

MINUTES OF THE MEETING  
FINANCE AND CLAIMS COMMITTEE  
MONTANA STATE SENATE

February 10, 1981

The 8th meeting of the Senate Finance and Claims Committee met on the above date in room 108 of the State Capitol Building. Roll call was taken, attached, and the meeting was called to order by Chairman, Senator Himsl at 11:07 a.m. for the purpose of considering two bills, Senate Bill 300 and 373.

CONSIDERATION OF SENATE BILL 300: Senator Kolstad, District 5 was chief sponsor of the bill and explained it. He said he had to go to an executive session in another committee and if the chair would approve, would like to let a proponent named Mike Stephen close for him. This was agreed. Senator Kolstad then explained that the bill sets up state grants in aid for the District Court System. He said the District Court System is becoming a burden to a lot of counties in the state and that a mill levy to pay depends on the class of the county as to how much they will receive. The class 2 and 3 counties receive 6 mills, the class 4 can levy for 5 mills, and classes 5,6 and 7 for 4 mills. This cannot be exceeded by any county. The county commissioners cannot deny the money to the district court judge; the courts can tell them to pay anything over the amount. We realize some avenue must be made to the counties; Senate Bill 300 is a matter of house-keeping, and would allow grants in aid to the counties who exceed their mill levy. We are removing the word "may" and saying "shall" and striking the word emergency. What is an emergency? The Department of Administration will set forth the criteria that says you have exceeded your mill levy limitation. They cannot abuse this, they have to be audited. The fiscal note appropriation is \$1.4 million in the up coming biennium. This issue will be considered at a later date. There is \$3 million in the Governor's budget for this purpose. It would help the counties so that the court costs will not break them up in business.

Mike Stephen spoke in favor of the bill and passed out a sheet showing that 83% of the district court system is at the bottom of the counties. Exhibit 2 was also passed out which lists the over-run. They believe the 6,5 and 4 mills is the portion of the counties, but there is always over-runs in the district court system, and they are not predictable as far as budgets are concerned. A law passed 2 years ago addressed the problem, but if the amount was exceeded the district court judges can submit a warrant and the commissioners have no choice but to pay the bills. There is no cap on this, no provision for stopping it, and the counties are helpless. The mechanism is in this bill. It is the same bill we passed 2 years ago, but we have taken out emergency and changed the "may" to "shall".

Joe Wolf spoke in favor of the bill. He is the budget director of the Butte, Silver Bow County. He said this is something local government has been crying about for years, and there is nothing we can do to keep this cost down. If the commissioners try to reduce it we get a mandate from a judge to pay it. They tell us how many probate officers; the district judge appoints them and the legislature says how much they can be paid. They tell us how many court appointed council. The judge says pay, counties must pay. The supreme court can say how much is to be paid for court councils. This will be one of the mandates the counties must pay. Another one is the salary of the court reporters. We have no say on how much they are to be paid. This is a mandate of state law. If the defendant can't pay for a copy of the transcript, the counties must do so.

Mr. Wolf pointed out other mandates in regard to the court system that were made by the state, issued by the courts and paid by the counties. He mentioned the additional judges and felt this would be a further burden on the county.

Don Peoples, Chief executive, Butte, Silver Bow County told of the problems in Butte with the evaluation of the property going down and raising less money on the mills, yet the cases were increasing.

Senator Regan asked if the Chairman would consider hearing Senate Bill 373 and then question both bills and the proponents on it together since they were similar bills and about the same thing. Senator Himsel consented, and called on the sponsor.

CONSIDERATION OF SENATE BILL 373: Senator Norman said that Senate Bill 373 and 300 were similar, but there were some added features in 373. He said he would speak only of class 1 and 2 county mill levies--the 6 mills--when exceeded this bill would come in. 3rd and 4th class counties have a sliding scale formula. If exceeded and you believe the state should give assistance, then how? 1. The Supreme Court should be involved. They would help set the criteria that would determine if a county had exceeded its levy. The ultimate decision would be left to the court. The state Department of Administration would issue the funds and would hold the reins. What criteria would be considered? Mandated costs. The state will pay mandated costs mandated by the courts. The state mandates certain things and the burden falls on the counties, so if it can be shown that the mandated costs are costs arising because they ARE mandated--and this will be hard to decide.

Senator Norman continued to discuss the differences between the two bills and said the big thing was to decide what was direct and indirect costs, that his bill did put a cap on the spending, and a much better control of the state spending.

Dave Lewis spoke as a proponent of S. B. 373. He is the director of the Budget of Program and Planning office and

proponent for the bill said their intent with Senate Bill 373 was to clarify some differences. Last year the session of Legislature passed a bill that said the Department of Administration would appropriate some grants for unanticipated costs involved with emergencies. An example of the McKinsey case was such a case, this was an extraordinary cost. We felt this was over and above an anticipated cost to the county. There was no money appropriated for that purpose. I was sued by Silver Bow County. Judge Olson and I had a long discussion on it. We did not have any money and they backed off. The major point of this bill is to set up a review of the case by the Supreme Court. We anticipated about \$1½ million a year because of several back cases a year ago. This last year would have been about \$400,000 and you can't project it since you can't tell. We want the courts to live within their mill levy and if they run into a real emergency they would turn the claim in. In the other bill anything over the mill levy would be turned over to the State Department of Administration to pay.

Mike Stephen, Association of Counties said there are a lot of good things in this bill. We worked long and hard on it, and there are some problems with it. The philosophy of it is that the 6, 5 and 4 mills presently levied should be the county portion of the district court budget year. We want the unanticipated costs, or whatever comes after the mills are levied. In other words, whatever the judge comes in with after the mills have been used would then be paid by the state. He said on page 2, section 2 lines 11 through 16 it says that "expenses in excess of the levy are not emergency expenses" etc. This is the business of the state, in the county, and we are trying to get this through in both these bills. The district courts are primarily dealing with state business. We do not feel it should have to go to the supreme court, but should be handled through the Department of Administration. The Supreme Court has a work load with their permanent business and should not get into rule making.

There were no further proponents, 2 opponents spoke but said they were not sure they were opponents.

John Wilkenson, County Commissioner, Lewis and Clark County, said they support Senate Bill 300, and would make the same observations as Mr. Stephen; he did not feel the Supreme was necessary to determine this. He said he did not like the bureaucracy in telling what is an emergency. Litigation is unanticipated, and the McKinsey case is an example. There was another one in Flathead County. Whatever the cost, the court says pay, we pay it. Lewis and Clark County does deal with a great deal of litigation as it relates to state agencies and state bureaus. The areas where we had our greatest increases --in '78-'79, 1,175 civil cases; between '79 and '80 1,488. It was an increase of 27%. 705 cases already this year, and in the crime area 17,139 in '78-'79 and 163 in '79-'80. We have no control over this situation. If you look at the summons, it is not "Lewis and Clark versus" it is the "State

of Montana, versus". We have levied our full 6 mills and our deficit was \$75,000. We retired that from a payment in lieu of taxes loan. We have \$147,140 projected deficit this year. This will not be affected by a rulemaking on extraordinary cases--in Lewis and Clark County, it is sheer volume; it is not the emergency cases that break us. If we don't get some relief, we will have to take away from general fund money and the impact there will be significant. There is a bill that is dealing with a third district judge for Lewis and Clark County. The volume is largely because of state matters, and it is such that two district judges cannot handle it. Mr. Wilkenson also mentioned the costs for probation officers for juvenile offenses, probably decrease of taxable valuation to bring in \$34 to \$35,000 less on the 5 to 6 mills, and the problems they will encounter this next biennium.

Questions from the Committee included:

Senator Johnson: We have the Department of Community Affairs, the Supreme Court and the Department of Administration all written in this bill. Does that mean the district court judges would be answerable to all three? Senator Norman: I don't think you can pass both these bills. The bills do essentially the same thing, mine provide the mechanisms by which it might be done. The Department of Community Affairs audits the accounts--they do so now and will continue to do so. The Supreme Court would see the criteria and accept and give us the rules for a grant and the Department of Administration would give the final decision.

Senator Johnson: On page 4, line 18 it says the Supreme Court "may" etc., on page 5, line 6 it says the Department of Community Affairs "shall" make rules, etc. They both have rulemaking power. Senator Norman: That might need an amendment. Senator Van Valkenburg: That is two different things. Senator Norman: My thought is the Supreme Court should be involved in some way. They should have the authority to issue rules but not money--that should be up to the Department of Administration.

Senator Regan: I have to confess trouble with both bills. In one there is no cap or control mechanism as to how much money the state could assume. I can see an instance where a court, knowing that there is state money available could run the costs up, and with no cap this could be drastic. Senator Norman's bill has a cap on control, it has the mechanism as to how much money the state would assume. I can see an instance where a court knowing that there is state money available will over-spend. There simply is no cap on it. I am also concerned about the Lewis & Clark expenses. As Commissioner Wilkenson pointed out, the emergency expenses provision does not take care of the sheer volume of litigation with the courts here and it really is the state of Montana versus. I would like to have the chairman put both bills in a subcommittee and come out with something we can support.

The Department of Community Affairs in this bill is doing the auditing, and that is going over to the Department of Administration isn't it? Senator Norman: yes. Regan: But it is going out? Morris Bruset: It will go to the Department of Administration, yes.

Senator Regan: The Supreme Court now is charged with the district courts--they have them under their thumb now. I would like to ask someone on SB 300--How would you answer the criticism that there is no built in cap and no reason the court should act in an economic manner?

Stephen: The district courts do not have your answer to submitting a budget that was reasonable. We would appreciate having a cap on it also. We do not have the ability to put a cap on it. We feel their cap is a 6-5 and 4 mill levy. I have no alternative solutions. but would work with the committee to come up with something.

Senator Stimatz in a question to Mr. Lewis: Could you clarify--Why involve the Department of Administration. In Senator Norman's bill someone has to determine "does it meet the criteria of the bill" and this would take time. Lewis: The reason for the Department of Administration was, frankly, we did not want the Supreme Court to get their hands on the money. They have statutory authority. They can take from the treasury to fill their needs, whatever it is. We are trying to spread this authority. They give the claim to the Department of Administration and they can be limited by the amount of the appropriation given by the legislature.

Senator Regan: Mr. Lewis, I can sympathize with Mr. Wilkenson from Lewis and Clark. Is the definition broad enough to allow him to come in for a supplement to help defray the costs because the mills are spent and he is running a deficit because of the case load? Lewis: We are attempting to cover only the emergencies such as the McKinsey case. It is not a bill for other deficiencies.

Senator Himsl: In Senate Bill 300 the cap is on the counties not on the court. From there on it is a blank check? Lewis: Yes. On line 23, page 1 of the fiscal note if you had your budget adopted and millage set and were counting on your payment in lieu of taxes etc., but if the initial request came in you would have to tap your available resources.

Senator Himsl: Senator Norman. On this bill, the Supreme Court would hold the judges to what they felt was an emergency? Norman: Yes, but they would not have the authority to pay.

Senator Himsl: The Supreme court would hold the judges to the emergency cases? Norman: yes.

Senator Stimatz: Mr. Peoples. I think we would all be foolish to say the district courts should have a blank check. Direct and indirect costs etc. I don't think indirect costs should be taken, just the direct costs that are mandated by the state of Montana and imposed on our counties to pay.

Senator Dover: Fixing up the chambers is not a mandated cost? It can be.

Peoples: They can say by court order "you are going to fund so much" etc. They are mandated costs but there has to be some control over the district courts too.

Senator Haffey: The salaries of the district courts are salaries of the probation officers and are controlled by the state. They are paid through the 6 mills. Peoples: District court judges are paid by the state of Montana. Haffey: Other costs, the court reporters, counsel, etc., are they controlled?

Senator Van Valkenburg: Senate Bill 300, lines 15 and 16 "grants are to be made from funds appropriated to the department for that purpose". That is the basis on which we denied the supplementals this session. That was the cap. There were no funds appropriated and that was a cap.

Senator Regan: The Legislature may put a cap on it but there is a provision elsewhere in the law that says they can go to the treasurer and take the money.

Senator Himsl: In a couple of instances they have exercised their authority and it has really created problems.

Senator Aklestad: Is there no way the counties can transfer their funds on the 6,5 and 4? Ans. No.

Senator Story: I think, Senator Regan, there is merit in both bills and I would like to see some work done on both.

Senator Himsl: I think it is important enough to have the whole group work on it not just a committee.

In Closing, Senator Norman said he was glad to see the committee was going to consider it this way and the bill has merit. He said he had anticipated that if this bill passed it would be amended. You will have defined county mandated costs and what an emergency is and you will also have a cap on the state funds on it.

Mike Stephen closed for Senator Kolstad in saying he would like to point out that Senate Bill 325 addresses part of the court system. They would like to have an increase in salaries and be on the state pay plan on grade 19 and grade 13 with a salary

of \$35,000 to \$34,000 and the counties will be picking up the tab if this goes through.

Senator Hims1 declared the hearing closed and said there would be a work session tomorrow on these bills.

Senator Hims1 said he would like to speak on a special situation. The committee is being asked if they will sponsor a committee bill, and he would like to have Mr. Brussett address it.

Mr. Brussett: Exhibits enclosed that he passed out to the committee, he then said a matter has come up that he thought required attention. The only avenue is to try to get a committee bill. This committee deals with revolving funds and is familiar with the term. We have a situation in the Department of Administration where we are buying a new computer that the sub-committees have approved. Instead of trading the old one in we have an offer of about \$150,000. It was purchased from the revolving fund account money. They replace and buy equipment etc. The present law says the sale shall go to the general fund unless otherwise stated. Revolving funds were used to purchase the computer, and will be used to purchase the new one, and we feel the sale of the old one should have the sale price go back into the revolving fund since the purpose of it is to be self supporting. I think all revolving funds should be treated this way, it is a matter of principle. This would be the proper way to manage the money.


Senator Hims1: As I understand it this computer was purchased out of revolving funds? Ans. Yes. Hims1: You are asking for an exception where the sale of property from any revolving fund would go back to it? Brussett: On any revolving fund sale, yes, where they are set up to provide a service to other agencies.

MOTION by Senator Story that we make a committee bill out of it.

Senator Aklestad: The proceeds you get, where would it go? Brussett: Back into the revolving fund.

VOTED, carried, vote was unanimous of all present. The bill will be taken to the Legislative Council.

The meeting was adjourned.

  
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Senator Hims1, Chairman

ROLL CALL

FINANCE AND CLAIMS COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2-10-81

NAME	PRESENT	ABSENT	EXCUSED
Senator Etchart	✓		
Senator Story	✓		
Senator Aklestad	✓		
Senator Nelson	✓		
Senator Smith	✓		
Senator Dover	✓		
Senator Johnson	✓		
Senator Keating	✓		
Senator Boylan	✓		
Senator Regan	✓		
Senator Thomas	✓		
Senator Stimatz	✓		
Senator Van Valkenburg	✓		
Senator Haffey	✓		
Senator Jacobson	✓		
Senator Himsl	✓		



*Sen*  
HOUSE

Date \_\_\_\_\_

2/10/81

SB 300  
SB 313

ONSOR

NAME

RESIDENCE

REPRESENTING

SUPPORT

OPPOSE

Tim Johnston

B-7fe

D-1/2 / Silver Bay

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Free Will

Butte

Bottle / Lemon Brew

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Dear Peoples

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B Mont. Leas. 4

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Mike Stephen

Helena

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MAG

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

### Justification

1. Revolving fund accounts are generally established to provide services to other governmental units; i.e., computer services, general services, surplus property, etc.
2. They are meant to operate on a break-even basis: user agencies are charged an amount to recover the costs of the revolving fund activity.
3. Current law provides that the proceeds received from the sale of personal property (equipment, etc.) purchased with revolving fund monies shall be deposited in the general fund. This bill provides that the proceeds would be deposited back to the appropriate revolving fund rather than the general fund.
4. The bill will eliminate the need for service agencies operating from a revolving account to raise fees to recover the amount of the personal property sale proceeds.
5. The need for the bill became evident when it was brought to my attention that the purchase of a new computer was contemplated. The new computer would be purchased with revolving fund monies, yet the proceeds from the sale of the old computer (\$150,000) could not be used, but must be deposited in the general fund even though the old computer was purchased from the revolving fund.
6. Two other bills have been introduced to do the same thing on a selected basis.
  - A. SB169 - Healy, permits the Highway Department to do what we are trying to do. This bill has passed the Senate and is pending in the House Highways Committee where a hearing is scheduled for February 10.
  - B. HB619 - Iverson, permits the Agricultural Experiment Station to keep the proceeds from the sale of livestock. The bill is pending in the House Appropriations Committee.

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT to amend section  
18-6-101, MCA, to permit the deposit of proceeds  
received from the sale of personal property in  
a revolving fund account.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-6-101, MCA, is amended to read:

**18-6-101. Power to sell state property — proceeds credited to general fund.** (1) The department has exclusive power, subject to the approval of the governor, to sell or otherwise dispose of or to authorize the sale or other disposition of all materials and supplies, service equipment, or other personal property of every kind owned by the state but not needed or used by any state institution or by any department of state government.

(2) Unless otherwise provided by law, the department shall credit the general fund with all money received;

and if the personal  
property was accounted for in a revolving fund  
account, the proceeds of the sale shall  
be credited to the appropriate revolving fund  
account.

### Justification

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2. They are meant to operate on a break-even basis: user agencies are charged an amount to recover the costs of the revolving fund activity.
3. Current law provides that the proceeds received from the sale of personal property (equipment, etc.) purchased with revolving fund monies shall be deposited in the general fund. This bill provides that the proceeds would be deposited back to the appropriate revolving fund rather than the general fund.
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COPI 11  
STATE OF MONTANA

DEPARTMENT OF ADMINISTRATION

*Memorandum*

THOMAS L. JUDGE  
GOVERNOR

TO: Dave Lewis, Director  
Office of Budget & Program Planning

FROM: Morris Brusett  
Director

DATE: January 7, 1981

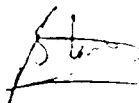
SUBJECT: District Court Costs

Attached for your information is a memorandum from Steve Weber regarding claims which have been submitted by county commissioners for reimbursement of district court costs.

cc: Steve Weber

*Memorandum*

TO: Morris Brusett, Director

FROM: Steve Weber 

DATE: January 6, 1981

SUBJECT: District Court Costs

As of this date, the following claims have been submitted by County Commissioners for reimbursement of District Court Costs:

<u>County</u>	<u>Date Submitted</u>	<u>Amount</u>
Butte-Silver Bow County	September, 1979	\$ 182,115.00
Carter County	August, 1979	9,070.00
Custer County	August, 1979	49,955.00
Fergus County	August, 1979	40,758.00
Fergus County	September, 1980	38,809.00
Gallatin County	October, 1980	47,345.00
Granite County	October, 1979	23,213.00
Lewis & Clark County	August, 1979	117,208.00
Lincoln County	September, 1979	75,385.00
Lincoln County	September, 1980	71,432.71
Phillips County	August, 1979	105,308.52
Powell County	September, 1980	10,355.95
Prairie County	August, 1979	13,564.39
Sweet Grass County	August, 1979	23,954.00
Sweet Grass County	October, 1980	26,721.00
Teton County	August, 1979	23,435.83
Valley County	August, 1979	14,581.16
Total Claims		<u>\$ 873,211.56</u>

<u>Year</u>	<u>Amount</u>
1979	\$ 678,517.90
1980	194,693.66 - End of December, 1980
TOTAL	<u>\$ 873,211.56</u>

\*OTHER:

Other, General	\$303,606.67
Court Reporter (Carter & Powder River Cos.)	4,924.01
Family Court Services (Cascade County)	39,046.00
Funds to Match Federal Grants (Toole Co.)	2,088.00
Mileage (Sheridan County)	2,787.75
Shared Maintenance Court Offices in Missoula (Ravalli County)	4,795.27
Registered Warrants & Warrant Interest (Carter, Lake, and Jefferson Counties)	10,267.37
Transcripts (Phillips County)	<u>3,946.14</u>
TOTAL	\$371,461.21

\*GRAND TOTALS:

Personnel Total	\$4,172,685.44
Capital Outlay Total	75,864.72
Supplies & Printing Total	268,016.99
Jury, Defense, Psychiatric Totals, etc.	1,767,400.84
Other Total	<u>371,461.21</u>
TOTAL	<u>\$6,655,429.20</u>

\*\*DISTRICT JUDGES' COSTS:

Personnel Services	
Salaries	\$1,160,672.00
Benefits	142,480.00
Operating Expenses	<u>88,111.00</u>
TOTAL	<u>\$1,391,263.00</u>

<u>GRAND TOTAL DISTRICT COURT COSTS</u>	<u>\$8,046,692.20</u>
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\* County Funded  
\*\* State Funded

Compiled by the Office of the Supreme Court Administrator

## STATEMENT OF INTENT

This bill transfers authority to make state emergency grants to district courts from the Department of Administration to the Supreme Court, in recognition of the Supreme Court's knowledge of and authority over district court proceedings.

The bill grants the Supreme Court authority to adopt rules establishing criteria for awarding the emergency grants. The legislature intends that the court will develop a method for assessing district courts' relative needs for emergency funds and a procedure for fairly apportioning the available grant funds among the needy courts. The legislature intends that only those funds specifically appropriated for the emergency grant program each biennium be awarded.