

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN MACK COLE**, on January 19, 1999 at
10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Bill Wilson (D)

Members Excused: Sen. Jack Wells (R)

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Mary Morris, Acting Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 194
Executive Action: SB 194, SB 11

HEARING ON SB 194

Sponsor: SEN. MIKE HALLIGAN, SD 34

Proponents: Lois Menzies, Director, Department of Administration
Anna Miller, Department of Natural Resources and
Conservation
Mae Nan Ellingsen, Dorsey & Whitney
Dave Lewis, Office of Budget and Program Planning

Opponents: None

Opening Statement by Sponsor:

SEN. HALLIGAN, SD 34. reported that prior to the session, **PRESIDENT BRUCE CRIPPEN** began looking at technical compliance with CI-75, and put together a bi-partisan joint committee which developed legislation to help the state and local governments, as well as the education community, come into compliance. He explained that due to CI-75, the taxing power of the state no longer exists with the legislature, it exists with the people. Previously, when the state sold bonds, the full faith in the credit and taxing power of the state was pledged. Bond counsel felt this was a problem as bond holders would no longer have the security that those bonds would be repaid. They have developed a way to allow bond holders to have first lien on the General Fund, instead of pledging the taxing power of the state. **Greg Petesch, Legislative Services Division,** will offer informational testimony and further explain the need for the bill.

{Tape : 1; Side : A; Approx. Time Counter : 10.06}

Proponents' Testimony:

Lois Menzies, Director, Department of Administration, read written testimony, **EXHIBIT(sts14a01).**

Anna Miller, Department of Natural Resources and Conservation distributed materials to the committee members, **EXHIBIT(sts14a02)** and **EXHIBIT(sts14a03).** Due to the bonds they have been allowed to issue, they have brought in \$5 million in federal matching funds, which they are then able to loan to communities for work that needs to be done. She referred to Exhibit 2 and reported there are \$18 million worth of projects waiting. These communities have engaged in engineering loans and planned to do loans to complete those facilities during this construction season. With the fix proposed in **SB 194,** DNRC can continue to work with the communities on those projects, noting that in many cases, the communities will have to go to the voters for approval of their projects. There is legislation to put a mechanism in place for communities to do those debt elections. In some cases right now, there is not a way on the books to do a revenue debt financing for a community, so that will also have to be entertained. If the fix proposed in **SB 194** does not pass, \$18 million in drinking water construction projects will be delayed, as well as about \$18 million in wastewater projects and about \$5 million in irrigation projects.

Mae Nan Ellingsen, Dorsey & Whitney, reported they serve as the State of Montana's bond counsel, and worked with the Department of Administration and the state's financial advisers in drafting this bill. She reiterated that prior to CI-75, the taxing power of the state resided with the legislature. Over the past 10 years, rating agencies have relied on the state's ability to increase taxes. She pointed out that taxes or revenues dedicated to bonds outstanding on the date of the passage of CI-75 are excluded, and all of the state's outstanding bonds are valid by that exception. Because all other bonds must be approved by the voters, they felt they were not in a position to issue and give a valid approval opinion on bonds authorized at that point, but not yet issued, because the statute under which they issued those general obligation bonds pledged the full faith and credit of the state. Given the average General Fund budget, and the amount of outstanding indebtedness we currently have, which represents about 2% of the General Fund budget, the first lien would be adequate assurance.

Ms. Ellingsen indicated the bill also requires the state treasurer to make a monthly allocation into the debt service account, noting that this does not impose any difficulty on our cash flow. **Dave Lewis, Office of Budget and Program Planning,** is available to answer any questions. She concluded by saying that this bill gives the legislature the option of authorizing long-term debt of the State of Montana, without going to a vote of the people on every bond issue. They still have the option of going to a state-wide vote on any bond issue the state chooses and, at the same time, they will preserve the state's favorable credit rating.

{Tape : 1; Side : A; Approx. Time Counter : 10.21}

Dave Lewis, Office of Budget and Program Planning Not to be too repetitive, but it's worthy to stress a little bit what **Mae Nan Ellingsen** was just talking about. From a collateral perspective, the bond holders have had the full faith and credit and taxing power of the state to this point. From a practical standpoint, because of our debt service being such a small part of our General Fund, at this point 2%, even if the additional billing program is approved, it will be less than 3% of the total General Fund budget in the future. That is probably not practical to visualize the possibility there may be a need for a tax increase to make a debt service payment. There are so many other options so far as reducing the budgets, looking at the total General Fund spending, that type of thing. That's really what I think the rating agencies looked at when they said that removing the phrase "and taxing power of the state" really didn't hurt our credit

rating because we have such a small portion of our total General Fund budget tied up in debt service. There's probably not a realistic possibility that we'd have to use the taxing power to maintain our debt service payments.

Tom Livers, Department of Environmental Quality, DEQ operates three bond finance programs. This legislation will allow those programs to continue. Two are infrastructure financing programs for low interest homes for local communities and one is to finance energy efficiency improvements in state government buildings. Under this last program, the Board of Examiners issues general obligation bonds. The proceeds from these bonds are used to finance energy efficiency improvements. The resulting energy cost savings cover the program costs and the debt service. They are engineered so there's actually some additional cost savings above costs. Typically, over the several bienniums, they've averaged about \$.25 million of savings above program costs and debt service. For these reasons and the changes made in **SB 194**, we support this.

Informational Testimony:

Greg Petesch, Legislative Services Division, I was the staff to the Joint Select Committee on Implementation of CI-75. You've heard a very good explanation of the content of the bill. There are only two real purposes of this bill. One is to allow the projects you authorized in the past, for which bonds were not yet issued, to proceed in a timely manner. That's the first thing this bill will do. The other is allowing the long-range building committees and this legislature to continue to function as you always have in authorizing debt, so that when you leave here, you will know what the debt service requirements of your budget are. The other alternative would be to submit all general obligation bonds to the electorate at a special election. Depending upon the outcome of those elections, you possibly would have to come back and adjust the budget to reflect those debt obligations. This will allow you to continue functioning in the same manner you always have.

{Tape : 1; Side : A; Approx. Time Counter : 10.26}

Questions from Committee Members and Responses:

SEN. TESTER These changes are all due to CI-75. If the courts were to throw CI-75 out, what would the ramifications of this be then? **SEN. HALLIGAN** There's a contingent voidance provision in the last page of the bill that indicates that the act is void if CI-75 is declared unconstitutional. Every bill draft we recommended out of that committee had to have it.

Closing by Sponsor:

SEN. HALLIGAN I rarely have a bill that doesn't have any opponents to it, so it's certainly nice to have that once in a while. The speed that we need to do this to make sure we can get the projects going is something we need to really be careful of. If you're going to be able to get this out of committee, and can convince the House chair to hear this bill soon, we can make sure the projects start rolling. Thanks.

{Tape : 1; Side : A; Approx. Time Counter : 10.29}

EXECUTIVE ACTION

CHAIRMAN COLE asked the committee to take a look at **SB 195**. The Fiscal Note is still not available. There were a couple of thoughts brought up by the sponsor. If we did not feel that it was in the best interests to go with the bill as he has it, there are 2 alternatives. One is to limit it to 2 years rather than 4 years. The other one is that half of the costs would be paid in.

SENATOR HARGROVE We ought to look at the Fiscal Note. I guess I'm ready to move passage, but maybe we ought to wait for that.

CHAIRMAN COLE While we're waiting, let's take a look at **SB 194**.

Motion/Vote: **SEN. WILSON** moved that **SB 194 DO PASS**. Motion carried unanimously.

{Tape : 1; Side : A; Approx. Time Counter : 10.34}

CHAIRMAN COLE asked what the wishes are of the committee concerning **SB 195**. **SEN. TESTER** I would like to see us do it, but I don't want to put Public Employees Retirement System (PERS) in a situation they can't live with. I don't know if the Fiscal Note is going to get us anything other than a \$60.8 million liability because they're maxing it out. By the same token, I think it is right that they are able to get this. Since 2.4 years was the average, I was thinking of making it one or two and see what happens, what kind of people do it. Maybe next session, we could add another year or two onto it.

SENATOR WILSON Are they buying 1/56th of their salary with this?

SEN. HARGROVE Do you recall how many years that would be, 29?

SEN. TESTER, Yes, 29 years. I feel the same as **SENATOR HARGROVE**. I don't know how cost effective it would be.

SEN. HARGROVE Maybe that's a good idea. We'll undoubtedly have to discuss it on the Floor and rather than saying the Fiscal Note is wrong, an amendment to cut that in half might be the prudent thing to do, and get it passed at that point. Did you want to make an amendment?

SEN. TESTER What do you people think, one or two years? I thought two initially, and then thought to minimize the potential liability, give one year and next session introduce a bill to give them another year.

SEN. WILSON Whatever you want to do, you'd better do it here, because I don't think anything could happen to this on the Floor. I think it's going to slide right through. It's a good thing to do for a group of people who deserve it.

Motion/Vote: **SEN. TESTER** moved that **SB 195, PAGE 1, LINE 20, BE AMENDED FROM 4 TO 2. Motion failed 2-2**, with **SEN. HARGROVE** and **SEN. WILSON** voting no.

SEN. TESTER Let's talk about it so we can get this thing through.

SEN. HARGROVE If we need to, we can defend the judgment on the Fiscal Note. I guess the suggestion is that we don't do anything more until we're a little closer to a Fiscal Note.

CHAIRMAN COLE We will hold **SB 195** until we get a final vote and a Fiscal Note.

{Tape : 1; Side : A; Approx. Time Counter : 10.43}

CHAIRMAN COLE, We are now on **SB 11**, and we have 2 amendments, is that correct?

Mr. Niss I think this was passed out during the hearing. It's an amendment by **CHAIRMAN COLE**, done by **Greg Petesch**.

{Tape : 1; Side : A; Approx. Time Counter : 0; Comments : End of Tape 1, Side A}

The committee members reviewed the amendments. **CHAIRMAN COLE** indicated the committee members should have three amendments to review. **Mr. Niss** noted that they should have amendments numbered

1101, 1102 and 1103. (SEE **EXHIBIT**(sts14a04), **EXHIBIT**(sts14a05), **EXHIBIT**(sts14a06)).

Mr. Niss I think on page 19, line 6 is incorrect. I think it should read page 19 following line 5, insert "subsection 2, Legislative Council" and then renumber subsections so the current 2 on line 6 becomes 3, and all of the other numbers change. This is not connected directly to the bill. It looks to me like it concerns the consolidation that was done in the 55th Session to correct something that was done when this section was enacted. It says "the following Legislative branch entities are consolidated as provided in 5-2-503". This section and the consolidation were passed last session, so it looks to me like it simply adds to the list of the legislative units that were consolidated, the Legislative Council, itself. That may be driven by something in the bill before you, but I'm unable to tell you exactly what that is at this point. On page 21, line 16, we're striking "the underlying agencies" at the end of that new phrase on line 16, and substituting "entities". The reason for that is to make it very clear there aren't any legislative agencies. Agencies is something we use only with regard to the Executive Branch.

Motion/Vote: SEN. TESTER moved that **AMENDMENT 1101 DO PASS.**
Motion carried unanimously.

Mr. Niss Amendment 1102 is some changes **SEN. COLE** wanted to make. The hand-penciled language in the right hand margin is not part of Greg's amendment. That was on the basis of a discussion I had with **SEN. COLE** this morning after reviewing this amendment. It looks to me like the principle substantive amendments are paragraphs 3, 4 and 7. The first of those appears that if the Legislative Council determines that the number of committees, not subcommittees, of which there are 6, have too much work to do, they can request that the appointing authority can add members to any of those committees to spread the work around a little bit.

CHAIRMAN COLE This would not increase the number of committees; it would increase the number of members on the committees. When we increase them, we appoint an additional interim committee member from each political party, that moves the 8 to 12 members or 10 members. There was some concern that we would move these 8 to 12, and not have a committee with 10. If we go to 10, we'd have to take one (R) from the Senate and one (D) from the House, or vice versa. Now with 8, we have two Democrats and two Republicans from the House and the Senate. We do have a committee that will probably need a couple of subcommittees. We would move it to 12 and take a Senator from each party and a House member from each party. I'd like a little discussion

whether we go to 10 or 12. It probably would make it more equitable if we went from 8 to 12, rather than from 8 to 10.

SEN. HARGROVE The subcommittees would probably be imbalanced anyway, would that be correct?

CHAIRMAN COLE They could be or not be, but it would keep the main committee balanced.

SEN. HARGROVE I'm comfortable either way. We need the quantity.

CHAIRMAN COLE The Legislative Council may never need to increase these.

Motion: **SEN. HARGROVE** moved that **AMENDMENT 1102 DO PASS.**

CHAIRMAN COLE They could just move it one or two more if we approved it. But it couldn't exceed 12. We would want them to be able to appoint two or four, but I understand we could only appoint from each political party.

Mr. Niss On the 3rd line of that insert, paragraph 3 should read "to appoint 1 or 2 additional interim committee members". Is that in the motion?

{Tape : 1; Side : B; Approx. Time Counter : 10.59}

SEN. HARGROVE Yes, that is my motion.

Mr. Niss Paragraph 4 authorizes the appointment of subcommittees by the committee of which the subcommittee would be a part, and provides for payment of salaries and expenses. Most members know full time state employees receive only expenses. The distributed amendment, without that hand-written change, allows the creation of up to 2 subcommittees. It doesn't specify whether those two are for the interim or at any one time. I pointed out this could become critical because subcommittees may wind up doing an awful lot of the work for the committees, and they may only be on particular issues. They may be created, work for a month, and then disband. I suggested to **SEN. COLE** that if he viewed that situation the same as my explanation, in place of the language "up to 2 subcommittees" in that second line, we could substitute language that would say "a subcommittee" We always use singulars when we write either bills or amendments because there's a statute in Title 1, Chapter 2 of the MCA Government Instruction statutes that says singulars can be read as more than one. It then says that no more than two subcommittees may be in existence at any time. That would mean that over the total course of the biennium, the interim committee

could appoint more than two subcommittees, but only two subcommittees would be in existence at any one time. I also suggested that we insert "only" after "is entitled" on the third line from the bottom. I'm sure the drafter of the amendments intended that language to be a limitation on the payment of salaries, and so we need that "only" to correct it.

CHAIRMAN COLE Is only entitled to reimbursement for travel expenses?

Mr. Niss That would be found either after or before entitlement.

SEN. HARGROVE Is there a need to limit how many subcommittees may be in existence at any one time? It doesn't mean they will meet at one time. That would kind of be up to the chairman of the committee. My suggestion would be probably to just strike that whole first sentence. An artificial limitation like that may preclude good judgement on the part of the chairman.

Mr. Niss I suspect the reason for the limitation, and why it has to be approved by the Legislative Council, is budget. The rest of the amendment indicates that the subcommittees are going to probably incur expenses over and above those of the committee. I have not talked to **Greg Petesch** about it, but my estimate would be that it was a budget control measure.

SEN. HARGROVE I would suggest those budgetary restrictions are always there and we live within them.

Mr. Niss That's correct, and the approval of the Legislative Council is necessary no matter how many are created.

CHAIRMAN COLE asked **Mr. Person** if he has any thoughts on this discussion.

Bob Person, Legislative Services Division, The committee's budget is one issue. The other issue was conservation of staff resources. Subcommittees end up sometimes being more of a user of staff resources than our regular full committee can be. If the safeguard of their approval was there, that would be okay.

CHAIRMAN COLE The Legislative Council still has to approve subcommittees, no matter what.

SEN. HARGROVE From what **Mr. Person** said, I will include in my motion that the first sentence read "an interim committee may, with the approval of the Legislative Council, create subcommittees".

SEN. TESTER I wonder if we are getting away from what the intent of the legislation was to begin with, and that was to streamline it and conserve. I don't know how much pressure is put on you guys when subcommittees are asked to be formed. Can you say no, and feel good about it?

Mr. Person The leadership is constantly encouraging us to just say no, but I would say that I was never comfortable saying no to a legitimate request of a legislator or a legislative appointee. And that's why, of course, the authority goes back to the Legislative Council.

SEN. TESTER I would be more inclined to have some sort of wording that would say two committees, except in cases of emergency or need. They would be given the flexibility, but only be in extreme cases.

CHAIRMAN COLE The only problem with that is that everything is always defined as extreme.

SEN. TESTER If that be the case, maybe it needs just to be put in this bill.

CHAIRMAN COLE I'm going to call for a vote just on that one.

SEN. HARGROVE If you would like, I will limit my motion to paragraphs 1, 2, 3 and 4 of Amendment 1102.

Motion/Vote: **SEN. HARGROVE** moved **PARAGRAPHS 1, 2, 3 AND 4 OF AMENDMENT 1102 INCLUDING THE CHANGES IN PARAGRAPH 3. Motion carried 3-1** with **SEN. TESTER** voting no on a roll call vote.

Mr. Niss On the second page of the amendments, Paragraph 6 isn't substantive. Paragraph 7 concerns the function of the education committee. That new subsection 2 would lay out in subdivisions (a) through (g) the function of the subcommittee. Then the small (i) through (v) are all under the subdivision (a), which is to provide information in the following areas.

SEN. WILSON Where did this come from?

Mr. Person The ones that are added are the authorities of the secondary education policy and budget committee, which was the subject of some testimony. This change, in concert with the changes regarding subcommittees, will take care of assuring that the education committee has the charge the Post-secondary Education and Policy Budget (PEPB) Committee has had, that they can have the same membership in the regions and have the student regents and other members in the same manner as they have been

doing. I think you passed **SB 2** yesterday which would authorize them should that committee continue to exist. This puts this education subcommittee in the same status as what PEPB committee has had.

Motion: **SEN. HARGROVE** moved that **PARAGRAPHS 5, 6 AND 7 OF AMENDMENT 1102 DO PASS.**

CHAIRMAN COLE This would pass all of 1102 as amended. I call for a roll call vote.

Vote: Motion that **PARAGRAPHS 5, 6 AND 7 OF AMENDMENT 1102 DO PASS** carried unanimously.

CHAIRMAN COLE The last amendment we have is 1003, requested by **SEN. HARGROVE.**

Motion: **SEN. HARGROVE** moved that **AMENDMENT 1103 DO PASS.**

SEN. HARGROVE This will repeal the repealer on the Transitional Advisory Committee. It is a separate committee with an isolated function that will disappear all by itself, anyway. It was a suggestion and I agreed to carry this in here, and I recommend we pass it.

SEN. WILSON I don't want to be repealed. I'm on that committee.

CHAIRMAN COLE When does this committee die a natural death?

SEN. WILSON It has a lot of money left, is all I can say.

Mr. Person I think it's the end of the biennium.

Vote: Motion that **AMENDMENT 1103 DO PASS** carried unanimously.

Motion/Vote: **SEN. HARGROVE** moved that **SB11 DO PASS AS AMENDED.**
Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 11.18}

CHAIRMAN COLE That gets us pretty well caught up. We received two new bills yesterday, SB 228 revising general election laws and the date of general election, and the other is a joint resolution. They've asked us to keep **SB 102** on hold.

A discussion was held regarding the Governor's Board appointments. Everybody has a copy of the Governor's Board appointments. **Ms. Morris** will put together a packet of the

appointees, the statute governing the appointment and a space for the Committee to write. If the Committee members would select the groups they want, she could combine handing out the finished copies of the groups they want.

{Tape : 1; Side : B; Approx. Time Counter : 0; Comments : End of Side B, Tape 1 - THE TAPE WAS TURNED OVER AND THE LAST 5 MINUTES OF THE MEETING WERE RECORDED ON TOP OF A PORTION OF THE BEGINNING OF SIDE A}

ADJOURNMENT

Adjournment: 11:25 A.M.

SEN. MACK COLE, Chairman

MARY MORRIS, Acting Secretary

MC/MM

EXHIBIT (sts14aad)