

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY

Call to Order: By CHAIRMAN STEVE BENEDICT, on January 31, 1997,
at 1:00 PM, in Room 410.

ROLL CALL

Members Present:

Sen. Steve Benedict, Chairman (R)
Sen. Larry L. Baer (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Sharon Estrada (R)
Sen. Eve Franklin (D)
Sen. Fred Thomas (R)

Members Excused: None

Members Absent: Sen. James H. "Jim" Burnett, Vice Chairman (R)

Staff Present: Susan Fox, Legislative Services Division
Karolyn Simpson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 55, 1/23/97
SB 208, 1/23/97
Executive Action: None

{Tape: 1; Side: A; Approx. Time Count: 1:00 PM}

CHAIRMAN STEVE BENEDICT turned the chair over to SENATOR FRED THOMAS.

HEARING ON SB 55

Sponsor: SENATOR STEVE BENEDICT, SD 30, Hamilton

Proponents: Susan Good, HEAL MT and MT Assn. Life Underwriters
Riley Johnson, National Federation Ind. Business
Dean Randash, NAPA Auto Parts
Bob Pyfer, MT Credit Unions League
John Cadby, MT Bankers
Jeff Miller, Department of Revenue
Don Allen, MT Benefit Plan

Opponents: Bob Hestekind, MSA Services Inc.

Opening Statement by Sponsor:

SENATOR STEVE BENEDICT, SD 30, Hamilton, said there are amendments to SB 55. (EXHIBIT 1). Medical savings accounts legislation was passed in the 1995 Session. The problem with that particular legislation was that it was cumbersome for people to have the ability to administer those accounts. We are trying to streamline that process because there aren't a lot of people who have established medical savings accounts because of some of the reporting requirements. SB 55 allows people to administer their own medical savings account but should be in a separate bank account so there will not be a co-mingling of funds with any other bank account. Explanation of the amendments are as follows: 1) Clarification of account administrator and giving the opportunity for an individual to administer their own account; 2) Expands and improving access to account administrators, which allows an individual to choose any financial professional to help administer the account; 3) Clarifies that bankers are not obligated to audit medical claims thus placing the responsibility for the account on the individual; 4) Clarifies the person responsible to defend or justify the purpose for the withdrawals, to help pay for eligible medical expenses, is the account holder; 5) Self-administered medical savings accounts must be segregated from other funds, that is, no co-mingling of funds.

Proponents' Testimony:

Susan Good, HEAL Montana and Montana Association of Life Underwriters, said they support SB 55. Medical savings accounts will be a large contributor towards the goal of cost containment of medical expenses while guaranteeing the choice of health care providers. They were disappointed more people have not taken advantage of medical savings accounts, but there was a reluctance on the part of some of the financial institutions to take part in medical savings accounts because they were worried they would have too much responsibility in the way these accounts were administered. At present, medical savings accounts can be purchased in 19 places in Montana and SB 55 will help make medical savings accounts have a much larger impact on savings.

Riley Johnson, National Federation of Independent Business, said they support SB 55. They have received a lot of calls from people asking for information on medical savings accounts and say it's just too complicated. He appreciates **SENATOR BENEDICT** making it just like an IRA, where the taxpayer is responsible to handle the account properly. This may allow small businesses to get health insurance by going to higher deductible and supplement with the medical savings account.

Dean Randash, NAPA Auto Parts, Helena, said he and his employees are covered by an affordable, underwritten health insurance plan. He supports SB 55 because it frees individuals and families from third party control of their health care purchases. Hard-working Montanans can make their own health care purchases without

reporting to any appointed administrator and they shouldn't have to pay high administrative costs. This leaves more disposable income for their families. He and his employees are capable of handling their own health care, health insurance and don't need government control. There are two barriers of small business health insurance coverage. They are government control and domination, such as mandated benefits and special policies, rather than using high risk pools and tightening loopholes of policy cancellation, and government red tape, mandating complicated, confusing, and often conflicting rules and regulations of compliance, which this bill addresses. He asked that small business health insurance be kept free of mandated benefits, mandated policies, guaranteed issue, and government red tape.

Bob Pyfer, Senior Vice President, Montana Credit Unions League, said they support SB 55 and have had credit union members inquiring about medical savings accounts, but the credit union was concerned about potential liability for determination of eligible expenses and non-reversible expenses. This resulted in a chilling effect toward medical savings accounts. Because of SB 55 as amended and the implementation of good administrative rules, credit unions will start getting in to medical savings accounts. It will be a good service for members. He referred to amendment four, saying he would like to add "and are not responsible for use or application of funds" after the words "regular deposit." This addition will further clarify responsibility.

John Cadby, Montana Bankers Association, said, for reasons stated in previous testimony, they support SB 55 as amended and the amendments suggested by **Bob Pyfer**.

Jeff Miller, Department of Revenue, said he is available to answer questions.

Don Allen, Montana Benefit Plan, said they support SB 55. They have been an advocate of medical savings accounts because it's another approach to health care and helps keep costs down. When people look at their own bills from health care providers, they will have more interest in the costs, rather than turning the bills over to someone else. Montana Benefit Plan (MBP) has recently implemented medical savings accounts and are available to their employees.

Opponents' Testimony:

Bob Hestekind, MSA Services Inc., said he has formed this business. He spent about six months studying the markets and why medical savings accounts haven't taken off. He has talked to lenders and individuals and has designed a program to go in and support administrators with the required additional bookkeeping year-end reporting for medical savings accounts, provide forms and training for their people to explain the program to their customers. His main concern is who is going to be responsible to

disseminate the information and provide the training for employees to explain to consumers about medical saving account.

Questions From Committee Members and Responses:

SENATOR CHRIS CHRISTIAENS asked **SENATOR BENEDICT** why the fiscal note was not signed.

SENATOR BENEDICT said he went ballistic when he saw the fiscal note. Medical savings accounts were passed in the last Session, and, he thinks the fiscal note reflects what medical savings accounts are going do to the budget. That is a policy decision that has already been made. SB 55 is not going to create that kind of fiscal note because it says, people are going to administer their own accounts.

SENATOR CHRISTIAENS asked from where was the information obtained for the fiscal note.

SENATOR BENEDICT said the preparation of the fiscal note by the part of the Department of Revenue was based on the possible consequences of medical savings accounts becoming popular.

SENATOR CHRISTIAENS asked **Jeff Miller** about the fiscal note.

Jeff Miller said the reason for the fiscal note was the projected fiscal impact of assumptions six and seven. If all households established medical savings accounts there would be significant impact and the assumption was made that 2% of Montana households would come forward in FY 98 and 4% more in FY 99.

SENATOR CHRISTIAENS said he doesn't see additional FTE's on the fiscal note, and wondered if the Department of Revenue has enough staff or is going to absorb the additional workload of reports coming in.

Jeff Miller said when HB 560 was put in place, the Department of Revenue requested one FTE and was given one-half FTE for this biennium. They want to annualize that FTE which provides the resources to deal with the additional workload.

SENATOR CHRISTIAENS asked if they were going to continue with that half FTE.

Jeff Miller said yes.

SENATOR EVE FRANKLIN asked about current reporting requirements for administrators, SB 55 making it simpler, and what the reporting changes will be.

Jeff Miller said this is the first year for administering medical savings accounts. They registered 19 account administrators in 1996, but they not yet seen the returns processed, claiming that deduction. The reporting requirement for administrators is to report summarize the account activity, the name of the account

holder, their social security number, the gross deposits and the deductions, on an annual basis. With SB 55 plus amendments, the self-administered savings account would have the same requirements, plus a record of earnings on the account because those earnings will be tax exempt.

SENATOR FRANKLIN asked if there is a form for this reporting.

Jeff Miller said there is no printed form.

SENATOR FRANKLIN asked who could be the account administrator under HB 560.

Jeff Miller said under HB 560 it could only be state or federally chartered banks, savings and loans, credit unions, health care insurer as defined under state code, certified public accountant, an employer, if that employer had a self-insurance plan under ERISA (an acronym for a federal enactment of employer provided benefits). SB 55, with the amendments, expands the list of account administrators.

SENATOR FRED THOMAS asked if that expanded list is on page one of SB 55 and number three of the amendments.

Jeff Miller said yes it is.

SENATOR DOROTHY ECK referred to the fiscal note and said there is nothing about earnings on the account, and asked if the interest drawn on money put into the account is tax free.

Jeff Miller said there is no tax on earnings, as long as the money withdrawn is used for medical purposes.

SENATOR ECK asked under what conditions would taxes be required.

Jeff Miller said if the earnings are used for non-medical purposes, such as buying a house, education, etc.

SENATOR ECK said the wording on the fiscal note seems to assume that retirees and people with low incomes would not use the medical savings accounts.

Jeff Miller said some people could not afford to set aside \$3,000.00 per year from their disposable income.

SENATOR FRANKLIN asked about the maximum amount that can be deposited into the account.

Jeff Miller said the maximum amount that can be deducted is \$3,000 per year per person, which would be \$6,000 for a married couple.

SENATOR FRANKLIN asked if there is a cumulative amount, such as \$50,000 over a life-time.

Jeff Miller said no.

SENATOR THOMAS referred to assumption two on the fiscal note, saying senior citizens do not have the deductible to meet and would not have a need off-setting medically savings account if they carry a medicare supplement.

Jeff Miller said he didn't know.

SENATOR THOMAS said the assumption is probably based on need, but if they didn't need a medical savings account, they wouldn't use it.

Jeff Miller said it's hard to know.

SENATOR FRANKLIN asked what people define as medical expenses.

Bob Turner, Income Tax Division, said HB 560 medical expense was tied to the federal uses.

SENATOR FRANKLIN asked about the availability of that information to consumers.

Bob Turner said that information is available now in federal government publication 17, and IRS publication 502 lists medical and dental expenses.

Closing by Sponsor:

SENATOR BENEDICT thanked the committee for all of the good questions asked.

CHAIRMAN BENEDICT resumed the chair.

HEARING ON SB 208

Sponsor: SENATOR SHARON ESTRADA, SD 7, Billings

Proponents: Darryl Bruno, Department of Health and Human Services
Janet Jessup, Department of Justice
Ellen Engstedt, Don't Gamble with the Future
Larry Akey, Montana Coin Machine Operators
Dave Brown, Independent Machine Operators Assn.
Ronnie Rae, self
Lanny O'Leary, self
Mark Staples, MT Tavern Assn.
Dennis Casey, MT Gaming Assn.
Ed Bucher, self
Louise Biggs, self
Mary McCue, MT Mental Health Assn.
Kathy McGowen, MT Add Services
Gloria Hermanson, MT Psychological Assn.
Sharon Hoff, Montana Catholic Conference
Bob Torres, MT Chapter Social Workers

Pat Melby, Rimrock Foundation
Andrea Merrill, Mental Health Assn. MT
Betty Waddell, MT Assn. Churches
Joan Myers, self
Arlette Randash, Eagle Forum
Alan Ruby, Don't Gamble with the Future
Laurie Koutnik, Christian Coalition
Linda Voy,

Opponents: None

Opening Statement by Sponsor:

SENATOR SHARON ESTRADA, SD 7, Billings, said SB 208 is at the request of the Gaming Advisory Council. SB 208 authorizes the Department of Health and Human Services to adopt rules necessary to design, implement, and administer a problem and pathological gambler treatment program. She distributed amendments to SB 208. (EXHIBIT 2).

Proponents' Testimony:

Darryl Bruno, Addictive and Mental Health Disorders Division, testified in support of SB 208. (EXHIBIT 3) and (EXHIBIT 4)

{Tape: 1; Side: B; Approx. Time Count: 1:46 PM}

Janet Jessup, Administrator, Gambling Control Division, testified in support of SB 208. (EXHIBIT 5)

Ellen Engstedt, representing Don't Gamble with the Future, testified in support of SB 208. (EXHIBIT 6)

Larry Akey, representing Montana Coin Machine Operators, said their members are Montana businesses who place video gaming equipment into Montana bars and taverns. This kind of legislation has been before the Legislature several times in the past (1991, 1993, 1995, and now 1997), and he will be here until the Legislature recognizes this problem. The gaming industry recognizes that, to a small portion of the players, gambling is not just entertainment but becomes a problem to some people. This bill addresses the concerns others have had in the past and money is contained in the Governor's budget request to fund this program at a startup level. The money will come from sources within the industry, excess fees paid beyond what the Department of Justice needs for its regular functions and interest on taxes paid by the gaming industry.

Dave Brown, representing Independent Machine Operators Association, strongly supports this legislation because they feel they have an obligation to those whom gambling becomes a problem.

Ronnie Rae, self, said he was a compulsive gambler. He said, eventually compulsive gamblers have nowhere to turn and must hit bottom, which includes severe depression, suicidal tendencies, alcoholism, bankruptcy and crime, before seeking treatment, but

at this point are too financially devastated to be able to afford treatment for their addiction. In addition, most gamblers lose their support system consisting of their family, job, and friends, leaving them alone with their problem. He was fortunate enough to have family support who paid for his addiction in Arizona.

Lanny O'Leary, self, said he was a compulsive gambler and a bill of this kind should have been brought up the first day gambling was started in Montana. He lost everything because of gambling and when a gambler has a problem, they will not recognize it. It is not possible to tell by looking at a person that they are a gambler. Compulsive gamblers need help and need a treatment center where they can get needed help. Families of gamblers also need help to be able to recognize the problem and get help for the family member who has a problem with gambling.

Mark Staples, representing Montana Tavern Association, said the recipients of tax monies derived from gambling should take some of the responsibility for some of the social cost of gambling and the industry should take some responsibility. The program must get started, even with the \$100,000.00 for the first year, then \$200,000.00 for the second year. If the program and treatment is deemed successful, then more money could be requested for the program.

Dennis Casey, Executive Director, Gaming Industry Association, said they took part in the development of SB 208 and urge its passage.

Ed Bucher, representing self, said he is a gambler, has that addiction, and needs to be at a meeting on his days off. He needs help and wants to help others. He still has his family and it took four years to pay off his treatment bill, and urged passage of SB 208.

Louise Biggs, representing self, said she is a compulsive gambler and has been abstinent from gambling for three years, but this is not the first time she quit. The first time she tried it on her own and was successful for 14 months. The second time she went to treatment which helped her to change her mindset to get well and focus her energies on the problem. She said a gambler doesn't think straight and are not themselves. Her family made an appointment with a certified gambling counselor, but it took quite a while for the treatment to be effective. She no longer has the gambling desired like she did when she tried to quit on her own, said treatment is very valuable for compulsive gamblers. She wants to see some education about gambling addiction for the public, those in the judicial system, and the lawmakers.

Mary McCue, representing Montana Clinical Mental Health Councilors Association, said the councilors she represents have had an increasing number of people come to them with problems involving addictive gambling. She urged the passage of SB 208 and

agrees with those who testified that the money allotted for the program isn't enough.

Kathy McGowen, representing Montana Addictive Services Providers and Montana Council of Health Centers, said both organizations support SB 208. They are concerned about establishing another under-funded program because, as providers, they are struggling to serve the populations they already have. A misunderstanding has been given to the public, legislature and other people that just because there is a program, people will get services, but that is not necessarily true. People are put on waiting lists and become angry they aren't getting services and providers get frustrated they can't provide the services and angry with the Legislature for not providing enough money.

Gloria Hermanson, representing Montana Psychological Association, said people in the psychological industry are seeing this as a bigger and bigger problem as time goes on. SB 208 is a beginning, but is grossly under-funded. She urged passage of SB 208.

Sharon Hoff, Montana Catholic Conference, said they support SB 208 and have supported this type of legislation in previous sessions. She said this is a very small bandaid because there is not enough money and the problem is a lot deeper than just the compulsive gamblers.

Bob Torres, Montana Chapter National Association of Social Workers, said he affirms this is defined as a disease in DSM 4 from the American Psychiatric Association and it is treatable as a disease, and is a family disease as well. He urged support of SB 208.

Pat Melby, representing Rimrock Foundation, said Rimrock is an addictive treatment disorders facility in Billings. They have provided gambling addiction treatment for many years and have many experienced councilors. They support SB 208. He submitted testimony from **Mona Sumner. (EXHIBIT 7)**

Andrea Merrill, Executive Director, Mental Health Association of Montana, testified in support of SB 208. **(EXHIBIT 8)**

Betty Waddell, representing Montana Association of Churches, testified in support of SB 208. **(EXHIBIT 9)**

Joan Myers, representing self, said she is a compulsive gambler and went to treatment this summer, but had to go out of the state because she could not afford the treatment available in Montana. The treatment for a gambling disorder is a specific exclusion on her health insurance and it was necessary for her to borrow money for treatment. Her out-of-state treatment was excellent but her family members could not be included, so it was difficult for them and for her to come back without their having received some treatment.

Arlette Randash, Eagle Forum, said they support SB 208. understanding the impact this pathology has on families. So many times the Legislature addresses the bandaids to problems rather than the problems, and will ultimately need to come to grips with the impact gambling is having. She said this is a start and urged support of SB 208.

Alan Ruby, representing self, said he is embarrassed as the meager funding level of \$100,000.00 for the first year and \$200,000.00 for the second year. This proposed funding level for treatment is about \$20-\$40.00 per year for the 5,500 Montanans with a gambling addiction. He suggested the committee an amendment for funding at a more realistic level. He urged passage of SB 208.

Laurie Koutnik, Executive Director, Christian Coalition of Montana, said they support SB 208. She urged the committee to think about the number of people adversely affected by gambling and consider increasing the amount of money to meet the need.

Linda Voy, representing self, said she was a member of the advisory board and is delighted this bill has finally been drafted, even at the meager funding level, to generate support of the industry and those who are concerned about the addictions.

Opponents' Testimony: None

{Tape: 2; Side: A; Approx. Time Count: 2:23 PM}

Questions From Committee Members and Responses:

SENATOR LARRY BAER said apparently half of the funding is matched by General Fund money, generated from interest on the special licensing.

Larry Akey said that is partially right. It is interest on taxes collected before they are paid back to local government.

SENATOR BAER asked if it's interest money derived from fees and taxes paid by the industry.

Larry Akey said yes it is.

SENATOR BAER asked if there will be sufficient amount of this interest money in the General Fund in the future to maintain this matching aspect of the fund.

Larry Akey said the future is unknown, but it would probably be there, at least for this and the next biennium.

SENATOR BAER asked **Larry Akey** if he anticipated the need for this program will continue to increase year after year, and said he is concerned about the ability to fund it under the proposed method.

Larry Akey said it depends on a number of other decisions by the Legislature. The amount of money the industry pays in permit fees on the on the video gaming machines and the amount of money the Legislature has allocated to the Department of Justice for regulation of those businesses, there should be sufficient funding. In the past, the amount of money paid by the industry exceeds the amount allocated for regulation.

SENATOR BAER asked about the anticipated success of this type of treatment of compulsive gambling addiction.

Darryl Bruno said gambling treatment is relatively new and not much data available. A 1992 study showed a success rate up to 55% and others have reported 71%. The success rate for chemical dependency is about 65% for those who complete the program.

SENATOR EVE FRANKLIN asked about the pre-conceived notions concerning the of model treatment because the decision has already been made about the program officer.

Darryl Bruno said this will be a new program and will be looking at criteria for who will provide the services, mechanism for funding the program, look at treatment programs in other states, establishing a hot line, and developing prevention and education materials along the line of responsible games and signs of compulsive gambling. The people who do the treatment need to be chemical dependency councilor with special training regarding identification and treatment of problem gamblers.

SENATOR FRANKLIN asked when direct services will be provided.

Darryl Bruno said in the next fiscal year.

SENATOR FRANKLIN asked about the concept of starting another state-funded program or use those funds in already existing private programs, or an attachment to St. James Hospital in Butte to avoid starting a whole new program.

Darryl Bruno said the answer is no. They are not going to set up a new state program, but are looking at existing providers and counselors in the private sector. Once this bill is passed, he will assemble a task force consisting of representatives from counseling profession, social workers, and providers.

SENATOR FRANKLIN asked if the program officer would have a clinical background to be able to evaluate this, or is the position administrative.

Darryl Bruno said yes, that is the type of person they will be looking for.

SENATOR DOROTHY ECK said the general consensus is the funding is not adequate, and would there be opposition from the industry if

it were necessary to increase a tax or fee to help fund the program.

Dave Brown said he can only speak for his organization, but, at this time, he doesn't see any need for that. There are sufficient funds available through the tax and fees, at least through this 2-year period.

SENATOR ECK asked if a larger appropriation was recommended and why was it cut.

SENATOR ESTRADA said the budget office.

SENATOR CHRIS CHRISTIAENS asked about the number of people with addiction and how many are polyaddicted.

Darryl Bruno said he didn't know, but has been gathering information from those coming to the chemical dependency program. Based on admissions, 124 have the primary problem of alcohol or drug abuse and also have experienced gambling problems.

SENATOR CHRISTIAENS said the fiscal note indicates an average of \$1,200.00 per patient for treatment, and asked about the average cost for in-state versus out-of-state treatment.

Darryl Bruno said Rimrock Foundation has a gambling treatment program costing \$6,000.00 to \$9,000.00. They are proposing to provide services on an out-patient basis and the chemical dependency program cost is \$1,500.00 to \$2,500.00.

SENATOR CHRISTIAENS asked about the average length of stay for in-patient treatment.

Darryl Bruno said at the Montana Chemical Dependency Center, it is 26 to 27 days for in-patient, and longer for out-patient basis of six or more weeks plus 12 weeks of after-care.

SENATOR CHRISTIAENS asked about insurance coverage for this addiction.

Larry Akey said most commercial health insurance policies don't cover treatment for pathological gambling.

SENATOR CHRISTIAENS asked about the possibility of insurance companies adding coverage for addictive gambling treatment.

Larry Akey said as pathological gambling is recognized as a mental illness and a serious health public policy concern, insurance companies may be more willing to consider adding pathological gambling to their policies, but would need to have specifically identifiable criteria and treatment options.

SENATOR CHRISTIAENS asked if there would be coverage under the new mental health managed care program.

Dan Anderson said it would not. Pathological gambling is not part of mental health managed care.

SENATOR CHRISTIAENS said he has been trying to get this issue covered since 1985, when gambling started in Montana. It's good to put these things on books but funding is a problem. There are more than 1,000 on the waiting list for Developmentally Disabled (DD) services.

SENATOR Bob DePRATU said the fiscal note indicates approximately 70 people would probably apply, and asked **Darryl Bruno** for his estimate of the number needing service, or how big is the problem.

Darryl Bruno said there are probably a lot more than 70 needing services, but there is no information on the number who would follow through. The first year would be a lower number because many people would not be aware a treatment program is available. He anticipates quite a few referrals from the county attorneys, because there are probably people in the county who have gotten into trouble writing bad checks.

Closing by Sponsor:

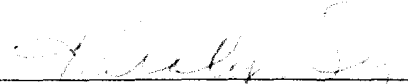
SENATOR SHARON ESTRADA thanked all of the proponents for coming to testify for the bill. She is concerned about the funding for the program. **SENATOR ESTRADA** urged a Do Pass on SB 208.

ADJOURNMENT

Adjournment: 2:46 PM



SEN. STEVE BENEDICT, Chairman



KAROLYN SIMPSON, Secretary

SB/ks