

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

March 9, 1981

The 18th meeting of the Senate Finance and Claims Committee met in room 108 of the State Capitol Building on the above date. The meeting was called to order at 9:06 a.m. by Senator Himsl, Chairman for the purpose of hearing House Bills 88, 751 and 808. Roll call was taken, and is attached.

CONSIDERATION OF HOUSE BILL 88: Representative Vincent, chief sponsor of House Bill 88 explained this bill as giving the legislators a copy of the codes. He said at the present time they do not get a copy and with this bill, they will be made available to them. Four years ago they did provide codes and there were 17 sets not called for by the legislators and were later sold. There is no general fund money involved, it will be handled through the revolving fund which had initial general fund money to get it started, but which will eventually be able to pay back this seed money. He said at the present time a lawmaker can receive the set for \$100 and lawyers and others interested receive them for \$120. This covers the cost of the printing, mailing and a little over. The main question of this bill is should or should not the legislators receive the set free. He said in his case his salary would not cover this extra expense and he felt he had earned his set by the hours he put in at the legislature. He also said he used his at home constantly.

J. Weingartner, State Bar of Montana, spoke as a combination proponent and opponent of the bill. He said the state bar feels the legislators should have a set of the codes, but at the same time they are concerned as to whether the state will buy the codes or whether they will charge more for the remainder to make up the cost out of the revolving fund, and they would be opposed to an increased cost. Senate Bill 315 said the cost ranges between \$600 and \$1,000 per set when they add the other costs such as time from the Council, work hours and computer hours put in, etc.

There were no further proponents, no opponents, and Senator Himsl asked if there were questions from the committee.

Senator Himsl: The members of the Legislature have always received a set of the session laws. Is it now proposed that they will receive the codes and not receive the session laws, and that there will be a cost savings from this? Vincent: Session laws come out fairly soon after the session. They are very difficult to effectively use since you have to reference them to the laws that previously existed. About 6 months later the session laws are incorporated into the codes and are much easier to work with. It may be possible to decide that the legislators do not need a copy of the session laws. What the cost savings would be I do not know.

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I would imagine it would cost as much to run them off as it would to run off the extra codes. Vincent: Being given the fact that from now on they will always be incorporated in the codes within the next 6 months, there may not be a need for them.

Senator Hims1: This bill does not address this? Vincent: No. We would have to address it within the legislative council budget. If this committee decided to live without the session laws we could take it out.

Senator Smith: I have one comment. It seems too often if you are getting something for nothing, you are always willing to take it. If there was a small fee--it seems to me the legislators could make a small donation. I hardly ever need them. Vincent: I use mine a lot. I honestly feel I make my contribution toward them by working hard for 90 days here. I think we have more than earned a set of them.

Senator Aklestad: I would like to ask the last individual who testified to answer this. You made the statement that it cost between \$600 and \$1,000 for the set? Weingartner: This was in regard to the bill that Senator Turnage had, and it went down. The budget office figured out what the total would be when you figured in the staff time, time from the legislative council, cost of the computers, etc. The total cost of the codes is between \$660 and \$1,000 a set. The way it was figured was it cost so much for the codes to be printed, then what we are paying is the cost of the printing plus the postage for printing the extra copies. This is 20% above the cost. When you get right down to it, it costs a lot more than that.

Senator Aklestad: In other words, there is no make up time reimbursed for here, is that correct? Weingartner: Yes.

Senator Regan: I would have you look at the bottom of the fiscal note. Reference has been made to \$100 a set. Running an extra 100 sets may not be that expensive once it is set up. There would be 50 sets for committees--they could bring their own sets up. I am not sure you would need 150 sets--you could probably get by with 100, if you charge something. And then you have said non-incumbants. Vincent: For non-incumbants, it provides a set for first time legislators so that they don't have to wait a whole year to receive them. I feel that once a person is elected, they should not have to wait a whole year. On the 50 sets for committees, Diana may be able to discuss that better than I. These sets would remain in the committee room.

Senator Regan: Is there anyone else in the room that would like to address this, (to Diana Dowling) or would you rather not?

Diana Dowling, Legislative Council: The way the law stands now, I stuck my neck out. I realized we had sold all but 50 sets and I realized we would have to have sets in the committee rooms. I just took it on myself to furnish them to the committees. We could get by with what Senator Smith says. The law says the

legislators get free copies, whether you want them or not.

Representative Vincent: It requires the Legislative Council make available the sets. I would interpret it to say if they ask for one they get it.

Senator Keating: I understand there must be a demand if all of a sudden there is an under-run on them and you have to stop sales. There is no waste. We don't end up with extra sets.

Diana Dowling: We really had no precedent. The Alan Smith had 800 subscribers. We just had to guess at how many we would sell. We had 2500 sets of the codes, it is a very popular item. The libraries all over the country in addition to the attorneys get them. It is one of the lowest priced codes in the country. The State Bar Association thinks we did not plan well. We had a request for one we had to turn down, but the time is advanced now, and they will be outdated now.

Senator Keating: I have a comment. If I had gotten a set before I came up here, I would not have known what to do with it. I don't think a freshman would know what to do with it. Vincent: As the law reads now, we could leave it up to the non-incumbant to ask for it if he wants it.

Senator Aklestad: Why are we supplying law books to the profession and others at a cost that only encompasses the printing and binding and postage? This doesn't make sense to me when the taxpayer has to pay the difference and the cost is \$660 to \$1,000 per set. Vincent: I think the figures are lower. They are set above the printing cost. Aklestad: That is minute along side of the higher prices. I do not think there is any way you could put them out for this much money. The taxpayers should not have to pay it. Vincent: It is my understanding that it is taking care of itself now. In the very beginning it was artificially subsidized. In time the revolving fund will be built up to pay that money back to the general fund. As to the taxpayer paying for this--it is the legislators who have recodified the codes. The legislature decided to do this. It happens in virtually every state. The legislature decides to recodify and they are the ones that change it and make the others obsolete.

Senator Haffey: I think the cost of \$100 to \$120 is related to the cost of printing and mailing. This has to be done anyway. The cost of getting the codes up to date etc. was incorporated in Senator Turnages bill. To make that amount you would have to add the publishing cost and have it applied to it. Mr. Weingartner: What is it that is making this be available at what appears to be a low cost. Is it true that there would be a larger cost to make it available to the legislators? Vincent: There would be a cost, yes. The net effect is in the fiscal note. The figure there for '82 the appropriation would be out of the revolving fund. It would be approximately \$25,000. I think it would be less than that myself. As Senator Smith says, nothing is free, there is no free lunch. It comes down to the question of whether we pay for it out of the revolving fund or

from the general fund. It certainly costs money, but I think the sales are going to increase and generate more money and at some time we will be able to reimburse the general fund.

Senator Hims1: Do you have any serious objection to putting in a small charge? If free they, many may not ever be taken out of the box. A lot of the information we receive is never used at all. Those who have a real interest in them could afford to pay \$50 or even \$100 for them instead of having the lawyers pay for it by raising the price. Vincent: I really believe we have earned a set of codes here. In my district at least, I use it a lot. I do not object to a small fee, but at \$50 and at my salary you may be precluding my buying a copy. The price of the codes are not going to increase, and the fee charge is not going to increase. The bid that we are paying for the next set is going to be even less than the last one. We found a place we can decrease the weight of the paper and this will be cheaper. In fact, they will be \$35,000 less than the last ones, even with inflation.

Senator Smith: I have a couple of things. 1. Do I fully understand you will get the complete set of codes for \$100? Diana Dowling: It costs about \$100. Smith: If we pass this law and if I go home and do not need it, I will get a call from someone and say, "If you don't want it, get it for me". Vincent: The intent of the law is to provide a free set for the legislator. I have enough confidence in lawmakers to think they will not do that. You could put a statement of intent on the bill if that would help, saying these are for legislators only on request and should not be passed on or whatever. I don't see it as a problem. A very small fee for mailing, say up to \$10 would be satisfactory.

Senator Haffey: Do you think the question should be "should" they have a set or "must" they have a set. Do you think you have an obligation when a constituent calls to say what is in the law to look it up for them? Vincent: Most of the time I use it is on the landlord, tenant question. I have a card in the law book and can show them. I can't practice law, but I can show them what the book says and they can take it from there.

Senator Aklestad: I think the codes should have a higher sale value. I would be in favor of a higher fee for the legislators and I disagree with the feeling that we should take them.

Closing remarks from Senator Vincent stated that he trusted the lawmakers to be honest, he felt he had earned a set and this was his only way to try to serve as a full time lawmaker when he was at home and on a teaching job.

The hearing on House Bill 88 was closed.

CONSIDERATION OF HOUSE BILL 751: Representative Meyer, House District 42 and chief sponsor of the bill explained it as a bill that would allow comp time for state employees. He said presently the state law does not allow for comp time for state employees and there is a rule that was put out and that is basically what they are using. What the rule says and what the bill says, is that for every hour they work overtime they get comp time. A number of people would rather get time off than to get time and one half for overtime. Perhaps they would like to go fishing, take a longer vacation or just work on their lawns or in their homes for a few days. I don't know why this got into this committee, since it is the same bill as Representative Spilker's except that hers is for city and county employees and this is for state employees. In the other one they can only build up to 80 hours of comp time. They are practically the same bills.

There were no further proponents.

Tom Schneider, Executive Director, MPEA said he was speaking as an opponent of the bill. In section 1 of this bill it allows for a negotiation of work hours over 40 hours per week. 2. Comp time without the payment of overtime. Clearly more employees will be non-exempt and can work over 40 hours without the payment of overtime. Many wish they could receive comp time. In both cases, it takes away something that is apparently mandated. House Bill 11 came from an interim study committee. It was written with management (mostly concerning the police in Kalispell) and even in those negotiations they decided they had to pay over time. Local government was looking for a way to get out of overtime. It came out of the interim committee and we appeared in support of House Bill 11. We had some members there that had no problems. We said we did not support it nor not support it. Some members would rather have comp time. The counties are now coming in saying they want to limit it to 80 hours. I have seen this happen in House Bill 11. Suddenly when not mandated to pay overtime it will all become comp time. We stand in opposition to this bill because we are aware of what will happen. Suddenly we are back prior to minimum wage. No overtime, more comp time, minimum comp time and then lose it, no minimum wage, no control.

No further proponents, and the Chairman asked if there were questions from the committee.

Senator Johnson: Among state employees there is a clerical and a professional. The clerical is the group that at this time is able to receive overtime and the professional time is comp time. Schneider: Currently any employee that is considered non-exempt is covered by the state employment act. It is not illegal. This bill is dealing with the non-exempt. The employer has no choice on that. Professionals are allowed 120 hours, and that is legal.

Senator Smith: We have some people that build up to \$10,000 or \$11,000 in comp time.

Representative Meyer: There is a limit of 120 hours on professional people. That is covered by state policy, but the federal law allows them to do it. Schneider: State employees are not covered by the federal fair labor standards act. You are looking at the law before it was outlawed by the Supreme Court.

Senator Hims1: Is that followed? Schneider: Yes. I think that Trish Moore could answer more of this since she works there.

Trish Moore: Basically, the law does not take in the people that are not eligible. As a matter of state policy, we have granted comp time. We have allowed 120 hours as a reasonable cut off.

Senator Hims1: Is that enforced? Moore: Yes.

Senator Hims1: At the present time we have regular time, over time, comp time, shared time and flex time. How in the world do you keep track of all this without us getting "wild wested" in this? Moore: Really, there is no problem. Management can control flex time, and there is clear guidelines on comp time and overtime.

Senator Hims1: Is there any audit trail that can be followed in this? Moore: Those records are kept along with sick leave and annual leave and can be followed by an audit. Hims1: There is a trail then? Moore: Yes.

Senator Keating: The employee can build up some comp time, put it together with vacation time and have maybe 30 days off at the same time? Meyers: Yes.

Senator Keating: If we are in a work period time of 4 days with 40 hour week, is this part of the flex time? Would this bill establish work periods of other than 8 hour days? Meyer: I cannot answer that. Keating: If established that way, the Department heads could have a time keeping the store open 5 days a week. Moore: It could, but there is a state law that says open from 8 to 5. In a lot of the administrative positions it does not work. They are taking the position if they can accomodate an individual on flex time, fine; but otherwise no. There doesn't seem to be any big move toward it.

Senator Keating: There is a change from 120 hours to 80 hours. Was there some abuse of this? Meyer: We did this to keep it in line with House Bill 11. It was put in in the committee.

Representative Meyer closed by saying I think this will save the state some money. If you are interested in doing that, pass the bill. If you are not, then kill the bill.

The hearing was closed.

CONSIDERATION OF HOUSE BILL 808: Representative Andreason, district 24 explained the bill. He said this was a committee bill by the House Education Committee to help some salaried employees in the University System. It would allow them to be paid on an estimated payroll. It is the one that used to be in effect. This bill is also supported by the faculty council at MSU and U of M. A salaried employee is someone on an annual basis is given a certain salary--say \$15,000 a year. On a 10 month contract on the system set up we would divide it by 10. It is very simple. This included professional staff and faculty. If it were on a 12 month payroll you would divide it by 12. This is the system we have set up. We used to have it set up that way. You were paid at the end of the month according to whatever salary you made. This was changed a few years ago. The highway workers were not changing it when someone was sick or took time off, and the legislature made a rule of after-the-fact payroll. The legislature was not aware that the system set up would also affect the university system. There were problems. Payrolls did not come in on time and people were behind on mortgages, etc.

Representative Andreason continued to tell about floating pay rolls, time lapses between end of the month and time for the checks to come in, hardships on the employees, jeopardy on their credit as a result of waiting for their money, etc.

There were no further proponents, and Jack Noble, Deputy commissioner of Financial Affairs for the University System said that he spoke as an opponent of the bill. Many of the comments are true, there was a time in 1977 when this passed, we would have preferred it would not. The cost was approximately \$1/2 million to convert our payroll in the University to be in compliance. We tried to do it in the most humane way. We are not unique in the University System. Some did not phase it in, they went from one payroll to another and the employee adjusted. We phased it in over a 4 month period so that it would minimize the effect. We maintain all the records and update it through the payroll system. This is the way we have to make sure it is accurate. We know they will be filling out the time sheets that are required. We even require the commissioner of higher education to fill out a time sheet. If the bill passed (since it says may, not shall) we would not go back, I would say, and do this again. We would again undergo problems with the audit report. It does say salaried employees--it might not be an appropriate term to say if only to cover our salaried or contract employees. It is used to meet all employees including our hourly based people --25-507.2. Each payday should be uniform of all employees employed in the same area and mailed within 10 days, etc. If the bill passed, I think we should refuse to do it unless you state "shall" instead of "may". We would ask that the bill do not pass.

Stan Howard, retired County Agent, Lewis and Clark County said he would like to comment. He said he did not know if he was an opponent or a proponent since he liked some of each. He said they got paid the first of the month, but against the estimate of it. In practice, when we send in the payroll card on the 25th we

estimate our annual leave and sick leave and submit it to Bozeman. If we have an emergency that comes up we report to the personell office and indicate that we have taken sick or annual leave. It becomes a nuisance to do this. I would question the accuracy of the reports and it is costly from the standpoint of the county extension office. We pay for the calls since we do not have a hot line. This is some of the problems we see at the first of the month.

Questions from the committee follow:

Senator Aklestad: What would happen if the individual quit before the time estimated on the card sent in? How does the state get reimbursed? Representative Meyer: I would defer that to Mr. Noble. Noble: Right now the law requires after-the-fact payroll services. If this estimation is happening at the extension service they are in violation of the law, and I will look into it. They have to fill out the card at the end of the month. It is probably a logistic only.

Senator Aklestad: They are paid for the whole month, and he quit on the 25th day. How do you get the money back. Noble: This can't happen under the present system and it was really no problem under the old system. We had some portion of sick leave we had control of. It was really no problem, but it was not defensible under methods of accounting practices.

Senator Van Valkenburg: Is the audit committee the one that said employees had to submit time sheets? Noble: The problem did arise in the Highway Department under the audit committee. Two were certified they had worked hours they had not worked. When they enacted this, we did what the law said.

Senator Van Valkenburg: Can you fill me in in regard to the audit committee? Senator Himsel: This bill was put in 6 years ago. We have heard this same argument every two years since. There was a problem when they brought in the first cycling. The first checks were late, the first cycle was moved back about 10 days. The reason for changing the method was that they could establish no audit trail on the payroll. They used to turn in their time (say Wednesday) for the rest of the week. Then they could get sick or whatever and each subsequent payroll had to have a correction -- or maybe that did not make it. There was a lot of money and time that was precious when we paid for it since so much of the budget is payroll. That was the only way we could have an audit trail and some control on this. It seems the extension people are the most sensitive. There is one person in our area working on this for 25 years and is complaining about the payroll method. I asked him if after 6 years he couldn't adjust to the cycle on this and he just walked away and said he could.

Senator Keating: Just for clarification. Everybody is in the system, and everybody is set up under the same system?
Noble: Not necessarily the same system, but on the after-the-fact payroll.

Senator Keating: When do they get paid? Noble: In no later than 10 business days from the end of the month they have to be paid, or from the end of the pay period. Two campuses have floating pay dates; I am going to work on this, and I have a commitment from one to try to get it on the same day of the month each time. This might sound simple, but in order to take in the week-ends and holidays, and if a pay period ended on a Thursday or Friday it would have 2 week ends--it would mean we would have to be prepared to handle it in 5 working days.

Senator Haffey: The law says 10 working days. Noble: Saturday is a business day, but we do not work on Saturday's in the accounting department.


Senator Van Valkenburg: The difference is on the monthly payroll instead of bi-monthly? Noble: Yes.

In closing, Representative Andreason said he would like to point out that all state employees are on the same system, but some campuses are on a floating day, some are paid bi-monthly, some are not. The only thing they really have in common is that they are all on the computer system. I would like to say that I think Mr. Howard was a proponent of the bill. We would like to go back to the old system which was more comfortable to the employees. There are a lot of problems in the university on a floating date.

Representative Andreason continued by saying the floating date was very difficult to keep track of, it needed to be charted so the information was available to the payees, and many calls came in asking when the checks would come in.

The hearing was closed, and Senator Hims1 announced we would have a work meeting tomorrow, Tuesday, March 10 at 9 a.m. to put out these three bills.

The meeting adjourned at 10:33 a.m.



Senator Hims1, Chairman

ROLL CALL

FINANCE AND CLAIMS COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 3/9/81

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 Hims1	✓		