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H BILL NO. 241 1 INTRODUCED BY <u>Flassinger</u> 2 BY REQUEST OF THE DEPARTMENT OF LABOR 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE 5 CORRECT PERIOD FOR APPEALING BOARD OF LABOR APPEALS DECISION 6 7 AS PROVIDED FOR IN SECTION 87-108, R.C.M. 1947." 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 87-108, R.C.M. 1947, is amended to 11 read as follows: 12 "87-108. Procedure and appeals. (a) Procedure. The 13 manner in which disputed claims shall be presented, the reports thereon required from the claimant and from 14 15 employers, and the conduct of hearings and appeals shall be 16 in accordance with regulations prescribed by the division 17 for determining the rights of the parties, whether or not 18 such regulations conform to common law or statutory rules of evidence and other technical rules or procedure. A full and 19 20 complete record shall be kept of all proceedings in 21 connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need 22 23 not be transcribed unless the disputed claim is further appealed. The division shall have continuing jurisdiction 24 over all claims filed for benefits to revise, modify, alter, 25

cancel and amend all orders, findings and determinations
 made therein at any time and shall not lose such
 jurisdiction unless and until the jurisdiction of such claim
 and subject matter thereof has been taken by a court of
 competent jurisdiction in a proceedings filed therein as
 provided for in subsection (d) of this section.

7 (b) Witness fees. Witnesses subpoenaed pursuant to
8 this section shall be allowed fees at a rate fixed by the
9 division. Such fees shall be deemed a part of the expense of
10 administering this act.

11 (c) Appeal to courts. Any decision of the board of 12 labor appeals in the absence of an appeal therefrom as herein provided shall become final ten 30 days after the 13 14 date of notification or mailing thereof, and judicial review 15 thereof shall be permitted only after any party claiming to 16 be aggrieved thereby has exhausted his remedies before the 17 board of labor appeals as provided by this act. The division 18 or board of labor appeals shall be deemed to be a party to 19 any judicial action involving any such decision, and may be 20 represented in any such judicial action by any qualified 21 attorney employed by the division or board of labor appeals 22 and has been designated by it for that purpose, or at the 23 division's or board of labor appeals' request, by the 24 attorney general.

25 (d) Court review. Within ten 30 days after the <u>date of</u>

INTRODUCED BILL

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1 notification or mailing of the decision of the board of Z labor appeals has become final, any party ascrieved thereby 3 may secure judicial review thereof by commencing an action 4 in the district court of the county in which said party 5 resides against the board of labor appeals for the review of its decision, in which action any other party to the 6 7 proceeding before the board of labor appeals shall be made a 8 defendant. In such action, a petition which need not be 9 verified, but which shall state the grounds upon which a 10 review is sought, shall be served upon a member of the board 11 of labor appeals or its designate for service of process and 12 such service shall be deemed completed service on all 13 parties, but there shall be left with the party so served as 14 many copies of the petition as there are defendants and the 15 board of labor appeals shall forthwith mail one such copy to 16 each such defendant. With its answer, the board of labor appeals shall certify and file with said court all documents 17 18 and papers and a transcript of all testimony taken in the 19 matter, together with its findings of fact and decision 20 therein. The board of labor appeals may also in its 21 discretion, certify to such court questions of law involved 22 in any decision by it. In any judicial proceeding under this 23 section, the findings of the board of labor appeals as to 24 the facts, if supported by evidence and in the absence of 25 fraud, shall be conclusive, and the jurisdiction of said

1 court shall be confined to questions of law. Such action, 2 and the questions so certified, shall be heard in a summary 3 manner and shall be given precedence over all other civil 4 cases except cases arising under the workmen's compensation 5 law of this state. An appeal may be taken from the decision 6 of the said district court to the supreme court of Montana 7 in the same manner, but not inconsistent with the provisions 8 of this act, as is provided in civil cases. It shall not be 9 necessary, in any judicial proceeding under this section, to enter exceptions to the rulings of the division or board of 10 11 labor appeals and no bond shall be required for entering 12 such appeal. Upon the final determination of such judicial 13 proceeding, the division shall enter an order in accordance 14 with such determination. A petition for judicial review 15 shall not act as a supersedeas or stay unless the division 16 or board of labor appeals shall so order."

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Approved by Committee on Labor & Employment Relations

1	H BILL NO. 241
2	INTRODUCED BY <u>Plassinger</u>
3	BY REQUEST OF THE DEPARTMENT OF LABOR
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
6	CORRECT PERIOD FOR APPEALING BOARD OF LABOR APPEALS DECISION
7	AS PROVIDED FOR IN SECTION 87-108, R.C.M. 1947.*
8	
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10	Section 1. Section 87-108, R.C.M. 1947; is amended to
11	read as follows:
12	"87-108• Procedure and appeals• (a) Procedure• The
13	manner in which disputed claims shall be presented, the
14	reports thereon required from the claimant and from
15	employers, and the conduct of hearings and appeals shall be
16	in accordance with regulations prescribed by the division
17	for determining the rights of the parties, whether or not
18	such regulations conform to commuon law or statutory rules of
19	evidence and other technical rules or procedure. A full and
20	complete record shall be kept of all proceedings in
21	connection with a disputed claim. All testimony at any
22	hearing upon a disputed claim shall be recorded, but need
23	not be transcribed unless the disputed claim is further
24	appealed. The division shall have continuing jurisdiction
25	over all claims filed for benefits to revise, modify, alter,

SECOND READING

2 made therein at any time and shall not lose such з jurisdiction unless and until the jurisdiction of such claim 4 and subject matter thereof has been taken by a court of 5 competent jurisdiction in a proceedings filed therein as 6 provided for in subsection (d) of this section. 7 (b) Witness fees. Witnesses subpoenaed pursuant to 8 this section shall be allowed fees at a rate fixed by the 9 division. Such fees shall be deemed a part of the expense of 10 administering this act. 11 (c) Appeal to courts. Any decision of the board of 12 labor appeals in the absence of an appeal therefrom as 13 herein provided shall become final ten 30 days after the date of notification or mailing thereof, and judicial review 14 15 thereof shall be permitted only after any party claiming to 16 be aggrieved thereby has exhausted his remedies before the 17 board of labor appeals as provided by this act. The division or board of labor appeals shall be deemed to be a party to 18 19 any judicial action involving any such decision, and may be 20 represented in any such judicial action by any qualified 21 attorney employed by the division or board of labor appeals and has been designated by it for that purpose, or at the 22 23 division's or board of labor appeals' request, by the attorney general. 24

cancel and amend all orders, findings and determinations

25 (d) Court review. Within ten <u>30</u> days after the <u>date_of</u>

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notification or mailing of the decision of the board of 1 labor appeals has-become-final, any party aggrieved thereby 2 may secure judicial review thereof by commencing an action 3 in the district court of the county in which said party 4 5 resides against the board of labor appeals for the review of its decision, in which action any other party to the 6 7 proceeding before the board of labor appeals shall be made a 8 defendant. In such action, a petition which need not be 9 verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the board 10 of labor appeals or its designate for service of process and 11 12 such service shall be deemed completed service on all 13 parties, but there shall be left with the party so served as 14 many copies of the petition as there are defendants and the 15 board of labor appeals shall forthwith mail one such copy to 16 each such defendant. With its answer, the board of labor 17 appeals shall certify and file with said court all documents 18 and papers and a transcript of all testimony taken in the 19 matter, together with its findings of fact and decision 20 therein. The board of labor appeals may also in its 21 discretion, certify to such court questions of law involved 22 in any decision by it. In any judicial proceeding under this 23 section, the findings of the board of labor appeals as to the facts, if supported by evidence and in the absence of 24 25 fraud, shall be conclusive, and the jurisdiction of said

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court shall be confined to questions of law. Such action, 1 2 and the questions so certified, shall be heard in a summary manner and shall be given precedence over all other civil 3 cases except cases arising under the workmen's compensation 4 law of this state. An appeal may be taken from the decision 5 of the said district court to the supreme court of Montana 6 7 in the same manner, but not inconsistent with the provisions of this act, as is provided in civil cases. It shall not be 8 necessary, in any judicial proceeding under this section, to 9 enter exceptions to the rulings of the division or board of 10 labor appeals and no bond shall be required for entering 11 such appeal. Upon the final determination of such judicial 12 proceeding, the division shall enter an order in accordance 13 14 with such determination. A petition for judicial review shall not act as a supersedeas or stay unless the division 15 16 or board of labor appeals shall so order."

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H BILL NO. 241 1 INTRODUCED BY Dassinger 2 BY REQUEST OF THE DEPARTMENT OF LABOR 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE 5 CORRECT PERIOD FOR APPEALING BOARD OF LABOR APPEALS DECISION 6 7 AS PROVIDED FOR IN SECTION 87-108, R.C.N. 1947." 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 10 Section 1. Section 87-108, R.C.M. 1947, is amended to 11 read as follows: "87-108. Procedure and appeals. (a) Procedure. The 12 13 manner in which disputed claims shall be presented, the 14 reports thereon required from the claimant and from 15 employers, and the conduct of hearings and appeals shall be 16 in accordance with regulations prescribed by the division 17 for determining the rights of the parties, whether or not 18 such regulations conform to common law or statutory rules of 19 evidence and other technical rules or procedure. A full and 20 complete record shall be kept of all proceedings in 21 connection with a disputed claim. All testimony at any 22 hearing upon a disputed claim shall be recorded, but need 23 not be transcribed unless the disputed claim is further appealed. The division shall have continuing jurisdiction 24

over all claims filed for benefits to revise, modify, alter,

cancel and amend all orders, findings and determinations
 made therein at any time and shall not lose such
 jurisdiction unless and until the jurisdiction of such claim
 and subject matter thereof has been taken by a court of
 competent jurisdiction in a proceedings filed therein as
 provided for in subsection (d) of this section.

7 (b) Nitness fees. Witnesses subpoeneed pursuant to
8 this section shall be allowed fees at a rate fixed by the
9 division. Such fees shall be deemed a part of the expense of
10 administering this act.

11 (c) Appeal to courts. Any decision of the board of labor appeals in the absence of an appeal therefrom as 12 13 herein provided shall become final ten 30 days after the 14 date of notification or mailing thereof, and judicial review 15 thereof shall be permitted only after any party claiming to 16 be aggrieved thereby has exhausted his remedies before the board of labor appeals as provided by this act. The division 17 18 or board of labor appeals shall be deemed to be a party to 19 any judicial action involving any such decision, and may be represented in any such judicial action by any qualified 20 21 attorney employed by the division or board of labor appeals 22 and has been designated by it for that purpose, or at the 23 division's or board of labor appeals' request, by the 24 attorney general.

25 (d) Court review. Within ten 30 days after the date of

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THIRD READING

1 notification or mailing of the decision of the board of 2 labor appeals has become final, any party aggrieved thereby 3 may secure judicial review thereof by commencing an action 4 in the district court of the county in which said party 5 resides against the board of labor appeals for the review of 6 its decision, in which action any other party to the 7 proceeding before the board of labor appeals shall be made a 8 defendant. In such action, a petition which need not be 9 verified, but which shall state the grounds upon which a 10 review is sought, shall be served upon a member of the board 11 of labor appeals or its designate for service of process and 12 such service shall be deemed completed service on all 13 parties, but there shall be left with the party so served as 14 many copies of the petition as there are defendants and the 15 board of labor appeals shall forthwith mail one such copy to each such defendant. With its answer, the board of labor 16 17 appeals:shall certify and file with said court all documents 18 and papers and a transcript of all testimony taken in the 19 matter, together with its findings of fact and decision 20 therein. The board of labor appeals may also in its 21 discretion, certify to such court questions of law involved 22 in any decision by it. In any judicial proceeding under this section, the findings of the board of labor appeals as to 23 24 the facts, if supported by evidence and in the absence of 25 fraud, shall be conclusive, and the jurisdiction of said

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1 court shall be confined to questions of law. Such action, 2 and the questions so certified, shall be heard in a summary 3 manner and shall be given precedence over all other civil 4 cases except cases arising under the workmen's compensation 5 law of this state. An appeal may be taken from the decision 6 of the said district court to the supreme court of Montana 7 in the same manner, but not inconsistent with the provisions 8 of this act, as is provided in civil cases. It shall not be 9 necessary, in any judicial proceeding under this section, to 10 enter exceptions to the rulings of the division or board of 11 labor appeals and no bond shall be required for entering 12 such appeal. Upon the final determination of such judicial 13 proceeding, the division shall enter an order in accordance with such determination. A petition for judicial review 14 15 shall not act as a supersedeas or stay unless the division 16 or board of labor appeals shall so order."

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HOUSE BILL NO. 241 1 INTRODUCED BY DASSINGER 2 3 BY REQUEST OF THE DEPARTMENT OF LABOR 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE 5 CORRECT PERIOD FOR APPEALING BOARD OF LABOR APPEALS DECISION 6 7 AS PROVIDED FOR IN SECTION 87-108. R.C.M. 1947." В 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA: Section 1. Section 37-108, R.C.M. 1947, is amended to 10 read as follows: 11

12 "87-108. Procedure and appeals. (a) Procedure. The manner in which disputed claims shall be presented, the 13 14 reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be 15 in accordance with regulations prescribed by the division 10 17 for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of 13 evidence and other technical rules or procedure. A full and 19 20 complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any 21 22 hearing upon a disputed claim shall be recorded, but need 23 not be transcribed unless the disputed claim is further appealed. The division shall have continuing jurisdiction 24 25 over all claims filed for benefits to revise, modify, alter,

cancel and amend all orders, findings and determinations made therein at any time and shall not lose such jurisdiction unless and until the jurisdiction of such claim and subject matter thereof has been taken by a court of competent jurisdiction in a proceedings filed therein as provided for in subsection (d) of this section.

7 (b) Witness fees. Witnesses subpoensed pursuant to 8 this section shall be allowed fees at a rate fixed by the 9 division. Such fees shall be deemed a part of the expense of 10 administering this act.

11 (c) Appeal to courts. Any decision of the board of 12 labor appeals in the absence of an appeal therefrom as herein provided shall become final ten 30 days after the 13 date of notification or mailing thereof, and judicial review 14 15 thereof shall be permitted only after any party claiming to 16 be aggrieved thereby has exhausted his remedies before the 17 board of labor appeals as provided by this act. The division 18 or board of labor appeals shall be deemed to be a party to 19 any judicial action involving any such decision, and may be 20 represented in any such judicial action by any qualified attorney employed by the division or board of labor appeals 21 22 and has been designated by it for that purpose, or at the division's or board of labor appeals' request, by the 23 24 attorney general.

25 (d) Court review. Within ten <u>30</u> days after the <u>date of</u>

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REFERENCE BILL

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1 notification or mailing of the decision of the board of 2 labor appeals has become final, any party aggrieved thereby 3 may secure judicial review thereof by commencing an action 4 in the district court of the county in which said party 5 resides against the board of labor appeals for the review of 6 its decision, in which action any other party to the 7 proceeding before the board of labor appeals shall be made a 8 defendant. In such action, a petition which need not be 9 verified, but which shall state the grounds upon which a 10 review is sought, shall be served upon a member of the board 11 of labor appeals or its designate for service of process and 12 such service shall be deemed completed service on all 13 parties, but there shall be left with the party so served as 14 many copies of the petition as there are defendants and the 15 board of labor appeals shall forthwith mail one such copy to 16 each such defendant. With its answer, the board of labor 17 appeals shall certify and file with said court all documents 18 and papers and a transcript of all testimony taken in the 19 matter, together with its findings of fact and decision 20 therein. The board of labor appeals may also in its 21 discretion, certify to such court questions of law involved 22 in any decision by it. In any judicial proceeding under this 23 section, the findings of the board of labor appeals as to 24 the facts, if supported by evidence and in the absence of 25 fraud, shall be conclusive, and the jurisdiction of said

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1 court shall be confined to questions of law. Such action, 2 and the questions so certified, shall be heard in a summary 3 manner and shall be given precedence over all other civil 4 cases except cases arising under the workmen's compensation 5 law of this state. An appeal may be taken from the decision of the said district court to the supreme court of Hontana 6 in the same manner, but not inconsistent with the provisions 7 of this act, as is provided in civil cases. It shall not be 8 9 necessary, in any judicial proceeding under this section, to 10 enter exceptions to the rulings of the division or board of labor appeals and no bond shall be required for entering 11 12 such appeal. Upon the final determination of such judicial 13 proceeding, the division shall enter an order in accordance 14 with such determination. A petition for judicial review shall not act as a supersedeas or stay unless the division 15 16 or board of labor appeals shall so order."

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