

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

SPECIAL SESSION II

June 25, 1982

The third meeting of the Finance and Claims committee was held on the above date at 10:27 a.m. in Room 108 with Chairman Himsl calling the meeting to order. Roll call was taken with copies attached.

CONSIDERATION OF HOUSE BILL NO. 2:

Senator Himsl said that since there had already been a public hearing on this bill he would entertain testimony for anything that was new information or from anyone who had not had the opportunity to testify before. He said Representative Moore, sponsor of the bill, was in the middle of an adverse committee report on the floor and could perhaps get in later.

Senator Himsl suggested they begin at the end of the bill and then perhaps Rep. Moore would arrive since more of the questions were at the beginning.

Senator Himsl began on page 4, general operations, \$16,398 and asked the committee if they had any problems. Then the Board of Pardons explained they apparently needed the money to visit the prerelease centers, Swan, etc. Senator Himsl referred to the bill and the explanation given in the briefing papers as well as information on the changes from the House.

In regard to the \$105,000 of unexpended funds that they would like to carry over, Senator Regan asked if that was purchase of equipment. Carroll South, Director of the Department of Institutions said whatever was appropriated in 1982 for equipment and not spent would be used in 1983.

Sen. Regan: In Senator Turnage's bill, the establishment of a vocational labor program - we need money to be appropriated in one of the other bills. There was some discussion in his office of how much and what is the use. Is this the proper bill? Could I ask Mr. South? Mr. South: That bill is in House Administration.

Curt Nichols, LFA: They put \$26,000 in the bill yesterday as an appropriation.

Sen. Regan: I understand this was constructed from a sister state prison that had expertise. \$25-26,000 to be ready for next session.

Sen. Himsl: The question is, whether there is a separate bill to have it in for that amount or should it be in this section? Curt Nichols: The House chose to amend SB 1 and put the appropriation in that bill.

The committee questioned how you could put this money in that bill since it is not an appropriation bill. Senator Hims1 said that it seemed to him it has to be in an appropriation bill and this bill relates to the operation.

Dave Lewis, OBPP: There are other bills available that it could be picked up in and put in after we see what happens to Senator Turnage's bill.

Sen. Regan: Can we be assured you will watch this?

Sen. Hims1: Let us go to Alpha House and Missoula, top of page 4.

Sen. Keating: Is it proper to offer an amendment at this time? Alpha House had 25 inmates. Twenty are contracted at \$29+ for the whole year and five additional inmates for \$32.15, which is a fair contractual price. This is paid for the five until the end of the year. I would like to amend the \$66,000 to \$83,592, which is an increase of \$17,500 to bring the contract price on the 20 from \$29 to \$32 per day to the end of the year. This would be line 7, increase \$669,376 to \$686,876.

Sen. Aklestad: I understand the additional people cost increase; I don't understand the increase in the existing one. Don't we have a price for these now?

Sen. Keating: The price now is at the \$29 figure.

Sen. Aklestad: Why bring it up in the middle of the stream?

Sen. Keating: It is a fair price for the work done. The Alpha House is doing some expanding, etc., and they can use the funds to benefit the House and the program.

Sen. Jacobson: When we arrived at the figure of \$29/day they were averaging in that, the center had not been at full bed capacity. If they had been, their costs would have been more like \$25/day. If you add the \$3 for the inmates and the \$2.77 medical, etc., you will come to \$39.12/day.

Sen. Regan: Can I find out what is going on? I would like to talk to Mr. South.

Sen. Keating. The director of the center had asked for the money during the open session. I am just putting it up for discussion.

Sen. Smith: At the present time don't you have a contract for so many dollars per inmate? Sen. Keating: Yes.

Sen. Smith: If we transfer enough inmates to fill it to full capacity, how will that affect the contract? Sen. Keating: The cost to them would be about \$37 per day.

Sen. Regan: I guess I would ask Mr. South if he feels this amendment is necessary. It is my understanding that as of July 1 we will be paying it anyhow. It had a 70% capacity before.

Mr. South: We still have the money to contract at the higher rate. The \$29.73 has no reference at all - it is the inflationary factor. We made the decision not to ask for this.

Sen. Keating: I withdraw my amendment, Mr. Chairman.

Sen. Hims1: Any other questions on the Alpha House or Missoula Life Skill Center? On line 20, page 3, there is an amendment. This was added in the House.

Rep. Moore: That request is not additional money for contract services. Medical expenses were greater and they were added to the total with the stipulation that the unexpended money will revert.

Disturbance Control - Sen. Hims1 said this was overtime and training for the Swat teams. The utility expenses of \$11,800 is for the Chapel. In general operations, we have a problem with - there was \$966,000 in the original sheets and it was reduced to \$879,000 - where is the difference?

Rep. Moore: In the green book from LFA, one reason for the reduction, the Department used a 1.62 for a relief factor. LFA reduced the FTE and that was reduced from the amount. The other part was the remainder of the contract services. We disapproved the data processing, etc., and just approved the medical costs.

Sen. Hims1: In the testimony that was given on the operation it was disclosed there was a possibility there had been some use of the pay plan to cover some deficits. There was a bill that was in the House that will not, or has not, come out of the committee. (Exhibit attached.)

Sen. Dover: Is this retroactive?

Sen. Regan: Is there any other bill you can use this in? I have no objection to the amendment, but isn't there another bill this could be put into?

Judy Rippingale: The rest get into dealing with Long Range, primarily. This is an operational problem you are incurring.

Sen. Hims1: Rep. Moore, do you have any objection to this?

Rep. Moore: I would have no objection. I think it is the proper place for it. There is no other vehicle that could be used.

Sen. Hims1: Could you give us reasonable assurance that the bill will not be held up in the House and tampered with if we put it in and it goes back over? Rep. Moore: I would give you my personal assurance, and will use my influence in the House if they should be so inclined.

AMENDMENT: Motion by Senator Dover to amend House Bill 2, page 2, line 21, as per proposed amendment, Exhibit 1, attached, to clarify use of pay plan funds.

Sen. Dover: I am going to vote for this. When the Legislature designs something like this, it should be followed. We need to be more careful as to how we block things in. I think he was fair in showing us that he was tied up so tight this was the only place he thought he could do it.

Sen. Smith: I think that is why these people come in and make their budget to the committee. If properly analyzed it will force the agencies to be more careful in making their budget.

Sen. Dover. I appreciate what he did.

Sen. Keating: I have a question. This isn't something to be taken personally, is it? Sen. Hims1: No, it is not.

Sen. VanValkenburg: Is there anywhere else this could go besides this particular bill, Dave (Lewis) or Mr. South?

Mr. South: I don't even have a copy of the amendment. I think I ought to be entitled to at least see it.

Sen. Dover: What is this going to do to you? Now what are you going to do?

Mr. South: I guess if we go back to the beginning, the question was asked, how do you intend to pay the deficit at the prison? My option would be to pull this out of the prison budget or you can appropriate the \$105,000 and I will revert that amount. If you don't like the way I said, then there is an obligation that this amount be paid.

Sen. Dover: What Carroll has said up to this point is okay. It is from this point on we want to make a decision. Do we let him go ahead and do what he has done?

Sen. Aklestad: This amendment is not retroactive. In other words, it is done and we do nothing.

Sen. Hims1: The money appropriated for the pay plan was to be used for that purpose only. That is the problem. I certainly commend him for working all the efficiencies of private business, but this isn't private business. All this does is keep money for the pay plan in the pay plan.

Sen. Dover: When we do this then, he has a problem. The deficit he is trying to handle is still a deficit.

Sen. Hims1: We are appropriating in advance of what would have normally been a supplemental. If that is not clear, it should have been.

Warden Risley: Is the \$103,000 covered in this?

Sen. Hims1: It should have been. It is in place of a supplemental.

Sen. Dover: If we do what we are saying with this amendment, he still has a deficit.

Mr. South: If the deficit is for \$103,000 we would have to pull money out and leave a deficit of \$103,000 next year.

Sen. Keating: The \$103,000 was brought about because of the riot? Isn't there a contingency account in this myriad of bills to cover this deficit?

Mr. South: It would have to be done in this bill and you would have to increase the amount by \$103,000 to cover it.

Sen. Smith: In case of emergency, the Governor has the power to make the appropriation and we pay it in the next biennium. Once the money is appropriated for a particular purpose it should be used there. It is something that could happen in every one of the departments.

MOTION to amend HB 2, page 3, line 5 to strike \$879,376 and do whatever is necessary to appropriate the extra \$103,000.

Sen. Regan: I am offering to amend it now in this bill. If we get the \$103,000 in this so that it falls within the fiscal year, we can pass this and not feel as though we have treated him unfairly. We should put the \$103,000 in for this fiscal year and tell him he has to revert the other. I would make this as a substitute motion, or whatever.

Sen. Hims1: The amendment will go on line 5 and follow through where needed.

Sen. Nelson: What happens to this other money? Sen. Hims1: It will revert.

Sen. Wolf: What is the dollar amount you have on the claim on the insurance policy? Warden Risley: An approximate estimate could be given but I don't know the exact figure.

Sen. Wolf: In your insurance policy what is the percentage the state is liable for in the general language of the insurance policy?

Warden Risley: I am not sufficiently knowledgeable on the insurance policy to answer that.

Mr. South: The bulk of this deficit is overtime and additional FTE's, put in place after the riot to prevent another one.

Sen. Wolf: I don't think then that you have been up front with this committee. We are talking about the deficit. The \$103,000 would be for that? I am bothered. If we have a claim for \$40,000 then the state is liable for how much of it?

Sen. Regan: South has indicated that this is the additional personnel and overtime; it is the additional cost brought about because of the damage there, not the part the insurance would pay.

Sen. Himsl: The Governor's disaster fund - is it available?

Mr. South: That fund is for natural disasters. We went in in March with about \$56,000 for a projected balance making a deficit of \$25-30,000. We are projecting the additional salaries cost anywhere from \$80-90,000. \$16,000 of that deficit is an actual deficit. We were going to cover it with salary savings until we had the disturbance.

Sen. Wolf: Where in here? You had a deficit. What are you saying is the actual cost of the riot?

Mr. South: \$170,000 for physical damage. This was paid out for putting everything back in place. They will not pay for beefing up the staff to avoid another riot.

Sen. Wolf: What exactly was the physical damage? Mr. South: \$130,000, but we had to use a lot of overtime that day.

Sen. Dover: \$130,000 for physical damage. Is the \$40,000 the difference?

Warden Risley: \$35,000 physical damage for the day of the disturbance and immediately following.

Sen. Dover: \$130,000 physical damage - does the insurance cover it? Warden Risley: If the insurance can be figured - up to now they are still working on it.

Bill Thompson, Maintenance manager, MSP: The insurance company is still waiting. The adjuster has not come up with the final figures yet.

Sen. Regan: What is our deductible? Answer: We have a policy that covers the entire state of Montana and when it reaches \$100,000 then they start paying. As I understand, that is everything in the state and I understand this has been met.

Sen. VanValkenburg: This was discussed in the Finance committee - the self-insurance the state has that covers this particular situation. There is part of the policy to self-insurance and provides for \$100,000 of absorption before the self-insurance is activated.

Judy Rippingale: The \$103,000 is an operating expense deficit. Insurance pays on physical damage. It is two different types of issues. We are dealing here with operational issues - personal services, \$30,000, communications, repairs, utilities, etc. You may end up getting some of the repair money back but it is not a major structural damage thing you are funding with this money.

Sen. Aklestad: Utilities, etc., are supplemental?

Judy Rippingale: Yes. That is the chapel.

Sen. Aklestad: Some of this is supplemental in what?

Judy Rippingale: Where these supplies and material, \$127,000, they did not spend that. That could be the money they moved down and in the measurement of the appropriation it is legitimate. There is no restriction in the appropriation bill against moving this down.

Sen. Himsl: Are you saying they do not need the \$103,000?

Judy Rippingale: No. All at the bottom of the line - they do need it. If they had spent everything in the budget, it had the potential of being more than the \$103,000. They had to use funds they could have used for the lights, etc., if it had not been for the riot.

Sen. Wolf: The money had to come from somewhere to cover the riot.

Judy Rippingale: In the repair and maintenance, some could have been spent. However, if 100% had been spent, it could have been more.

Sen. Wolf: On the insurance claim - where does the money go on the insurance fund?

Dave Lewis, OBPP Director said I am not convinced that is is proper to place an amendment that addresses the pay plan in a bill that is appropriating money for the prison. That may cause some problems.

Sen. Regan: We are not really discussing that amendment. If my motion should prevail, I would ask the LFA to make some technical amendments - effective date, etc., that the thing kicks in at the right time.

Sen. Aklestad: Your figures are included? Sen. Regan: I am amending the bill to add \$103,000 to cover the expenses of the riot in 1982. I will ask the LFA to prepare it in proper form to allow the \$103,000 to be available in 1982. Voted and passed.

The chair called for the original motion by Senator Dover, it was voted and passed (Exh. 1, clarifying pay plan)

Senator Jacobson said she had an amendment on the gate money, attached, Exhibit 2. She said she was moving this amendment because some of the prisoners really needed the gate money and some did not. Discussion was held on how much they could save, how it could be checked without invading the privacy laws, how they would spend it quickly so that they could show they needed it for a bus ticket or whatever when they got out. Mr. South said everybody gets \$85 now. Senator Jacobson did not make the amendment as a motion, and the motion was called for disposition of the bill.

DISPOSITION OF HOUSE BILL NO. 2: Motion by Senator Keating that HB 2, AS AMENDED, BE CONCURRED IN. VOTED AND PASSED. Senator Hims1 to carry the bill.

The meeting was recessed subject to call of the chair.

The meeting was reconvened at 2:57 p.m. to hear HB 5.

CONSIDERATION OF HOUSE BILL NO. 5: Senator Hims1 said Rep. Moore was expected shortly, and we would discuss some concerns on page 2, line 18 of the bill. I assume these are bond proceeds and insurance clearance funds they are taking this money from. In other words, is this a bond proceeds and insurance fund as in section 7, or maybe I don't understand the general fund language here. It is different than I have seen before.

Judy Rippingale: That is the standard language in LRB. There is no change but it is funded from the general fund. You appropriate general fund to building and then appropriate out of building account.

Sen. Hims1: It is really appropriated to LRB and then to this account. Going on down the page on page 3, line 8, security got someone to previously review this?

Warden Risley: Three times. (1) Sergeant's office on the second floor had no ventilation window. We are proposing to construct a sergeant's office at the entry that would serve more area. We would put a ventilation window in the present office and that would be turned into a counselling office. (2) Where there are no bars on the windows, they would be put on, etc. Warden Risley listed again the improvements that would be made on the fence, with special detection system being perhaps microwave and it would register when someone went through a space. He went into the lighting, visibility at night at the present time, and said it would not be

money wasted if a new unit were built at a later date, or sooner.

Sen. Hims1: Your detection system for visitors, etc. - would it work much like the detection center at the airport? Warden Risley: yes.

Sen. Haffey: Do you have a fence around the industrial area?

Warden Risley: Yes. We have never had an escape from the industrial area or from the maintenance area. I don't think we need more fencing there or dual electronic system on that area. Of course, just because we have not had an escape there does not mean that we cannot or will not have one there someday.

Sen. Haffey: But there is a fence around the industrial building and the job there? Warden Risley: It is a single fence but it does have a detection device on it.

Sen. Dover: We have \$197,000 for dual fence and lights. If one of these guys hit the fence, how long does it take to get the guards after him? Warden Risley: Every electronic fence has a nuisance violation rate.

Sen. Dover: How long before the man who sees it can do anything? Warden Risley: Seven minutes.

Sen. Dover: You told us only one guy so far. What if you could see the man? Warden Risley: The electronic system in place so far has not been effective in alerting us. We expect more violations in the new one and there will be a schematic of the institution and it has a red light in every zone. If he sees nothing, he reports. The time period to get a weapon is short - he can get it very quickly if he sees something.

Sen. Dover: How? Warden Risley: From the window or the roof.

Sen. Story: Does he have the authority to shoot? Warden Risley: Yes.

Sen. Smith: Another fellow is asked to check it out? Warden Risley: Yes. The guard or someone on the ground.

Sen. Smith: Lighting - I realize a need. Do you feel this new warning system will be effective? A weed or something can set it off? How about snow, etc.? Warden Risley: That is the thing we are checking now. With the impact the weather has, the microwave has the most possibilities so far.

Sen. Hims1: You are saying the \$182,000 was not requested? Warden Risley: Based on our own experience. We have had no escapes - it is no assurance there won't be.

Sen. Aklestad: The additional razor wire - you get tangled up, it makes hamburger, doesn't it?

Warden Risley: The salesman oversold it. Sen. Aklestad: We were told every two years, "this is it".

Warden Risley: The razor wire makes it longer. We found a shirt at the top of the fence with blood on it. We know someone climbed the fence, but did not go out of the compound and the alarm never went off.

Sen. Keating: I have another question on another figure here. On the chainlink fence, 5 foot barrier - are you putting it just in the exercise area? Warden Risley: Yes.

Sen. Aklestad: The electrical system on the old perimeter - is the outside fence a barrier fence and the inside just five feet? Warden Risley: We propose to put the microwave between the fences in the visiting area. It is less secure but children will not be playing with it and setting it off.

Sen. Dover: Will we do something with the fence that we are losing if we straighten it out? Warden Risley: This wire can be moved - it just runs along the fence.

Sen. Dover: We can get back everything we put into it? Warden Risley: Yes.

Sen. Aklestad: Point of clarification. Did you say six light towers and the existing tower for a total of eight? Warden Risley: Yes.

MOTION: Senator Aklestad: Referring to the bill, page 3, line 15, I move we take the \$182,000 out of the bill, plus the amount to correspond.

Sen. Story: We also talked about an administration guard tower.

Sen. Smith: The people in the guard towers did not have radios? Warden Risley: They are ordered. We were supposed to get them in June.

Sen. Aklestad: We would pull the language in line 18, 19 and 20.

Question was called, the amendment to delete \$182,000 was voted and passed.

Sen. Himsl: We have another amendment and I would ask Glen Drake to explain it to you.

Glen Drake, representing the guards, MPEA, explained the need for the tower on the top of the administration building. He drew a picture on the wall showing the lack of visual coverage for a large area at the prison, told what would be covering the area

and said it was a very important request for the guards at the prison.

Sen. Dover. I notice the way this is written. With the maximum security provision you would not need this?

Mr. Drake: If built, there would not then be the pressing need for it. We would then have a division fence. This addresses the present problem.

Sen. Aklestad: All this money does is build the tower and equip it? Mr. Drake: Yes.

Sen. Aklestad: I can't see how to get so much money in a tower. Mr. Drake: \$150,000 is in electrical power alone.

Sen. VanValkenburg: This does not seem to fly with common sense long-range planning. If a tower to cover the area, why not put it in the corner? It has the same observation and eventually we will have to straighten out the fence and the guard tower will have observation for a much greater distance and if we should build a building, a tower in one of these two corners would be needed anyway..

Sen. Himsl: This proposal ties us down to your administration building. Some of us don't know.

Warden Risley: This is a situation where probably there is not a right answer. Both locations have their good points. The administration building gives the advantage of putting it where the guard can control the gates and there is also a good reason for having it in the corner. I don't think we would need \$190,000.

Sen. Himsl: The Senator's proposal makes good sense to me.

Warden Risley: I understand what you are saying. If we are successful in getting it divided, the only time they would be in that part of the compound would be to go to the infirmary.

Sen. VanValkenburg: It seems to me that the thing for us to do is take the language out about the administration building and let them decide rather than for the Legislature to do it.

Sen. Keating. The warden did address my question to some extent. It should not need all the electrical equipment as the other towers, will it? Warden Risley: I wouldn't think so.

Sen. Keating: We really could get by with an observation tower and radio? Warden Risley: Comparing what is in the new tower and what we would need, I think it is over what we would need.

Sen. Keating: The first one was for \$50,000 and just an observation tower.

Sen. Hims1: Why not a catwalk around the towers instead of going up on the roof?

Warden Risley: I can't answer to the facility design of the towers. Looking at the way they are built, I think it would be hard to put them on now. The towers are at a 90 degree angle. The walls are at 90 degrees and you can open the windows anyway.

Sen. Aklestad: You are the one that is responsible? I would hope you could press for something more suitable.

Warden Risley: They were put in place some years past.

Sen. Story: If you shoot from the window you can rest the gun on the windows? It is not a very good rest.

Sen. Hims1: On this amendment, what is your pleasure?

MOTION by Senator VanValkenburg to adopt the amendment with the change that we delete the language "on the administration building" and revert unused funds.

Sen. Wolf: How do you feel about this, Mr. Drake? Mr. Drake: It is quite agreeable with us.

Sen. Keating: Is the warden satisfied? Warden Risley: Yes, and I think we can build it cheaper.

Sen. Aklestad: Do you think the prisoners could build the five foot fence? Warden Risley: Yes.

Question was called and the amendment for the towers was voted and passed.

DISPOSITION OF HOUSE BILL NO. 5: Motion by Sen. Dover that HB 5 AS AMENDED, BE CONCURRED IN. VOTED, PASSED. Sen. Keating to carry the bill.

Sen. Hims1 said we would hear House bills 18, 16, 19 and 8 tomorrow.

A motion was made for adjournment and the meeting was adjourned subject to the call of the chair.

Senator Hims1, Chairman

47th LEGISLATIVE SPECIAL SESSION # II

ROLL CALL

FINANCE AND CLAIMS COMMITTEE

-- 47th LEGISLATIVE SESSION -- 1981 -- Date 6/25/82

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

47th LEGISLATIVE SPECIAL SESSION # II

ROLL CALLFINANCE AND CLAIMS COMMITTEE

-- 47th LEGISLATIVE SESSION -- 1981 -- -- -- Date 6-25-82

2: PM

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Senator Keating	✓		
Senator Boylan	✓		
Senator Regan			✓
Senator Thomas		✓	✓
Senator Stimatz			
Senator Van Valkenburg	✓		
Senator Haffey	✓		
Senator Jacobson	✓		
Senator Himsl	✓		

6/25

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House Bill 2 - Third Reading

1. Title, Line 7.

Following: "1983;"

Insert: "CLARIFYING THE USE OF PAY PLAN FUNDS;"

2. Page 2

Following: Line 21

Insert: "Section 6. Pay plan funds.

(1) Funds appropriated in Chapter No. 421 of the session laws of the 47th legislature for increases in a pay matrix over and above the level of a pay matrix provided for in Chapter No. 678 of the session laws of the 46th legislature, may be used for expenditures that are related solely to increases in a pay matrix and transfer of such funds to expenditures for operating expenses in or between any agency of state government is prohibited.

(2) Operating expenses are all those expenses which do not include any expense for personal services."

Remember: 17 2

ref 2 6/25

AMENDMENT TO HB 2--THIRD READING

Page 3.

Following: Line 25.

Insert: "Upon release, no "gate money" shall be paid to the released person who has been successful in a pre-release center and has saved over \$400 of their earnings while at the center, unless the parole plan demonstrates the need for additional funds."

Jacobson Amendment

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Page 3.

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(2) Operating expenses are all those expenses which do not include any expense for personal services."

982.376

Amend House Bill No. 5 (2nd SS), third reading, blue copy as follows:

1. Page 3.

Following: Line 15

Insert: "Guard Tower 190,000"

2. Page 3, line 17.

Strike: "579,100"

Insert: "769,100"

3. Page 3.

Following: Line 20

Insert: "The amount of \$190,000 for construction of a guard tower on the administration building shall be used and said guard tower shall be constructed only if no other appropriation shall be made for the construction of an additional maximum security facility at the state prison this special session of the legislature."