

MINUTES OF THE MEETING  
FINANCE AND CLAIMS  
MONTANA STATE SENATE

February 19, 1977

The sixth meeting of the Senate Finance and Claims Committee met on the above date in room 331 of the State Capitol. The meeting was called to order by Senator Thiessen, Chairman at 8:06 A.M. Roll call was taken, attached. Senator Thiessen announced that he would hear the bills in the following order: Senate Bill 72, 340, 154, 136 and 71. He then called on Senator Warden to present Senate Bill 72. He said in the interests of time since there was to be a joint rules meeting in the room at 10 o'clock, he would limit the time to 20 minutes per bill, for presentation of both proponents and opponents.

Senator Warden explained Senate Bill 72 and told of the need for money to take care of the documents and papers of historical significance to the state of Montana, such papers as those of Senator Lee Metcalf, the former Representative Shoup, papers on old mining towns such as Marysville etc. Testimony attached.

Diane Tipton, representative of the Commissioner of Higher Education said she spoke only to assure the committee of the continued interest of the commission office.

Mr. Dale L. Johnson, University of Montana Archivist, spoke in favor of the bill, his statement attached as exhibit 2.

Mr. Ken Korte, Historical Society appeared on behalf of the Montana Historical Society Board of Trustees, said he hoped the committee would go into this very thoroughly to see the need.

Mr. Brian Chckhill, State Archivist for the Montana Historical Society spoke, testimony attached as exhibit 3.

Dave Lewis said in the preparation of the budget they had been requested to put this amount into the budget. The financing would not go around, but there had been an increase of about \$80,000 in the archive program. He said they are sympathetic, but could not go all the way.

Another archivist addressed as Jane spoke briefly on the role of the MSU in this bill. She said the university is in support of of this bill and very eager to see it passed.

Senator Warden spoke briefly in closing and asked for questions from the committee members. Senator Regan asked if the money is in the budget, and Senator Warden said if the committee wished to write it into the budget bill it would save another bill.

She said this money would not be kept in the Historical Society, but would be passed on to the Universities.

Questions were asked on House Bill 161 and any attempt to microfilm the documents. Senator Warden said there was no duplication of funds, HB 161 provided the funds for the archives to go to the Universities and would get better distribution throughout the state, and there was at the present time no money to microfilm.

Senate Bill 340 was explained by Senator Boylan. He said too many of the travel trips for state agencies were to the vacation spots, and that while a trip on state business was one thing that he felt the trips should be monitored by an outside group to see how much of it was necessary and how much was not.

Senator Himsel said an audit report had been made the other day that to do with the aeronautics Board, and showed all state travel by all state agencies to be \$8 million a year spent on transportation of state people. He said this included the entire transportation in the state.

Senate Bill 154 was explained by Senator Lee, who simply stated he had introduced the bill and would ask Mr. Smith to testify.

Mr. Chad Smith spoke for the Montana Hospital Association in support of Senate Bill 154. He presented his testimony, exhibit 4, attached.

Mr. Rod Gudgel spoke on behalf of the Nursing Homes said there was roughly a \$2 million difference in the amount paid by the Federal Government and what the nursing homes actually paid. He said when the State did not pay this amount it had to be charged off to the patients.

Mr. Pat Melby, SRS director spoke as an opponent to the bill. He said if this bill were passed they would be in direct violation of Title 13. He said the Legislative Audit had checked the figures on the fiscal note and found them to be correct. Senator Thiessen said he had copies of the audit report copied and gave them to the members, attached as exhibit # 5. Mr. Melby passed around a packet containing a letter from the acting regional commissioner of the Department of Health, Education and Welfare, a list of nursing home costs not allowed in Medicaid reimbursements, a statement as to reasonable charges, and a copy of a letter sent to SRS administrator in Washington D. C. Attached as exhibit 6.

Mr. Bill Eichert, Chief of the Medicaid extension of SRS said 52 states have the Medicaid program, 48 are paying reasonable costs. Montana is the only state that pays more, and whether we do so again will depend on this bill.

Mr. Leary, Hospital director, said a 14% increase in hospital costs over next year, but could predict no further on the inflationary rates.

Senator Fasbender asked if at the present time there were any states paying above the guidelines, and was answered only Montana.

Mr. Melby stated only Montana had paid above the reasonable costs but are not doing so now since they canceled those contracts in 1976. He said this action was the result of 2 court cases, and he could get the decision from the circuit court of appeals if the committee so desired. 3

In answer to Senator Himsl's question, Mr. Melby said this bill does deal with all the health delivery services, not just with the hospitals. Senator Smith asked why this was not taken up with the Federal rather than the State, and Mr. Melby said there is a case in the east at the present time.

In asking if a cost analysis of this had been made with the inflationary costs tied in, John LaFavor said no, there hadn't been. Senator Regan said she felt there was only two courses and one of them would have to be taken. One was to accept the entire costs or to reject the bill and tell SRS to take it to the Federal Government.

The figures as to proportion of payment, Mr. Melby said were at present 63% Federal, 37% State, but that this changed with the improved economy and that then the Federal portion decreased.

Senator Blaylock reported on Senate Bill 236. He said he had been asked to introduce this bill and since he felt sympathy to cities and towns he said he would do so, but would like to have Dan Mizner explain the bill. He said they were hard pressed to get adequate funding to provide the services they give. Finding adequate financing is hard, and they felt since this was a new unappropriated fund that this would be a proper source to get it. He said the new 12½% of the royalties would amount to \$1,600,000. The bill would give 40% of this money to go to the cities within the area where the coal is mined, and the other 60% would be distributed within the other cities.

Mr. Mizner, Executive Director of the League of Cities and Towns said the Governor had taken this 12½% and earmarked it in his program for the school foundation program. He said since about 1920 and again in 1938 the Mineral & Leasing Act and the Timber Act the monies coming in had gone to the counties for roads and school districts. Over a period of time additional money that comes in such as the secondary road system and the off road system gets money--not the cities and towns. He said he would like to clarify a question. The monies going to the cities and towns did not affect the monies going to the counties "in lieu" and amounting to \$8 million 25 thousand. This money is money that comes to the counties from the state owned land and is in lieu of taxes on those lands. He said so long as they gave the cities and towns the money asked for in this bill that so far as he was concerned they could cut out the \$3 million, if it would help to balance the budget.

Mr. McCurdy spoke briefly saying he had not intended to speak against Dan, but that he had to disagree with his last statement since the \$3 million was not in the Governor's budget so the committee could not balance the budget by taking it out.

Senator Regan asked why the 40% to the coal counties when this bill was in regard to all minerals as well as coal extracted, and asked

how this decision was reached. Mr. Mizner said it seemed a fair distribution.

Senator Roberts asked if they had any information on how this breakdown would work, and was told they did not, but could do an analysis.

Senate Bill 71 did not have the author present because of other commitments, and Pat McKittrick and John Cavan presented the portion of the bill that dealt with judges salaries.

Pat McKittrick said the Montana Constitution asked for a salary commission to look into the salaries of elected officials and to make recommendations to the legislature. He said in low salaries to judges we were number 49 of the 50 states. He said he felt the recommended salaries in the bill were meritorious. He said another bill had passed the House, House Bill 499. It addressed the question of raising the court fees to a reasonable sum, and since they had not been raised for 9 years it was timely. He said this bill would cost about \$538,000 for the Judges and House Bill 499 would raise about \$712,000 each year of the coming biennium.

Ray Stewart, Court Administrator said he appologized for the chief Justice, but that he had a previous appointment and he would like to say that he was in support of the passage of the portion of the bill in regard to judicial salaries.

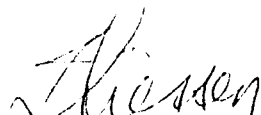
The question was asked as to why the big gap between the salary of the clerk of the Supreme Court and the Judges of the Supreme Court. Pat McKittrick said that about 4 years ago there was a shortage of money, and the judges had received a salary increase but they had intended to catch up later with the clerk.

Senator Regan asked why this came into the State Administration Committee and not the Elected Officials sub-committee. She was told that it had always gone first to the State Administration Committee. Ray Stewart was asked about what part of the duties he had taken over, and told them he had relieved the clerk of some of the financial load. He said this did not necessarily mean less work for the clerk, the case load was much larger.

Senator Himsl said he was concerned with the tax free retirement which amounted to 1/2 of the salary, or \$20,000, and felt this was going to mushroom into a large sector which was not paying taxes and that the taxes would have to be picked up by the remainder of the populace. Some discussion was held on taxes being paid before the money went into the retirement fund, and were then not paid upon receipt, but were when it went into the supplementary. Senator Himsl felt this was different. He said the Fish and Game Warden, judges, etc. seemed to be in a different category.

Senator Regan said she felt it not proper to have just testimony for the judges salaries and none for the other public officials.

The meeting was adjourned.

  
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Senator Thiessen, Chairman

# ROLL CALL

## FINANCE AND CLAIMS COMMITTEE

45th LEGISLATIVE SESSION 1977

Date

*SAM*  
*2/19/77*

| NAME         | PRESENT | ABSENT | EXCUSED |
|--------------|---------|--------|---------|
| THIESSEN, CH | ✓       |        |         |
| HIMSL, V.C.  | ✓       |        |         |
| STORY        | ✓       |        |         |
| ETCHART      | ✓       |        |         |
| KOLSTAD      | ✓       |        |         |
| LOCKREM      | ✓       |        |         |
| NELSON       | ✓       |        |         |
| SMITH        | ✓       |        |         |
| STEPHENS     | ✓       |        |         |
| FASBENDER    | ✓       |        |         |
| BOYLAN       | ✓       |        |         |
| FLYNN        |         |        |         |
| MEHRENS      | ✓       |        |         |
| REGAN        | ✓       |        |         |
| ROBERTS      | ✓       |        |         |
| THOMAS       | ✓       |        |         |

FAC

COMMITTEE

BILL SB-236-23-340-  
71 and 154

VISITORS' REGISTER

DATE \_\_\_\_\_

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

Thursen  
Genuine & Claims  
Senator ~~Thursen~~ and members of the ~~State Administration Committee~~:

I am Sen. Margaret S. Warden, Dist. 18, and prime sponsor of S.B. 72.

For the past 25 years, I have been active and interested in the picture of the preservation of Montana's past as well as the improvement of libraries and their funding. As a young woman, I served as librarian at the Great Falls Tribune for several years and one of my primary concerns was for the indexing of Montana history.

Later, I served as an indexer and editor for the Navy department in Washington, D.C. where I had access to much classified matter as well as technical publications.

My husband has long been a collector of historical books and literature. So, you see, I do have a background and interest in the preservation of documents and papers.

For the last year I have been actively working to come up with a program to preserve the archives of the state of Montana. I first appeared before the Board of Regents at a meeting last spring to talk about the need. They were interested in the proposal. With the approval of the Regents and Commissioner Pettit, a committee called "Inter-unit committee on libraries" was formed made up of representatives of each university unit, either the librarian or the representative of the university; Brian Cockhill, State archivist from the Montana Historical Society; Dr. Freeman J. Wright of the Commissioner's staff and myself.

The committee met and it was the unanimous opinion of the group that something should be done.

During July, I went back to Chicago to consult with Pat Quinn, archivist for Northwestern University. He had been active in the

Exhibit  
#2

The state of archives and manuscripts in Montana is deplorable. These one-of-a-kind items from which Montana history is researched, interpreted and written have been all too often destroyed, ill preserved or collected by research institutions from as near as Wyoming and as far away as Yale University.

Past legislatures have ignored providing for the collection, preservation and use of the materials of Montana history. Indeed, a legislative history of Montana is impossible to write. The University has over 7000 feet of manuscript materials, but the papers of only four past legislators: Joseph M. Dixon, Tom Haines, Dan Kemmis and H. O. Worden. The Montana Historical Society possesses the papers of only a few more. (I might interject that both institutions and Montana State University will welcome the donation of your papers as well as the papers of other current and past legislators.) Without these documents, Montanans and their legislators will never have the opportunity to interpret and understand the legislative past -- with all that this may imply.

During the bi-centennial year, more than 50 local and county histories were written by Montanans. In researching for these publications, the citizens of Frenchtown, Glendive and Libby either had to ignore the historical materials that do exist within the libraries of the Montana Historical Society,



My name is Brian Cockhill, I am State Archivist for the Montana Historical Society.

Historic records programs operate within a framework of three major activities: acquisition; utilization or service; and preservation. Any program must be evaluated on the basis of its performance in all three areas. The minimal programs financed by the State of Montana, at this time, fail in two of those activities and succeed only partially in the third.

Our acquisitions programs are almost non-existent. Lack of staff time and severely curtailed travel monies have frustrated effective and systematic solicitation of historic records in Montana. Consequently, much of historic worth is being destroyed or is leaving the state every day. Archival staffs, recognizing this, have resorted to combating the situation by traveling on their own time and at their own expense to minimize this failure. We cannot continue to do so.

Our service to the public is shoddy, at best, and utilization of our holdings suffers as a consequence. This is more a product of Montana's size than any other factor, although understaffing, lack of cooperation, and severe shortages of operational monies further compound this deficiency. The irony in this, is that we partially deny our reason for existence because of this situation. What good are these records if they cannot be readily used by the historian, the student, the government employee, or the interested citizen?

Activity in the third area, preservation, has been more acceptable, if far from perfect. In the last ten years, Montana has been fortunate in having

Chad Smith  
4/4

STATEMENT IN RESPONSE TO THE FISCAL NOTE  
ON SENATE BILL NO. 154  
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There are several prejudicial and erroneous comments contained in the Fiscal Note prepared on S.B. No. 154 which distort the true fiscal considerations.

First: The statement distributed to the Senate Public Health Committee by officers of the Department of Social and Rehabilitation Services indicated that the total cost of the bill would amount to \$9,433,905 for the 1977-1979 biennium and that 38.5% of this amount or \$3,632,053 would be paid to physicians. However, research prepared by the Montana Foundation for Medical Care based upon figures obtained from the Department of SRS show that the difference between the amounts billed and that actually paid to physicians by the Dept. of SRS for Medicaid patients for the years 1975 and 1976 is as follows:

1975

|         |                  |
|---------|------------------|
| Billed  | \$5,108,021      |
| Paid    | <u>4,341,818</u> |
| Balance | \$ 766,203       |

1976

|         |                  |
|---------|------------------|
| Billed  | \$4,942,984      |
| Paid    | <u>4,201,460</u> |
| Balance | \$ 741,524       |

In other words, the cost to the state for the physicians' portion of the bill would be approximately \$1,507,727 for the biennium rather than \$3,632,053 as stated by the Department of SRS. It is unnecessary to project an increase in the annual expenditure

*exhibit 5*

OFFICE OF THE LEGISLATIVE AUDITOR

ANALYSIS OF THE FISCAL NOTE ATTACHED TO SENATE BILL 154 AND THE LOBBYIST'S STATEMENT IN RESPONSE TO THE FISCAL NOTE ON SENATE BILL 154

We reviewed the fiscal note attached to Senate Bill 154 for reasonableness, utilizing the Department of Social and Rehabilitation Services' fiscal information. Our review revealed no material deficiencies in logic or in mathematical accuracy relating to the computation of dollar amounts shown on the fiscal note attached to Senate Bill 154.

The fiscal note describes two long-range effects which the bill may have. The first states: "Under this proposal, the Department is required to pay billed costs. This will reduce the Department's ability to attempt cost control and result in increased Medicaid costs." The department's concern in this instance relates to the fact that there is currently no standard fee schedule showing rates normally charged private patients. Without such a fee schedule or a regulatory authority controlling rates, providers could raise rates to an unreasonable level. This is a reasonable and legitimate concern.

With respect to the second long-range effect dealing with possible loss of Title XIX payments on passage of this bill, our review revealed no reason to doubt the accuracy of Patrick E. Melby's February 7, 1977 letter and enclosures to Senator Thiessen. These documents show that at such time it appears that payments are in excess of reasonable costs, an issue will be raised regarding compliance with requirements of Section 1902 of the Social Security Act, 45 CFR 250.30, and State Title XIX plan. This situation would result in the state's placing itself in jeopardy for further payments under Title XIX of the Social Security Act.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

REGION VIII

FEDERAL OFFICE BUILDING  
19TH AND STOUT STREETS  
DENVER, COLORADO

JAN 20 1977

SOCIAL AND REHABILITATION  
SERVICE

MS

RECEIVED

JAN 24 1977

DIRECTOR'S OFFICE

Mr. Patrick E. Melby  
Acting Director  
Department of Social and  
Rehabilitation Services  
Post Office Box 4210  
Helena, Montana 59601

Dear Mr. Melby:

This is in response to your letters dated December 23 and December 30, 1976, respectively, which request an official opinion from this office concerning the supplementation of "reasonable cost" payments for inpatient hospital services.

It is the opinion of this office that a State would not be in compliance with Federal requirements under Title XIX of the Social Security Act if the State were to make payments to providers for inpatient hospital services furnished under the State's Title XIX medical assistance program in excess of the upper limits specified in 45 CFR 250.30(b), even if the State were to claim Federal financial participation only for that amount which is within the upper limits.

We are also of the opinion that a State would not be in compliance with requirements under Title XIX of the Social Security Act if it permitted providers to receive for inpatient hospital services a total payment in excess of the upper limits specified in 45 CFR 250.30(b) by combining reasonable cost payments made by the State and supplemental payments from the State or any other source for such services. The Regional Attorney has advised us in the past and on the basis of the current status of the law that he concurs in this view.

Accordingly, we wish to advise the State that if legislation is passed requiring the State to reimburse hospitals for "actual charges" rather than "reasonable costs" there will be an issue of compliance with requirements of Section 1902 of the Social Security Act, 45 CFR 250.30, and the State Title XIX plan at such time when it appears that payments are in excess of reasonable costs. Should a compliance issue be cited, the State places itself in jeopardy

