

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 25, 1997, at 9:00 a.m., in Room 331.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Bill Wilson (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJR 13, HJR 14, HJR 26 3/11/97
Executive Action: HB 121 BCIAA; HB 170 BCI;
HB 173 BCIAA; HB 216 BCI;
HB 217 BCI; HB 430 BCIAA;
HB 505 BCI; HB 575 BCI;
HJR 13 A; HJR 14 A; HJR 26 A

EXECUTIVE ACTION ON HB 575

Amendments: HB057502.adn (EXHIBIT 1)

Discussion:

Mr. Niss explained the amendment to the Committee. He said if the current version, as amended in I-125, was declared constitutional, HB 575 would take its place. He said this amendment has the affect of bringing up HB 575 if I-125 (current version) was declared constitutional. He said if there was a second court challenge, and that court challenge could be against HB 575 and anyone of the first three tied together by the amendment, was found unconstitutional, then the current version of I-125 would be brought back into affect.

CHAIRMAN HARGROVE asked Mr. Niss if there was any change. **Mr. Niss** said there was no change in the effect of the amendments.

Motion: **SEN. BROOKED** moved that HB057502.adn BE ADOPTED.

Discussion:

SEN. BROOKE said she was concerned I-125 would be held until all court cases were determined and HB 575 would hold I-125. **Mr. Niss** clarified whether the amendment holds the current version of I-125 until the suit was brought in the court rules. He said it did not.

SEN. BROOKE said a majority of Montanans supported I-125 and felt, if there was anything that would eliminate the effectiveness of the initiative passed by the voters, it would be unethical. She wanted to ensure the integrity of I-125 as it currently was. **Mr. Niss** said, with these amendments and until it is challenged and declared constitutional, I-125 is certainly in affect. He stated that he understood there was an agreement in place to withhold enforcement of I-125 pending a determination by the court, but that I-125 is effective by law because the voters approved it.

CHAIRMAN HARGROVE said he agreed with **SEN. BROOKE** that, when the voters pass something, it is not to be "fiddled" with. He stated the voters believed there was a problem with political contributions and they would like to limit the amount of contributions, direct corporation contributions or expenditures toward the support or defeat ballot issues. I-125 would allow contributions by non-profit. He asked if I-125 is constitutional, would HB 575 go into affect? **Mr. Niss** stated that was correct. He said the assumption was because of the differences in the language and the case law involved in the court decision. If I-125 was unconstitutional the assumption is that HB 575 would be, therefore, because of that assumption, that is the way the amendment before the committee is structured. If I-125 was declared unconstitutional by the court, then the rest of the scenario would not occur because the contingent effective date is in the works.

CHAIRMAN HARGROVE said HB 575, under any circumstances, would not become effective until the court ruled on I-125. He said there will be at least one court challenge to HB 575, which I-125 and HB 575 would be separated and leave I-125 alone again.

SEN. MESAROS said this was a very difficult issue and it was not an issue to take likely when the vote of the people passed these initiatives. He said he was not sure the amendment would make a difference in the future when challenged in the courts to determine what the level playing field would be.

SEN. GAGE referred to paragraph 3 in the amendments. He asked, if the court held section 1 to be unconstitutional, what would it

look like as a result of the initiative I-125. **Mr. Niss** said the contingent effective date provision addressed two different court cases. First, it would place 1 through 3 sections in the bill effective on the date of the certification. Furthermore subsection 3 of the effective date section speaks to a different court challenge and, if HB 575 is held unconstitutional, the current version of I-125 would become effective.

SEN. GAGE stated that subsection 2 in the amendment had the provisions that applied to ballot issues and ballot issues were not covered in 13-35-227. **Mr. Niss** stated that 13-35-227 was the provision amended by the I-125 to add ballot issues and he said that was what subsection 2 spoke too. He assured the Committee that the reason they did not see it before them was that the language was struck.

SEN. BROOKE said I-125 was about leveling the playing field and not about a court challenge or the what the amendment proposed. She said the voters made it clear who would spend money on ballot issues.

SEN. MESAROS said I-125 was passed by the voters and that there were people currently challenging it. He said, looking at the court challenges of the parties working through the judicial system and what they perceive to be a level playing field, what this is doing would not necessarily dictate anything different.

SEN. GAGE asked **Mr. Niss**, if they reinstated all the stricken language and took the new language out of 13-35-227, would it look like I-125. **Mr. Niss** said it would.

Vote: The motion that HB057502.adn BE ADOPTED FAILED with **SEN. WILSON, SEN. GAGE, and SEN. BROOKE IN FAVOR, AND CHAIRMAN HARGROVE, SEN. MESAROS, and SEN. THOMAS OPPOSED.**

{Tape: 1; Side: A; Approx. Time: 9:30 a.m.; Comments: None.}

EXECUTIVE ACTION ON HB 170

Amendments: None

Discussion:

SEN. GAGE asked if HB 170 needed to be coordinated with any other bill. **CHAIRMAN HARGROVE** said there were two bills the committee had to coordinate. He said the proponents for HB 170 were concerned about sending it back to the House.

Motion: **SEN. MESAROS** moved that HB 170 BE CONCURRED IN.

Discussion:

SEN. BROOKE asked if HB 170 involved the university security people. **CHAIRMAN HARGROVE** said it did not. **SEN. MESAROS** said he thought they had made significant progress since they heard it two years ago when everyone would like to have supported it but it was very expensive. Now, he felt the committee could support HB 170 due to the tremendous amount of work done on it.

CHAIRMAN HARGROVE agreed with **SEN. MESAROS**, and said he supported it last time but it had larger impact financially. He said it was important for the future and would save the state a lot of money.

Vote: The motion that **HB 170 BE CONCURRED CARRIED UNANIMOUSLY**. **SEN. TOM BECK** would carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 430

Amendments: HB04301.ash (EXHIBIT 2)

Discussion:

Mr. Niss said there were two MCA sections being amended in more than one bill. He said the amendment he handed out coordinates the provisions of HB 430 with HB 170, and the coordination language was done by **Sheri Heffelfinger**.

Sheri Heffelfinger explained the amendment.

Linda King said there would not be a different fiscal note on the bill.

Motion/Vote: **SEN. BROOKE** moved that **HB04301.ash BE ADOPTED**. The motion **CARRIED UNANIMOUSLY**.

Motion/Vote: **SEN. BROOKE** moved that **HB 430 BE CONCURRED IN AS AMENDED**. The motion **CARRIED UNANIMOUSLY**. **SEN. JOHN HERTEL** would carry the bill on the Senate floor.

{Tape: 1; Side: A; Approx. Time: 9:49 a.m.; Comments: End of Tape 1, Side A.}

COMMITTEE DISCUSSION - HB 173

Sheri Heffelfinger explained amendment **HB017304.ash (EXHIBIT 3)**. She said the coordinating instructions were long because there were three bills which needed to be coordinated in HB 173. The bills were HB 505, HB 170, & HB 173. Ms. Heffelfinger directed the committee to sub section (a) which dealt with HB 170 and HB

173, and sub section (b) HB 430, HB 170, and HB 173. Ms. Heffelfinger said she would provide the committee members an overview of all the bills and issues involved.

CHAIRMAN HARGROVE stated that HB 505 was a simple bill dealing with the vesting. He asked if HB 505 was going to have a coordinating instruction itself. Ms. Heffelfinger stated it would not.

CHAIRMAN HARGROVE asked the committee to hold executive action on HB 173 until the committee took action on HB 505.

EXECUTIVE ACTION ON HB 505

Amendments: None

Motion/Vote: SEN. BROOKE moved that HB 505 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY. SEN. J.D. LYNCH would carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 173

Amendments: HB017304.ash

Motion/Vote: SEN. BROOKE moved that HB017304.ash BE ADOPTED. The motion CARRIED UNANIMOUSLY.

Motion/Vote: SEN. BROOKE moved that HB 173 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY. CHAIRMAN HARGROVE would carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 216

Amendments: None

Motion/Vote: SEN. MESAROS moved that HB 216 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY. SEN. BRUCE CRIPPEN would carry the bill on the Senate floor.

HEARING ON HJR 13

Sponsor: REP. AUBYN CURTISS, HD 81, FORTINE

Proponents: Jim Mockler, Executive Director, Montana Coal Council
Gail Abercrombie, Executive Director, Montana Petroleum Association
Cary Hegreberg, Montana Wood Products Association

Opponents: None

Opening Statement by Sponsor:

REP. AUBYN CURTISS, HD 81, FORTINE, distributed copies of the Deseret News (EXHIBIT 4), and reported that, using the Antiquities Act of 1906 as authorization, President Clinton signed the Grand Staircase Escalante National Monument legislation which placed 1.7 million acres of Utah's public lands into the largest national monument of its kind, with the exception of Alaska, noting that U.S. News and World Report termed it the "mother of all land grants." She said that HJR 13 urges Congress to amend the President's action requiring negotiations with the states and stronger consideration of social and economic consequences in the designation of national monuments and wilderness areas.

She said there is fear that the President's action may be precedent-setting, and that one can only guess at the economic impact should 200,000 acres of resource-rich land be eliminated from Montana's school trust. She explained that, by inclusion of 200,000 acres of Utah's school trust land, this designation robs Utah's school children of an estimated \$1.1 billion for an educational endowment, adding that the area includes what has been called the richest known energy source in North America and will cost Utah about 1,000 jobs and another estimated \$11 million a year in lost taxes and revenue.

Proponents' Testimony:

Jim Mockler, Executive Director, Montana Coal Council, said he was in support of the resolution more for what could happen rather than what it has done to public lands around the country. He said a future president could go into an area that had been designated by another president, and reverse his decision. He urged this decision to be a congressional function.

Gail Abercrombie, Executive Director, Montana Petroleum Association, stated when the act was put into place, she never envisioned a set aside as big as the one in Utah. She felt the involvement of the states and local citizens needed to be taken into account. She said Public Lands News (EXHIBIT 5) talked about Conoco drilling in Utah's monument, and they were declined, and that the same scenario could happen on Montana's Rocky Mountain front, that it could be set aside and eliminate the drilling of oil in these areas.

{Tape: 1; Side: B; Approx. Time 10:13 a.m.; Comments: None.}

Cary Hegreberg, Montana Wood Products Association, said their administration felt the brunt of the current presidential administration's executive orders. He said that, in December, the President rescinded congressional legislation which was enacted to facilitate the harvest of dead and dying timber throughout the United States on U.S. Forest Service lands. That executive decree was issued two weeks premature to the expiration

of that congressional act, and it cost timber sales in the State of Montana. He said primarily the cost was on the Kootenai National Forest. This cost jobs and had an economic impact in the state.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. GAGE asked REP. CURTISS why she had not included the governor of Utah to be notified in the bill. REP. CURTISS stated it was an oversight.

CHAIRMAN HARGROVE asked REP. CURTISS if there was coordination with the Council of Western State Governments when drafting the bill. REP. CURTISS said she had not been in contact with them but has been in contact with the Western States Coalition and that some of their members belong to the Council of Western State Governments.

Closing by Sponsor:

REP. CURTISS stated she has a provision statement of the board of trustees from the school and Institutional Trust Lands Administrators, and they have a fiduciary responsibility for handling the Utah state trust. This land was given as part of a bilateral compact with the United States of America to the State of Utah, similar to Montana. She reiterated the astronomical ramifications, pointing out that the Utah Geological Survey has estimated there are approximately 9.3 billion tons of recoverable high BTU low-sulphur coal underlining this plateau, and the school trust lands hold 800 million tons of that coal, noting that the list goes on, and there is a tremendous amount of resources which has been locked up. She noted that the Mountain States Legal Foundation and the Western States Coalition have joined the Utah trustees in litigation seeking some relief from this action.

HEARING ON HJR 14

Sponsor: REP. AUBYN CURTISS, HD 81, FORTINE

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. AUBYN CURTISS, HD 81, explained that, at the first meeting of the Congressional Rules Committee in January, 1995, the committee was told that it would cost up to \$4.5 million just to determine how many mandates are in existence and their total cost. It was reported that, prior to that time, there had been

no requirements made to issue fiscal statements when grants and loans were made. In 1995 the Montana Legislature passed SB 176 sponsored by SEN. BENEDICT, which required state agencies to evaluate federally mandated programs administered by their department and make recommendations to the Governor who, in turn, would determine the cost effectiveness of the programs and whether they meet Montana's customs and culture. If the evaluation proves negative, the Governor may refuse the mandate, and the Attorney General is directed to back him up in his decision.

She distributed copies of material (**EXHIBIT 6**), and explained that the results failed to track dollars in specific programs, and it seems impossible to determine their cost-effectiveness or whether they are even meeting a beneficial purpose. At a time when the federal government is attempting to balance it's own budget and cut all unnecessary programs, it is only logical to assume that Montana will be experiencing more reductions in federal appropriations, and it is critical that we evaluate what it is vital to Montana and what it not.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. CURTISS referred to an article in the Missoulian which outlines all the federal monies that come into the state, and the figures indicated that \$4,276,000,000 came into Montana, and that Montana ranked 11th nationally on a per capita basis as recipients of federal dollars. She added that grants to state and local governments totalled almost \$831 million and an additional \$700 million for what was designated "Other Programs" ranked Montana second in the nation per capita. She asked for the Committee's concurrence.

{Tape: 1; Side: B; Approx. Time: 10:26 a.m.; Comments: End of Tape 1, Side B.}

HEARING ON HJR 26

Sponsor: REP. AUBYN CURTISS, HD 81, FORTINE

Proponents: Darryl Holzer, AFL-CIO

Opponents: Bill Olson, American Association of Retired Persons

Opening Statement by Sponsor:

REP. AUBYN CURTISS, HD 81, FORTINE, urged the committee to pass HJR 26, a balanced budget resolution.

Proponents' Testimony:

Darryl Holzer, AFL-CIO, said he was in support of the resolution but had a concern with line 13, page 2. It seems to indicate that, in the absent of a natural emergency, that would be the only allowable circumstance to invalidate that balanced budget. He said the state of Montana could experience some massive flood disaster in the state and urged the committee to look at that language in the resolution because they do not know when they would have to rely on the aide.

Opponents' Testimony:

Bill Olson, American Association of Retired Persons (AARP), said that the AARP's position on the resolution was the result of national input. He believes a constitutional amendment is not the way to achieve responsible deficit reduction, and that the proposal could have serious repercussions for the countries well-being. Bringing the federal budget under control is different from a constitutional mandate. He said the amendment could hinder the government's ability to invest in the future or respond to changing economic conditions or unforeseen natural disasters. He further stated that he did not want congress to vote for a balanced budget amendment that would threaten social security and without explaining how it would affect medicare benefits.

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. CURTISS said they had to do something to protect their children and grandchildren, and that Congress needs to take responsibility and operate within a balanced budget.

COMMITTEE DISCUSSION - HB 142

CHAIRMAN HARGROVE commented on his concerns, noting that his district borders the university district, and he thinks they do want the optional retirement plan, but this does not give them the option, that they have to go into the so-called "optional plan" which is no longer optional. He added that he is not sure he sees the urgency for this bill.

SEN. GAGE said that people coming into the system should have the same options as the ones already in the system. He commented that former **SEN. ALAN SIMPSON** from Wyoming was on TV, and said nothing bothers young people because they have not experienced

any catastrophes in the United States. He said he did not know what they would do if there was a prolonged session and the stock market took an 80 percent correction, wiping out 80% of their retirement. **SEN. GAGE** said it make him think about all of these defined contribution plans.

CHAIRMAN HARGROVE said that there is an attempt to limit the probability that this will not be taken advantage of by the young people and therefore the fiscal impact will be minimized and one could say at the expense of those folks.

SEN. MESAROS said he could not disagree with the intent of the bill, but was concerned as to the scope, and there was some remarks on each side that addressed the portability and the opportunity to roll this over.

CHAIRMAN HARGROVE asked **Dick Crofts** about the fact that new people coming into the system would not have an option, and also about the urgency of this legislation. **Dr. Crofts** said everyone would participate in the option. He said after the program was started everyone would be in the new program. He felt it would be difficult for people to move back and forth, and it would be a challenge to work out because of actuarial difficulties and the unfunded liability problems. He stated they were convinced this bill was a good idea and one they would like to have. He said if this is good for state employees in the university system, and it could be made available to everyone, that they were not opposed to that. He was concerned about a two-year delay, and changes on the unfunded liability.

CHAIRMAN HARGROVE said the current staff may want it, but that the staff five years from now may not want it, and would have no option to say what they want. **Dr. Crofts** stated that, for certain kinds of employees, the defined benefit program would be superior to the defined contribution plan, over the long-haul, noting his doubt that the plan would work in that kind of environment, providing that amount of flexibility. He commented on the uncertainty of the future, and said this seems to be a clear direction that these kinds of programs are moving, that it does give individuals, at least now, some degree of choice.

CHAIRMAN HARGROVE announced that executive action on HB 142 would be delayed.

EXECUTIVE ACTION ON HB 121

Amendments: HB012101.adn (EXHIBIT 7)

Discussion:

SEN. GAGE asked **Dr. Crofts** to respond to the amendments. **Mr. Crofts** said the purpose was to stretch out the unfunded liability

and make it less of a burden. **CHAIRMAN HARGROVE** asked if **Dr. Crofts** supported the amendments, and he indicated he did.

{Tape: 1; Side: A; Approx. Time: 10:57 a.m.; Comments: The Committee recessed until 11:16 a.m..}

Mr. Niss explained the amendment to HB 121. He said the amendment would stretch out the amortization period, and it would make it easier to make their higher payments.

Motion: **SEN. GAGE** moved that HB012101.adn BE ADOPTED.

Discussion:

SEN. GAGE asked **Marilyn Wessel** how the amendments affected the fiscal note. **Ms. Wessel** indicated there was no overall fiscal impact. She said it would give them five years to pay instead of three years.

CHAIRMAN HARGROVE asked **Ms. Wessel** if that would lower the fiscal note for this biennium. **Ms. Wessel** stated it would, but not over the entire payment period.

Vote: The motion that HB0121.adn BE ADOPTED CARRIED UNANIMOUSLY.

Motion/Vote: **SEN. GAGE** moved that HB 121 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY. **SEN. HERTEL** would carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 142

Amendments:

Motion: **SEN. BROOKE** moved that HB 142 BE CONCURRED IN.

Discussion:

SEN. BROOKE asked **Mr. Niss** if there was an amendment. **Mr. Niss** stated there was an amendment and it needed to be coordinated with HB 174. **SEN. BROOKE** noted it was a serious condition with the cost of GABA going up. **Mr. Niss** stated the amendment reduced the percentage the way the bill came to the House.

SEN. MESAROS asked if they should act on the amendment for coordination purposes. **Mr. Niss** stated it may be appropriate if they adopted the amendment and hold the bill, and then they would know if it had to be coordinated with HB 170. **Mr. Niss** explained the amendment.

Vote: **SEN. BROOKE** WITHDREW her motion that HB 142 BE CONCURRED IN.

EXECUTIVE ACTION ON HB 575

Amendments: None

Motion: SEN. GAGE moved that HB 575 BE CONCURRED IN.

Discussion:

SEN. BROOKE stated that, whether one did or did not like I-125, she felt passage of HB 575 is a manipulative way to handle the situation instead of drafting a bill to repeal the measure.

CHAIRMAN HARGROVE pointed out that I-125 would still be in place on the passage of HB 575.

SEN. GAGE said he had a number of concerns on I-125. He thought it did not make sense to not allow large corporation to contribute to ballot issues but allow large partnerships to, noting that there are some large partnerships in the United States. He asked why a corporation would not have the right to get a ballot issue defeated if it was going to directly affect their company.

SEN. MESAROS added there were some huge partnership businesses that would dwarf many corporations, and these huge partnerships had a lot of power and influence on issues. He said if corporations were included, partnerships should also be included as not having the right to contribute to ballot issues.

Vote: The motion that HB 575 BE CONCURRED IN CARRIED, with SEN. BROOKE and SEN. WILSON OPPOSED, and CHAIRMAN HARGROVE, SEN. GAGE, SEN. MESAROS and SEN. THOMAS IN FAVOR.

{Tape: 2; Side: B; Approx. Time: 11:35 a.m.; Comments: None}

EXECUTIVE ACTION ON HJR 13

Amendments: HJ0013.adn (EXHIBIT 8)

Motion: SEN. GAGE moved that HJR 13 BE CONCURRED IN.

Motion/Vote: SEN. GAGE offered a substitute motion that HJ0013.adn BE ADOPTED. The motion CARRIED with SEN. WILSON OPPOSED.

Motion/Vote: SEN. MESAROS moved that HJR 13 BE CONCURRED IN AS AMENDED. The motion CARRIED with SEN. BROOKE and SEN. WILSON OPPOSED.

EXECUTIVE ACTION ON HJR 14

Amendments: None

Motion/Vote: SEN. GAGE moved that HJR 14 BE CONCURRED IN. The motion CARRIED with SEN. WILSON and SEN. BROOKE OPPOSED. SEN. BENEDICT would carry the bill on the Senate floor.

EXECUTIVE ACTION ON HJR 26

Amendments:

Motion: SEN. MESAROS moved that HJR 26 BE CONCURRED IN.

Discussion:

SEN. BROOKE said she had a problem with the "Whereas" clause about the bloated defense budget in the federal government's balanced budget. SEN. HARGROVE stated that he thought it was far from being bloated.

Vote: The motion that HJR 26 BE CONCURRED IN CARRIED with SEN. WILSON and SEN. BROOKE OPPOSED.

EXECUTIVE ACTION ON HB 217

Amendments: None

Motion/Vote: SEN. GAGE moved that HB 217 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 11:44 a.m.

Don Hargrove

SEN. DON HARGROVE, Chairman

Mary Morris

MARY MORRIS, Secretary

Jaelene Racicot

Transcribed by JAELENE RACICOT
by Shirley Herrin

DH/MM