

MINUTES

MONTANA SENATE 51st LEGISLATURE - SPECIAL SESSION

COMMITTEE ON LABOR AND EMPLOYMENT

Call to Order: By Chairman Gary C. Aklestad, on July 10, 1989, at 4:00 p.m., Room 331, Capitol

ROLL CALL

Members Present: Senator Tom Keating, Senator Sam Hofman, Senator J. D. Lynch, Senator Gerry Devlin, Senator Bob Pipinich, Senator Dennis Nathe, Senator Richard Manning, Senator Gary Aklestad

Members Excused: Senator Chet Blaylock

Members Absent: None

Staff Present:

Announcements/Discussion:

Chairman Aklestad announced that the committee is having a meeting to reconsider their action taken this day on HB56 and, as long as they are here, he suggested that they take action on HB62.

Discussion: HB 56

Chairman Aklestad explained that HB56 is the bill the committee just worked with today, that it has a sunset provision in it, accelerates the collection of corporate taxes over \$5,000 and puts that money into the general fund, and then there is a mechanism to move that money back out. He indicated that the committee put a retroactive provision in the bill because it sunsets on June 30 of this year. He reported that he was contacted, after the committee's earlier meeting today, and was advised that it is possible they can not do that, so he talked to Mr. Petesch, and it appears that they should just send the bill out, as is, that the sunset provision has very little chance of mustering the Supreme Court's approval. He added that Mr. Petesch had concerns about the lump-sum benefit and the Social Security offset, that they have determined that it is a vested right and would claim the same thing, even though the language was put in the minutes to back up what the committee had done and why, and they did not feel that would be good enough. Chairman Aklestad noted that the rest was just odds and ends.

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Motion: Senator Devlin offered a motion that the committee reconsider their action on HB56.

Vote: Motion passed unanimously by the committee that they reconsider their action on HB56.

Motion: Senator Manning offered a motion that all the amendments voted on by the Senate Labor Committee this date be stripped from HB56.

Vote: Motion passed unanimously by the committee that all the amendments voted on by the Senate Labor Committee this date be stripped from HB56.

Motion: Senator Manning offered a motion that HB56 be concurred in, in its original form.

Vote: Motion passed unanimously by the committee that HB56 be concurred in, in its original form.

Discussion: HB 62

Chairman Aklestad indicated that HB62 is to establish a joint select committee on workers compensation, and indicated that it would be his recommendation that the \$40,000 figure be changed to the original \$15,000. He explained that the thrust by Representative Owens was to have them hire a new actuary, and indicated that possibly, noting that he does not think they have to put it in the bill, that it can be in the minutes, that they can direct the department to hire a new actuary, rather than hiring the old one.

Senator Keating indicated that, if they simply replace the actuary, the only thing they will know from the results is whether the actuaries agree, which will not tell them anything. He stated that what they really need is a study of the basic data itself, that they need an audit of the basic data before they start changing actuaries, and they could do that by hiring another actuary, but directing that they audit the data base, or audit the data, first, before they render an actuarial report. He suggested that they amend language into the bill to correct that, in order to make sure that it gets done properly, and pointed out that the Legislative Auditor has sufficient reason to doubt that the data coming out of the workers comp, and given to the actuary, is accurate data, or substantive data to arrive at an actuarial statement, which is why he thinks there should be an audit of the data.

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Chairman Aklestad indicated that would be separate from the actuary. Senator Keating pointed out that, if they are going for a different actuary, that is okay, but they should have the new actuary do the data base audit, first, and then render an actuarial report. He added it would cost about the same amount of money.

Chairman Aklestad indicated that it was his thought that, if they hold that funding, and if they want to hire a new actuary, they could because they are already funded for that. He added that, as they read through the bill, this committee will have the power to ask the Legislative Auditor to go in and deal on these specific issues, which he does not think an actuary ever will, that he thinks those actuaries are almost like bank examiners, that they have a set formula, and he does not know if they will get the information they are looking for from an actuary, anyway. Senator Keating indicated that, if they do an electronic data audit, by an actuary, they will ask different questions than what is presented to the actuary, who will come up with some projected figures, and that what they want to do is have an electronic data audit.

Motion: Senator Manning offered a motion that HB62 be amended to take out the \$25,000 for the actuary.

Chairman Aklestad noted that they would not designate, that all they would do is strike the figure. Senator Keating stated that he is opposed to the motion, because he thinks they need to, first of all, confirm the data and have a new actuarial report, but he would further propose that they amend the appropriation, not from the general fund, but from the administrative tax, because it should be a cost of the system, itself. He added that there is sufficient money in the admin tax to fund this thing, and it should not be general fund money, that it should be an expense to the workers comp program, itself.

Senator Manning withdrew his motion.

Motion: Senator Keating offered a motion that HB62 be amended to make the appropriation from the administration tax rather than from the general fund.

Senator Lynch asked if Senator Keating will leave the full \$40,000 in there. Senator Keating responded yes. Chairman Aklestad asked what is the administration tax, noting that he is not following this. Senator Keating responded that the administration tax is the premiums and the tax on employers for the administration of the program. Chairman Aklestad

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asked if he means the premium tax, part of the premium tax paid to the workers compensation funds. Senator Keating responded that is correct.

Senator Lynch indicated that he would support the motion, but that he thinks the \$25,000 is not necessary. Senator Keating suggested that they argue about the appropriation, later, that this is only deciding the source of the appropriation. Senator Lynch asked if he is not talking about \$40,000, just the source. Senator Keating responded just the source.

Vote: Motion passed by the committee that HB62 be amended to make the appropriation from the administration tax rather than from the general fund, with Senator Devlin opposed.

Motion: Senator Keating offered a motion that the \$40,000 be appropriated, but that the bill be amended to direct that there be a study of the data by the actuary, before there be an actuarial report.

Vote: Motion failed in a tie vote with Senators Keating, Hofman, Pipinich, and Manning in favor, and Senators Devlin, Lynch, Nathe and Aklestad opposed.

Motion: Senator Lynch offered a motion that the appropriation for the committee be \$15,000.

Senator Keating asked what the \$15,000 is for. Senator Lynch responded for the members of study committee, for the study itself. He stated that they can have the Legislative Auditor, or whatever, go through the \$25,000, that he does not think they should start putting that into statute. Senator Keating stated that the Legislative Auditor does not have the time nor personnel to do an EDP, and they will have to contract services to get somebody in to do that, which is why he moved to leave the \$40,000 in there, that the Legislative Auditor does not have the time or personnel to do what is necessary to determine whether the data which is being furnished the actuary is accurate for reporting purposes, and that has to be audited, first.

Chairman Aklestad indicated that he would think the Legislative Audit Committee would have to make that determination, as far as priorities. Senator Pipinich asked if they want to do a whole data base research. Senator Keating responded that the workers comp computer program is out of whack, that the data which comes out of there goes to the actuary and he has been basing his projections on that, and indicated that they

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can not find fault with his projections because he is using the numbers he is getting, and they can not dispute the formula he uses. He pointed out that the question is, is the data which is going to the actuary accurate and does it really tell them what is going on inside, and that what they need is an electronic data audit to determine if the information coming out of the computer is accurate.

Senator Keating then reported that the Legislature denied an EDP auditor for the Legislative Auditor in this last session, so there is no EDP, that they have to get it from contracted services and the Legislative Auditor does not have enough money in the budget to do that sort of thing. He added that the Legislative Auditor is already strung out, and is even thinner now because of the special session, that everybody has been using him, until those guys have comp time coming out their ears, and they are going to lose a whole bunch of their auditing staff on just the normal audits which have to be done, statutorily. He indicated that they are really hard pressed and thin-ranked in the legislative audit area, so this has to be done with contracted services, that there is not enough room in the budget to do it, and there are not the people.

Senator Devlin indicated there is still some money for prioritized studies, and asked if this could come out of there. The response from several committee members was no. Senator Keating pointed out that there is not enough, Senator Lynch indicated there is \$16,600, and Senator Keating stated that is not enough. Senator Nathe asked if this motion cuts it from \$40,000 to \$15,000 and, if they vote yes, do they cut the EDP out. Senator Lynch responded that it cuts the actuarial out. Chairman Aklestad indicated not necessarily. Senator Devlin asked if they can do that on their own, inter-department. Chairman Aklestad indicated that he does not know about the audit, noting that what Senator Keating is saying has some truth, but also pointed out that they have more auditors per capita of any state west of the Mississippi, so he thinks there could be some prioritizing.

Senator Keating responded yes, but that there are more auditing requirements than any other state. Chairman Aklestad noted that a lot of it is legislators, and that priorities could be set. Senator Keating indicated that, also, there are more contracted services for audits in other states, that they should not just look at the numbers on staff, that they should take a look at what the staff does compared to what kind of audits are being done in other states, and they will find that there is a great amount of contracted services for private

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audits in other states which are not in this budget for this state. He added that the audits which are being done are required by law.

Senator Keating asked if what they are doing is reducing what has come over from the House, that the House said \$40,000, and they are reducing that to \$15,000. Chairman Aklestad pointed out that is the original figure in the bill.

Vote: Chairman Aklestad called for a roll call vote on Senator Lynch's motion that the appropriation for the committee be \$15,000, and the motion failed in a tie vote, with 4 members in favor and 4 opposed.

Motion: Senator Lynch offered a motion that HB62 be tabled.

Vote: Motion passed by the committee that HB62 be tabled, with Senators Nathe and Hofman opposed.

ADJOURNMENT

Adjournment At: 4:25 p.m.



GARY C. AKLESTAD, Chairman

GCA/mhu
HB56PM.710

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: 7/10/89 4:00

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	✓		
SENATOR SAM HOFMAN	✓		
SENATOR J.D. LYNCH	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR BOB PIPINICH	✓		
SENATOR DENNIS NATHE	✓		
SENATOR RICHARD MANNING	✓		
SENATOR CHET BLAYLOCK			✓
SENATOR GARY AKLESTAD	✓		

Amendments to House Bill No. 56
Third Reading Copy

For the Senate Committee on Labor and Employment Relations

Prepared by Tom Gomez
July 10, 1989

1. Title, line 2.

Strike: "AND"

2. Title, line 4.

Following: "DATE"

Insert: "FOR THIS ACT AND FOR SECTION 23, CHAPTER 613, LAWS OF 1989,"

Following: "AND"

Insert: "PROVIDING"

3. Page 35, line 9.

Following: "fund."

Insert: "The account consists of:"

4. Page 35, line 10.

Strike: "(2) All"

Insert: "(a) all"

Following: "and"

Insert: "including"

5. Page 35, lines 11 through 13.

Following: "tax" on line 11

Strike: remainder of line 11 through "are" on line 13

Insert: "; and

(b) revenue appropriated to the account under [section 11].

(2) All money in the tax account is"

6. Page 37, line 5.

Strike: "IS"

Insert: "and section 23, Chapter 613, Laws of 1989, are"

ROLL CALL VOTE

LABOR COMMITTEE

DATE: July 10, 1986 BILL NO.: NB62 TIME: 4:25 pm

NAME	YES	NO
SENATOR TOM KEATING		✓
SENATOR SAM HOFMAN		✓
SENATOR J. D. LYNCH	✓	
SENATOR GERRY DEVLIN		✓
SENATOR BOB PIPINICH	✓	
SENATOR DENNIS NATHE	✓	
SENATOR RICHARD MANNING		✓
SENATOR CHET BLAYLOCK		
SENATOR GARY AKLESTAD	✓	

Mary Lechman
Secretary

May C. Aklestad/nh
Chairman

Motion:

Motion by Senator Lynch to appropriate
\$15,000