

MINUTES OF MEETING

HOUSE RULES COMMITTEE

MONTANA STATE LEGISLATURE

February 4, 1977

The meeting of the House Rules Committee was called to order by Rep. Meloy, Chairman, on the above date in Room 343 at 11:10 A.M.

Members of the committee present were:

Rep. Bardanouve	Rep. Driscoll	Rep. Marks
Rep. Bradley	Rep. Fagg	Rep. Meloy
Rep. Brand	Rep. Kvaalen	Rep. Moore

Also present were Ms. Joy Bruck from the League of Women Voters, Mr. William Hansen from United Press International, Mr. Robert Lohn from the governor's office, and Mr. Rod Gudgel.

House Bill 217 was before the Rules Committee for consideration.

Rep. Bardanouve was asked to comment on the bill. He explained that the bill was primarily the result of a couple of Supreme Court cases involving the right of a legislative committee to act upon expenditures when the legislature is not in session. This also applies to the university system. The situation in Montana is not unique in America and it seems that everyone wants to control the spiraling cost of government. There was a case in Pennsylvania where Governor Shapp sued a legislative committee and lost. The court supported the legislators. Governor Shapp did not agree with the court and carried it on to a higher court. Rep. Bardanouve mentioned a national column that appeared in last Sunday's Great Falls Tribune about the Pennsylvania case. The column brought out specifically the same situation that we have in Montana. An agency approaches Uncle Sam, secures federal money and then begins programs with these federal dollars. Then when the legislature meets, they are told the federal dollars are running out, and there have been people hired by money the legislature knows nothing about. He remarked that most budgets are based on prior budgets. Oftentimes an agency has an application in to do what the legislature has turned down. The intent of the HB 217 is to instill accountability in state government. He mentioned that Rep. Brand's bill, which was much broader than this bill, had passed the House a few days ago. This, he felt, created in essence a mini-legislature. It gave tremendous power to a small number of legislators between sessions. He mentioned a newspaper poll which showed that all legislators should have control over the spending and transferring of funds.

Mr. Rod Gudgel appeared before the committee as a proponent of the bill. He said he had been with the Montana Citizens' Committee on State Legislature. The purpose of this group is to give the legislature more power. This bill, he feels, speaks directly to this subject. He feels that too many runaway things happen between sessions and that the state is then stuck with them until the next session. He thinks this bill takes the state in the right direction.

Ms. Joy Bruck appeared before the committee as an opponent of the bill. She read a prepared statement issued by the League of Women Voters. This statement is attached as Appendix A.

Mr. Robert Lohn from the governor's office appeared before the committee in opposition to HB 217. He said he had a few fundamental thoughts to lay before the committee, not as a matter of efficiency, but as a matter of wisdom. He asked that they consider themselves not as legislators, but as citizens of the state, commissioned by people from different backgrounds and different districts to carry out their legislative duties. The best comes from the people and goes to the people. He said that annual sessions were a possible solution and a way to have input more frequently. He asked that the committee look at committees as they pass through the history of Montana. He felt that committees just don't represent the people in the same special way that individual legislators do. He quoted in part from a 1926 dissent of Justice Brandeis, who said that the doctrine of separation of powers was adopted not to promote efficiency but to curb powers and save the people from autocracy. He asked that the Rules Committee consider the wisdom of HB 217.

Rep. Moore provided some background for interim committees. He said that in 1944 Senate Bill 83 established a legislative finance committee to oversee the spending of funds and assigned a fiscal analyst to the committee. This committee is still in existence and will stay in existence. He remarked that HB 217 does one thing: it provides a constitutional amendment to be put on the ballot. The citizens can then vote on it to decide whether to allow or not allow a committee to act on these matters.

Rep. Bardanoue feels that annual sessions are necessary, but due to the present legislative makeup and other things, annual sessions don't seem to be wanted. HB 217 is an alternative approach. He mentioned that a remark had been made earlier that power would be given to a group which was not truly representative. The committee which has been set up, he feels, is representative of both the Senate and the House, and of the constituents at home. He questioned who made the decisions regarding monies not appropriated by the legislature. He feels that the budget office is oftentimes just a rubber stamp factory and that federal monies are automatically approved. He remarked that a fairly recent incident was typical of what happens. Montana had high water problems in June of 1975, federal monies were approved to help the people out, and it was

found out later that this money was misused. The governor's office had to abolish and shut down the whole program. He felt that the governor could be saved a lot of embarrassment if a legislative committee had the power to turn down requests like this.

Rep. Moore moved that House Bill 217 Do Pass.

Rep. Marks requested that he be allowed to ask Ms. Bruck a question. He asked her if she felt that sending this question to the voters is inappropriate.

Ms. Bruck replied that voters were generally apathetic and that they would need a great deal of information to fully understand the issue. She felt that an interim committee would not give the voters full representation. She feels that annual sessions are a better direction toward more control of expenditures.

Rep. Marks asked Ms. Bruck if she felt it was appropriate to put questions to the people, but not this particular one.

Ms. Bruck replied in the affirmative.

Rep. Moore remarked that the legislature would still have nine months to address the same problem, even with annual sessions.

Ms. Bruck stated that there seemed to be a good working relationship between the finance committee and the executive branch. She felt that with a shorter interim and an oversight committee, things would work well.

Rep. Bardanouve agreed that there was a good working relationship toward the end.

Rep. Driscoll stated that he was against the bill. He felt the people were upset that they were not included in the interim finance committee's decisions. He thinks the people will defend their rights to be heard through their individual legislators.

Rep. Moore remarked that the notices of meetings of the legislative finance committee were always posted and the committee always listened to what the people had to say.

Rep. Driscoll felt part of the problem was lack of communication, that other representatives didn't know the rationale behind the decisions.

A vote was taken on Rep. Moore's motion. Rep. Driscoll voted nay, and all others voted aye. The motion carried.

House Bill 196 was discussed next and Rep. Fagg was asked to explain the problem with the bill. He said that this bill was put on at the request of the plumbers in Billings. He wanted to amend the bill to stop double inspections. The bill wasn't drafted the way he wanted it as the Legislative Council stuck on a repealer instead of an amendment. He thinks the change from "repealing" to "amending" is within the scope of the title.

Rep. Moore mentioned that Section 2 of the bill would have to be redone.

Rep. Kvaalen thought that in order to be consistent, that the bill should go back to the committee for a committee bill.

Rep. Meloy remarked that what Rep. Fagg is trying to do is narrower in scope rather than broader.

Rep. Moore felt that it didn't change the intent of the bill. He moved that the amendment to Section 66-2427 to remove the duplication in plumbing inspection is in order as being within the scope of the title.

A vote was taken. Representatives Brand and Kvaalen voted no and all others voted aye. The motion carried.

Rep. Brand then brought up a problem that had occurred in a committee meeting that morning. He said that Rep. Bardanouve had not wanted to vote on a bill because he hadn't heard the argument.

Rep. Moore felt that anyone has the prerogative to abstain from voting.

Rep. Meloy read Joint Rule 9-1 which states: "Except as provided in Joint Rule 9-2, every member present when a question is put shall vote unless the house of which he is a member excuses him." He said it was designed to apply to floor rules and wondered if it also applied in committees.

Rep. Bardanouve remarked that he had spent two hours with the warden of the prison and that he completely missed the testimony on the bill under consideration.

Rep. Brand said that one of the committee members brought it up and had told another member that he had to vote.

Rep. Bradley said that she thought people who wanted to abstain from voting in committees should have the right to do so.

Rep. Brand felt that some kind of uniform system was needed.

Rep. Bradley moved that a rule be adopted that would allow abstaining from voting in committees.

Rep. Brand requested that the motion be amended to have the abstaining votes included in the minutes of the meeting.

Rep. Marks questioned whether this rule would be for standing committees only.

A vote was then taken on the motion to adopt a new House rule providing that any member may abstain from voting in standing committees and subcommittees and the fact of the abstention shall be recorded in the minutes. The motion carried unanimously.

Rep. Marks then questioned whether it was proper for a committee member to leave his vote with the chairman. He thought there should be a House rule on this.

Rep. Bardanouve said he thought any member could leave a vote with the chairman of the committee.

Rep. Meloy stated that there was no rule that permitted proxies.

Rep. Bardanouve questioned whether leaving a vote with the chairman was really a proxy.

Rep. Bradley moved that another rule be adopted which allows a member of a committee to leave his vote with the chairman of that committee.

A vote was taken. Rep. Marks voted no and all others voted aye. The motion carried.

There being no further business, the meeting adjourned at 12:15 P.M.



Peter M. Meloy, Chairman

League of Women Voters of Montana

HB 217

Interim Legislative Committee - Budget Amendments

1977

The League of Women Voters of Montana speaks in opposition to HB 217. We support a legislative system representative of all citizens, and this bill conflicts with that concept.

A decision made by the Supreme Court affirmed that a legislative committee should not have the power that belongs to the entire legislative body. The committee could make a decision in direct opposition to what the Legislature as a whole would decide, or a decision which goes against the opinion of the majority of our citizens. This is not in the best interest of the people of Montana, and, in our opinion, not true representation. With single member districts, only a handful of citizens would be represented by the members of the committee - a committee with the tools available to control much of the interim finances.

We followed the Finance Committee and the Administrative Code Committee during the interim. We believe the creation of these committees was a step in the right direction. They were not only able to act as a "watchdog", but were able to make the Legislature's views known. It seemed to us that there was a good working relationship between the committees and the Executive Branch. These committees are needed, but to allow a committee to serve as a "mini-legislature" is going too far - a better answer is annual legislative sessions.

Therefore, we urge you to oppose HB 217.

Rules Committee

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MR. Speaker

We, your committee on RULES

having had under consideration HOUSE Bill No. 196

A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH THE INSPECTION AND PERMITTING SYSTEM FOR ENFORCEMENT OF THE STATE PLUMBING CODE: AMENDING SECTION 66-2404; REPEALING SECTION 66-2427, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 196

an amendment to Section 66-2427 to remove the duplication in plumbing inspection is in order as being within the scope of the title.

DO PASS
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STANDING COMMITTEE REPORT

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MR. Speaker,

We, your committee on RULES

having had under consideration HOUSE Bill No. 217

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUDMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 12, OF THE MONTANA CONSTITUTION TO ADD A SECTION AUTHORIZING ESTABLISHMENT OF AN INTERIM LEGISLATIVE COMMITTEE TO APPROVE OR DISAPPROVE BUDGET AMENDMENTS TO SPEND FUNDS NOT APPROPRIATED AT THE PRECEDING SESSION."

Respectfully report as follows: That HOUSE Bill No. 217

DO PASS