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Chairman Brand called the hearing to order at 9:00 a.m., all members were present.

SB 370-Sponsored by Senator Etchart -- This bill tries to check some inequities. It puts air mileage at twice what car mileage is without having to have a statutory change every time. Air miles compared to land miles between two cities can be quite different. When you figure the extra time saved - even though you pay more per mile by air - it still is a saving to the state. In alot of these state meetings if I couldn't fly I wouldn't come.

MIKE FERGUSON-Administrator, Aeronautics Division -- The Montana Aeronautics Board supports this. We can recognize a direct savings relative to miles driven as opposed to air miles, plus the days spent travelling. The state only recognizes the direct salary in air travel opposed to driving, and all agencies recognize a time saving factor and sometimes as much as 2.2 times the salary. The Legislative Auditor recognized that state employees could save money flying. We urge your approval.

NO OPPONENTS

ETCHART-With air travel you find that rather than running with only 1 person you will invariably find 2 or 3 people in the plane.

FERGUSON-You have to pay the pilot \$10.00 an hour for every hour he is on the ground besides the flight fee and his state salary.

Baranouve came in at this time.

AZZARA-Then doubling the mileage rate would be all that would happen regardless of the maintenance and gas factor? ETCHART-Yes. O'CONNELL-I think this is class legislation.

RICHARD JUNTINEN-Department of State Lands -- In our department, we have to tell the boss what it costs for various methods of travel. I computed about a month's travel during the Northwest strike and when you figure a man's salary along with the travel expense, it is almost always cheaper to fly. I have figures to show that flying is cheaper than driving invariably.

BRAND-This is going to cost the state as well as the counties. ETCHART-The agencies still have to live within their travel budgets. BRAND-You said that Highway Patrolmen are the only people that get paid for driving, now doesn't this bill pay pilots to fly? FERGUSON-Yes.

SB 199-Sponsored by Senator Turnage -- This limits the disability retirement allowance for a district judge. The old language speaks of total disability -- this bill allows retirement when a judge or justice has a disability that renders him unable to perform his duties.

JIM TURCOMTE-Assistant Administrator, PERS -- In the judges retirement system, we had problems with the disability clause and this brings the language more into line with the other systems we administer. The funding is provided in the body of the bill, and we urge your approval.

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NO OPPONENTS

BARDANOUVE-Where does it provide the cost? TURCOTTE-The judges contribution has been increased and the employer contribution has been increased. The cost is the sum of the difference between those two. To the state, 1% of salary would be approximately \$11,000 for all judges. BRAND-Page 4, line 10 - I haven't seen any other program where you could get full retirement for a disability gotten outside the line of duty. TURCOTTE-I may be full benefit which only amounts to a portion of salary.

SB 351-Sponsored by Senator Turnage -- This is relative to the state Tax Appeals Board increase in salary. They haven't had an increase in salary since '75. Their salary is currently \$18,500, and this would take it to \$21,500.

BRAND-Helena Petersen called to say that she had another meeting but did explain that their work load has increased considerably.

NO OPPONENTS

TURNAGE-They are appointed by the Governor for terms of three years.

BRAND-Would you oppose the Personnel Board studying their work load and assessing what they are due? TURNAGE-I would have no objection.

SB 132-Sponsored by Senator Blaylock -- This grew out of Terry Murphy's race, and if it passes, you go to the counties in a multi-county district but you must post bond to pay for the recount. If you feel a mistake has been made and you are willing to pay for it you should be allowed to do so. I think it is a fair concept.

TERRY MURPHY-Representing himself -- I did suggest to Chet that some amendments in the law were called for. This bill, in conjunction with the election recod, will go a long way in alleviating the problems we have encountered. I urge your support.

KATHLEEN McBRIDE-Representative from Butte -- Having gone through a recount, I have to say this is very much needed. Whenever an election is close, other candidate should have this right.

OPPONENTS

JOHN BELL-Association of Clerks & Recorders -- We strongly opposed this before the amendments, but we still oppose it somewhat due to there being no probable cause having to be shown. The Clerks & Recorders feel their offices would be disrupted by anyone and everyone demanding recounts. We feel the bill still needs some work and would ask that the bill be killed because people could disrupt the county court houses without probable cause.

BLAYLOCK-The repealers address having to go before the judge. As to the costs -- the candidate bears the cost and if the candidate has to pay -- think he should have the right.

MURPHY-The cost is computed by the Clerk & Recorder as to the hours they spend.

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FEDA-Can a campaign committee pay this? MURPHY-Yes. SALES-There are no repealers in this bill, there are new sections, but no repealers. MURPHY-As originally introduced, it did contain repealers. The Senate Judiciary Committee amended most of the original language back in. The intent is to clear this 1/4 - 1/2 basis. There are chapters on the books now that address that but we could add that in if you please. PISTORIA-Why would the Clerk & Records object if they are going to be paid? BELL-Those county officials would be out of their offices, not doing their jobs, not supervising their people for the amount of time this takes. McBRIDE-You say the one wanting the recount has to post a bond. Is the amount publicized or does anyone even know? BLAYLOCK-That would be public information. BARDANOUVE-It really bothers me that the County Clerks should testify against this bill in the manner that you have. They have no right to deny citizens the right to contest an appeal. They should do it even if the bill passes. BELL-They felt they would be away from their jobs in a detrimental way. BENNETT-We are going from 1/4 of 1% to 1/2 of 1% - how many more do you think will occur? BELL-I don't think there will be that many more. BLAYLOCK-It seems to me that bearing the cost personally would make you really think about doing this.

SB 400-Sponsored by Senator Towe -- The bill would move the Board of Visitors from the Governor's office to the Legislative Audit Committee. They are attached to the Governor for administrative reasons. This also gives a fixed term for board members. There are already some requirements for board membership. We are adding that one member should be a psychiatrist. We are attaching them to the Auditor for administration and to the committee for the hiring of staff. They would report to the committee, which would report to the Legislature. This is the same as the law relating to mental health. I was the sponsor of the bills creating the Board in '75, and generally speaking, it has been received and is working out well. The board has fulfilled a very important function of reviewing the institutions to see whether or not things are being handled as they should. This looks in to whether the medicines are being handled right, whether treatments are correct, to see if the people are being treated properly -- but every session since this was enacted there's been a run at taking away their funding. This session the Governor has said he will not support them and I think maybe we need to look at the system. Maybe it is true that this board is attached to his office but he can't review their report before it is made public. If there's an audit then maybe it shouldn't be made by him. This board must have the independence that they can't have with the Governor -- perhaps the right approach is to move this away from the frailty of the Governor's office and attach it to the Legislature. I think this committee is an appropriate place to put this. This office determines that money is being spent properly and they also do performance audits. This board reviews medical records and treatment and medicines and therefore in a sense performs an audit function. I think this move will give them the status and the independence they need. I think the Auditor can bring them better credibility. At the present, the board must be consulted before any experimental research or strange treatment can be used. I think we need this board.

AAGE HANSON-Association of Developmentally Disabled -- We are rather neutral -- I served originally on the board in '75-'76. We feel very comfortable with the term restrictions and with the addition of the psychiatrist. Our concern isn't whether it is in the Executive or the Legislative branch, our concern is that there is a Board. This board is very important - I would feel a lot more comfortable if I had a person in a state institution knowing there was a Board of Visitors. Every time

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(HANSON continued)-we visited Warm Springs there were always patients that wanted to talk to us. It is a way they can communicate without having to go through the system. We are concerned that we do nothing to stop the Board from functioning, but we have no feeling about what branch you put it in. Just please don't disrupt the Board.

TCM BOLAND-Attorney from Great Falls -- This Board was designed to be the conscience of a department that can get bogged down in its own bureaucracy. I served the Board for two years with a \$12,000 cut in salary -- I think the reason I was successful in getting some exposure for the institutions because I was autonomous and only answerable to the Board. I think they acted as a conscience. If a doctor was performing in a way his peers on the outside wouldn't condone it was noted. Three years ago the Board recommended that the Childrens' programs were an abomination and should be altered -- action has finally been taken this year. If this board can be allowed to act as the conscience of these institutions, I think the Legislature and the Governor have a great deal to gain. I think it takes the strong person to accept the fact that there's a group that he can't really control. I would sooner see this connected to the Governor but if he will continue to chop away at their funding and autonomy, then move it. I would urge my qualified support and ask the committee to take a hard look at how they are attached and how much any body of government should be conducted. It is the only honest look we have into the institutions.

MARGARET ULRESTAD-DD Council -- I am not a proponent or an opponent of this bill but do strongly support the Board and its autonomy. We feel citizens in the institutions need this representation.

DIANE WILLIAMS-League of Women Voters -- We support the Board and want to see it continued.

OPPONENTS

HAROLD GERKE-Speaker of the House -- I appear in strong opposition to putting this under the Audit Committee. I feel this is a drastic change and I think we haven't been told the full story; but I personally think that this isn't the proper place for this board. I have been on that committee for a number of years and I don't like to see an end run made. IF the Governor has a disagreement with someone, I don't know how you can shade the emotions involved in this board. I have my own opinions, but I think it would be a mistake to do this. The sponsor came to the committee and asked about this and after much deliberation we said we could but we didn't expect the administrative functions. We don't want another appointment system. This committee has been able to do a factual job for years because they have been away from emotional issues. This board belongs in some administrative office -- if you want it separate, set it up separate in the Legislature. If you look at the bill it has what I feel to be many flaws, and would have to be amended and would also have to have an appropriation. Page 2, lines 16 and 17 -- "may appoint staff" -- so we wouldn't have to. The functions of the committee would be exclusive and I feel if this has all kinds of reflections on the Governor's office, what is it going to do to this committee? I agree with Boland that it shouldn't be in the Governor's office.

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AL BERTLESEN-Chairman, Board of Visitors -- We strongly oppose this move. See Attachment #1 for the information and testimony he supplied.

JIM FARRELL-Representing Judge Gordon Bennett -- Mr. Farrell read a letter from the Judge, see Attachment #2.

TOWE-I guess I don't see the problem Gerke sees -- if this Board doesn't fit, then alot of things don't fit. EQC has citizens on it and yet works under similar conditions. We need to see whether the employees, etc. are following the law -- we need to see, the Legislature needs to see. The opponents in the Senate finally agreed with this bill. I feel that giving the Auditor power over hiring staff is more effective because he is already concerned with financial areas. The lawyer mentioned on page 6 was added last session to provide for patient advocacy. At the last minute, we had the hassle with 145 and the funding for him was put under legal services. The Governor has already said that he wants to get at the Board and so I say you need to move it. Section 6 would have made sense had the funding not be jeopardized, but I wouldn't mind if you struck it.

BARDANOUVE-Obviously, the Board in its present position is not in friendly territory -- I'm surprised at Gerke's opposition and so we have a very serious question about what to do with this Board -- it is clear that you are moving from the pan to the fire with this -- you can't put an agency into an area where it is bitterly opposed. TOWE-I have visited with other members on that committee and the Auditor and I don't see that it is unwelcome -- I do understand that Gerke felt that a Board shouldn't be given to a committee. BARDANOUVE-What is the alternative -- at one time there was mention of a new image for the Board, but what can we do to find a friendly haven for them? Can we actually make them a completely independent board not attached to anybody? TOWE-It may be a little like the Human Rights Commission -- but there we have the same problem. One thought I had is a department for citizens advocacy but we can't go that far at this point. You have a bill in appropriations that creates a Human Rights Committee.

JOHN NORTHLEY-Attorney for the Legislative Auditor -- I think it will have to be attached to someone because of the law.

TOWE-You could make it a Legislative Branch but then it would be subject to the Legislature. BERTLESEN-There have been times when our direct look at the operations of the administrative structures of health centers -- bringing in consultants, etc., have proved somewhat embarrassing to the Governor because they reflect upon his administration. We have not be proven wrong and we have tried desperately to stay out of the political arena, but we are political novices and this, to be honest, is all a little heady to us.

SB 425-Sponsored by Senator Theissen -- BRAND-Theissen has never shown up, so I don't know what to do with this.

BARDANOUVE-This has not been approved, but the subcommittee is proposing to remove a number of patients from Boulder that Eastmont can provide for.

EXECUTIVE SESSION

SB 193-DONALDSON moved NOT BE CONCURRED IN.

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JOHNSTON made a substitute motion on SB 199 that it BE CONCURRED IN.

DONALDSON-What concerns me is that the judges already have a substantial retirement fund and in the past we have been very reluctant to increase benefits when a system is in the shape this one is.

Johnston's BE CONCURRED IN motion failed on a roll call vote 13 - 5.

Donaldson moved to reverse the vote on the original motion of NOT BE CONCURRED IN, which carried.

SB 132-McBRIDE moved BE CONCURRED IN.

FEDA-This is another bill that has happened to one guy.

SALES made a substitute motion of NOT BE CONCURRED IN.

McBRIDE-Currently this law is very inconsistently applied and the bill is trying to address a serious existing problem.

The NOT BE CONCURRED IN motion failed on a roll call vote 12 - 7, so McBride moved to reverse the vote for the original motion, which carried.

SB 351-BRAND-I suggest an amendment that the Salary Commission look into this, what do you want to do?

JOHNSTON moved the amendment, then KANDUCH moved to hold the bill for Zezotarski to draw up such an amendment, which carried.

SB 370-O'CONNELL moved NOT BE CONCURRED IN.

KANDUCH moved to amend it be striking "twice" and inserting "1.5", which carried with Sales, Porter, O'Connell, and Bennett opposing.

BARDANOUVE moved AS AMENDED BE CONCURRED IN, which carried 15 - 4.

SB 400-SALES moved NOT BE CONCURRED IN.

BARDANOUVE made a substitute motion to postpone action until the committee could take a look at the board. I think they do a pretty fair job and I don't think this bill is fair to them. I think we should put it in a compatible area or abolish it.

SALES made a substitute motion to his own previous motion that the bill be TABLED, which carried unanimously.

SB 425-BRAND-I would entertain a motion to take this and put it in Appropriations - JOHNSTON so moved and the motion carried.

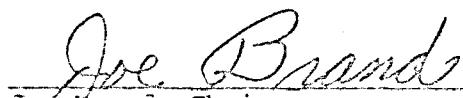
SB 171-ZEZOTARSKI-I have passed out the amendments (see Attachment #3) -- this would be a new section. I tried to isolate everything that might be a state facility so that it would be broad enough.

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SALES-I would like to move that it be "structure, room, or space".

FEDA made a substitute motion of NOT BE CONCURRED IN, which carried with Sales and Johnston opposing.

Adjourned: 11:45 a.m.



Joe Brand, Chairman



Nita Sierke, Secretary