

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

February 18, 1981

The 13th meeting of the Senate Finance and Claims Committee met on the above date in room 108 of the State Capitol Building. Roll call was taken and is attached. The meeting was called to order by Senator Hims1, Chairman, who said the first bill to be heard would be Senate Bill 463 with Senator Steve Brown.

CONSIDERATION OF SENATE BILL 463: Senator Brown, chief sponsor of Senate Bill 463 said this is a bill put in at the request of the Legislative Audit Committee and would attempt to equalize the rates paid for travel expenses for the boards. He said there was possibly a need for amendments and if this were desired, the committee would be willing to work them up. The reason they might be needed was because Senate Bill 274 had passed the Senate, and it raised the rates for the quasi-judicial boards to \$40 a day while the remainder would be getting \$30.

Ed Carney, Director of the Department of Professional and Occupational Licensing, spoke in favor of the bill. He felt the committee ought to look at the other bill to perhaps see if some fairness could be worked out.

There were no further proponents and no opponents and Senator Hims1 opened the meeting to questions from the committee.

Senator Keating: Does this bill include some of the boards that have been sunsetted? I noticed on the therapists was one. Brown: Yes, we have included them because we do not know if the bills will pass to sunset them, and if they are not they are in this bill. if they are sunsetted they would not be included, automatically since all the boards are funded by fees collected.

The hearing on Senate Bill 463 was closed.

CONSIDERATION OF SENATE BILL 449: Senator Turnage, chief sponsor of Senate Bill 449 explained the bill. His testimony is attached, exhibit 1. He added that the intent is that it be a voluntary program up to \$7500 per year and that the state taxes are not due until the participant actually receives the money. He also added that currently the program is being administered by Montana Benefits Incorporated.

Dave Evenson, Department of Administration, Personell Division, and coordinator of the program said the money must remain an asset of the state. We have some concern about the administration of the program. There are a couple of features in the bill that might be of some interest in determining what you want to do with it. There is a provision to charge costs against it, and originally it was a cost to the taxpayers. There is also an option whereby the counties or cities can join in the plan. We feel some of the smaller political subdivisions might have some trouble getting a plan that they

can join in.

Dr. William Crowley, Director of Research for Montana Benefits Incorporated gave testimony, copy of which is attached, and also handed out a brochure. He said Mr. Paul Meloy was also available for answering questions. He also passed out a copy of the agreement with the state of Montana, attached as exhibit 5.

Ross Cannon, Montana Life Underwriters Association spoke in support of the bill. He said they particularly supported it in light of the fact that the underwriters provide insurance. He said they would like it also to offer the services that the various companies offer in various contracts as part of the service made under the deferred compensation program. He said it has been hard for the underwriters to tell how they could make their services available to the state.

Tom Schnieder, Executive director of MPEA said they support the bill because currently local government does not have access to the programs equal to those offered to the state. We feel it is a very good program and think it would be good to give the option to local government.

There were no further proponents. no opponents, and the chairman asked for questions from the committee.

Senator Keating: I would like to ask Dr. Crowley--Did you make a statement that the funds paid in here will be invested in Montana so that Montana has some kind of an economic benefit from it? The money would go to the insurance carrier and the insurance carrier funds--the money would be sent to the headquarters of Nation Wide, they in turn would invest some in Montana. At present there is about \$6.4 million and they have invested \$6 million back in Montana. Keating: Are the investments with Whole Life, etc. Mr. Meloy answered that the bulk was in fixed annuities. Keating: What is the interest rate? Meloy: 10.55 is the current rate, tax free.

Senator Aklestad: The interest will increase and add to the fund. How do you base the tax on the increase? Dr. Crowley: That is tax deferred. The dividend accumulates tax free. It is taxable when the participant begins to draw it out. Employees are generally in a lower tax bracket when they retire, and get this break.

Senator Keating: This is subjected to federal regulations. Is there any permanent arrangement with IRS that it is permanent or could they change it along the way? Dr. Crowley: I think they could change the rules at any time. The IRS incorporated the allowance for all states.

Senator Johnson: What was the criteria that let you select M. B. Inc for this? Meloy: We competed with other firms

throughout the country. There were bids put out, and it was done on a competitive basis. All the companies that provide services are also on bid, American Savings, American Life Insurance, etc. There was ample opportunity to get into the act.

Senator Thomas: You can be part of the state retirement system? Meloy: The portion deferred is a volunteer program. You still pay your FICA, etc., but IRS tax free can be done.

Thomas: Is this through annuities? Meloy: Investment in the state. I don't know just what, but I would think they would include land, buildings, etc.

Senator Aklestad: What lending institution does it come through? Meloy: The Nation Wide Insurance would make their own arrangements for investments in Montana. They do not go through any local lending institutions.

Senator Himsl: They sponsor the insurance program over all, and the kind of arrangements they make on investments, you have no control over, is that right. Meloy: We do make some pressure to see that they do invest in Montana.

Senator Himsl: All these programs will be put into life insurance programs? Dr. Crowley: There are money market funds, portfolios, variable annuities, fixed annuities, etc. The variable annuities include Putnam Investments, Nation Wide Money Making Fund, etc., there are 7. Some of the employees may want to participate with stocks and bonds, others may want fixed returns.

Senator Himsl: Are they insured accounts? Crowley: No. They are insured against the general assets of the company.

Senator Johnson: What if I needed money for an emergency? I will submit what my emergency is and see if I can get my money? Dave Evenson: The federal act says there are only 4 ways to get your money out. Retirement, separation, death or an unforeseen emergency. We have to meet the compliance of the Nation Wide on this.

Senator Jacobson: Is there any time limit? Say I put it in last month and quit in 2 months. Would I get my money back? Meloy: There is a 4% charge if you take your money out before 3 years.

Senator Haffey: I want to understand this, and to do so, I would like to look at it from the employee's eye. The employee has some money that he doesn't want to spend and does want to save and can choose to save in this way, or can choose to put it in a C.D. If he does it this way monthly--he will be locked in this way? If at a time 2 years from now they want to take from the pot of savings this voluntary deferred savings plan will not let them withdraw from this account? Crowley: It is not a savings plan, it is a retirement plan, and it is difficult to take your money out.

Senator Haffey: Could you explain the reason? Evenson:
The sophistication of the tax law makes it so the employee must treat this as a retirement plan. If it were treated as a savings account it would be taxable. The tax break savings makes it so it has to be difficult to take it out.

Senator Himsl: You forfeit some of your rights to get the tax break.

Evenson: If they just want to sock something away for their future they should use a different method. I think it is imperative that some discretion be used in selling this.

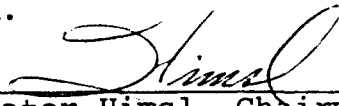
Senator Turnage closed his testimony by saying individual retirement accounts are withdrawable and you pay taxes on them. I submit that you can't draw it out here or you would foul up their viable annuity program. The Senate passed the variable annuity bill yesterday. Now they will take all of the \$6 million and book it into the stock market and they can write it. Another thing bothers me; the present statutes of the deferred accounts there is no information available on the pay outs. None on the pay out accounts; none on pay out of life; and etc., but there are some on the Savings and Loan. Now you would have to go in there and analyze each account. If the Department of Administration administers it, they will use the Board of Investments in part, and we would have that information in the reports made.

There is nothing in the bill that would prohibit the state from contracting with M.B. Inc. They can continue to use them and if they continue to do an excellent job they will probably continue their contract. We do appreciate the support. We found no opposition.

One thing bothers me, we kept hearing about how much it is going to cost the state. I haven't heard any one telling about what the costs are now. How much does M.B.Inc. charge now in administering the program? If they do charge anything, what amount, if they don't, what is in it for them and how much? It is strange that we haven't been advised as to how much that is. If we pass the bill we will at least find that out.

Senator Himsl declared the hearing closed.

The meeting adjourned at 12:05 p.m.



Senator Himsl, Chairman

ROLL CALL

FINANCE AND CLAIMS COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 4/1/81

NAME	PRESENT	ABSENT	EXCUSED
Senator Etchart			
Senator Story	✓		
Senator Aklestad	✓		
Senator Nelson	✓		
Senator Smith			
Senator Dover			
Senator Johnson	✓		
Senator Keating	✓		
Senator Boylan			
Senator Regan			
Senator Thomas	✓		
Senator Stimatz	✓		
Senator Van Valkenburg	✓		
Senator Haffey	✓		
Senator Jacobson	✓		
Senator Himsl	✓		

COMMITTEE ON

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BILL NO.

Sen 449
463

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppos
Ed Sheehy	mt. assn of Life Underwriters	SB 449	
James Hancock	MT ASSN LIFE UND	SB 449	
John E. Fitzgerald	Legislative Aid		
Joe Michael	Dept of Admin		
Annetha Smith			
Laurie McElvaine			
Walter Fitzgerald			
John Macneaney			
Tom Schneider	MPET	SB 449	
Chuck Moore	Dept of Admin, Personnel		✓
Dave Evenson	"		✓
Tom Hill			
Jim Brunson			
Kirk Lockke			
William Crowley	Montana Benefits, Inc.		✓

COMMITTEE ON H. & L. SB BILL NO. 463

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

1. Page 1 Lines 22-24

-Merely provides better description of financial reporting.

2. Pages 2-5

- Deletes the present fund structure and inserts the new fund structure.
- This is the main thrust of the bill.
- The present fund structure was established in 1963 based on a Legislative Council Study with assistance from a university professor.
- In 1980, the National Council on Governmental Accounting, which is the accounting standards setting body for states, issued new accounting guidelines (known as generally accepted accounting principles(GAAP)) for states, which included a revised fund structure.
- A handout is provided to illustrate the differences.

-Montana must prepare its annual financial report in accordance with the revised fund structure (GAAP) or be prepared to experience an adverse effect on the state rating for the sale of bonds. Standard and Poor, a private rating company, issued a Policy Statement in 1980 which states:

All financial statements submitted to S&P, either in connection with a rating request for a bond sale or for a review, are expected to be prepared in accordance with GAAP...In the absence of financial reports prepared in accordance with the aforementioned guidelines, S&P will specifically reflect such absence in its rating process as a *negative factor* and where the report is not timely or is substantially deficient in terms of reporting, *will not rate at all.* (emphasis added)

Several states have already felt the effect of Standard and Poor's Policy Statement:

1. Maryland's interest rates on bonds sold was 0.15 percentage points lower than comparable bonds sold by another state in part reflecting conversion to GAAP. This resulted in a \$600,000 savings.
 2. Massachusetts had its bond rating lowered because they did not comply with the more stringent accounting standards favored by the rating agency.
 3. Oregon had to pay a higher interest rate after its credit rating was reduced.
 4. Nevada's bond rating improved due to better financial reporting.
- It is estimated that a rating change from AA to AA- represents from 1/8 to 1/4 percentage points in interest paid. During fiscal year 1980 Montana issued bonds for \$19,130,000. A penalty of 0.125 to 0.25 percentage points on the issue would amount to \$24,000 to \$48,000 in interest costs for one year or \$480,000 to \$960,000 over the life of the bonds. Montana cannot afford a potential loss of that magnitude.
- A National Conference of State Legislatures (NCSL) task force issued a report to the NCSL Executive Committee on December 30, 1980 that states:

The NCSL Task Force on the Governmental Accounting Standards Board recommends to the NCSL Executive Committee that NCSL encourage state legislatures to review their states' adoption and use of generally accepted accounting principles, and **uniform reporting standards. That in so far as practicable** and reasonable for each state with regard to its own laws, we recommend that each state legislature move to strengthen and develop their state and local governmental accounting and reporting standards in conformance with the recommendations of the National Council on Governmental Accounting.

-An alternative to restructuring our present fund structure would be to use the current fund structure for internal reporting and budgetary purposes and reformat the data into the revised fund structure for external reporting purposes. However it would be a costly approach as the data would need to be reviewed and reformatted every year. Also, it may lead to confusion as internal and external reports would carry different titles and balances.

- Potential problems associated with the proposed restructuring include:
 - Loss of historical base - plans are to develop a matrix that make comparison possible.
 - Identification of federal funds - this information will be attainable through the structure of accounting entities or the use of revenue object codes.
 - Cost of approximately \$20,000 - the cost is minimal for such a major change. The other alternative of reformatting existing SBAS data for financial reporting would cost much more when audit costs are considered and would be an annual recurring cost.

3. Pages 8-12

- The next noteworthy change is on pages 8 and 9. This section establishes two account groups: the "fixed assets account group" and the "long-term debt account group".
- On page 10 the sunset provision on the university fund group is repealed. Four years ago when the university fund group was established by law accounting officials were unclear whether the university funds should be added (as was done) or submerged within the state regular fund structure. Authorities now agree the university funds should be added on to the regular fund structure. The sunset provision forced a review of the prior decision.
- Section 5 on pages 11 and 12 is a new section that requires the Department of Administration to review all laws affected by the change and submit to the 1983 legislature a bill to bring them in line with the new proposed fund structure.
- Finally Section 6 on page 12 provides for two effective dates.
 - Section 3 repealing the sunset provision and Section 5 requiring the interim review are effective immediately.
 - The other sections are effective July 1, 1983. This will permit the 1983 budget to be prepared based on the new fund structure.
- Another bill (HB 482) has been introduced to match the new fund structure to current budgetary authority.

INFORMATION SHEET: SENATE BILL 449

DESCRIPTION: An act to generally revise the laws relating to deferred compensation for public employees. The intent of this bill is to allow the state or a political subdivision to effectively administer deferred compensation funds. In addition, the bill will bring state law into compliance with Section 457 of the Internal Revenue Code. States have until January 1, 1982, to bring their deferred compensation laws into compliance with the Federal regulations.

BACKGROUND INFORMATION:

The State Deferred Compensation Plan is a tax sheltered program. It is intended to be a voluntary supplemental retirement program for public employees. Participants are allowed to defer 25 percent of their gross income up to \$7500 per year. State and federal taxes are not due or paid on money invested in deferred compensation until the money is actually received by the employee or his beneficiary. Normally, the money is paid out in an annuity after the employee retires and presumably when he is in a lower tax bracket.

The state deferred compensation plan is currently administered by a third party administrator, Montana Benefits, Inc. This plan has three basic investment options offered through two insurance carriers. The Personnel Division, Department of Administration, with the assistance of the Group Benefits Advisory Council, is responsible for overseeing the operations of the deferred compensation plan, the third party administrators and the insurance carriers.

DISCUSSION POINTS:

1. The bill will clarify the role of the Department of Administration as primarily responsible for the proper administration of the deferred comp program. Current state law places that responsibility upon the third party administrator. Because the assets of the program are the property of the state by law, we believe the Department of Administration should have the statutory authority to administer the program and to promulgate rules for the proper management of the deferred compensation program as well as to install administrative record-keeping and safeguard systems.
2. The department continues to have the authority under this bill to contract with private consultants or firms to market the program and to perform some administrative services. It will also have the responsibility to evaluate the performance of marketing representatives or consultants hired under the program.
3. The bill permits a state deferred compensation fund to be established through the Board of Investments. Currently, the only options available to employees are through insurance carriers.
4. Under the current statute, there is no provision for assessing administrative costs of the program. This bill allows the department to charge the costs of administering the program against the interest earnings in participant accounts. The cost of the program, therefore, is borne by those benefiting from the program.

5. Finally, the bill allows political subdivisions to contract with the state and include their employees in the state's deferred compensation program. This is an advantage to the smaller jurisdictions where it is not feasible to market and administer a separate deferred compensation program.

FISCAL IMPACT: No impact on general funds. Administrative costs incurred by the operation of the program will be assessed against the participant's accounts.

POSSIBLE OPPOSITION TO THE BILL:

Opposition to the bill would potentially come from private sector consultants and firms who administer deferred compensation programs. They may see the placement of statutory authority for administering the program in the Department of Administration as state infringement on their businesses. Their arguments might include:

1. Private sector, third-party administrators are more experienced and readily equipped to handle deferred comp programs.
2. The private sector administrators are more efficient in performing these duties because they have similar clients in other states.
3. Marketing programs, computer programs, accounting and filing systems have already been established for the state's plan by the third party administrator.

ARGUMENTS TO COUNTER OPPOSITION:

1. These funds are by law the property of the state and the state must have greater control over account balances, participant records, negotiations with insurance carriers and the maintenance of the program.
2. Because this is an optional benefit offered to state employees, it can be coordinated with other state benefits and the state will have greater control over the dissemination of information and the marketing of the program.
3. This bill will merely reflect the current administrative relationship the state has with the third party administrator and the insurance carriers. Since January of 1980, the state has become more involved in the administrative details of the program and with the negotiation of interest rates with insurance carriers. This bill reflects the increased involvement and responsibility the state has taken in the program.