

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By CHAIRMAN PETE STORY, on WEDNESDAY,
JANUARY 25, 1989, at 4:30 P.M.

ROLL CALL

Members Present:

SENATOR GARY AKLESTAD	SENATOR LOREN JENKINS
SENATOR ESTHER BENGTSON	SENATOR MATT HIMSL
SENATOR PAUL BOYLAN	SENATOR TOM KEATING
SENATOR JUDY JACOBSON	SENATOR H.W. "SWEDE" HAMMOND
SENATOR PAT REGAN	SENATOR FRED VAN VALKENBURG
SENATOR DENNIS NATHE	SENATOR GREG JERGESON
SENATOR GERRY DEVLIN	SENATOR RICHARD MANNING
SENATOR SAM HOFMAN	SENATOR LAWRENCE STIMATZ
SENATOR ETHEL HARDING	SENATOR PETE STORY

Members Excused:

Members Absent: SEN. TVEIT

Staff Present: CURT NICHOLS, LFA; DEB THOMPSON, SECRETARY

Announcements/Discussion: None

HEARING ON SB 80

Presentation and Opening Statement by Sponsor: Sen. Matt Himsl, (1-A-022) sponsor of SB 80, presented the bill. He said the bill would eliminate the category of "other special revenue funds". He noted the differences between state earmarked funds and federal fund categories. He explained this bill is an accounting change.

List of Testifying Proponents and What Group they Represent:

Kathy Fabiano - Office of Public Instruction - support

List of Testifying Opponents and What Group They Represent:

Kathy Irigoin - State Auditor's Office - oppose

Testimony:

Proponents

Teresa Timm (074) from the Accounting Division of the Department of Administration, explained the requirements of biennial review and reports to the Legislative Finance Committee of all state and proprietary accounting entities. (See Exhibit 1) She explained that accounting entities classified as "other special revenue", cannot be distinguished from state and federal entities by their SBAS number and the general appropriations act does not recognize their existence. This results in a general appropriations act that is technically incorrect, confusing and misleading to anyone attempting to compare the state financial statements to the appropriations bill.

The budget amendment law, section 17-7-402 of the Montana Codes, also appears not to recognize the existence of the other special revenue accounting entities. The law requires that no budget amendment be approved for the expenditure of money in a state special revenue fund unless an emergency justifies such an expenditure. Amendments and special revenue accounting entities can be approved to spend funds which were not available for legislative consideration. When applying this law to the other special revenue accounts, some have been required to demonstrate that an emergency exists whereas others have been allowed budget amendments to spend unanticipated revenues.

Kathy Fabiano, Office of Public Instruction, testified in support of the bill. She noted that other special revenue accounts are confused with federal accounts frequently.

Opponents

Kathy Irigoin, (134) representing the State Auditors Office, testified in opposition to the bill. Until 1985, insurance and securities regulatory fees were deposited in the general fund. In 1985, the legislature created the insurance regulatory trust account and securities regulatory trust account. Since 1985, the regulatory fees collected by the Montana Insurance Department have been deposited in the insurance regulatory trust account and securities regulatory trust account. The State Auditor maintains that the purpose of the regulatory fee is to pay for regulation of the industry that pays it. Agencies should be able to have special accounts.

Questions From Committee Members: None

Closing by Sponsor: Sen. Hims1 (197) said the purpose of the bill was to remove the category of "other special revenue accounts" and put them into either "state special revenue accounts" or "federal special revenue accounts".

DISPOSITION OF SB 80

Discussion: More time was needed to get information on the bill.

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON SB 78

Presentation and Opening Statement by Sponsor: Senator Pat Regan (200) presented SB 78. She said the bill was the result of the Legislative Finance Committee study and recommendations. She pointed out that Montana was the third highest in the nation of earmarked funds at 61%. This bill would reduce complexity and inflexibility in the fund structure. She introduced an amendment to the committee (Exhibit 1). She pointed out that it would be inappropriate to de-earmark the firemans' retirement. If this amendment is adopted, then only five accounts would be de-earmarked. She said that the issue was not the transfer of the fund balances to the general fund, since by current law, these funds are transferred periodically to the general fund. The funds should be de-earmarked just to appropriate the funds and have the fund balances remain in the general fund.

She noted that account number 02401, which is the fire retirement, should be crossed out so only the five accounts with the star would be de-earmarked (See Exhibit 2).

List of Testifying Proponents and What Group they Represent:

Kathy Fabiano - Office of Public Instruction - support
Lyle Nagel - Montana State Volunteer Fire Fighters
Association - support with amendments
Henry E. Lohr - Montana State Volunteer Fire Fighters
Association - support with amendments
V.S. Ericksen - Montana State Volunteer Fire Fighters
Association - support with amendments

List of Testifying Opponents and What Group They Represent:

Doug Mitchell - Secretary of State - oppose
Larry Akey - Association of Life Underwriters - oppose
Kathy Irigoin - State Auditors Office - oppose
Roger McGlenn - Independent Insurance Agents Associated
of Montana - oppose
Jacquiline Terrell - American Insurance Association -
oppose
Gene Phillips - National Association of Independent
Insurers - oppose
Patrick Driscoll - American Council of Life Insurance
Health Insurance Association of America - oppose
Bonnie Tippy - Alliance of American Insurers - oppose
Bob Stainsby - Farmers Insurance - oppose

Testimony:Proponents

Teresa Timm (314), CPA, Accounting Systems Manager, testified in support of the bill (Exhibit 3). She pointed out that only the Department of Revenue complied with the statutory requirements to transfer remaining cash balances to the general fund. She recommended that 35 similar A/E's, which do not require statutory changes, be de-earmarked and reclassified as general fund.

Kathy Fabiano, (370) Office of Public Instruction, spoke in support of the bill. She pointed out that the Office of Public Instruction had two administratively earmarked accounts that they feel are unnecessary and add confusion to the state's accounting system.

Rep. Bardanouve spoke about his concern of earmarking and the balance remaining in the funds. He said there was a bill in the House a couple sessions ago that would require that the balances in a couple funds in the Auditors Office would not revert at the end of the biennium. It would mean an effect of six million dollars tied up in earmarked revenues if that bill had passed. He said this is an archaic way of financing the accounting system in the state and SB 78 should be supported.

Sen. Matt Himsl spoke as a proponent of the bill. He shared figures with the committee. He said there were 212 special revenue accounts at the present time. 60 % of the state revenue goes into special earmarked funds. In the general fund in 1988, there were 306 million dollars. In the state special revenue accounts there were 508.6 million dollars, the federal special revenue accounts 406.9 million dollars. He pointed out that there were 950.5 million dollars in earmarked special revenue accounts with a good share of this in education, highways, and fish wildlife and parks. A study of this showed that the funds should be de-marked. Funds in the earmarked accounts escape scrutiny through the action of the appropriation committee. He told the committee to become conscious of what the situation really was and the limited amount of funds that are made available for general appropriations.

Lyle Nagel (492), representing State Volunteer Firefighters Association, asked the committee to approve the amendment submitted by Sen. Regan. Without the amendment, the bill would wipe out the income that furnishes the medical benefits and pension for rural volunteer firefighters. The amendment would keep the fund active.

Opponents

Kathy Irigoien, (513) representing the State Auditor's Office, testified in opposition to SB 78 (Exhibit 4). She said the State Auditor opposes the bill and maintains that the purpose of a regulatory fee is to pay for the regulation of the industry that pays it. She pointed out that passage of this bill would require the Montana Insurance Department and the Montana Securities Department to vie for funds from the general fund regardless of the regulatory fees they collect and also would give the Legislature no incentive to discontinue underfunding the Montana Insurance Department or the Montana Securities Department and overcharging the insurance and securities industries.

Roger McGlenn, (619) Executive Director of the Independent Agents Association of Montana voiced his concern about the specific fee charged to regulate the industry. He pointed out that only .62 cents of every dollar is used for regulation that this would be discriminatory or double taxation to the insurance agents in the state of Montana.

Larry Akey, representing the Life Insurance Agents, spoke defending the state special revenue tax. He pointed out that there was much to be said about fees or license charges that are collected for specific regulatory purposes. The industry recognizes the importance of regulation on the part of the consumer. Taking insurance regulatory monies away from the state special revenue fund and putting it into the general fund will risk using general taxpayers subsidies for regulation of the insurance industry.

Patrick Driscoll, an attorney in Helena representing the American Council of Life Insurance testified against the bill. He said that Mr. Paul Hopgood, representing the Health Insurance Association of America asked him to speak in his behalf as well. Both the ACLI and the HIAA are opposed to the elimination of this trust account for insurance regulation. Fees collected for insurance regulation should be used for insurance regulation or at a minimum should be at least made available for the purposes of regulation before they are dropped into the general fund. If the trust account is eliminated the general fund swallows up the funds in question it will be much more difficult for Montana to have an adequate insurance regulation framework.

Doug Mitchell (797), representing the Secretary of State's Office, pointed out an issue in de-earmarking funds was the potential of using general fund in order to subsidize fees.

(1-B-000)

Jacquiline Terrell, a lawyer practicing in Helena representing the American Insurance Association and also speaking on behalf of Gene Phillips who represents the National Association of Independent Insurers, testified against the bill. The American Insurance Association, representing 180 property and casualty insurers, opposes this legislation. The Montana Insurance Department has historically been a great source of funds for the operation and general government in Montana. The move that was made in 1985 from the status of a general fund agency to a special revenue fund agency was supported by the industry with an eye towards more adequate regulation of insurance in Montana. The purpose of the special regulatory trust

account was to insure that certain funds paid for regulation would be set aside for that purpose. When funds are deposited in the general fund it is easy to lose sight of why they were collected. If the industry is paying for the regulation then the state should provide funding for that regulation.

The American Insurance Association strongly encourages retaining the insurance regulatory trust account and not pass the bill. She read a prepared statement concerning the reaction of the National Association of Independent Insurers by Mr. Phillips. She presented correspondence and a press release that were applicable to this bill (Exhibit 5).

Bonny Tippy (100) representing the Alliance of American Insurers which is a property and casualty trade association for insurance companies, spoke in support of the insurance regulatory account. She pointed out that surrounding states were spending higher amounts on the regulation of insurance companies. She said the Insurance Commissioner's Office was underfunded. The reason for paying licensure fees is for the purpose of regulation.

Bob Stainsby (139), claims representative from Farmers Insurance, discussed working with the Insurance Commissioners Office and finding them responsive. The passage of this bill would impair working as a general fund agency.

Questions From Committee Members:

Senator Keating (156) asked the Auditors Office about the stockbrokers group. Kathy Irigoien replied that the stockbrokers had no association organized to monitor the bills.

Senator Keating (218) questioned how much was generated in fees that would have gone into the general fund. Kathy Irigoien replied that it was inappropriate to deposit regulatory fees in the general fund. She said that after the agency budget had been appropriated then the balance should remain in the account. The Legislature should consider further reducing the amount of fees that it charges to the insurance industry.

Senator Aklestad asked Senator Regan if the fund balances that were there now would automatically turn

into the general fund. Senator Regan said at the end of the biennium they automatically revert. Senator Regan pointed out that this bill would de-earmark the funds and not make them a special revenue account and it shows up on SBAS and can be tracked.

Senator Aklestad asked if the fees being looked at were just within this biennium. Senator Regan replied that it was the fiscal year 1988 fund balances shown. She said these would be the ones that would automatically trigger.

Senator Van Valkenburg asked if these would transfer into the general fund anyway why did the Department of Administration study indicate only the Department of Revenue was transferring the money in as required but that some other agencies, like the Auditors Office were not transferring the money. Teresa Timm replied that the evaluation of the accounts have determined that during the period covered by the report in FY 87 and 88 the cash balances still existed in the accounts in fiscal year end. The Auditors Office states that they were not reverted at fiscal year end.

Senator Van Valkenburg questioned Senator Bengtson concerning the canteen accounts at the prison. He asked if those were inmate accounts for the purchasing of small items if they would be taking their money and putting it in the general fund. Senator Bengtson replied that it was inappropriate to de-earmark funds from the inmate and patient funds. They feel they would have to be in begging for items that they now can purchase out of their funds.

Closing by Sponsor:

Senator Regan pointed out that the prison canteen and the funds from other institutions were not covered under this bill. She said this bill only addressed those earmarked funds that were established by statute and those were the ones with the stars after them in the exhibit. She explained the LFC had decided the prison would be left alone because of the emotional effect it might have on the institutions.

Senator Regan commented that whether the bill passes or not those funds will revert to the general fund. The issue is not the transfer of those funds to the general fund but to de-earmark the funds. The problem with earmarking funds is that it is either too much or too little and the right amount is never appropriated.

DISPOSITION OF SB 78

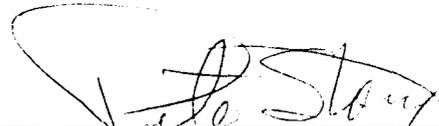
Discussion:

Amendments and Votes: Senator Regan moved that SB Do Pass.
Senator Stimatz said that more information was needed
before taking action on the bill. Senator Regan
withdrew the motion.

Recommendation and Vote: None

ADJOURNMENT

Adjournment At: 4:50 P.M.



A handwritten signature in cursive script, appearing to read "Pete Story", is written above a horizontal line. A vertical line extends downwards from the end of the signature.

PETE STORY, Chairman

PS/DT

FCS125

DAILY ROLL CALL

FINANCE AND CLAIMS

COMMITTEE - 1989

DATE 1-25-89

NAME	PRESENT	ABSENT	EXCUSED
Senator Gary Aklestad	✓		
Senator Loren Jenkins	✓		
Senator Esther Bengtson	✓		
Senator Matt Himsl	✓		
Senator Paul Boylan	✓		
Senator Tom Keating	✓		
Senator Judy Jacobson	✓		
Senator H.W. "Swede" Hammond	✓		
Senator Pat Regan	✓		
Senator Larry Tveit		✓	
Senator Fred Van Valkenburg	✓		
Senator Dennis Nathe	✓		
Senator Greg Jergeson	✓		
Senator Gerry Devlin	✓		
Senator Richard Manning	✓		
Senator Sam Hofman	✓		
Senator Lawrence Stimatz	✓		
Senator Ethel Harding	✓		
Senator Pete Story	✓		

Exhibit 1
1/25/89
SB 80

SENATE BILL #80 - "AN ACT ELIMINATING THE CATEGORY OF "OTHER SPECIAL REVENUE FUNDS" FROM THE STATE TREASURY FUND STRUCTURE; AND, RECLASSIFYING OTHER SPECIAL REVENUE FUNDS AS STATE OR FEDERAL SPECIAL REVENUE FUNDS."

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THE 1987 LEGISLATURE ENACTED SECTION 17-2-111, MCA REQUIRING THE DEPARTMENT OF ADMINISTRATION TO PERFORM A BIENNIAL REVIEW OF ALL STATE AND OTHER SPECIAL REVENUE AND PROPRIETARY ACCOUNTING ENTITIES (A/Es) AND REPORT THE FINDINGS AND RECOMMENDATIONS TO THE LEGISLATIVE FINANCE COMMITTEE. OUR REPORT CONTAINED 9 RECOMMENDATIONS: PASSAGE OF SENATE BILL #80 WILL IMPLEMENT 1 OF THOSE RECOMMENDATIONS [RECOMMENDATION #6 ON P. 14 OF OUR REPORT].

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- BECAUSE A/Es CLASSIFIED AS "OTHER SPECIAL REVENUE" CANNOT BE DISTINGUISHED FROM STATE AND FEDERAL A/Es BY THEIR SBAS NUMBER, THE GENERAL APPROPRIATIONS ACT DOES NOT RECOGNIZE THEIR EXISTENCE. THIS RESULTS IN A GENERAL APPROPRIATIONS ACT THAT IS TECHNICALLY INCORRECT, CONFUSING AND MISLEADING TO ANYONE ATTEMPTING TO COMPARE THE STATE'S FINANCIAL STATEMENTS TO THE APPROPRIATIONS BILL.

- THE BUDGET AMENDMENT LAW, SECTION 17-7-402, MCA, ALSO APPEARS NOT TO RECOGNIZE THE EXISTENCE OF THE "OTHER SPECIAL REVENUE" A/Es. THE LAW REQUIRES THAT NO BUDGET AMENDMENT BE APPROVED FOR THE EXPENDITURE OF MONEY IN THE STATE SPECIAL REVENUE FUND UNLESS AN EMERGENCY JUSTIFIES SUCH EXPENDITURE. AMENDMENTS IN FEDERAL SPECIAL REVENUE A/Es CAN BE APPROVED TO SPEND FUNDS WHICH WERE NOT AVAILABLE FOR LEGISLATIVE CONSIDERATION. WHEN APPLYING THIS LAW TO "OTHER SPECIAL REVENUE" A/Es, SOME HAVE BEEN REQUIRED TO DEMONSTRATE THAT AN EMERGENCY EXISTS WHEREAS OTHERS HAVE BEEN ALLOWED BUDGET AMENDMENTS TO SPEND UNANTICIPATED REVENUES.

Teresa Timm

1/25/89

Teresa Timm, CPA, Accounting Systems Manager
Accounting Principles/Financial Reporting Section
Accounting Division - Department of Administration

Finance +
Claims

(This sheet to be used by those testifying on a bill.)

NAME: Teresa Timm DATE: 11/25/89

ADDRESS: Rm. 255 Mitchell Bldg.

PHONE: 4469

REPRESENTING WHOM? Dept. of Administration

APPEARING ON WHICH PROPOSAL: SB'S 78 & 80

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT: see exhibit #1 SB 80
exhibits # 2:3 SB 78

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY OPPOSING SENATE BILL 80
STATE AUDITOR'S OFFICE
January 25, 1989

I. General Information about the Insurance Regulatory Trust Account and the Securities Regulatory Trust Account

Until 1985, insurance and securities regulatory fees were deposited in the general fund. In 1985, the Legislature created the insurance regulatory trust account and the securities regulatory trust account. Since 1985, regulatory fees collected by the Montana Insurance Department have been deposited in the insurance regulatory trust account and regulatory fees collected by the Montana Securities Department have been deposited in the securities regulatory trust account.

II. Reasons the State Auditor Opposes Senate Bill 80

The State Auditor maintains that the purpose of a regulatory fee is to pay for the regulation of the industry that pays it. Depositing regulatory fees in a separate account increases the likelihood that the deposited regulatory fees are used to pay for the intended regulation. Passing Senate Bill 80 and eliminating the insurance and securities regulatory trust accounts would decrease the likelihood that insurance and securities regulatory fees are spent to regulate the insurance and securities industries. Passing Senate Bill 80 would defeat the purpose of insurance and securities regulatory fees.

(This sheet to be used by those testifying on a bill.)

NAME: Kathy Irigoien DATE: 1/25/89

ADDRESS: State Auditor's Office
P.O. Box 4009

PHONE: 444-2040

REPRESENTING WHOM? State Auditor

APPEARING ON WHICH PROPOSAL: SB 78 SB 80

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT: see exhibit #2 SB 80
exhibit #4 SB 78

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Amendments to Senate Bill No. 78
First Reading Copy

Requested by Senator Pat Regan
For the House Committee on Appropriations

January 19, 1989

1. Title, line 5.

Following: "ELIMINATING"

Insert: "CERTAIN"

2. Title, line 9.

Strike: "19-11-513, 19-11-514,"

3. Title, line 12.

Strike: "19-12-302,"

4. Page 3, line 11 through page 4, line 4.

Strike: sections 3 and 4 in their entirety

Renumber: subsequent sections

5. Page 19, line 13.

Strike: "19-12-302,"

LEGISLATIVE FINANCE COMMITTEE

The following is a list of accounting entities whose fund balances will be transferred to the general fund on June 30, 1989 in accordance with Section 17-2-111, MCA. The committee recommends that these accounting entities be de-earmarked and reclassified as general fund.

<u>A/E</u>	<u>Account Title</u>	<u>Agency Number</u>	<u>Agency</u>	<u>FY88 Fund Balance</u>
02093	Westlaw	2110	Judiciary	\$ 5,667
02464*	Ag Lien Filing Fees	3201	Secretary of State	162,893
02047	Copying Fees	3202	Comm. of Political Pract.	519
02044*	Securities Regulatory Acct.	3401	State Auditor's Office	244,836
02060*	Insurance Regulatory Acct.	3401	State Auditor's Office	240,108
02401*	Police/Fire Retirement Fund	3401	State Auditor's Office	103,790
02119	Crime Control Fees	4107	Board of Crime Control	37
02013	Law Enforcement Academy	4110	Department of Justice	16,719
02014	Justice Insurance Clearing Acct.	4110	Department of Justice	-0-
02804	Escheated Estates	4110	Department of Justice	-0-
03141	I.D. Special Services	4110	Department of Justice	7,324
03944	Motor Veh. Prop. Tax Conversion	4110	Department of Justice	14,420
03014	Athletic Program	5113	School for Deaf & Blind	-0-
02059	EMT Certification	5301	Department of Health	(711)
02418*	Subdivision Plat Review	5301	Department of Health	51,289
02847	Insurance Proceeds	5301	Department of Health	56,941
03028	Legal Services	5301	Department of Health	3,361
03817	Rabies Vaccine	5301	Department of Health	6,162
02031	Foresters Nursery	5501	Dept. of State Lands	88,043
02438	Floodway Obstruction Removal	5706	Dept. of Natural Resources	400
03036	Centralized Services	5706	Dept. of Natural Resources	5,344
02441*	Cigarette Enforcement	5801	Department of Revenue	6,277
03902	Vehicle Assessment	5801	Department of Revenue	4,059
02035	MDC Donated Fnds-Prevoc. Ctr.	6402	MT Developmental Center	-0-
02846	MDC Canteen	6402	MT Developmental Center	-0-
02914	OFA-Canteen	6404	Center for the Aged	11,844
02917	MSP Canteen	6409	Montana State Prison	51,655
02918	SRVFC-Canteen	6410	Swan River Youth For. Camp	4,471
02919	SRVFC-Clothing Account	6410	Swan River Youth For. Camp	37,168
02920	Veteran's Home-Canteen	6411	Montana Veterans' Home	326
03113	Third Party Reimb-MVH	6411	Montana Veterans' Home	109,573
03932	Vet's Home Interest & Income	6411	Montana Veterans' Home	218
02921	MHS-Canteen	6412	Montana State Hospital	59,247
03933	MSH-Interest & Income	6412	Montana State Hospital	-0-
02028	Prop Occup Adm'n Services	6501	Department of Commerce	-0-
02079	Fireworks Wholesalers	6501	Department of Commerce	520
02101	GA Training	6602	Dept. of Labor & Industry	-0-
02915	MUS-Canteen	6911	Dept. of Family Services	737
02916	PHS-Canteen	6911	Dept. of Family Services	3,336
03931	PHS-Interest & Income	6911	Dept. of Family Services	63,967
	Total			\$1,360,590-

*6 A/E's are statutorily established, although fund balances are unrestricted. Legislation has been introduced to remove earmarking requirements.

SENATE BILL #78 - "AN ACT ELIMINATING STATE SPECIAL REVENUE FUND ACCOUNTS THAT PERIODICALLY TRANSFER THEIR UNOBLIGATED BALANCES TO THE GENERAL FUND; REQUIRING MONEY IN THOSE ACCOUNTS TO BE DEPOSITED IN THE GENERAL FUND."

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THE LEGISLATURE'S CONCERN ABOUT THE PROLIFERATION OF SEPARATE ACCOUNTS CREATED FOR EARMARKED REVENUES IS WELL-DOCUMENTED IN MONTANA HISTORY. SINCE 1923, AT LEAST 7 REPORTS HAVE BEEN PRESENTED TO THE LEGISLATURE ON THIS PROBLEM.

THE LATEST REPORT, DATED JUNE 1988, WAS PREPARED BY THE DEPARTMENT OF ADMINISTRATION'S ACCOUNTING DIVISION AS REQUIRED BY SECTION 17-2-111, MCA WHICH WAS ENACTED BY THE 1987 LEGISLATURE. WE MUST PERFORM A BIENNIAL REVIEW OF ALL STATE AND OTHER SPECIAL REVENUE AND PROPRIETARY ACCOUNTING ENTITIES (A/Es) AND REPORT THE FINDINGS AND RECOMMENDATIONS TO THE LEGISLATIVE FINANCE COMMITTEE. THIS STATUTE HAD TWO OBJECTIVES:

1. TO REQUIRE TRANSFERS OF UNOBLIGATED BALANCES IN SPECIAL REVENUE ACCOUNTS WHERE POSSIBLE THROUGH ADMINISTRATIVE ACTION; AND
2. TO DETERMINE IF AN ACCOUNT SHOULD CONTINUE TO EXIST, BE MODIFIED OR BE ELIMINATED USING STATUTORILY ESTABLISHED OBJECTIVE CRITERIA.

OUR REPORT CONTAINED 9 RECOMMENDATIONS: PASSAGE OF SENATE BILL #78 WOULD PARTIALLY IMPLEMENT 1 OF THOSE RECOMMENDATIONS BY REQUIRING THAT MONEYS IN 5 A/Es BE DEPOSITED (I.E., BUDGETED/RECORDED) IN THE GENERAL FUND, THUS ELIMINATING THOSE 5 SEPARATE A/Es.

THE STATE AUDITOR, SECRETARY OF STATE AND DEPARTMENT OF REVENUE, AS ADMINISTERING AGENCIES OF THESE 5 A/Es, ARE ALREADY REQUIRED TO TRANSFER REMAINING CASH BALANCES TO THE GENERAL FUND UNDER CURRENT STATUTES; HOWEVER, ONLY THE DEPARTMENT OF REVENUE COMPLIED WITH THOSE STATUTORY REQUIREMENTS DURING THE PERIOD COVERED BY OUR REPORT.

WE ALSO RECOMMENDED THAT 35 SIMILAR A/Es, WHICH DO NOT REQUIRE STATUTORY CHANGES, BE DE-EARMARKED AND RECLASSIFIED AS GENERAL FUND.

Teresa Timm 1/25/89
Teresa Timm, CPA, Accounting Systems Manager
Accounting Principles/Financial Reporting Section
Accounting Division - Department of Administration

TESTIMONY OPPOSING SENATE BILL 78
STATE AUDITOR'S OFFICE
January 25, 1989

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 4

DATE 1-25-89

BILL NO. SB 78

I. General Information about the Insurance Regulatory Trust Account and the Securities Regulatory Trust Account

Until 1985, insurance and securities regulatory fees were deposited in the general fund. In 1985, the Legislature created the insurance regulatory trust account and the securities regulatory trust account.

Regulatory fees collected by the Montana Insurance Department are deposited in the insurance regulatory trust account. Last year, the Montana Insurance Department collected approximately \$1.3 million in regulatory fees. Of the \$1.3 million in regulatory fees collected, the Montana Insurance Department was appropriated \$839,000. At fiscal year end, approximately \$460,000 reverted automatically to the general fund.

Regulatory fees collected by the Montana Securities Department are deposited in the securities regulatory trust account. Last year, the Montana Securities Department collected approximately \$2.2 million in regulatory fees. The Legislature appropriated to the Montana Securities Department approximately \$268,000, about one-eighth of the regulatory fees collected. More than \$1.9 million, which remained in the securities regulatory trust account at fiscal year end, reverted to the general fund.

II. Reasons the State Auditor Opposes Senate Bill 78

The State Auditor maintains that the purpose of a regulatory fee is to pay for the regulation of the industry that pays it. The State Auditor opposes Senate Bill 78 because its passage would (1) require the Montana Insurance Department and the Montana Securities Department to vey for funds from the general fund regardless of the regulatory fees they collect; and (2) give the Legislature no incentive to discontinue underfunding the Montana Insurance Department or the Montana Securities Department and overcharging the insurance and securities industries.

III. Reasons the State Auditor Supports House Bill 306

Passage of House Bill 306 would eliminate the automatic transfer to the general fund of cash balances remaining in the securities regulatory trust account after fiscal year expenditures are met. The State Auditor supports House Bill 306 because its passage would remove the Legislature's incentive for underfunding the Montana Insurance and Securities Departments and overcharging the insurance and securities industries. If cash balances in the insurance and securities regulatory trust accounts were to accumulate rather than revert automatically to the general fund at fiscal year end, the general fund would no longer benefit from inadequately funding the Montana Insurance and Securities Departments and overcharging the insurance and securities industries.

National Association



of Independent Insurers

2600 RIVER ROAD, DES PLAINES, ILLINOIS 60018-3286

312/297-7800

Patrick J. McNally
ASSISTANT VICE PRESIDENT &
ASSISTANT GENERAL COUNSEL

January 20, 1988

RECEIVED
STATE AUDITORS OFFICE
JAN 25 3 54 PM '88
HELENA, MONT.

The Honorable Andrea Bennett
Commissioner
Montana Insurance Department
Mitchell Building
P.O. Box 4009
Helena, Montana 59604

Dear Commissioner Bennett:

As indicated in previous correspondence and our November 30, 1987 letter on the data base fee issue, NAII is committed to a strong, viable system of state insurance regulation.

This support in the past has included public calls for adequate funding of state insurance departments.

As more recent evidence of this commitment, John B. Crosby, NAII Senior Vice President and General Counsel, renewed the call for increased insurance department funding at a news briefing during the Phoenix NAIC Meeting. In the event, you were not aware of the NAII news conference and ensuing media coverage, I take the liberty of enclosing a copy of the press release.

In addition, we have instructed our local legislative counsel in the various states to consider adequate funding a priority matter as part of the NAII legislative and regulatory agenda for 1988.

Hopefully our support in your efforts for increased departmental funding will lead to success this year.

Very truly yours,

Patrick J. McNally
Patrick J. McNally

PJM:car
Enclosure

cc: Lowell R. Beck
David J. Brummond
John B. Crosby
John J. Nangle



Ex. #5

1/25/87

National Association of Independent Insurers

2600 RIVER ROAD, DES PLAINES, IL 60018-3286 • PUBLIC RELATIONS DIVISION • (312) 297-7800

FOR RELEASE MONDAY, DECEMBER 7, 1987

PHOENIX, Ariz., Dec. 7 -- The property-casualty insurance industry's recovery hasn't helped only insurers. It has also showered increased tax revenues on the states, which should earmark more of that money for better regulation, according to the National Association of Independent Insurers.

"This year, the states will collect \$4.3 billion from taxes on insurance operations," said NAII Senior Vice President and General Counsel John B. Crosby. "That's \$410,000,000 more than they collected last year. But state insurance departments aren't getting their fair share of the gravy in these richer state budgets."

Crosby spoke at a news briefing held by the NAII during the annual meeting of the National Association of Insurance Commissioners.

He said the NAII estimated the industry's direct premium volume this year at \$192 billion. At an average premium tax of 2.25 per cent, the states will collect \$4.3 billion. Last year, when the industry's volume reached \$186 billion and the tax rate was 2.1 per cent nation-wide, the states received \$3.9 billion in taxes.

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Ex. #5
1/25/89

"The states have done well in regulating insurance," Crosby said, "but the sad truth is too many of them are trying to live off their past accomplishments. Insurance in the 80s is too large, complex and technically demanding to be regulated with funding levels that were set in the 1950s or 60s."

Some departments are falling behind technological advance, he said, and without additional funding to buy computers and staff to operate them, the regulators will be overwhelmed and the citizens of those states will lose the benefits of local regulation.

"As this recovery slows and we head into the downside, companies will be exercising special caution in view of the fact that they've just been through the worst, most erratic cycle in history," Crosby added. "Surely that same special attention is needed from regulators to guarantee solvency and stability in the dicey period ahead. And we shouldn't forget that some people in Congress are trying to supplant state regulation. So there are extra-heavy demands on the commissioners now, and we can't expect them to do a first-class job when they are funded like second-class citizens."

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(This sheet to be used by those testifying on a bill.)

NAME: Lyle Nagel DATE: 1-21-89

ADDRESS: Box 93 Simms Mt. 57477

PHONE: 264 5850

REPRESENTING WHOM? Mont. St. Vol. Firefighters Assn Inc.

APPEARING ON WHICH PROPOSAL: SB 78

DO YOU: SUPPORT? _____ AMEND? OPPOSE? _____

COMMENT: Our assn. would like to be put on record as supporting an amendment to ~~part~~ line 12 page 1 removing 19-12-302. 19-12-302 supplies ~~the~~ part of the income for the medical benefits & pension for Mural Vol. Firefighters.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

