to look into the bonding requirements and if she had any amendments. **SEN. BARTLETT** responded she did not formally ask for the drafting of amendments because she wanted the committee to be aware that the 1993 law, before these amendments were made in 1995, there was a specific contractor bond for wages and benefits. This essentially required that the contractor furnish a bond that was equal in the amount of the contractor's average monthly payroll. It was designed for the purpose of insuring the fringe benefits of all workers employed by the contractor for the contracted work.

There only needed to be one bond for each year. She believes that is a worthwhile purpose for the bonding requirement and she would like to recommend to the committee that they consider altering their action to restore the statute to what it was in 1993 when the purpose of the bonding was to make sure there was at least one month's wages and benefits which was secured for the employee's contractor in the event the contractor skipped town or went belly-up. The committee has adopted an amendment that would repeal the entire section in relationship to bonding. Therefore, that will leave no bonding requirement on contractors.

CHAIRMAN KEATING stated in the last session, in the motion to repeal certain sections, 39-3-703 was included in that list of sections which were repealed.

Motion: **CHAIRMAN KEATING** asked **SEN. BARTLETT** if she was making a motion to amend SB 45, to replace 39-3-703 to its 1993 condition? **SEN. BARTLETT** responded she actually would move to amend SB 45 to restore Sections 39-3-701 through 39-3-706 to the language they had as a result of the 1993 session, prior to the change in 1995.

Discussion: **SEN. THOMAS** stated possibly the question before the committee is that the prior law is similar to the current law in front of the committee to some degree. In essence, if we want a bond the old law dealt specifically with contractors with employees and the current law deals with both, you need a bond whether or not you have employees. One way of dealing with the motion is to retain the current version of the law and limit it to contractors with employees to guarantee wages.

SEN. BENEDICT said it seems to him if they do what **SEN. THOMAS** mentioned, they are bringing back the bonding requirements from last session, not the payroll section, but that a contractor is bonding in the event that contractor fails to perform the service.

CHAIRMAN KEATING asked if the amendment were accepted, would the independent worker with no employees who is called a contractor be subject to this bond. **SEN. BARTLETT** said the definition in the 1993 version of 39-3-701 states that a contractor means any person, firm, association or corporation engaged in the construction business. Then there is some provision in relation to resident contractors. The 1993 version of 39-3-703 adds any contractor who contracts with another to do any work or perform any services for the other, except personal services of the contractor not involving work of hired employees. So that the work of a contractor that did not involve hired employees would not be under this bonding requirement. **CHAIRMAN KEATING** stated that is for personal services. **SEN. BARTLETT** responded personal services of the contractor who has no employees.

SEN. BENEDICT asked if **Eddye McClure** could clear this up. He said they are dealing with a couple of issues, performance bond on contractors and a payroll bond. **SEN. THOMAS** stated they are both payroll, there is no performance in old law. The new law only added in the Work. Comp. and Unemployment.

SEN. BARTLETT stated the new law, the 1995 law made extensive revisions to Section 705. This was substantially changed in 1995 and **SEN. BARTLETT** is proposing unload the 1995 language from that as well. She also pointed out the 1993 version did not apply to resident contractors who could demonstrate a financial net worth in excess of $50,000 so there wasn't even a bonding requirement on that. She thinks it was clearly geared toward when a big hail storm comes through and we get a bunch of folks on the side who want to make a quick buck and they come in from out of state and do shoddy work and run off and don't pay their employees, this provided at least one way of addressing that situation.

SEN. EMERSON asked **SEN. BARTLETT** if the bond she is talking about is wages, bond, not a performance bond. **SEN. BARTLETT** responded this is correct, wages and benefits. **Eddye McClure** said without having this in front of her, she believes what **SEN. BARTLETT** is reporting is correct. **SEN. EMERSON** stated he does not really see a reason for a bond, he does not care whether or not it is a contractor. In his business, if somebody came along and told him they wanted him to have a bond to make sure he paid his employees, that would be completely wrong as far as he is concerned. That is just another part of business that isn't necessary. Even with those contractors who are a little more transient, he does not believe a bond to guarantee their wages is worthwhile. He is totally against that. If it was a performance bond, that is a different story.

SEN. THOMAS stated in reading the old law, it seems to him if the committee did this with registration, then every contractor with a net worth less than $50,000 would have to prove such when they register so they could prove to the Department they don't need the bond. He would think this would cause a little trouble out there. All we are talking about is personal financial data and

going in and having to state my financial statement to the state. This law may have been ignored entirely in the past, but now with registration, they would need to comply with it because the mechanism is in place to do all that.

SEN. MAHLUM stated he does not believe in the $50,000 net worth because he has seen too many people state that if their net worth is close to $50,000 it is $35,000, they could add $20,000 worth of fence post.

SEN. BENEDICT asked **SEN. THOMAS** if they decide not to go with **SEN. BARTLETT'S** amendment, if the result of that would be to move forward with no bonding requirements period for payroll or performance. **SEN. THOMAS** responded that is right.

Vote: The motion failed by roll call vote, three supporting and six opposing.

Discussion: **SEN. KEATING** asked if there were any more amendments for SB 45. **Eddye McClure** presented **(EXHIBIT 3). Ms. McClure** stated that number 1 pertains to the title. Number 2 deals with the repealing of the bonding requirements.

{Tape: 1; Side: B; Approx. Time Count: 4:01 p.m.}

Motion: **SEN. THOMAS** moved that amendments 2 and 3 be passed.

Vote: The motion passed by voice vote with seven supporting votes and two opposing votes. Those opposing were **SEN. WILSON** and **SEN. BARTLETT.**

Motion: **SEN. THOMAS** moved that amendment 4 be passed.

Vote: The motion carried unanimously by voice vote.

Motion: **SEN. THOMAS** moved that amendment 5 be passed.

Vote: The motion carried unanimously by voice vote.

Discussion: **SEN. THOMAS** asked if we need line 14, subsection (c), in the SB 45. Does unemployment insurance expire? **Chuck Hunter, Department of Labor** was asked to respond. He stated regarding the Workers' Compensation and Unemployment Insurance, the law contemplates the employer to maintain a registration to keep his policy current, both Work. Comp. and U.I. If he does not, he would then fall out of compliance. **SEN. THOMAS** said then in this language we are stating that if one lets it go and doesn't pay, then the registration would expire as well.

CHAIRMAN KEATING asked if we are talking about the registration of an individual, and independent contractor or an individual. **SEN. THOMAS** said when he read it earlier he didn't read it correctly, and he was concerned that the Workers' Compensation

could have a date like July 1st of each year, where we want this registration to go for a longer period of time as it says there, for at least two years. He thought it said expiration date, but it doesn't. The expiration date could be July 1st but that is not what it says so it is fine the way the language is.

Motion: **SEN. THOMAS** moved amendment 6 and 7 be passed.

Vote: The motion carried unanimously by voice vote.

Discussion: **Eddye McClure** explained amendment 8. She said the motion passed last hearing to lower the initial $80 fee and to make a renewal and a reinstatement fee of $25.

Chuck Hunter stated when they worked with **SEN. HOLDEN** on the language they contemplated spreading out the time-frame to encompass up to three years for a registration period. We arranged to have that $80 fee, which was set at $80 in the original bill, apply to each of those three years, prorated for the time of those three years. If we had a 24-month registration, it would be 2 X 80 and if it was 36 months, it would be 3 X 80. With the new language on the initial fee being one fee of $50, and the renewal fee being a different fee of $25 for reinstatement, the Department is not sure how these things fit; how the renewal and prorating fits according to the new two-tiered rate schedule to propose. They would like some clarification of how that would operate.

Ms. McClure said they are simply separating the initial application from the other two. Right now you have fees for issuance, renewal and reinstatement not to exceed $80. We have separated those and it's not over $50 for the initial application and not more than $25 for the other two. **CHAIRMAN KEATING** restated **Ms. McClure's** explanation of this amendment. He asked **Mr. Hunter** what this amendment means to him. **Mr. Hunter** said it is unclear what it means to him. It seemed as if the nature of the amendment that was proposed was the initial application be $50, and then we can renew at $25 in the years thereafter. If they are obligating an application where a contractor wants a three year period, he is uncertain as to how those fees are applied. Is it one year at $50 and two years at $25?

SEN. THOMAS asked **Chuck Hunter** if when he worked with **SEN. HOLDEN,** if they left the $80 per year, prorated for a period of which the registration certificate is issued. If the most you could charge was $80, and you would spread that $80 over the period of registration two or three years? Or would it be up to $80 for each year of that term of registration? **Mr. Hunter** responded the latter is true.

SEN. EMERSON asked in order to make this read right, shouldn't we also be eliminating the words "prorated for the period"? Then it would read "may not exceed $50 a year for which the initial registration is issued"? **SEN. THOMAS** responded, yes, but going

back to Section 7, we are establishing this registration period for two years, so if we do that it will be $50 the first year and then the second year it is $25. But the Department and **SEN. HOLDEN** have amended the current version of the bill to where we would have a two-year period of registration. If you took their version you have up to $80 each year, our version is $50 the first term of this registration and nothing more.

CHAIRMAN KEATING asked if the certificate is for a two-year period, it is only handled once when it is received, so why should it be $50 a year? There is no reason to handle it in the second year. Why couldn't it be $50 for the initial registration and then $25 for any renewal thereafter? **Mr. Hunter** said part of the reason for the prorating was to allow them to spread out the work load. Right now if you look at the work load picture, you have a cluster of contractors who came right around October 1 another cluster right around July 1. The prorating would have allowed the Department to spread their work load out by offering different terms, they could have offered a two-year registration, they could have offered a two-year, six-month registration, to allow them to even that work load out. They would be in favor of $50 for the initial application and then $25 for subsequent periods thereafter, that would be okay if they could retain that prorating according to that $25 per year thereafter.

CHAIRMAN KEATING said but the certificate must be for a period of least two years, but not more than three. So you can prorate between the second and third year. **Mr. Hunter** said this is correct. **CHAIRMAN KEATING** stated then the renewal of that would happen on that anniversary date. **CHAIRMAN KEATING** said he believes the language should read the fees charged in subsection 1 (a), may not exceed, (a) $50, prorated for the period for which the initial registration certificate is issued and $25 for renewal or reinstatement of the registration certificate.

SEN. THOMAS said in Section 7 it states at least two years but less than three years. The variability is right there. **CHAIRMAN KEATING** said then it does not need to be prorated, because it is going to be a $50 fee and so the $50 fee for the initial registration and $25 for the renewal and (c) the Department may establish an anniversary date between the second and third year.

SEN. THOMAS asked **Chuck Hunter** by taking the proration out, are we not allowing any additional fee above the $50? If you were to extend the first month of registration to 25 months and the second month to 26 months, or however you want to do it, you would be loosing a little bit of revenue there and people would not be treated exactly the same. Somebody would get more time than the other. Same token, though, you would have to explain to everyone of those people why you are addition $5 and $7 and $12, or whatever it is going up, but you would rather not do that, would you? **Chuck Hunter** responded, frankly they saw it as a service in the renewal process to be able to go to contractors and say the we have a contract between two and three years. You

can choose, you can choose a two-year period or we can extend it longer up to another 11 months, if you so desire, at a prorated fee.

CHAIRMAN KEATING asked if the anniversary date could be the date of application? The Department is not requiring that they all file at a particular time? **Mr. Hunter** responded, no it is simply because they had the two required in the law, the October start-up date and July 1. The Department has about 3,000 clustered around October and about 2,500 clustered around July 1. There are just real peaks and valleys in that.

SEN. EMERSON asked if the prorated were left in, can the Department issue a registration on that date and have it go for two and one-half years, and get $62.50, if that would scatter it out? **Mr. Hunter** said that is correct. **SEN. THOMAS** said in that case we would leave the prorated language in.

CHAIRMAN KEATING stated we are not saying $50 per year, we saying $50 for the initial registration, which is at least two years but not more than three, so you have a single fee for the certificate. Maybe it should be on a first come, first serve basis. As it came in, it would be an anniversary date, however, they do have this problem with the cluster. He suggests that the renewal will be $25 for an additional two years and a prorated $25 for the period up to three years. You already have them registered, anybody who re-registers would be a renewal.

Mr. Hunter said that in the manner **CHAIRMAN KEATING** is phrasing it, that is correct, although in **SEN. HOLDEN'S** concept we have anticipated in each of those years we need the dollars. The proposal you had on the table is not such, we adding an initial application and according to **CHAIRMAN KEATING'S** language, all the people who are in the system would merely be renewing. So they would be subject to the $25 fee and not the $50 fee.

CHAIRMAN KEATING said since the committee is working on **SEN. MAHLUM'S** motion, rather than working out the proration, let that happen some other way. He suggested **SEN. MAHLUM'S** motion be the fees charged in subsection 1, (a), may not exceed $50 for the initial registration certificate and $25 for renewal or reinstatement of the registration certificate. The Department will somehow have to hire temporary help to get them over the busy hump, and maybe subsequent legislatures will be kind enough to help them work on the licensing.

Motion: The motion made by **SEN. MAHLUM** was fees charged in subsection 1, (a), may not exceed $50 for the initial registration certificate and $25 for the renewal and reinstatement of a registration certificate.

Vote: The motion carried by voice vote with eight supporting and one opposing vote. **SEN. BENEDICT** opposed the motion.

Discussion: **Eddye McClure** explained the purpose of amendment 16 is to include the loggers as an exemption. Amendment 17 is language to clean up the bonding repealer language. Number 1, the title should probably reflect some language of the motion just passed, and she has added the language of exemption for fire suppression or protection licensees and for contractors in the logging industry.

Motion: **SEN. THOMAS** moved SB 45 do-pass as amended.

Discussion: **SEN. BENEDICT** said even though he did not get what he wanted out of it, he is going to vote for the bill because it has some good things in it and takes care of some of the problems.

Vote: The motion carried by voice vote with eight supporting and one opposing vote. **SEN. BARTLETT** opposed the motion.

EXECUTIVE ACTION ON SB 98

Amendments: SB009807.AEM

Discussion: **SEN. EMERSON** stated he is presenting his amendments to change the effective date on page 3, line 3 to July 1, 1998.

Motion: **SEN. EMERSON** moved the effective date be changed to July 1, 1998.

Discussion: **SEN. BENEDICT** said he reluctantly opposes the amendment and part of the problem he has with it is that payroll tax under the different bills floating around, seems to be the consensus that December, 1998 is the earliest date that the payroll tax could come off. He believes the Committee is being really premature in trying to force the State Fund to do something before they have had a chance to find out how it is going to work to get the payroll tax off so they can start dividending and creating programs for different agencies.

Right now their hands are tied, they cannot do anything until the payroll tax is gone and the Old and New Funds are merged. Once that happens then **SEN. BENEDICT** believes they can begin doing something. He opposes the amendment on those grounds.

CHAIRMAN KEATING asked **SEN. THOMAS** regarding the fiscal note which contains a statement that says that it is assumed the MUS (Montana University System) would not leave the State Fund before FY99. Is that certain or is that assumed? **SEN. THOMAS** answered he believes this an assumption, he has not spoken to anyone who has made any commitment to do anything. Obviously, the current effective date of 7-1-97 in the bill is very immediate because this legislation may pass in April and between then and July 1 there is not much time, so he believes this assumption is correct.

CHAIRMAN KEATING stated for clarification, the effective date is not the effective date that the MUS would leave the Fund, that is the effective date of the law, which gives the option to the University to do what they want to do in using Plan 1, 2 or 3. So the effective date of the bill is not necessarily the effective date of the Department by the University from the State Fund under the bill. **SEN. THOMAS** said this is correct.

SEN. EMERSON said he does not understand it that way. If that is the effective date certainly it means the minute that happens, they can go out and join 1,2 or 3. **CHAIRMAN KEATING** responded they may.

SEN. EMERSON said he thinks they should try to keep the University in up a little closer to when the tax would be dropped and when the Workers' Comp. people would feel comfortable. **CHAIRMAN KEATING** asked if that meant his amendment would not be effective until July 1, 1998 at which time the University may go to Plan 1, 2 and 3. **SEN. EMERSON** said this is correct and the reason he is proposing this is that it will take them a little while, after they get the authority to do it to really make the move.

SEN. MAHLUM said one thing they are forgetting is that by that time they are all assuming the University will leave the Fund. The Fund might be the best spot there is in the State of Montana for the services to be with.

{Tape: 2; Side: A; Approx. Time Count: 4:33 p.m.}

SEN. THOMAS said he thinks **SEN. MAHLUM** is correct, this is probably the case. He believes in either situation, whether the business stays with the State Fund or it doesn't, it represents no threat to the State Fund. He believes the thing we need to keep clear of is not to bring these oranges into this debate. The payroll tax has nothing to do with this bill. The payroll tax has to be paid on the payroll whether or not this bill passes, for as long as the payroll tax is in effect. This bill allows the University System to negotiate with the State Fund on their premium, so there is no connection with the payroll tax.

SEN. BENEDICT said he thinks the bill has everything to do with the payroll tax. One of the reasons the State Fund cannot offer a program to the University System that is competitive is that the merging of the Old and New Funds are part of that payroll tax system. Without merging the Old and New Funds and getting rid of the payroll tax, instead of dividending back to different employers and creating incentive program for those employers, the State Fund has to send all surplus dollars over to the Old Fund. He thinks there is half an apple and half an orange in this mix some place.

SEN. EMERSON asked **Mark Barry, Vice President of State Fund Administration & Finance,** what date he would like to see set.

Mr. Barry stated they do not support the bill at all, however, there are two things they are doing. They have a pricing program that they are proposing to the University System. It is a new pricing program, it will save them money and they would like time to review that program, revise and refine it. They need at least two years to do that. If he had to commit to a day it would be July 1, 1999.

Vote: The motion carried by roll call vote with six supporting and three opposing votes by roll call vote.

Motion: **CHAIRMAN KEATING** restated that **SEN. THOMAS** had made the motion to do-pass SB 98 as amended.

Discussion: **SEN. BENEDICT** said he doesn't believe this is a good idea, he has been working with the State Fund for the past seven years to try to get it to the point where it is finally turning the corner and becoming a very viable operation. A lot of people in the room can remember the days the State Fund was in deep, deep trouble. It is coming out now and **SEN. BENEDICT** does not believe this is the direction they should take.

SEN. EMERSON said this is really a free enterprise situation, he believes we should give the freedom to go where they want. They will get that freedom but not for another year and one-half.

Vote: The motion carried by roll call vote, with five supporting and four opposing.

EXECUTIVE ACTION ON SB 185

Amendments: None.

Motion: **SEN. SHEA** moved SB 185 do-pass.

Discussion: **SEN. KEATING** stated this is **SEN. LYNCH'S** bill which will eliminate the Old Fund liability payroll tax as of January 1, 1998. **SEN. BENEDICT** said he is inclined to support this bill.

SEN. THOMAS also supports this and feels it should be discussed. He stated the committee should retain this bill because **SEN. BENEDICT'S** bill also deals with this in a very comprehensive manner. He thinks this bill should be tabled at this time. **SEN. MAHLUM** asked what SB 185 have to do with the amendment in SB 98? **SEN. THOMAS** responded nothing at all.

Motion/Vote: **SEN. THOMAS** moved to table SB 185. This motion passed by roll call vote, six supporting and two opposing.

ADJOURNMENT

Adjournment: 4:46 p.m.

SEN. THOMAS F. KEATING, Chairman

GILDA CLANCY, Secretary

TFK/GC