

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

CONFERENCE COMMITTEE ON SENATE AMENDMENTS TO HOUSE BILL 63

Call to Order: By **CHAIRMAN JON TESTER**, on April 11, 2005 at 5:00 P.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Jon Tester, Chairman (D)
Rep. Dan Villa, Chairman (D)
Rep. Bill E. Glaser (R)
Rep. Holly Raser (D)
Sen. Don Ryan (D)
Sen. Bob Story Jr. (R)
Rep. Pat Wagman (R)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Eddy McClure, Legislative Branch
Kima Rosling, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: None.
Executive Action: None.

SEN. TESTER asked Eddy McClure, Legislative Branch, to hand out and explain the amendments to HB 63.

[EXHIBIT \(ccs77sb0063b01\)](#)

[EXHIBIT \(ccs77sb0063b02\)](#)

[EXHIBIT \(ccs77sb0063b03\)](#)

Ms. McClure used a grey bill (exhibit 1) to explain the changes made by the Senate.

SEN. TESTER asked **Ms. McClure** to explain what the Committee would be doing for amendment 5. **Ms. McClure** said that this is a separate amendment on the over-BASE permissive levy requested by **REP. GLASER**, and the Committee would deal with it later. This amendment strikes that section.

SEN. TESTER asked **REP. GLASER** if he was offering amendments 1-4 and 6-10. **REP. GLASER** explained that 1 and 2 were currently in the bill, and they would stay there. He was actually offering 3, 4, 8, 9, and 7 and 10 in their amended forms.

SEN. RYAN asked **REP. GLASER** to explain on 12 and 13 where the agreements must be approved by the boards of "all districts" rather than "both districts." **Ms. McClure** said that on page 27 **REP. GLASER'S** amendment adds "or a high school district or all elementary districts associated with that district." Now, where the old sentence said "both," she changed it to "all" since there may now be more than two districts.

REP. GLASER said that this amendment allows a high school and its feeder schools to help each other with finances. If one school opts out, then it is no longer an option.

SEN. RYAN explained that if nine out of ten districts want this, and one small one does not, then that one district can stop it. This leaves one district in complete control, even if their finances would not be affected.

REP. GLASER said that would be an option. He said that he does not have a problem doing it another way, but there was a time constraint, and this was the best option he could come up with in that limited time. He asked **SEN. RYAN** for another recommendation to make this work. **SEN. RYAN** explained that an elementary district may be in Belt and the High School district may be in Great Falls. These intersecting districts will cause a problem when they are trying to make a decision to move money between schools. **SEN. RYAN** wanted to ensure that there was flexibility for that portion of the money.

SEN. TESTER asked **SEN. RYAN** how it works in the bill now. **SEN. RYAN** said that currently it is between the unified districts that make the agreements. In Kalispell, there aren't unified districts. There, all 13 feeder elementary schools would have to agree to share finances.

SEN. TESTER asked **REP. GLASER** if that was how he interpreted his amendment. **REP. GLASER** said that he would hope that the districts could work together. It was not his intention to limit their options. If it is problematic, then the amendment could be segregated.

REP. RASER said that the way she understands the amendment, there is an option. Either the joint board or the high school and all the elementary schools may enter into this agreement. Either one of these conditions may happen. One district cannot stop a unified district from transferring funds.

SEN. TESTER asked **Ms. McClure** or **Connie Erickson, Legislative Branch**, to shed some light on this issue. **Ms. McClure** said that the intention was not the "or" language on line 16. She suggested changing "all" to "the agreeing districts."

SEN. RYAN said that would be a good change.

SEN. TESTER pointed out that everyone seemed to understand and agree to this amendment. It was a friendly amendment to **REP. GLASER'S** amendment.

SEN. STORY said that if all these elementary districts are feeding a high school and some agree to transfer funds, the Committee must understand that through this provision, funds may be leaving schools, and they will never get it back. He said that he did not have a problem with the amendment.

REP. RASER said that it was her understanding that the districts can collaborate and examine what is best for the needs of the students. If the elementary districts had extra money, they could pass it along to the high school. She said that this can only happen if there is agreement. If this is not the case, then she is against the amendment.

SEN. STORY said that there has to be agreement.

REP. WAGNER suggested adding "unless one or more of the unified districts objects." He gave the example of a high school with 3-4 elementary districts. If the high school reached an agreement with 1 or 2 of the districts, but not the others, then they

couldn't move the funds back and forth because they are under a unified board.

SEN. TESTER asked **REP. GLASER** how that corresponded with his goals. **REP. GLASER** said that he didn't have a concern; he wanted to find any way that works. He wanted to give these districts the option at the local level to solve problems that are unique to them.

SEN. RYAN asked about the intent of amendment 7. He said that he read it as saying that the money coming in specific to those taxpayers is the amount of money that could be moved from district to district. It is the amount of money in the district itself.

REP. GLASER said that was correct. His intention was to provide these districts with the freedom to move money around so that they can survive a year.

SEN. TESTER asked **SEN. RYAN** if the added language delineates that, or if language needed to be added to make that more clear. **SEN. RYAN** said that the understanding is there, but he wasn't sure if that was really reflected in the bill.

Ms. McClure said the Committee must focus on one issue here. After **REP. GLASER'S** amendment, there may be more than two districts. This makes the word "both" meaningless in the bill. The question is, do all districts have to agree, or is there an understanding between agreeing districts.

SEN. RYAN said that they should go back to "agreeing" or to "both" because if there are three or five elementary districts within a high school district, the amount of money that can be moved is the amount from the tax-base within that elementary district or the high school district. There are two districts making the agreement. Both districts agree to do that, and the others aren't affected. They are taking money from their taxpayers, not other taxpayers. When the word "all" is used, there is still an agreement between two districts, but other related districts must sign on, even if they themselves see no monetary difference.

REP. GLASER said that was true. He recommended leaving in line 11 and striking lines 12 and 13.

Ms. McClure clarified that if there are multiple elementary districts they each have to sign an agreement with the high school.

SEN. RYAN said that amendments 3 and 4 deal with what was **SB 147** (that did not make it to the Floor). **SEN. RYAN** said that he was going to segregate these amendments out for the purpose of discussion because they deal with a different issue. He explained that the entitlement that was in SB 177 was put together knowing that there wasn't enough money to make everyone whole. Amendments 8 and 9 contained other options that the districts would have available to them. The press made it look like the districts would use all the options and "tax everyone like crazy." This was never the intent of lawmakers, and school districts did not intend to do it. However, this is how the politics of the press works. This gives the school districts three different ways to deal with their problems if the money that was in the entitlement piece was not enough to meet their local needs.

SEN. TESTER said that he would allow that recommendation. Amendments 3 and 4 would be segregated at **SEN. RYAN'S** request.

Ms. McClure and **Ms. Erickson** explained, specifically, which amendments corresponded to the explanations from Exhibit 1.

REP. VILLA said that it was his understanding that there were other amendments coming forward on number 7 that have to do with consolidated districts and effective dates. **Ms. Erickson** said that those amendments can be dealt with later because these amendments don't affect the effective dates.

SEN. TESTER clarified that on amendment HB006312.aem, the Committee would be voting to adopt all amendments but 2, 5 and 9.

Motion/Vote: **REP. GLASER** moved that **HB 63 BE AMENDED WITH HB006312.AEM WHERE 2, 5 AND 9 ARE SEGREGATED. Motion carried unanimously by voice vote.**

Motion: **SEN. STORY** moved that **HB 63 BE AMENDED WITH HB006212.AEM 2, 5 AND 9.**

Discussion: **SEN. RYAN** explained that he hoped that these provisions can be left in. There is an impact in the state. In the last session, the Legislature took those districts that have a lot of Title I students and raised their property taxes in the general fund, or the schools had to cut the services for the kids that are the most in need. That went directly against the goal of getting as many kids as possible up to speed. This amendment hampers districts in doing this. After a year of not being allowed to use the retirement fund to fund federal employees, with the amount of money still in HB 63 with the entitlements and the ANB averaging, most districts will be able to do this.

However, for those districts without the revenue, this gives them the local-option choice to do it themselves. The Legislature does not force anyone to raise local taxes to meet this goal. They are giving the option to meet the standard of a quality education themselves by resources available to them.

REP. GLAZER said that in a perfect world, what **SEN. RYAN** said may be accurate. However, this is a political world. His and **REP. WAGMAN'S** instructions were to remove the 147 money or there will be a lockup in the House. The bill will not pass if that money is left.

SEN. STORY said that he has yet to receive word from a school saying that they don't want this to happen. He said that he assumed they wanted it so they can put the federal employees back on the county-wide retirement levies. It may actually be that the people paying the retirement for these employees aren't even the ones receiving the services from them. Retirement is a county-wide levy, not a district-wide levy. There are a lot of federal employees in one district and not a large tax-base, then the other districts in the county will subsidize that district. The second reason that he supports this amendment is that the schools have adapted. If it is switched back, then the schools will have to change again. Then, when the Legislature passes the final funding formula, it may be yet another change. It should be left as it is now, since it may be changed later this year.

Vote: Motion carried 6-1 by roll call vote with **SEN. RYAN** voting no.

Motion: **REP. GLAZER** moved that HB 63 BE AMENDED WITH HB006320.AEM.

Discussion: This amendment has the function of achieving number 5 on the explanation sheet (exhibit 1). **REP. GLASER** explained that the main reason this was segregated out was that **REP. VILLA** said that he was considering removing the amendment.

SEN. RYAN said that he thought this amendment should be rejected. Under the current funding formula, the number of schools that have reached the cap because the state hasn't done its share is tremendous. This means that the schools must continually ask the people to raise their property taxes in order to maintain that level. Since the Legislature has been sued because it hasn't funded schools adequately, why should the Legislature put any district in the position to cut programs while a solution is being worked out. The amendment that this amendment is stripping off said that a district can raise the same amount of money they did last year and take full advantage of the money that the state

is giving to the district without a tax increase if that is what the board chooses. This is a local control issue. This amendment gave every district the same ability to raise the amount of revenue they did last year.

REP. WAGMAN said that he took exception to **SEN. RYAN'S** comment that the Legislature hasn't funded schools adequately. The Court said that it was unable to determine if schools were funded adequately because there was no logical process to determine how funds were allocated.

REP. RASER said that she agreed with **SEN. RYAN**. It was hard not to reinstate 147. She said that she knew what a hit schools took, and that was a difficult decision. She said that this particular amendment keeps the schools at their current funding level, which does not harm them any more. The Legislature needs to help make the transition to a new funding formula as smooth as possible. She stated that she opposed the motion on the floor.

REP. GLASER said that he discovered under 100%, the amendment is not effective. Above 100%, they may be allowed to continue, but other legislation may conflict. He said that he is not exactly sure what the amendment does because he has gotten conflicting advice. He said that he wasn't sure that leaving the amendment in does harm, but he didn't know if taking it out would do harm. He said that if **REP. VILLA** wished him to withdraw his motion, he would.

REP. VILLA asked **REP. GLASER** to withdraw the amendment.

REP. GLASER withdrew his motion.

SEN. TESTER asked **Madalyn Quinlan, Office of Public Instruction (OPI)**, to explain the amendment that they requested. **Ms. Quinlan** said there are three districts that will be newly consolidated starting in FY 2006. All three districts would benefit by being able to use three-year averaging. OPI thinks that it is important these districts should be able to benefit from three-year averaging since they have made an effort to save taxpayer money by consolidating. As OPI has done the fiscal notes, in the general fund model the Legislature is using now, these districts were calculated as single districts. This amendment will not increase the estimate of the state share.

SEN. RYAN said that it was never the intention to exclude these districts. He agreed with the amendment.

Motion: **SEN. RYAN** moved that **HB 63 BE AMENDED WITH HB006311.ACE.**

EXHIBIT (ccs77sb0063b04)

Discussion: SEN. STORY asked Ms. Quinlan if there were incentives present currently for school districts to consolidate. He asked if they got to keep their base entitlement for a while. Ms. Quinlan said that was correct. Under the current system, if the district consolidates, it gets the separate basic entitlements of the consolidating districts for three years, and for another three years it ratchets down until it is gone in the sixth year.

SEN. STORY said that when they consolidate they don't actually lose all the benefits that individual districts have. Ms. Quinlan said that when they consolidate, they get that basic entitlement that they wouldn't otherwise get as a consolidated district.

SEN. RYAN said the Committee should go ahead and pass this amendment. SEN. GLASER and SEN. STORY used the word "incentives." SEN. RYAN said that it was also important to take away disincentives. This amendment takes away those barriers to consolidation.

Vote: Motion carried unanimously by voice vote.

SEN. GLASER said that there was one more amendment being offered by the budget office.

EXHIBIT (ccs77sb0063b05)

REP. VILLA explained the amendment.

Ms. McClure said that earlier that day she discovered that the fiscal note is wrong and the effective date for Section 24 is upon passage and approval which means that they will have an opportunity to make unified agreements in FY 2005. The \$2 million is an increase in the biennium.

SEN. RYAN said that it was never the intent in the fund-balance reappropriation to take this year's fund balance and reappropriate it to next year. This amendment addresses that, and it does not cost the State.

Motion/Vote: REP. VILLA moved that HB 63 BE AMENDED TO CHANGE THE EFFECTIVE DATE AND THE CONSOLIDATION DEADLINE TO ADDRESS THE TECHNICAL CONCERNS. Motion carried unanimously by voice vote.

**Motion/Vote: REP. GLASER moved that HB 63 DO PASS AS AMENDED.
Motion carried unanimously by roll call vote.**

ADJOURNMENT

Adjournment: 6:00 P.M.

SEN. JON TESTER, Chairman

KIMA ROSLING, Secretary

ANNIE GLOVER, Transcriber

DV/kr/ag

Additional Exhibits:

EXHIBIT ([ccs77sb0063bad0.PDF](#))