

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION FREE CONFERENCE COMMITTEE ON HOUSE BILL 2

Call to Order: By **CHAIRMAN BOB KEENAN**, on April 19, 2001 at 8:45 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Bob Keenan, Chairman (R)
Rep. Steve Vick, Chairman (R)
Rep. Matt McCann (D)
Sen. Linda Nelson (D)
Rep. Dave Lewis (R)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Clayton Schenck, Legislative Fiscal Analyst
Taryn Purdy, Legislative Fiscal Division
Paula Broadhurst, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.
Transcribed by Prudence Gildroy

Committee Business Summary: HB 2

CHAIRMAN BOB KEENAN advised there were some amendments being printed that had to do with educational funding and an energy bill. He noted that **SEN. LORENTS GROSFIELD, SD 13, Big Timber** had an interest in amendment HB000267.alt.

EXHIBIT (frs88hb0002a01) The amendment had to do with driver education and improvement. The amendment had failed and it was being asked that the committee reconsider its action.

SEN. GROSFIELD stated he was the sponsor of SB 334 which passed both houses and had been signed by the governor. It set up a driver rehab program for those with bad driving records. The fiscal note identified about 1300 drivers with eighteen or more

points that the program would serve. Those individuals would have to pay about \$65 per person. The amendment would authorize the department to spend the money. There would be a state sanctioned certification, so the department would have to decide how to certify and monitor the individuals. The drivers would be referred by the courts. The fiscal note had been cut down and the fees would cover expenses.

REP. STEVE VICK asked if people would be sentenced to the program. **SEN. GROSFIELD** indicated yes.

SEN. TOM ZOOK asked if the program was already going in the state. **SEN. GROSFIELD** stated that there were several driver rehab contractors in the state, but there was no state sanction for it. **SEN. ZOOK** asked if there had been any follow-up. **SEN. GROSFIELD** said there had not been any official follow-up, although there had been no returnees.

Motion/Vote: **CHAIRMAN KEENAN** moved **TO RECONSIDER ACTION ON HB000267.ALT**. Motion carried unanimously.

Motion/Vote: **SEN. ZOOK** moved that **HB000267.ALT BE ADOPTED**. Motion carried unanimously.

Motion: **REP. MATT MCCANN, HD 92, Harlem,** moved **TO RECONSIDER ACTION ON HB000257.AGD**. **EXHIBIT(frs88hb0002a02)**

REP. MCCANN explained the purpose was for rural Montana. SB 440 was on the governor's desk and there was a mechanism within that bill that created revenues for the program. If the amendment did not pass, the dollars could not be spent.

Discussion:

REP. VICK said the problem he had was raising vehicle license fees. He felt that was not appropriate.

Vote: Motion carried 5-1 with Vick voting no.

Vote: Motion that **AMENDMENT HB000257.AGD BE ADOPTED** carried 5-1 with Vick voting no.

Section D:

Motion: **REP. MCCANN** moved that **AMENDMENT HB000286.ALT BE ADOPTED**. **EXHIBIT(frs88hb0002a03)**

SEN. ZOOK advised the amendment dealt with vacancy savings, the underfunded present salaries, and additional funds for reorganization and reclassification.

Wayne Budt, Public Service Commission, advised the four percent vacancy savings was already in the budget. They were asking for that back in order to fund positions on a timely basis. Vacancy savings were hard in an agency of their size. Vacancy savings were not taken from agencies of 20 or less and the PSC had 34. He said that when someone left the agency, sick leave and vacation was paid, and the position held open, the seven month boilerplate language would come into play. The unfunded present salaries were from a change that the new commission made after the subcommittee met for an additional administrative position. They used a lower level clerical position and turned it into an administrative position. The reorganization/reclassification was necessary to retain staff to deal with energy issues.

SEN. ZOOK stated there were 34.5 FTE in the agency and there was money in the budget office for agencies with twenty or fewer. He did not understand why this was different and expressed he would not be interested in reinstating the vacancy savings.

CHAIRMAN KEENAN indicated that the vacancy savings on the amendment were four percent. There had been a substitute amendment the previous day for two percent.

REP. VICK thought two percent was more appropriate.

Substitute Motion: REP. MCCANN made a substitute motion **TO CUT THE VACANCY SAVINGS TO 2 PERCENT AND REMOVE THE FUNDING FOR REORGANIZATION/RECLASSIFICATION.**

SEN. LINDA NELSON asked about unfunded present salaries. **Mr. Budt** said that was a change that the new commission made by filling a lower grade position with a new administrative position at a higher salary. They were asking to have the position funded in the next biennium at the present salary. **SEN. NELSON** asked if it was a new person on staff or an upgrade and **Mr. Budt** said the person was new.

Vote: Motion **carried unanimously.**

Global Amendments:

Motion: CHAIRMAN KEENAN moved that **AMENDMENT HB000247.ATP BE ADOPTED. EXHIBIT (frs88hb0002a04)**

CHAIRMAN KEENAN advised that general fund money would not be available to fund bills that were in the process. He indicated he had spent time looking through the budget to find money to fund some things. Amendment #1 related to HB 214 and the new district court judges in Cascade and Ravalli County. As amended that bill would have a cost of \$129,000 over the biennium. The amendment would utilize general fund money still in the budgets of various agencies despite the fact that the FTEs had been eliminated. He said he tried to match the money up as close as possible with the intended purpose. The \$129,000 was taken from the Department of Justice Information Technology Services Division. Amendment #2 was coordinating language with amendment #1.

Taryn Purdy, Legislative Fiscal Division, advised the amendment was written in sections. Each section contained the reduction that funds the corresponding increase.

CHAIRMAN KEENAN explained that amendments #4 and #5 would take \$75,000 each year of the biennium to fund an additional \$75,000 each year in the Consensus Council in the Governor's office. He explained how departments in state government rely on the council but were reluctant to pay for the services. The council was established for natural resource conflict resolution and the reduction was taken from the Department of Natural Resources Water Resources Division. Amendments #6 through #11 dealt with hiring four auditors in the Department of Revenue. The grade scale and pay plan were such that those vacant positions could not be filled. The amendment would upgrade the salaries of the auditors. The amendments would also reduce general fund in two programs in the Department of Corrections and one each in the Departments of Administration, Justice and Commerce. Amendments #12 and #13 would reduce general fund in the Department of Agriculture to pay a greater proportion of dues to the Council of State Governments. Amendments #14 and #15 would reduce general fund in the Health Policy and Services Division of DPHHS to fund interim studies in the Legislative Branch. **CHAIRMAN KEENAN** noted that energy and education had been big issues in the current session. He was on the Health Care Advisory Council and felt that health insurance and access to health care would be the big issue in the next session and the subject of an interim study. **{Tape : 1; Side : B}** Amendments #16 through #19 would fund a \$0.25 per day increase in family foster rates with general fund reductions in HB 2 boilerplate in DPHHS. Amendments #21 and #22 would reduce general fund in the State Tax Appeal Board and add the funds to the operations of the School for the Deaf and Blind.

SEN. NELSON asked about segregating the amendments and voting on them one at a time. **REP. LEWIS** expressed concern about segregating.

Motion/Vote: **SEN. NELSON** moved **TO SEGREGATE AND VOTE ON SECTIONS SEPARATELY**. Motion failed 4-2 with **McCann and Nelson** voting aye.

SEN. JOHN COBB advised that there could not be a vote on whether to segregate. **REP. VICK** said that rule had been changed in regard to HB 2.

CHAIRMAN KEENAN advised, upon consulting with **Lee Heiman, Legislative Attorney**, that in committee situations the committee chair could rule.

REP. MCCANN commented there was a lot in the package of amendments which was a lot to lose.

Discussion:

SEN. NELSON contended that discussion was appropriate and agencies should be heard from.

Chuck Swysgood, Budget Director, OBPP, advised that **SEN. COBB's** motion to eliminate vacant positions that had been vacant for seven months or longer eliminated roughly 309 positions in state government. He explained that an amendment from a previous day reinstated 179 of those that were seasonal or positions that had been filled but had not made the snapshot. He noted that **CHAIRMAN KEENAN's** amendment dealt with the other 115 vacant positions that remained vacant with the money still in the budget.

SEN. NELSON asked about the Department of Justice. **Larry Fasbender, Deputy Director, Department of Justice**, stated that the positions that were eliminated could be argued for in the next session. Information Technology was a major tool that the department would be using to implement what had been passed by the legislature. In the Motor Vehicle Division there would be \$114,000 for programming and other work that they would have to eat. They had a 15,000 hour backlog in the IT division with work they had been unable to complete because of a shortage of people there. He noted that \$60,000 had been taken out of the budget each year for contracted services. They had requested another \$240,000 that was denied. **Governor Martz** had been encouraging the legislature to utilize information technology to meet some of the demands of state government. Cutting the two IT positions and taking the money out of them would further exacerbate problems in the Department of Justice with using information

technology to meet some of the demands imposed by the legislature. They had a hard time filling those positions, but they felt that would change. The two positions were important even though they would be temporary in order to get the work done in the next two years.

CHAIRMAN KEENAN contended **Mr. Fasbender** was talking about people and that the positions had already been eliminated. **Mr. Fasbender** affirmed they had. **CHAIRMAN KEENAN** asked if they had a \$4 dollar increase on title liens to fund information technology. **Mr. Fasbender** indicated that would be used for a program to upgrade the Motor Vehicle Department and could not be used for funding those positions.

SEN. NELSON asked about the Natural Resources Division. There was no one there from the department.

Cathy Muri, Department of Administration, expressed that the personnel division had already been assessed additional vacancy savings based on past history and were already being hit with five percent. The State Tax Appeal Board was already assessed at 24 percent vacancy savings and she did not think they could continue to operate without using the funding from the two vacant positions.

SEN. ZOOK asked about the 24 percent vacancy savings. **Mr. Muri** indicated that the workload was derived from property tax appeals and the level of appeals had been less. **SEN. ZOOK** asked if more vacancy savings were applied because of that. **Ms. Muri** advised the vacancy savings were assessed by the subcommittee. **SEN. ZOOK** asked how many positions that entailed as percentages could be deceiving. **Ms. Muri** thought it was probably three positions since it was about \$90,000 per fiscal year.

REP. MCCANN noted that **SEN. COBB's** amendment had already passed and the positions were gone and what was being looked at was dollars within the budgets. He believed it was up to the legislature how those dollars would be spent. They could be left in the budget or redirected.

SEN. NELSON asked if **REP. MCCANN** would rather not hear from the departments and **REP. MCCANN** answered no. **SEN. NELSON** said she did not mind hearing from them and felt like the committee was gouging them. She did not have a problem in hearing what they had to say.

Ralph Peck, Department of Agriculture, advised the dollars were set in subcommittee to develop an organic certification program

for organic producers in Montana. The FTE were removed and the dollars were still there to try to accomplish that task.

Joe Williams, Department of Corrections, commented that if the dollars had to be given up it looked like a worthy cause.

Gail Gray, DPHHS, commented about the difficulty in hiring. She felt that funding foster family rates was a good cause.

REP. VICK advised that money could not be moved out of personal services to fund other things and the fact that departments were going to hire people to fill positions that had been removed caused him frustration.

CHAIRMAN KEENAN expressed concern about the State Tax Appeal Board and if the amendment passed he would draft an amendment to fix that situation.

Vote: Motion **carried 4-2 with McCann and Nelson voting no.**

Section B:

CHAIRMAN KEENAN advised that he and **REP. LEWIS** had discussions with DPHHS and that there was a failed amendment to address. The amendment dealt with the Child Support Enforcement Division and action taken in subcommittee. **Director Gray** advised it was amendment HB000268.apg.

EXHIBIT (frs88hb0002a05) EXHIBIT (frs88hb0002a06)

Director Gray distributed an explanation of the vacant positions.
EXHIBIT (frs88hb0002a07)

CHAIRMAN KEENAN explained that HB 64 from the last session asked the agencies to look at a 15 percent reduction should that be necessary. The amendment would reinstate those funds.

Director Gray testified that when the implications of HB 64 were talked about, they weren't as concerned until the **COBB** amendment later. There were two areas that each involved eight FTE. The amendment asked to reinstate the money taken out under HB 64. The eight positions eliminated were from a regional office and those people were in place. It was not general fund money and did not include the money the division would already be giving up for vacancy savings which was over \$280,000 a year. The amendment would not reinstate the second eight positions.

REP. MCCANN observed that the eight positions were being removed unless they were reinstated. **Director Gray** said that was correct

and that even with the amendment eight vacant positions would be eliminated.

REP. LEWIS said he did not realize the **COBB** amendment would remove eight FTE. He noted that in subcommittee the department had given up the eight vacant positions as far as funding was concerned.

Motion/Vote: **CHAIRMAN KEENAN** moved **TO RECONSIDER ACTION ON AMENDMENT HB000268.APG. Motion carried unanimously.**

Motion/Vote: **REP. VICK** moved that **AMENDMENT HB000268.APG BE ADOPTED. Motion carried unanimously.**

Section E:

Motion: **CHAIRMAN KEENAN** moved that **AMENDMENT HB000215.AJS BE ADOPTED. EXHIBIT (7)**

Discussion:

CHAIRMAN KEENAN noted the amendment pertained to HB 121.

REP. VICK noted the various changes to the entitlements. **Jim Standaert, Legislative Fiscal Division**, acknowledged the bill had been changed many times and was currently at 1.88% in the first year and another 1.88% in the second year. **{Tape : 2; Side : A}**

Vote: Motion **carried unanimously.**

Mr. Standaert explained that amendment HB000217.ajs would transfer \$5 million to a school flexibility account from the general fund at the beginning of FY 2002. The money would not be transferred to the school flexibility accounts until November of that year during which the \$5 million would earn interest.

Motion/Vote: **CHAIRMAN KEENAN** moved that **AMENDMENT HB000217.AJS BE ADOPTED. Motion carried unanimously. EXHIBIT(frs88hb0002a08)**

Motion: **CHAIRMAN KEENAN** moved that **AMENDMENT HB000218.AJS BE ADOPTED. EXHIBIT(frs88hb0002a09)**

Mr. Standaert advised the amendment was contingent on the passage of HB 41. HB 41 would put the timber technology money in a special revenue account for school technology and then statutorily appropriate those funds from that account to schools.

REP. LEWIS asked if it had no effect on the general fund balance sheet and **Mr. Standaert** said that was correct.

REP. VICK noted that besides the base funding for schools there were two separate pots of money going to schools: the flex account and the technology fund. He asked about HB 41. **Mr. Standaert** confirmed that HB 41 would statutorily appropriate the timber harvest money for school technology out of the school technology account.

REP. MCCANN asked how schools would receive dollars from the school technology account. He wondered if they applied for it. **Mr. Standaert** believed it was distributed on the ratio of base entitlement.

REP. VICK asked if that was the same way the flex account would be allocated. **Mr. Standaert** replied the flex account was a totally new means of distribution with four pieces. About 40 percent would be on a per-site basis and 60 percent would be on a per student basis.

SEN. NELSON asked if the technology account was based in the Office of Public Instruction (OPI). **Mr. Standaert** confirmed that was correct.

REP. VICK noted there were restrictions on the technology account and he wondered if there were any restrictions on the flex account. **Mr. Standaert** indicated there was a variety of things that could be funded from the flex account including the renovation of buildings, energy costs or technology, but there were some restrictions. The things that could be funded were listed in HB 41.

Vote: Motion **carried unanimously.**

Section A:

CHAIRMAN KEENAN advised that the committee could not yet act on HB000261.agd **EXHIBIT (frs88hb0002a10)** but that an explanation would be given.

Don Hoffman, Department of Revenue, explained the amendment would provide for the costs for the department to administer the excess revenue tax that was being considered in SB 512. He advised it would be inappropriate to vote on the amendment as the bill was being significantly amended as it went through the process. There would be a significant revenue impact as a result of the bill. The estimate was for \$200 million to \$300 million that would be generated by the excess profits tax. The amendment would add 7 FTE to the department: two researchers, one attorney and four auditors.

Section C:

Ms. Purdy advised that amendment HB000248.agh

EXHIBIT (frs88hb0002a11) was a technical amendment. She noted that when the subcommittee met they had intended that Broadwater Hydropower Facility funds be pulled out of the main line item.

Motion/Vote: SEN. NELSON moved that **AMENDMENT HB000248.AGH BE ADOPTED. Motion carried unanimously.**

Motion: SEN. ZOOK moved that **AMENDMENT HB000249.AGH BE ADOPTED. EXHIBIT (frs88hb0002a12)**

CHAIRMAN KEENAN explained the amendment was for federal spending authority should money become available.

Vote: Motion **carried unanimously.**

Ms. Purdy explained amendment HB000290.alt was technical.

Section D:

Motion: REP. VICK moved that **AMENDMENT HB000289.ALT BE ADOPTED. EXHIBIT (frs88hb0002a13)**

REP. VICK asked for an explanation. **Lorene Thorson, Legislative Fiscal Division** advised the amendment would allow \$4 million in savings in the Department of Corrections if SB 489 passed. There was language in HB 2 and the amendment would add contingency language.

Vote: Motion **carried unanimously.**

ADJOURNMENT

Adjournment: 10:30 A.M.

SEN. BOB KEENAN, Chairman

PAULA BROADHURST, Secretary

BK/PB/PG
Transcribed by Prudence Gildroy

EXHIBIT (frs88hb0002aad)