

MINUTES OF THE MEETING
INSTITUTIONS AND CULTURAL EDUCATION SUBCOMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 14, 1987

The sixth meeting of the Institutions and Cultural Education Subcommittee was called to order in room 202-A of the state capitol at 8:12 a.m. by Chairman Miller on January 14, 1987.

ROLL CALL: All members were present as were Keith Wolcott, Senior Analyst for the Legislative Fiscal Analyst, (LFA), Alice Omang, secretary, George Harris of the Office of Budget and Program Planning, (OBPP), Carroll South, Director of the Department of Institutions, and various other representatives of the Department.

DEPARTMENT OF INSTITUTIONS: Tape 6-1-A

Supplementals:

Workmen's Compensation: (30) Mr. South testified that after the 1985 session, they were not sure what their workmen's compensation premiums would be for this current biennium and one of the problems is that the Department is relatively self-insured in regard to the asylum rate that is used at those institutions and, therefore, they use two or three year's experience in the past to set the current year's rate. He explained that after the session, they found out the rates were going to be much higher than that and they worked out an agreement with the Workmen's Compensation Division that they would bill them at the rate under which they were budgeted and they would keep a running tab of the difference between that and the rate as it actually should be and this came to \$1,974,297, to which they add the \$172,000 that was placed in the Director's office for FY 87.

Mr. South advised that the mod factor relates directly to the numbers of claims that they have paid at each institution over a three or four-year period so each institution has a separate mod factor although the rate may be the same.

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Carla Smith advised that at the time the session ended, they had an understanding of what the rate itself was going to be, but they are not given them until about May of each year and they saw significant increases in those modification factors for 1986; and in 1987, there also was a rate increase. She informed the committee that the actuary comes in once a year to evaluate what the rates will be.

There were numerous questions asked of Ms. Smith.

John King, Assistant Chief, Operations Supervisor, State Insurance Fund Bureau of the Workers' Compensation Division, gave some information on a loss control program and that the \$6 million that they will receive will not pay all the claims - it is still short.

(318) Curt Chisholm, Deputy Director of the Department of Institutions, said that one of the condition under which they were allowed to defer payment was that they agreed to a loss control program and they are in the process of developing a policy relative to the loss control program itself and this will be imposed upon all the superintendents. He continued that they need some safety awareness training and they need to specifically train some people in technical issues such as lifting and the appropriate way to lift.

There was considerable discussion on ways to implement a safety program and the effect that this would have on the rate of insurance.

Tape: 6-1-B

EXECUTIVE SESSION

(30) Senator Bengtson moved that they allow the supplemental for workmen's compensation liability for \$1,974,297. The motion CARRIED unanimously.

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Montana Youth Treatment Center:

(45) Mr. South advised that during the June special session, when the Legislature authorized the sale of the center, they took out all funding for the Center after December 1, and there was language in the bill that stated if the facility was not sold, or if it is not sold until after December 1, the Department could come in for a supplemental. He indicated that this is what occurred and this amount (\$140,000) represents a full-month's operation of the center.

Senator Bengtson moved that they allow for this supplemental. The motion CARRIED unanimously.

Corrections Medical:

(72) Mr. South informed the committee that when a female or male adult is sentenced to a prison or when a juvenile is committed to the Department (particularly Pine Hills and Mountain View), the state assumes all obligations for medical and dental care. This causes serious problems in determining how much we are going to have to take care of that, he said, as they cannot accurately estimate what the medical costs will be.

There were some questions and answers in regard to how medical care is obtained and the facilities that are used.

Senator Bengtson moved that they allow for the corrections medical in the amount of \$680,000. The motion CARRIED unanimously.

Montana State Prison:

(245) Mr. South explained that in 1977, Warden Crist of Montana State Prison signed a contract with a Deer Lodge physician to provide medical coverage to the Montana State Prison population and this contract held the doctor harmless from any and all

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actions arising out of the medical care that he gave the inmates and also guaranteed the physician that the state would represent him legally if there were any malpractice actions. There was a malpractice action against the physician and against the state, he commented, and the inmate prevailed by jury and he thought the inmate received about \$225,000 for the loss of a leg. He continued that they were taken to court by Aetna Insurance Company (the doctor's insurer) and the state argued that the warden could not bind the state, but the judge found otherwise; and the court ordered a judgment on the Department of \$317,000 and then they had to pay 10% interest on this until it was paid April 1, 1987; and this represents the \$351,291.

There were a few questions on this lawsuit.

Senator Bengtson moved that they allow the lawsuit settlement of \$351,291. The motion CARRIED unanimously.

Additional Canteen Authority:

(350) Mr. Wolcott explained that these remaining five (the Mountain View School, Pine Hills School, the Montana State Prison, the Montana State Hospital, and Swan River Forest Camp) are all for additional canteen authority; and, in most of the instances, it is a case where they can sell more than they have authority to do so.

There were some questions clarifying exactly what this was for, to which Mr. Harris and Mr. Wolcott responded.

Senator Bengtson moved that they allow additional authority to these institutions for the supplementals. The motion CARRIED unanimously.

VACANCY SAVINGS:

(480) Chairman Miller stated that he and Representative Menke had a misconception with the Fiscal Analyst on the pooling aspect of vacancy savings and he asked Senator Haffey to clarify what he meant yesterday as to how he felt the pool would work.

Senator Haffey said that they considered whether the pool should be an appropriation or not, and they decided that it should be an appropriation and that \$500,000 could be split between general fund and other funds, of which 39% would be in the pool from the general fund.

Chairman Miller stated that he had the understanding that the vacancy savings money was going to continue to flow from the agencies into that fund until it recouped the \$500,000 and then any money in excess of that would be recaptured in the general fund.

Senator Haffey gave an example as follows: There is a subcommittee that says 2% is a legitimate vacancy savings factor applied to a certain agency and they appropriate that much less money for the personal services; they go through the years and they experience a vacancy set of circumstances that is in excess of the 2%; in a sense they have already funded by not having this appropriated and already put into a pool 2% worth of personal services; they experience a situation where they have more than 2% vacancy and they can't stand it - they can stand 2%, but they can't stand more - so they then come to the pool and say they are experiencing 2½% and they can't stand it. If they get to a point where they are experiencing something in excess of what was applied to their agency, then they go to the pool.

He contended that in every case, they will be hit twice except for those that get zero per cent vacancy savings applied and anyone who gets zero per cent vacancy savings applied won't be hit at all, and if anyone gets zero per cent applied and has vacancies, then they had better go to the pool, unless they find some innovative way to end with something above zero; and we are saying, as a committee, for those who have zero per cent vacancy savings that there is no reason and they ought not go without a post being filled.

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Representative Miller said that if a person quits in an agency, he wants that money flowing into the pool until that person is replaced to get it up to the \$500,000 and if that person is not replaced and the pool has accumulated \$500,00, he would like that money flowing to the general fund. He stated that he knows this is taking away a tremendous tool on the agency's part, but that was his conception of the fund.

Mr. Harris acknowledged that he understood that it would be an appropriation of the amount of \$500,000 and then it would go to whomever would be the administrator, but he did not think it would be generated by each agency, but it would revert if it were not used.

Mr. Wolcott advised that he got a copy of the minutes and there is a point where they (the committee) was talking about the money reverting from the pool, but there was a point where they kind of switched and this is based on the fact that (1) they do not have the ability right now to accurately determine what vacancy savings has really been and (2) somehow they have to keep track of who is generating the pool and who is applying to the pool to get the money and what are the limits on that state special revenue - they can't have fishing licenses paying for canteens at the prison.

Senator Bengtson commented that it would be nice to go with Representative Miller's and Representative Menke's proposal, but it is unworkable and that is what Dave Hunter said. She asked what agency is going to be putting it in and how are you going to enforce it. She pointed out that the people that are going to apply to that pool and use it are going to have to be on PPP (Payroll, Personnel, and Position Control System) and that is an additional responsibility and check on them and hopefully, they will have accurate information so that when they determine the FTEs (full-time equivalent employee), PPP and the budget, they will be as frugal as they possibly can be.

Chairman Miller said that other states have pools such as this and he did not see why Montana could not do this as they were smaller and with their computers, they should be able to do so too.

Senator Haffey indicated that the way he thought it should work would be that there would be no end, and one of his concerns is selling the \$200,000. He felt they were going to have a much better system for subcommittees' decisions if they approach vacancy savings in a more realistic way. He continued that this will cause, or ought to cause, very little hit (?) or application of funds from the pool, so appropriating these funds is probably a case of appropriating something that will probably all revert. He contended that they are forcing themselves to do a lot better job.

Mr. Wolcott contended that a good manager doesn't have that much problem meeting that, because it is going to occur anyhow and they will probably achieve more vacancy savings than they have. He said the big thing that they can't manage is when some long-term employee quits and they have to pay out termination pay - they can manage that to a certain extent, but in a smaller budget, it is somewhat difficult. He said that he thought it would be a safe estimate that statewide that more than the \$500,000 pool costs would be created, which will ultimately be reverted.

Mr. South asked if this is not going to cost more than \$500,000, because if you go agency-by-agency and reduce it, in certain circumstances, to less than 4%, you are incurring additional costs there above and beyond the \$500,000.

Chairman Miller stated that he assumed this was going to cause the Governor's budget to be out of balance to the tune of millions of dollars; and in talking to a conservative member of another subcommittee, he indicated he was having a terrible time with vacancy savings and they (the chairmen) agree that it needs to be looked at.

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Senator Haffey stated that a lot of people sense that they should use vacancy savings for things other than what it ought to be used and they should stop it.

Mr. South commented that vacancy savings has been a very convenient way to save money.

Senator Haffey responded that it has been a very convenient way to cut without explicitly cutting.

Chairman Miller declared that it is also a convenient way for legislators to get off the hook also and they are just as guilty in taking the easy way out.

Tape 6-2-A:120

ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:00 a.m.



REPRESENTATIVE MILLER, Chairman



Alice Omang, Secretary

Exhibit 1
 1/14/87
 Supplementals
 Keith Wolcott

**Department of Institutions
 Supplementals**

		<u>General</u>	<u>Other</u>
		<u>Fund</u>	<u>Funds</u>
Montana Youth Treatment Ctr.	Closing Costs	\$ 140,000	
Director's Program	Workers' Compensation Liab.	1,974,297	
Corrections Medical	Medical Cost Overruns	680,000	
Montana State Prison	Lawsuit Settlement	351,291	
Mountain View School	Additional Canteen Authority		\$ 4,000
Pine Hills School	Additional Canteen Authority		15,000
Montana State Prison	Additional Canteen Authority		244,998
Montana State Hospital	Additional Canteen Authority		12,162
Swan River Forest Camp	Additional Canteen Authority		15,000
Total Funds		\$3,145,588 =====	\$291,160 =====

(11-KW)

