

MINUTES OF THE MEETING
HUMAN SERVICES SUBCOMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 18, 1985

The meeting of the Human Services Subcommittee was called to order by Chairman Cal Winslow on March 18, 1985 at 7:06 a.m. in Room 108 of the State Capitol.

ROLL CALL: All members were present, with the exception of Senator Story, who was excused.

HOUSE BILL NO. 270

Hearing commenced on House Bill No. 270. Representative Bob Marks (71:A:006), District #75, sponsor of the bill, stated that the reason it is in this committee is because it has a money appropriation attached to it.

PROPOSERS

Leo Berry (71:A:048), representing the Montana Retired Public Employees Association, said that all retired public employees have to pay 100 percent of their health insurance premiums. He gave the committee a handout outlining his testimony (EXHIBIT 1).

Bill Shoquist (71:A:105), president of the Association of Montana Retired Public Employees, said that out of the 7,000 members in the PERS system, 6,418 are 65 years of age and older. He submitted to the committee a petition of 330 signatures in support of HB 270 (EXHIBIT 2). He pointed out that many young people support this legislation.

George Christensen, a public employee retiree since 1978, discussed an accident he had with a broken leg that required three surgeries, and the high prices of any supplemental insurance programs.

Tom Schneider, representing Montana Public Employees Association, discussed the reason for a study that is proposed in HB 270. He also discussed the problems that have arisen on both sides of health insurance issues for retired public employees.

Dennis Taylor, the administrator of the State Personnel Division of the Department of Administration, said that this is a problem that is becoming increasingly challenging to everyone concerned. He supports the concept of HB 270.

Bob Johnson, administrator of the Teacher's Retirement System, said that the Teacher's Retirement Board supports HB 270. He said that one of the concerns heard from the retired teachers is the rise in medical costs.

There were no opponents.

Senator Christiaens asked if money was not available, would there be other retirement funds coming in to fund this.

Discussion followed concerning the funds coming from general fund and the spending authority allowed the Personnel Division if proposed.

Dennis Taylor said there needs to be a contribution from the university system; it is not fair to ask the state employees group to cover 100 percent of this study.

In summary, Representative Marks said this funding could be taken out of Dennis Taylor's budget.

There being no further discussion on HB 270, the hearing was closed.

HOUSE BILL NO. 904

Hearing commenced on House Bill No. 904. Vice Chairman Christiaens chaired throughout the hearing while Representative Cal Winslow, District #89, sponsor of the bill, stated that this bill addresses an area of concern that came up during the last biennium. He went on to voice the problems that came up during the last two years, some of which are the copayments issue and SRS making some administrative changes that were not the intent of the legislature. This bill is to limit and control some of the actions via SRS. He then discussed the sections within the bill.

Representative Winslow pointed out he tried to get a hold of Senator Van Valkenburg, who is a proponent.

There were no proponents.

OPPONENTS

Dave Lewis, director of SRS, introduced Russ Cater, Chief Legal Counsel for SRS, to discuss the key issues.

Russ Cater, Chief Legal Counsel for SRS, gave the committee a copy of his testimony (EXHIBIT 3), and pointed out three concerns the department has with HB 904:

HUMAN SERVICES SUBCOMMITTEE

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Page Three

- 1) It is burdensome in its nature
- 2) It violates the Separation of Powers clause in the Montana Constitution
- 3) It violates the Montana Constitution provision with respect to limitations on appropriations bills.

Russ Cater discussed the key provision of the bill, which starts on line 2 and ending with line 5 on page 2. He said this proposed legislation would be very costly to the department, because they would have to adopt new rules every two years. He said that HB 904 is not necessary.

Discussion followed concerning why the appeals section of HB 904 does not work, when the copayment rule was put in, and those contracts with buildings that go beyond two years.

Dave Lewis said HB 904 gets so vague as to those kinds of authorities, what they are, and what latitudes the department has.

In summary, Representative Winslow said this is an area that needs to be closely watched, and the department needs to know the concerns the legislature has.

There being no further discussion on HB 904, the hearing was closed.

Chairman Winslow announced that the committee will probably take action on the bills heard for a couple of days after Senate adjournment.

The meeting was adjourned at 7:58 a.m.



CAL WINSLOW, Chairman

DAILY ROLL CALL

Human Services Subcommittee

49th LEGISLATIVE SESSION -- 1985

Date 3-18-85

[illegible]

Exhibit 1
3-18-85
HB 270
Berry

TESTIMONY
HB 270

Association of
Montana Retired Public Employees

Rising health care costs is one of the most critical problems facing the nation and Montana today. It is particularly critical to our elderly, those on fixed incomes or retirement benefits. On a national level, the Mercer Public Sector Report estimates that the per capita medical costs for those over 65 was \$4,200 in 1984 -- up over 100 percent since 1979. For example, Montanans spent 20 percent more on health care in 1983 than they did in 1982 (\$826 million compared to \$686 million). In addition to increasing health insurance and medical care costs, inflation in all sectors is up approximately 50 percent from 1979.

MEDICAL COSTS:

1979 hospital room - \$96.00
1984 hospital room - \$200.00
increase of \$104.00 or 108%

INSURANCE COSTS--WITHOUT DENTAL:

a) retiree and spouse--Medicare eligible:

1979 - \$43.20
1984 - \$94.00
increase of \$50.80 or 117%

b) retiree and spouse--under 65:

1979 - \$65.99
1984 - \$122.00
increase of \$66.01 or 100%

In 1981, the retired public employees were granted a cost of living increase of 50 cents per month for each year of service. In 1983, the Legislature authorized \$1.00 per month for each year of service up to 30 years. The average retiree has 18.4 years of service. So the total average increase for cost of living for the past two bienniums has been approximately \$27.50 per month. The Association will be requesting a cost of living increase this session, but as can easily be seen from the above figures, such increases have not even kept pace with rising insurance premiums, much less all of the impacts of inflation.

HB 270 merely provides for an interim study on the impacts of rising health insurance premiums. It does not make any determination

as to whether the state should pay a portion of those premiums; nor does it identify any specific method should the state decide to participate. The options vary from total employee contributions toward future premiums to public employers paying the total of such premiums. Attached is a comparison by state of the various programs. Twenty-four states contribute some percentage of the retirees' insurance costs. Fourteen pay 100 percent of costs, while six pay fifty percent or more. Some states contribute only if the retiree has worked 25 years or more, while others contribute a certain percentage for each year of service.

HB 270 offers the opportunity to evaluate health insurance premium costs and the impacts of rising medical costs. It is a small price to pay to learn whether the elderly can afford to become ill. We urge your support of HB 270.

Table 3

MONTHLY CONTRIBUTIONS TO STATE EMPLOYEE HEALTH INSURANCE PLANS: 1983 AND 1984RETIREE ONLY COVERAGE

<u>STATE</u>	<u>COST TO RETIREE</u>		<u>COST TO STATE</u>		<u>TOTAL COST</u>		<u>PERCENT OF TOTAL COST PAID BY STATE</u>	
	<u>1983</u>	<u>1984</u>	<u>1983</u>	<u>1984</u>	<u>1983</u>	<u>1984</u>	<u>1983</u>	<u>1984</u>
ALABAMA	28.00	32.00	0	0	28.00	32.00	0	0
ALASKA	0	0	115.61	156.07	115.61	156.07	100.0%	100.0%
ARIZONA	44.60	57.94	0	0	44.60	57.94	0	0
ARKANSAS	31.00	34.00	0	0	31.00	34.00	0	0
CALIFORNIA	0	0	57.25	66.00	57.25	66.00	100.0	100.0
	0	0	63.73	66.41	63.73	66.41	100.0	100.0
COLORADO	6.36	0	42.12	53.12	48.48	53.12	86.9	100.0
CONNECTICUT	34.33	44.59	9.97	13.38	44.30	57.97	22.5	23.1
DELAWARE	2.30	2.84	24.18	27.68	26.48	30.52	91.3	90.7
	15.98	18.94	24.18	27.68	40.16	46.62	60.2	59.4
FLORIDA	25.90	55.08	0	0	25.90	55.08	0	0
GEORGIA	10.00	13.10	51.10	56.20	61.10	69.30	83.6	81.1
HAWAII	0	0	37.24	46.56	37.24	46.56	100.0	100.0
IDAHO	21.27	24.88	9.11	10.66	30.38	35.54	30.0	30.0
ILLINOIS	0	0	67.10	75.56	67.10	75.56	100.0	100.0
INDIANA	-	-	-	-	-	-	-	-
IOWA	-	-	-	-	-	-	-	-
KANSAS	32.75	50.34	0	0	32.75	50.34	0	0
KENTUCKY	38.25	49.00	0	0	38.25	49.00	0	0
LOUISIANA	14.98	20.62	14.98	20.62	29.96	41.24	50.0	50.0
MAINE	0	0	24.68	36.36	24.68	36.36	100.0	100.0
MARYLAND	4.98	8.28	44.72	47.00	49.70	55.28	90.0	85.0
	5.00	8.34	45.10	47.34	50.10	55.68	90.0	85.0
MASSACHUSETTS	5.61	4.03	43.82	36.30	49.43	40.33	86.7	90.0
MICHIGAN	0	0	53.16	70.49	53.16	70.49	100.0	100.0
MINNESOTA	43.08	48.85	0	0	43.08	48.85	0	0
MISSISSIPPI	12.15	25.00	0	0	12.15	25.00	0	0
MISSOURI	27.50	35.50	1.50	3.00	29.00	38.50	5.2	7.8
MONTANA	36.89	41.00	0	0	36.89	41.00	0	0

Table 3 (Cont'd.)

MONTHLY CONTRIBUTIONS TO STATE EMPLOYEE HEALTH INSURANCE PLANS: 1983 AND 1984RETIREE ONLY COVERAGE (CONT'D.)

STATE	<u>COST TO RETIREE</u>		<u>COST TO STATE</u>		<u>TOTAL COST</u>		<u>PERCENT OF TOTAL COST PAID BY STATE</u>	
	<u>1983</u>	<u>1984</u>	<u>1983</u>	<u>1984</u>	<u>1983</u>	<u>1984</u>	<u>1983</u>	<u>1984</u>
NEBRASKA	-	-	-	-	-	-	-	-
NEVADA	43.08	53.39	20.70	24.84	63.78	78.23	32.5%	31.8%
NEW HAMPSHIRE	0	0	30.41	37.21	30.41	37.21	100.0	100.0
NEW JERSEY	25.70	55.30	0	0	25.70	55.38	0	0
NEW MEXICO	32.08	42.04	0	0	32.08	42.04	0	0
NEW YORK	0 5.92	0 7.76	44.43 53.24	44.84 69.88	44.43 59.16	44.84 77.64	100.0 90.0	100.0 90.0
NORTH CAROLINA	0	0	47.80	47.80	47.80	47.80	100.0	100.0
NORTH DAKOTA	26.97	44.00	0	0	26.97	44.00	0	0
OHIO	0	0	42.37	51.10	42.37	51.10	100.0	100.0
OKLAHOMA	34.00	45.90	0	0	34.00	45.90	0	0
OREGON	29.12	31.06	0	0	29.12	31.06	0	0
PENNSYLVANIA	0 0	0 0	26.14 33.59	37.21 47.91	26.14 33.59	37.21 47.91	100.0 100.0	100.0 100.0
RHODE ISLAND	22.65	30.63	0	0	22.65	30.63	0	0
SOUTH CAROLINA	0	0	50.50	50.50	50.50	50.50	100.0	100.0
SOUTH DAKOTA	N/A	47.84	0	0	N/A	47.84	0	0
TENNESSEE	35.01	35.01	0	0	35.01	35.01	0	0
TEXAS	0 5.92	0 6.81	44.43 53.24	62.93 72.00	44.43 59.16	62.93 78.81	100.0 90.0	100.0 91.4
UTAH	37.00	43.00	0	0	37.00	43.00	0	0
VERMONT	4.46	5.49	13.38	16.49	17.84	21.98	75.0	75.0
VIRGINIA	31.26	77.80	0	0	31.26	77.80	0	0
WASHINGTON	30.53	35.74	0	0	30.53	35.74	0	0
WEST VIRGINIA	5.99	26.00	13.96	0	19.95	26.00	70.0	0
WISCONSIN	44.10	48.79	0	0	44.10	48.79	0%-sick leave credits may be used to pay premiums	
WYOMING	34.10	39.22	0	0	34.10	39.22	0	0
VIRGIN ISLANDS	13.60	14.88	13.60	14.88	27.20	29.76	50.0	50.0

W. Shogquist
225-3376

Exhibit 2
3-18-85
HB 270
Shogquist

WE THE UNDERSIGNED VOTERS OF THE STATE OF MONTANA,
PETITION OUR STATE LEGISLATORS TO SUPPORT LEGISLATION THAT
WOULD BRING ABOUT A STUDY ON FULLY OR PARTIALLY PAID
GROUP HEALTH INSURANCE FOR RETIRED PUBLIC EMPLOYEES.

We believe that this is necessary as Montana is one
of the twenty remaining states, that has not considered
health insurance for the retiree. Twenty (20) states
now have a 100% fully funded program.

A retired person now must pay federal income tax on his
retirement income. If the retired people had a paid
health program, the additional income would not become
taxable income.

W. Shogquist
Bill Mickelson
Jan Anderson
Ernest Jessup
Beth L. Samuels
Clyde R. Feucht
Donny H. Nelson

Lynn R. Mason
Maureen Evans
Barbara R. Montineen
Bonnie S. Thorpe
Robert J. Baker
Anna Skobe
Tim M. Cauler

Jeanne Sotorno

Pauline J. Bhatt

Carol L. Kirkland

Jean Chamberlain

Jessa Peterson

Helen E. Shogren

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Frederick J. Zame
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19 Craig Doherty

20 Darlene Paterson

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22 Greene

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Robbie Rosting

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John B. Whisler

Ernie Phillips

Jim Osborne

Margaret Kelley & PK

Tommy Harmon

Cindy Kingsolver

Judy J. Hill
Mae Anderson

Lana Wing

Dorey Ruggish

Allen Bullock

Cindy Sunderland

Paul M. Fitzpatrick

Rick Southwick

Anita Marsh

61 Maria Evensen

62 Patsy Norris

63 Dick Baker

64 Pat L Brown

65 Dick Peterson

66 Patrick J. Whelan

67 Jack St Hansen

68 Albert J. Masonman

69 Robert V. Snow

70 Elaine M. Caruso

71 Jannette Magnus

72 Frances Skinner

73 L. E. Bryant

74 Ronis Forsell

75 Edell Kern

76 J. Biggemans, Jr.

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Cassie Smith
Dorothy Brister
Gordon Neal
Rose Mc Nair
Larry Watts
Helen Baker
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Ray Kramer
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George Howard
Doris Knight
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Elmer L. Hays
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Christine Wiley
Frank Davis
Jeannette Dietz
Bryan Tenson
Theresa Baptiste

Henri P. Chapman
Terri Marshall
Leonella Harmon
Alma Burns
Agnes Brucker
Mary L. Staples
Ben Shewell

100 Arthur Hill

101 ~~Arthur Hill~~

110 Kenneth M. Jones

111- Cleo C. Jones

112 Floyd W. Jenkins

113 Howard V. Phillips

114 Doris R Christie

115 Helen W Christie

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133 Jay M. Rambo
134 Kerry Robertson
135 E. S. Speer
136 Edward W. Gordon
137 Thelma Williams
138 J. J. Dell
139 Dorothy L. Morrison
140 Peggy S. Cummings
141 Charles J. Dougherty
142 J. H. Ash
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WE THE UNDERSIGNED VOTERS OF THE STATE OF MONTANA,
PETITION OUR STATE LEGISLATORS TO SUPPORT LEGISLATION THAT
WOULD BRING ABOUT A STUDY ON FULLY OR PARTIALLY PAID
GROUP HEALTH INSURANCE FOR RETIRED PUBLIC EMPLOYEES.

We believe that this is necessary as Montana is one
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Shirley W. Elliott

Sam Samson

Betty Jenkins

Susan Boster

Anil R. Herasim

Ed Larson

Linda R. Norden

Gerry Pace

Richard L. Smith

Mrs Mike L. Charlton

Mary L. Parick

Barbara Konesky Patryck

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Robert L. Laumeyer

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Angela Marks

Judge Murphy

Jane Larson

Maura C. Stagg

Deborah E. Dyer

Mike R. Charlton

Robert F. Eksham

Mark Kelly

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Priscilla A. Hedgecock

Norm H. Mize

201 Tracy E. Sza

251 Mike Mynhow

200 Grant H. Vung

200 Russ Bick

200 Donald D. Lull

200 Henry E. Elliott

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RR 1 Box 1265 Whitehall MT

20 BASIN CREEK ROAD BUTTE MT

800 Milwaukee, Jan 2nd

416 ASH ANACONDA MT.

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JEFFERSON CITY

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TESTIMONY OF DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
IN OPPOSITION TO HOUSE BILL No. 904

Exhibit 3
3-18-85
HB 904
Cater

The Department of Social and Rehabilitation Services opposes House Bill No. 904 due to its burdensome nature and for the reason that it violates the Montana Constitution, Article III, Section 1 (separation of powers of the three branches of government) and Article V, Section 11 (limitations on appropriation bills). Authority for this position can be found in recent Attorney General Opinions and decisions of the Montana Supreme Court.

Sections 1, 2, and 4 of H.B. 904 provide a "directory and not mandatory" effect to the Department's statutory authority in administering the Montana Medicaid program. Limitations placed in appropriation bills would govern the nature of the Medicaid program rather than the substantive statutory authority. The Montana Supreme Court in City of Helena v. Omholt, 155 Mont. 212 (1970) rejected a similar attempt by the legislature to amend substantive statutes through appropriation bills. The court stated that "such tactics are recognized as exceedingly bad legislative practice," and violate Article V, Section 11 of the Montana Constitution.

Article V, Section 11 of the Constitution provides that general appropriation bills shall contain "only appropriations". Other bills affecting substantive statutes can be adopted or amended if the title to the bill contains "only one subject, clearly expressed in its title." Separate appropriation bills for the Medicaid program could be adopted independent of the general appropriation's bills but they would have to be done in such a fashion as to specifically amend the substantive statutes each time.

The Montana Supreme Court has expressed concern with legislative restrictions in bills that tend to excessively interfere with the management obligations of the other branches of government. The court has viewed such restrictions as those set out in Section 3 of H.B. 904 as a violation of the "separation of powers" doctrine set forth in Article III, Section 1 of Montana's Constitution. See Board of Regents v. Judge, 168 Mont. 433 (1975) and 39 Attv. Gen. Op. 3 and 25 (1981). Section 3 not only places a 2 year limit on contracts (which may be legal) but goes further to impose required language in all contracts and fines and penalties if the department fails to comply.

Section 3 of this bill is not necessary because present authority already exists as a check against actions taken by SRS. The legislature has the authority to set expenditures for specific programs through "line items" in appropriation bills. In addition, administrative rules adopted by the Department do not grant any vested rights beyond the time that the rule is in

effect. The Department as well as the legislature has the authority to repeal department rules at any time. This section, however, goes further and mandates that the Department place notice of a two year limitation in all medical service rules adopted by the Department, in each chapter and subchapter and provides for a penalty provision if this is not done. Perhaps this could also be construed to mean that the Department would be required to amend and readopt its rules every two years in order for them to be effective. Currently the Department has 21 subchapters and hundreds of pages of rules with respect to medical services which, if a readoption rule was required, could entail hundreds of hours of staff time and additional costs for formulating new rule notices and conducting of public hearings.

In addition, the deletion of current statutory authority (page 1, lines 21-24) would prevent the Department from establishing the types of medical services to be covered. This would open the door to any medical provider to demand payments under the Medicaid program. For example, chiropractors, acupuncturist, naturopaths, social workers, etc. are currently restricted on the basis of this language which will be deleted if this bill passes.

For the reasons set forth above, House Bill 904 should not be passed.

Submitted by: Russell E. Cater
Russell E. Cater
Chief Legal Counsel
Office of Legal Affairs

Human Services Sub COMMITTEE

DATE 3-18-85

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Human Services Sub COMMITTEE

DATE 3-18-85

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.