

1 *House* BILL NO. *100*
 2 INTRODUCED BY *M. St. John* *Lockrem* *Dinacoll* *Meloy* *Mark*
 3 *Hayler*

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFICE OF
 5 WORKMEN'S COMPENSATION JUDGE; PROVIDING FOR ITS
 6 ADMINISTRATION AND JURISDICTION; AND REPEALING SECTIONS
 7 92-812, 92-813, 92-815 THROUGH 92-817, 92-819, 92-821,
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 9 92-836, 92-1347, 92-1350, 92-1351, 92-1353 THROUGH 92-1355,
 10 92-1357, 92-1359 THROUGH 92-1365."

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 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. There is a new R.C.M. section numbered
 14 82A-1016 that reads as follows:

15 82A-1016. Creation of office of workmen's compensation
 16 judge--allocation. (1) There is created the office of
 17 workmen's compensation judge. The office is allocated to
 18 the department of labor and industry for administrative
 19 purposes only as prescribed in section 82A-108, R.C.M. 1947.

20 (2) The governor shall appoint the workmen's
 21 compensation judge for a term of six (6) years in the same
 22 manner provided by section 93-705 through 93-717, R.C.M.
 23 1947, for the appointment of supreme or district court
 24 judges. A vacancy shall be filled in the same manner as the
 25 original appointment.

1 (3) To be eligible for workmen's compensation judge, a
 2 person must:

3 (a) have the qualifications necessary for district
 4 court judges found in Article VII, section 9 of the Montana
 5 constitution;

6 (b) devote full time to his duties as workmen's
 7 compensation judge and not engage in the private practice of
 8 law.

9 (4) The workmen's compensation judge is entitled to
 10 the same salary and other emoluments as that of a district
 11 judge.

12 Section 2. Powers of the workmen's compensation judge.

13 (1) A claimant, compensation plan one employer, or insurer
 14 who has a dispute concerning any benefits under Title 92,
 15 R.C.M. 1947, may petition the workmen's compensation judge
 16 provided for in section 82A-1016. The judge, after a
 17 hearing, shall make a final determination of the dispute
 18 and, in accordance with the law on benefits as set forth in
 19 Title 92, fix and determine any benefits to be paid, and
 20 specify the manner of payment.

21 (2) The judge may grant nominal disability awards in
 22 cases where it is found that an accident has occurred in the
 23 course and scope of employment, but no disability has
 24 resulted therefrom.

25 (3) The judge has continuing jurisdiction of cases he

HB 100

1 has heard, and may, upon the application of any party,
2 review, diminish, or increase in accordance with the law on
3 benefits as set forth in Title 92, any benefits awarded,
4 upon the grounds that the disability of the person has
5 changed.

6 Section 3. Disqualification of workmen's compensation
7 judge. The workmen's compensation judge may at any time
8 disqualify himself. On the filing in good faith of a timely
9 and sufficient affidavit of personal bias or other
10 disqualification of the workmen's compensation judge, the
11 affidavit becomes a part of the record and the decision in
12 the case. The affidavit may be made by any party to an
13 action, motion, or proceeding and shall be filed at the
14 office of the workmen's compensation judge at least fifteen
15 (15) days before the date set for any action, motion, or
16 proceeding (provided the party has had notice of the hearing
17 of such action, motion, or proceeding for a period of at
18 least fifteen (15) days and in case he has not had notice
19 for such length of time he shall file the affidavit
20 immediately upon receiving notice). If the workmen's
21 compensation judge disqualifies himself in any case the
22 chief justice of the Montana supreme court shall appoint a
23 district court judge to hear the case.

24 Section 4. Location of office. The principal office
25 of the workmen's compensation judge shall be in the city of

1 Helena.

2 Section 5. Operating expenses. The workmen's
3 compensation judge may employ such employees as may be
4 required to carry out his duties under this act. All
5 expenditures of the workmen's compensation judge, including
6 but not limited to salaries, traveling expenses, office
7 rent, office equipment and supplies, shall be paid out of
8 the workmen's compensation administration fund.

9 Section 6. Administrative Procedure Act. (1) All
10 proceedings and hearings before the workmen's compensation
11 judge shall be in accordance with the appropriate provisions
12 of the Montana Administrative Procedure Act.

13 (2) Notwithstanding section 82-4216, R.C.M. 1947, an
14 appeal from a final decision of the workmen's compensation
15 judge shall be filed directly with the supreme court of
16 Montana in the manner provided by law for appeals from the
17 district court in civil cases.

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22 R.C.M. 1947, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 80-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 75, there is hereby submitted a Fiscal Note for House Bill 100 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 100 creates the Office of Workmen's Compensation Judge, providing for its administration and jurisdiction.


ASSUMPTIONS:

1. House Bill 100 transfers the quasi-judicial function for the Workmen's Compensation Division to a newly created Workmen's Compensation Judge.
2. The workload of the new judge will be the same as under the present organization.
3. Assume a 10% per year pay raise for the judge.

FISCAL IMPACT:	FY 76			FY 77		
	Estimated Amt.	Estimated Amt.	Estimated Increase	Estimated Amt.	Estimated Amt.	Estimated Increase
	Under Current Law	Under Proposed Law		Under Current Law	Under Proposed Law	
Effect on expenditure by category:						
Personal Services	\$ 14,253	\$41,790	\$27,537	\$15,536	\$45,333	\$29,797
Operating Expenses	32,830	37,030	4,200	36,113	40,313	4,200
Capital Outlay	250	3,245	2,995	0	0	0
Total Expenditures	<u>\$ 47,333</u>	<u>\$82,065</u>	<u>\$34,732</u>	<u>\$51,649</u>	<u>\$85,646</u>	<u>\$33,997</u>

CONCLUSIONS:

Enactment of House Bill 100 would result in an estimated increase in expenditure of \$68,729 during the biennium.


 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: January 28, 1975

Approved by Committee
on Labor & Employment
Relations

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 3 MELOY, MARKS, HARPER
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19 is allocated to the department of labor and industry for
20 administrative purposes only as prescribed in section
21 82A-108, R.C.M. 1947.

22 (2) The governor shall appoint the workmen's WORKERS'
23 compensation judge for a term of six (6) years in the same
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25 1947, for the appointment of supreme or district court

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6 court judges found in Article VII, section 9 of the Montana
7 constitution;

8 (b) devote full time to ~~his~~ THE duties ~~as-workmen's~~ OF
9 WORKERS' compensation judge and not engage in the private
10 practice of law.

11 (4) The workmen's WORKERS' compensation judge is
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13 a district judge.

14 Section 2. Powers of the workmen's WORKERS'
15 compensation judge. (1) A claimant, compensation plan one
16 employer, or insurer who has a dispute concerning any
17 benefits under Title 92, R.C.M. 1947, may petition the
18 workmen's WORKERS' compensation judge provided for in
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20 final determination of the dispute and, in accordance with
21 the law on benefits as set forth in Title 92, fix and
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23 payment.

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1 course and scope of employment, but no disability has
2 resulted therefrom.

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7 upon the grounds that the disability of the person has
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10 REFUSAL TO PAY. WHEN PAYMENT OF COMPENSATION HAS BEEN
11 UNREASONABLY DELAYED OR REFUSED, EITHER PRIOR OR SUBSEQUENT
12 TO THE ISSUANCE OF AN AWARD, THE FULL AMOUNT OF THE ORDER,
13 DECISION OR AWARD MAY BE INCREASED BY TEN PERCENT (10%) OF
14 THE WEEKLY AWARD. THE QUESTION OF UNREASONABLE DELAY OR
15 REFUSAL SHALL BE DETERMINED BY THE WORKERS' COMPENSATION
16 JUDGE AND SUCH A FINDING CONSTITUTES GOOD CAUSE TO RESCIND,
17 ALTER OR AMEND ANY ORDER, DECISION OR AWARD PREVIOUSLY MADE
18 IN THE CAUSE FOR THE PURPOSE OF MAKING THE INCREASE PROVIDED
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25 compensation judge, the affidavit becomes a part of the

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14 Section 5. Location of office. The principal office
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March 25, 1975

SENATE COMMITTEE ON JUDICIARY
AMENDMENTS TO HOUSE BILL NO. 100

That House Bill No. 100, third reading, be amended as follows:

1. Amend title, line 11.
Following: "92-1365"
Insert: "and providing an effective date"
2. Amend page 1, section 1, line 19.
Following: "of"
Strike: "labor and industry"
Insert: "administration"
3. Amend page 2, section 1, line 13.
Following: "judge"
Insert: "but shall be accorded retirement benefits under the public employees retirement system"
4. Amend page 3, section 2, line 2.
Following: line 2
Insert: "(3) The workers' compensation judge may, on his own motion or on request of a party, review and approve or disapprove any settlement approved by the workers' compensation division.
All lump sum settlements between the division and a claimant under plan III shall be approved by the workers' compensation judge."
Renumber: Subsequent subsection
5. Amend page 3, section 2, line 4.
Following: "heard"
Insert: "or claims settled"
6. Amend page 3, section 2, line 6.
Following: "awarded"
Insert: "or settlement agreement between the division and a claimant"
7. Amend page 3, section 4, lines 19 through line 13 on page 4.
Following: line 19
Strike: Section 4 in its entirety
Renumber: All subsequent sections
8. Amend page 4, section 6, line 20.
Following: "~~workman's~~"
Strike: "~~WPORKERS'~~"
Insert: "workers'"
9. Amend page 5, section 8, line 15.
Following: line 15
Insert: "Section 9. Effective date. Section 1 of this act is effective on passage and approval."

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 18 court of Montana in the manner provided by law for appeals
 19 from the district court in civil cases.

20 Section 7. Sections 92-812, 92-813, 92-815 through
 21 92-817, 92-819, 92-821, 92-822, 92-823, 92-824, 92-824.1,
 22 92-825, 92-827 through 92-836, 92-1347, 92-1350, 92-1351,
 23 92-1353 through 92-1355, 92-1357, 92-1359 through 92-1365,
 24 R.C.M. 1947, are repealed.

25 SECTION 8. EFFECTIVE DATE. SECTION 1 OF THIS ACT IS

HOUSE BILL NO. 100

INTRODUCED BY MCKITTRICK, LOCKREM, DRISCOLL,

MELOY, MARKS, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFICE OF
~~WORKMEN'S~~ WORKERS' COMPENSATION JUDGE; PROVIDING FOR ITS
 ADMINISTRATION AND JURISDICTION; AND REPEALING SECTIONS
 92-812, 92-813, 92-815 THROUGH 92-817, 92-819, 92-821,
 92-822, 92-823, 92-824, 92-824.1, 92-825, 92-827 THROUGH
 92-836, 92-1347, 92-1350, 92-1351, 92-1353 THROUGH 92-1355,
 92-1357, 92-1359 THROUGH 92-1365 AND PROVIDING AN EFFECTIVE
 DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. section numbered
 82A-1016 that reads as follows:

82A-1016. Creation of office of ~~workmen's~~ WORKERS'
 compensation judge--allocation. (1) There is created the
 office of ~~workmen's~~ WORKERS' compensation judge. The office
 is allocated to the department of ~~labor--and--industry~~
ADMINISTRATION for administrative purposes only as
 prescribed in section 82A-108, R.C.M. 1947.

(2) The governor shall appoint the ~~workmen's~~ WORKERS'
 compensation judge for a term of six (6) years in the same
 manner provided by section 93-705 through 93-717, R.C.M.

1947, for the appointment of supreme or district court
 judges. A vacancy shall be filled in the same manner as the
 original appointment.

(3) To be eligible for ~~workmen's~~ WORKERS' compensation
 judge, a person must:

(a) have the qualifications necessary for district
 court judges found in Article VII, section 9 of the Montana
 constitution;

(b) devote full time to ~~his~~ THE duties ~~as-workmen's~~ OF
WORKERS' compensation judge and not engage in the private
 practice of law.

(4) The ~~workmen's~~ WORKERS' compensation judge is
 entitled to the same salary and other emoluments as that of
 a district judge BUT SHALL BE ACCORDED RETIREMENT BENEFITS
UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

Section 2. Powers of the ~~workmen's~~ WORKERS'
 compensation judge. (1) A claimant, compensation plan one
 employer, or insurer who has a dispute concerning any
 benefits under Title 92, R.C.M. 1947, may petition the
~~workmen's~~ WORKERS' compensation judge provided for in
 section 82A-1016. The judge, after a hearing, shall make a
 final determination of the dispute and, in accordance with
 the law on benefits as set forth in Title 92, fix and
 determine any benefits to be paid, and specify the manner of
 payment.

4/15/95

1 (2) The judge may grant nominal disability awards in
2 cases where it is found that an accident has occurred in the
3 course and scope of employment, but no disability has
4 resulted therefrom.

5 ~~(3) THE WORKERS' COMPENSATION JUDGE MAY, ON HIS OWN~~
6 ~~MOTION OR ON REQUEST OF A PARTY, REVIEW AND APPROVE OR~~
7 ~~DISAPPROVE ANY SETTLEMENT APPROVED BY THE WORKERS'~~
8 ~~COMPENSATION DIVISION. ALL LUMP-SUM SETTLEMENTS BETWEEN THE~~
9 ~~DIVISION AND A CLAIMANT UNDER PLAN III SHALL BE APPROVED BY~~
10 ~~THE WORKERS' COMPENSATION JUDGE.~~

11 (3) ALL ORDERS ALLOWING FULL AND FINAL COMPROMISE
12 SETTLEMENTS OF WORKERS' COMPENSATION CLAIMS SHALL BE
13 IMMEDIATELY REFERRED TO THE WORKERS' COMPENSATION JUDGE, AND
14 THE JUDGE MAY WITHIN TEN (10) DAYS OF THE JUDGE'S RECEIPT OF
15 AN ORDER DISAPPROVE AN ORDER ALLOWING A FULL AND FINAL
16 COMPROMISE SETTLEMENT.

17 (4) The judge has continuing jurisdiction of cases he
18 has heard, IN WHICH A PETITION UNDER SUBSECTION (1) OF THIS
19 SECTION HAS BEEN FILED OR CLAIMS SETTLED and may, upon the
20 application of any party, review, diminish, or increase in
21 accordance with the law on benefits as set forth in Title
22 92, any benefits awarded OR SETTLEMENT AGREEMENT BETWEEN THE
23 DIVISION AND A CLAIMANT OR SETTLEMENT AGREEMENTS, EXCEPT FOR
24 ANY FINAL SETTLEMENT OR AWARD OF COMPENSATION MORE THAN FOUR
25 (4) YEARS AFTER THE SETTLEMENT HAS BEEN MADE AND EXCEPT FOR

1 ANY ORDER APPROVING A FULL AND FINAL COMPROMISE SETTLEMENT
2 OF COMPENSATION, upon the grounds that the disability of the
3 person has changed.

4 SECTION 3. INCREASE IN AWARD FOR UNREASONABLE DELAY OR
5 REFUSAL TO PAY. WHEN PAYMENT OF COMPENSATION HAS BEEN
6 UNREASONABLY DELAYED OR REFUSED, EITHER PRIOR OR SUBSEQUENT
7 TO THE ISSUANCE OF AN AWARD, THE FULL AMOUNT OF THE ORDER,
8 DECISION OR AWARD MAY BE INCREASED BY TEN PERCENT (10%) OF
9 THE WEEKLY AWARD. THE QUESTION OF UNREASONABLE DELAY OR
10 REFUSAL SHALL BE DETERMINED BY THE WORKERS' COMPENSATION
11 JUDGE AND SUCH A FINDING CONSTITUTES GOOD CAUSE TO RESCIND,
12 ALTER OR AMEND ANY ORDER, DECISION OR AWARD PREVIOUSLY MADE
13 IN THE CAUSE FOR THE PURPOSE OF MAKING THE INCREASE PROVIDED
14 HEREIN.

15 Section 4. Disqualification of workmen's WORKERS'
16 compensation judge. The workmen's WORKERS' compensation
17 judge may at any time disqualify himself, on the filing in
18 good faith of a timely and sufficient affidavit of personal
19 bias or other disqualification of the workmen's WORKERS'
20 compensation judge, the affidavit becomes a part of the
21 record and the decision in the case. The affidavit may be
22 made by any party to an action, motion, or proceeding and
23 shall be filed at the office of the workmen's WORKERS'
24 compensation judge at least fifteen (15) days before the
25 date set for any action, motion, or proceeding (provided the

1 party--has-had-notice-of-the-hearing-of-such-a-motion,
 2 or-proceeding-for-a-period-of-at-least-fifteen-(15)-days-and
 3 in-case-he ~~THE-PARTY~~ has-not-had-notice-for-such--length--of
 4 time--he ~~THE-PARTY~~ shall-file-the-affidavit-immediately-upon
 5 receiving-notice},--if-the-workmen's WORKERS' compensation
 6 judge--disqualifies-himself-in-any-case-the-chief-justice-of
 7 the-Montana-supreme-court-shall--appoint--a--district--court
 8 judge-to-hear-the-case.

9 Section 4. Location of office. The principal office
 10 of the workmen's WORKERS' compensation judge shall be in the
 11 city of Helena.

12 Section 5. Operating expenses. The workmen's WORKERS'
 13 compensation judge may employ such employees as may be
 14 required to carry out his THE duties under this act. All
 15 expenditures of the workmen's WORKERS'
 16 compensation judge, including but not limited to salaries,
 17 traveling expenses, office rent, office equipment and
 18 supplies, shall be paid out of the workmen's WORKERS'
 19 compensation administration fund.

20 Section 6. Administrative Procedure Act. (1) All
 21 proceedings and hearings before the workmen's WORKERS'
 22 compensation judge shall be in accordance with the
 23 appropriate provisions of the Montana Administrative
 24 Procedure Act. HOWEVER, THE WORKERS' COMPENSATION JUDGE IS
 25 NOT BOUND BY COMMON LAW AND STATUTORY RULES OF EVIDENCE.

1 (2) Notwithstanding section 82-4216, R.C.M. 1947, an
 2 appeal from a final decision of the workmen's WORKERS'
 3 compensation judge shall be filed directly with the supreme
 4 court of Montana in the manner provided by law for appeals
 5 from the district court in civil cases.

6 Section 7. Sections 92-812, 92-813, 92-815 through
 7 92-817, 92-819, 92-821, 92-822, 92-823, 92-824, 92-824.1,
 8 92-825, 92-827 through 92-836, 92-1347, 92-1350, 92-1351,
 9 92-1353 through 92-1355, 92-1357, 92-1359 through 92-1365,
 10 R.C.M. 1947, are repealed.

11 SECTION 8. EFFECTIVE DATE. SECTION 1 OF THIS ACT IS
 12 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-