Old Fund Efforts

Information as of 12/31/08

BUSINESS & LABOR
EXHIBIT NO. 8
DATE 1-28-09
BILL NO. SB224

Team 7 Staffing

9FTE Assigned to Team 7

Team Leader

Claims Specialist
5 Claims Examiner
Medical Only Examiner
½ time MCM
½ time Admin. Assistant

as of 12/31/2008

Old Fund Facts

- 457 claims with reserves over $250,000
- 37 claims with reserves over $1 mil.
- 5 claims with reserves over $5 mil.

- Oldest active claim: 1960 injury – amputation of right leg above the knee.
  - IE was 24 yrs old at TOI and is currently 73
  - Reserves are at $155,877,31

- Oldest injured employee: 94 yrs. old – amputation of left leg.
  - IE was 60 yrs. old at TOI.
  - Reserves are at $285,924,70

- Oldest person receiving benefits 94
  - Average age of injured employees: 61.1

as of 12/31/2008

Old Fund Facts

Survey of ages of injured employees

90 - 99	2
80 - 89	47
70 - 79	142
60 - 69	330
59 and younger	433

as of 12/31/2008

Old Fund Claims

FY	Active	Reopen Requests	Files Reopened	Net Closures	Gross Closures
2001 – 2003 Net Closures = 51					
2004	1222	607	83	235	318
2005	1120	565	72	102	174
2006	1002	373	41	118	159
2007	967	255	36	35	71
2008	951	542	86	16	70
2009	954	353	32	-3	35

as of 12/31/2008

Number of Claims by Accident year

Accident Year: 1960 – 1975
Active Claims: 27

Accident Year: 1976 – 1982
Active Claims: 184

Unknown: 3*

*asbestos claims made after 2004 for exposure prior to 1990

Accident Year	Active Claims
1983	59
1984	67
1985	75
1986	94
1987	117
1988	112
1989	106
1990	108

as of 12/31/2008

Old Fund Claims by Disability

Fatal	PPD	TTD	PTD	MO	*	Total
93	460	18	357	25	1	954

*Asbestos Claim – undetermined disability as of 12/31/2008

as of 12/31/2008

Major Financial Events State Compensation Insurance Fund
(In Thousands)

Event	Old Fund Activity				Transfer Activity (Out) In		
	Payroll Tax	Paid Claims	Equity 6/30	Bonds	New Fund	Old Fund	General Fund
1987 .30% efective July 1 1987							
Jun 88	10,952						
1989 General Fund approp	13,031					20,000	(20,000)
Jul-90 Old Fund/New Fund creation							
Jul-90 Contributed Capital					12,000	(12,000)	
Jun -90 .28%	12,976						
Jul-91		(97,959)	(461,560)				
Jun-91	12,765						
Jul-91 Payroll Tax bonds Sold				142,095			
Jun-92	12,013	(66,348)	(499,085)				
Jun-93	18,274	(47,437)	(497,436)				
Jul-93 .20% Employee Tax							
.48% Employer Tax							
Oct -93 Bonds				32,500			
Jun-94	40,950	(28,414)	(471,392)				
Jun-95	48,418	(22,626)	(413,938)				
Jun-96	46,439	(22,300)	(355,138)				
Sep 96 NF Dividend to Defease old fund bond:					(103,000)	103,000	
Jun -97 Return of Contributed Capital					(12,000)	12,000	
Jun-97	49,208	(16,332)	(183,182)				
Jun-98	51,963						
Jun -98 1997 Session SB 67			(70,585)		(10,000)		10,000
Jun-98 NF Dividend to OF		(14,584)	(70,585)		(63,800)	63,800	
Jun - 99 1997 Session SB 67					(10,000)		10,000
Jun-99	28,891	(12,990)	14,377				
Jun-00	1,892	(13,421)	18,560				
FY 2001 OF excess Transfer					6,765	(6,765)	
Jun 01	113	(13,918)	22,782				
FY 2002 OF excess transfer					7,408	(7,408)	
Jun - 02	28	(12,733)	24,866				
OF excess for transfer in FY 2003**			(13,178)				
Unrestricted OF equity			11,688				
Net Transfers					(172,627)	172,627	0
Total Tax Collected	347,913						
Total Paid Claims		(369,062)					

**As revised by SB19, section 39-71-2352(5), MCA, Montana State Fund must transfer $1.9 million to the General Fund, $2.1 to the School Flexibility Fund, and the remaining $9.178 million to the New Fund.

Complied by the Legislative Audit Division November 7, 2002

LEGISLATIVE AUDIT DIVISION

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June 17, 2004

Representative Roy Brown
PO Box 22273
Billings MT 59104-2273

Dear Representative Brown:

You asked that I provide additional information about the Montana State Fund-Old Fund Statement of Net Assets. You also asked that I provide a summary of the potential impacts and legislative considerations should the Montana State Fund-Old Fund experience negative net assets.

Attached is a copy of the Montana State Fund Legislative Audit Report for the Fiscal Year ended June 30, 2003. On page A-15 is the Montana State Fund-Old Fund Statement of Net Assets. As of June 30, 2003, the net assets totaled $6,194,791. The primary assets of the Old Fund are investments which totaled $81,902,358 as of June 30, 2003.

The primary liabilities of the Montana State Fund Old Fund are noncurrent liabilities. The $70,722,000 represents the present value of the actuary's estimate of the claims that the Old Fund may pay in the future. This estimate is based upon a number of factors including the population of existing claims, nature of the injuries, medical inflation, longevity estimates for the claimant population, etc. The State Fund uses the estimate in order to establish and set aside funds, commonly called reserves, which will be invested and, along with the investment earnings, be used to pay for future claims.

The net assets of the Montana State Fund Old Fund could become negative for a number of reasons. For example, investment earnings could be less than projected; adverse claims development could happen due to court decisions impacting existing Old Fund claims; or, the population of Old Fund claimants could change due to increased longevity thereby increasing the actuary estimate of the total Old Fund liability.

If the net assets of the Old Fund become negative, what should the Montana Legislature consider for future action? First, it is very important to note that "negative net assets" does not mean there is an immediate fiscal crisis or that the Old Fund is out of money. Negative net assets simply means that, based upon the actuary's estimate of the future claims liability, there may not be enough money to pay claims in the future

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Based upon legislation passed last session, the Old Fund should be operating at breakeven. The legislature intended that the fund neither build excess surplus nor incur excess liabilities over the life of the remaining claims. Since the Old Fund is made up of claims for injuries that occurred prior to July 1, 1990, the fund should have just enough reserves to pay off those claims in the future, no more and no less.

Overall, negative net assets should raise the level of interest by the Legislature and the cause of the downturn should be identified. It is very common for the actuary to revise the estimated claims liability for the Old Fund. The reason for the change is what needs to be considered. A significant court case that has a material impact on future claims liability would be a major cause for concern. A slight decrease in investment earnings during one fiscal year, although cause for increased monitoring, should be less of a concern.

If the net assets of the Old Fund turn negative, does the General Fund have to immediately provide funding to the Montana State Fund-Old Fund? Section 39-71-2352 (6), MCA, states " If in any fiscal year after the old fund liability tax is terminated claims for injuries resulting from accidents that occurred before July 1, 1990, are not adequately funded, any amount necessary to pay claims for injuries resulting from accidents that occurred before July 1, 1990, must be transferred from the general fund to the account provided for in 39-71-2321." The actuary's estimate has a significant impact on the net asset balance. As a result of a change in the actuary's estimate of future claim expense, the net asset value could be negative. However, the actuary's estimate does not represent a "bill" or a current liability of the General Fund. A valid bill must be paid when a doctor visit occurs, a medical expense such as an x-ray is incurred or a compensation payment must be made. The fact that the actuary estimates the Old Fund will have a bill to pay in the future does not represent a current "bill" of the Old Fund. Until such a time when the Old Fund does not have assets, including cash, receivables and investments to pay to bills, the General Fund has no current liability under the law. Currently, the Old Fund has adequate assets to pay bills for a number of years in the future.

I hope this information provides the clarification you requested. Please feel free to contact me if I may provide further assistance.

Sincerely

Scott A. Seacat
Legislative Auditor

Sas-Rbrown-wrkcomp.doc
Enclosure

Old Fund
Investment Activity and Investment Balances

	FY 2009 (Preliminary) 6 Months Ended December 31, 2008	FY 2008 Year Ended 6/30/2008	FY 2007 Year Ended 6/30/2007	FY 2006 Year Ended 6/30/2006
From Operating Results				
Investment income earned	519,632	1,717,491	2,248,355	2,650,575
Gains (Losses) on investments (realized from sales)	(263,194)	134,802	10,185	233,830
Market Changes on Investments (Unrealized Gains or (Losses))	(115,242)	341,065	449,325	(1,011,245)
Net Asset Balances				
Net Unrealized Gain (Loss) included in Balance of Investments	12,250	127,492	(213,573)	(662,897)
Net Invested Assets Balance	10,066,813	19,925,461	34,713,171	43,252,383
Cash and STIP Balance	15,238,353	12,383,308	7,861,757	8,675,911

Notes:
The Old Fund has not experienced significant fluctuations in gains or losses in the value of the investments held
Most Investments held are AAA rated bonds
The Old Fund assets are not and never have been invested in stock
More recently, as bonds mature, the cash is held in STIP as less ioptions for re-investment and the cash will be needed to pay claims.
OF invested assets are not taking write downs for loss of value as they are invested in high quality bonds
Market value of bonds held as of 12.31.2008 remain above book value by $12,000

	FY 2009 (Preliminary)	FY 2008	FY 2007	FY 2006
Beginning Investments and Cash	32,308,769	42,574,928	51,928,294	63,560,804
Payments on claims and administrative costs	(7,144,799)	(12,459,517)	(12,061,231)	(13,505,670)
Investment income received	519,632	1,717,491	2,248,355	2,650,575
Net Gains or (Losses) on investment sales transactions	(263,194)	134,802	10,185	233,830
Change in value of assets	(115,242)	341,065	449,325	(1,011,245)
End of Period Investments and Cash	25,305,166	32,308,769	42,574,928	51,928,294

Bipartisan leadership is needed to restore Old Fund

Print Page

By BOB KEENAN

Leadership often requires tough decisions. During the 2003 legislative session, our state faced a challenging $232 million budget deficit. However, that deficit was eliminated when Republican and Democrat legislators came together and made tough choices to restrain government spending, hold the line on tax increases and balance the budget as required by the Montana Constitution.

As part of the effort to eliminate the deficit in 2003, Republican and Democrat legislators voted to transfer excess reserves from the Old Fund for workers' compensation into the state's general fund account. This plan had wide support in the legislature with then-state senator and now U.S. Sen. Jon Tester and then-state senator and now Lt. Gov. John Bohlinger both voting in favor of the transfer.

Fortunately, our comprehensive plan of holding the line on taxes and spending and using excess Old Fund reserves to balance the budget worked. The sound fiscal management from the 2003 session helped create a thriving economy in Montana and led to a budget surplus of nearly $400 million by the time the 2005 legislative session began.

That's why it's so disappointing to see Gov. Brian Schweitzer turning this bipartisan effort to transfer Old Fund reserves into partisan political football by referring to it as "Ponzi-style accounting." If it was such a bad policy, then why did Schweitzer's own lieutenant governor vote in favor of it?

I suppose it was foreseeable that Schweitzer wouldn't understand our 2003 budget balancing plan because he's never had to make difficult budget decisions. You see, when Schweitzer was sworn in as governor in 2005, he inherited the very $400 million budget surplus that our hard work, leadership and tough decisions created.

While the governor is now talking tough and saying the 2009 Legislature needs to address the issue, what he's not telling Montanans is that his administration did not support a Republican bill in the 2005 legislative session to restore the money transferred from the Old Fund by using money from the budget surplus. In fact, SB 315, introduced by Sen. John Esp of Big Timber, was killed in committee by Democrats on a party-line vote. When Esp approached the governor's budget director about getting their support for the plan, his efforts fell on deaf ears. Additionally, the 2007 session came and went without so much as a peep from the governor's office about shoring up the Old Fund at a time when we had record budget surpluses. For 34 months Brian Schweitzer has been Montana's governor and there have been five regular and special sessions of the Legislature. When you assume a responsibility, be responsible - don't play the blame game.

Interestingly, now that we're heading into an election year and Sen. Roy Brown (one of the legislative leaders that helped push through the 2003 balanced budget) has announced a challenge to Schweitzer in the next election, all of a sudden the governor is concerned about shoring up the Old Fund.

Fixing the fund shouldn't be a partisan issue and it certainly shouldn't be an election issue. Legislators, both Republicans and Democrats, need to come together and resolve the problem. We won't always have budget surpluses in Montana, and there will certainly be more tough budget decisions ahead. However, it's our obligation to ensure that existing claims against the Old Fund are paid in full. We can't do that by launching thinly-veiled political attacks and attempting to assign blame. We can only fix the problem through honest dialogue and a genuine effort to work together to make Montana better. Now is the time for bipartisan leadership, not partisan rhetoric.

Bob Keenan was Senate president in 2003 and Senate Republican leader in 2005. He lives in Bigfork.

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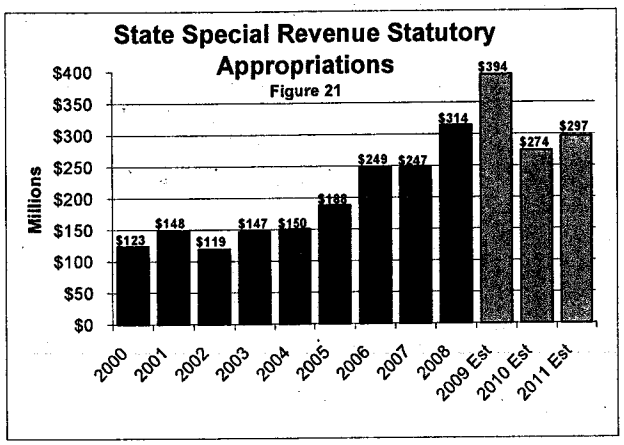
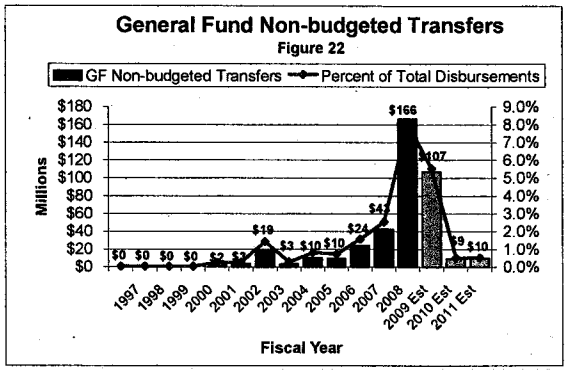
State Special



It is estimated by the executive that $570.4 million of state special revenue will be spent through statutory appropriations in the 2011 biennium. Figure 21 shows the amounts spent from FY 2000 through FY 2008 and the amounts estimated by the executive to be spent from FY 2009 through FY 2011. In FY 2008, the agency with the largest expenditures of state special revenue ($172.4 million) with statutory appropriations was the Department of Revenue. This department distributes revenue from oil, natural gas, metalliferous mines, beer, wine, and liquor taxes to local and tribal governments. The agency with the second largest expenditures ($54.7 million) is the Office of Public Instruction which distributes net interest and income from the common school trust to fund public schools. The five agencies with the largest expenditures spent $291.8 million or 92.9 percent of the $314.1.2 million total. By far, the largest single purpose for which the money was spent ($282.4 million or 89.9 percent) was to transfer money to local governments. The large increase in FY 2009 is due primarily to larger anticipated Department of Revenue distributions ($212.4 million) to local governments and anticipated expenditures ($40.0 million) from the fire suppression account authorized by the 2007 Legislature in the September 2007 special session.

General Fund Non-Budgeted Transfers

The Montana Constitution requires that all money paid out of the state treasury, except interest paid on the public debt, be done with an appropriation. However, the state treasury consists of numerous accounts and, with proper legislative authorization, money may be transferred from one account to another without an appropriation. This results in less money in one account for the programs it funds and more in another. Like statutory appropriations, these transfers and their authorizations are in statute (or sometimes contained in uncodified legislation) and are not part of the biennial budgeting process, yet they affect the amount of money available for the legislature to appropriate for specific programs. Because they are in statute, they remain in place until removed or changed by legislation.



Since FY 2000, increased amounts of money have been transferred out of the general fund to other accounts that fund non-general fund programs. As illustrated in Figure 22, this amount has grown from $0 in FY 1999 to a high of $166.4 million in FY 2008. Of the $166.4 million, $158.0 million was uncodified one-time transfers for capital projects ($82.6 million), water adjudication ($25 million), noxious weed trust fund ($5.0 million), cultural trust fund ($1.5 million), national guard life insurance ($1.0 million), and children trust fund ($1.0 million) among others. An estimated $107.0 million is to be transferred in FY 2009 (5.5 percent of total general fund expenditures) including one-time transfers to other funds of $98.2 million for capital projects, community health center support, free hunting licenses, and national guard life insurance. Transfers are estimated to be $18.6 million in the 2011 biennium. Included for the first time is an anticipated transfer of $0.8 million to the workers compensation old fund in FY 2011 (39-71-235(6), MCA). Beginning FY 2012 at $8.0 million, the Montana State Fund estimates yearly general fund transfers, in decreasing amounts, will be needed until FY 2047. Total general fund transfers to the old fund are estimated to be $52.2 million.

These transfers reduce the amount of money in the general fund that is available for general fund programs and increase the amount available for other non-general fund programs. Figure 23 shows each non-budgeted general fund transfer that has been included in the general fund balance sheet.

Figure 23

General Fund Non-budgeted Transfer Estimates
Fiscal Years 2009-2011
(Millions)

Authorization	Name	Legislative Session	Fiscal 2009	2011 Biennium Fiscal 2010	Fiscal 2011	Total
Vehicle/Other Fee Transfers						
15-1-122(1)	DPHHS-Adoption services	2001	$0.054	$0.059	$0.065	$0.124
15-1-122(2)(c,d)	DOT-Nonrestricted account	2001	3.096	3.142	3.190	6.332
15-1-122(3)(a)	DEQ-Junk vehicles	2001	1.701	1.693	1.657	3.350
15-1-122(3)(b)	Agriculture-Noxious weeds	2001	1.724	1.716	1.680	3.395
15-1-122(3)(c)(i)	FWP-Boat facilities & enforcement, OHV, Parks	2001	0.529	0.526	0.515	1.041
15-1-122(3)(c)(ii)	FWP-Enforcement, snowmobiles	2001	0.115	0.114	0.112	0.226
15-1-122(3)(c)(iii)	FWP-Motorboats	2001	0.184	0.183	0.179	0.362
15-1-122(3)(d)	MA-Veterans' services	2001	0.735	0.732	0.717	1.449
15-1-122(3)(e)	DOT-Disabled seniors transportation	2001	0.345	0.343	0.336	0.679
15-1-122(3)(f)	MA-Search and rescue	2001	0.046	0.046	0.045	0.091
Sub-total			$8.527	$8.554	$8.495	$17.049
Other Transfers						
Unknown	DPHHS Nonbudgeted		$0.248	$0.248	$0.248	$0.496
17-1-511(2)	SB 553 - Incentives for rural physicians	2007	0.057	0.114	0.170	0.284
39-71-2352(6)	Old state fund shortfall	2002 SS	0.000	0.000	0.760	0.760
53-20-171(2)	Developmental disability tax credit excess	2003	Unknown	Unknown	Unknown	Unknown
77-1-108(4a)	HB 19 - To trust land administration account	2007	0.000	0.080	0.000	0.080
87-2-801(6)	SB 166 - To general license acct. purple heart free license	2007	0.001	0.001	0.001	0.001
87-2-803(12c)	SB 243 - To general license acct. national guard free license	2007	0.027	0.027	0.027	0.054
87-2-805(5)	SB 166 - To general license acct. senior & youth free license	2007	0.116	0.000	0.000	0.000
Un-codified	HB 4 - Transfers to capital project funds	2007 SS	97.323	0.000	0.000	0.000
Un-codified	HB 155 - National guard life insurance	2007	0.100	0.000	0.000	0.000
Un-codified	HB 406 - Community health center support	2007	0.650	0.000	0.000	0.000
Sub-total			$98.521	$0.469	$1.206	$1.676
Total			$107.049	$9.023	$9.701	$18.725

LFD COMMENT Executive Budget General Fund Transfers – HB 10, HB 5, HB 135, (HB 161 (LC 276)

In HB 10, the executive proposes to transfer $6.9 million general fund to the information technology capital projects fund during the 2011 biennium. The transfers are contingent on the FY 2011 general fund balance exceeding $300 million, as projected by the Governor's Office. Since the projected balance is $295.5 million, the transfer is not included in the budget. The money would be appropriated from the account for: 1) efficiency through imaging; and 2) a new medical management information system for DPHHS. More information on these proposals can be found in Volume 7, Section F.