

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

February 11, 1981

The ninth meeting of the Senate Finance and Claims committee met in room 108 of the state capitol building on the above date. The meeting was called to order by Chairman, Senator Hims1, roll call was taken, and is attached.

Senator Hims1 passed out some prepared amendments for Senate Bill 373 which he felt would tighten it down so there was no misunderstanding. He also read a copy of the statement of intent. Attached as exhibits 1 and 2.

Discussion on this bill and on Senate Bill 300 included the following:

In response to a question as to why the amendments had been prepared for 373 and not 300 Senator Hims1 explained that he felt there would be more control of spending through 373, and that in that bill the legislature could have some control over what would be spent since if the money was not appropriated it would not be spent. He explained the thoughts in section 2 page 2 of the bill as three fold: one was a definition of emergency expenses; one was in excess of the levy as defined above; one was the Lewis and Clark county relief; and the last was the one that deals with court judicial levies in the Montana Administrative Procedure Act.

Discussion on the extra judge funded for Lewis and Clark, the possibility of the amendment getting so elaborate that it would set up a new bureaucracy, hire more FTE's and use up money that could be used in the Counties.

A lot of the discussion was involved with the 6-5 and 4 mill levy and whether this was interpreted by the counties to use only for the emergency cases, or whether it was being included in the budget as expense for the courts in general. Some of the counties did not feel it was an emergency levy, but was used when the regular budget was used up, then the state should take over and pay anything over and above that levy since that would be a built in cap. There was also discussion on Senate Bill 373 being sunsetted in 2 years and some of the committee members were concerned about this, others felt it would be a time limit to see if it worked, and if not, the funding could be dropped. There was discussion on attempting to put the amendments for 373 into 300 to tighten it up and put a cap on it.

Senator's Thomas and Regan were concerned about the "no limit" in Senate Bill 300 for the types of court services. They felt this could be interpreted to pay for public defenders, court operation expense, court reporters, or whatever came up. They also felt there could be an inequity since the larger counties could come in and use up the funds leaving the smaller counties and those less aggressive with little or no funding. Senator Dover said he felt 373 would give the courts another excuse

to come back for more money through another judgement. He felt that in Senate Bill 300, page 1, line 15 "grants are to be made from funds appropriated to the department for that purpose" was a cap. Senator Keating felt that in S. B. 300 lines 23 and 24 "that all lawful sources of income to the district court fund have been exhausted" should be defined.

Senator Thomas felt that with no cap in SB 300 would allow the courts to run a "cadillac" program, and that unless a formula is put in, the state will be funding the courts.

Senator Himsel said the judgements are being provincial in his area, and he would want a good cap on the courts there. They would be putting in a marriage counselor, juvenile officers, etc. they had even gone to the Supreme Court on it as to whether or not the county or state had to pay it. In answer to a question as to why they just couldn't come in for a budget amendment, he said since it was not funded they could not come in and say pay it.

Discussion was held on whether the 6,5 and 4 mill levy could be considered a cap, whether it could be used for other programs, and the legality of what could be done with it. Senator Himsel pointed out that they are using that levy to pay for other services. Senator Stimatz said they could not use it for paying for buildings and that sort of thing. He said in this bill he felt we were saying we do not trust anybody out there, and if this should be true the bill would be sunsetted anyway. Senator Himsel said in a number of instances there is a real hassle going on between the county commissioners and the courts.

Senator Regan said perhaps the reason she was so concerned about the cap and holding down the county claims on expenses for the district courts was because of what happened in the past biennium. Only 4 months after passage of the bill that did not appropriate money, the county of Silver Bow presented the state with a bill for \$182,115. Senator Johnson asked if Mr. Wolf could speak on that and he said they had adopted their budget they had it so that it could be all handled, then they had a court order against it. When they levied the mills they knew what they were going to be short by the end of the year. We know then that is the basis of what we would be short in funding at the level the district courts said we had to spend. He said he was only talking about mandated costs such as the salaries set by the state etc. He said they need relief back on the local levels.

Senator Regan said that while she agreed the state should do something about these mandated costs in district courts, she had the same concerns as Senator Thomas about a cadillac program as opposed to a district that would be very frugal. I have felt the state should say we will pay so much and the counties would pay the difference, but it would be a much more expensive program. I was not aware that this was to be a relief bill. Senate Bill 300 would be a much more expensive program and Senate Bill 373 tends to hold the courts in line.

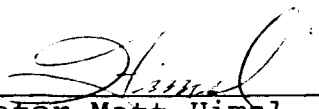
Senator Himsl: The purpose of these bills is to give relief to counties only for emergencies--for example: murder which has a bigger expense in it, 2. the Lewis and Clark county where they carry an unfair amount of the burden just by virtue of the fact that they are located here in Helena at the state government which means they need some relief there since so many of the cases concern state agencies etc. If we are going to go in for a general relief program I think we would have to have a different approach.

Suggestions were made to limit it to just the murder trials, and that would be the only time they came in and then stick in a little for Helena. These terrible murder trials do cost a lot of money. Senator Van Valkenburg pointed out that prior to 1979 the district courts were funded out of the general fund and after the 6-5-4 mill levy they then had up to 6 mills they could levy in addition to the general fund at the county levels. He said that in Missoula County they continued to levy the first amount and then take on another 6 mills for the district court system. He said he had no objection to limitations but just did not feel the counties were hurting as badly as they claim to be.

Senator Regan said she would like to have the Chairman request the analyst to talk to the Supreme Court administrator and find out if it would really be a problem to handle and if there were any chance it could create the bureaucracy some of the members were afraid of and whether it would cost additional money to handle 373. Mr. Nichols said he could. Senator Himsl said he had a concern that a real pirotting of the funds set up by the more aggressive ones could cause a real inequity. Senator Dover suggested a formula and a once-a-year payment could possibly solve this. Some of the members still showed concern.

It was decided to have Senators Stimatz and Dover and LFA, Curt Nichols meet and work out possible amendments to 300 and the committee would discuss them along with the ones from 373 at the first opportunity, probably at the Saturday meeting.

The meeting was adjourned at 12:28 p.m.



Senator Matt Himsl, Chairman

ROLL CALL

FINANCE AND CLAIMS COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date

2/11/81

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	✓		

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amend Senate Bill 373 as follows:

1. Page 2, line 7.
Following "2."
Insert "(1)"
2. Page 2, line 9.
Strike: "litigation-related"
Following: "expenses"
Insert: "directly related to litigation"
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3. Page 2, line 15.
Following: "jurisdiction." line 14.
Insert: "(2)"
4. Page 2, line 16.
Following: "above."
Insert: "(3) Emergency funds may include expenses incurred by a district court in the adjudication of cases brought under Title 2, Chapter 4; Part 7 of the Montana Administrative Procedure Act."
4. Page 3, following line 23.
Insert "(iii) no part of the grant will be used for other than expenses directly related to unanticipated litigation except as provided in subsection (3) of Section 2."

STATEMENT OF INTENT IN RE: SB 373

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 any grants made shall not be used for court staff salaries, including clerk of district court, probation officers or any other operation expense which is the normal obligation of the district court.

The Legislature further intends that unanticipated expenses directly related to litigation for which a grant is awarded shall include such expense items as additional counsel, witness fees, investigative and court reporter expenses.

STANDING COMMITTEE REPORT

February 12, 1921

MR. President

We, your committee on Finance and Claims

having had under consideration Senate Bill No. 257

Respectfully report as follows: That Senate Bill No. 257
third reading bill, be amended as follows:

1. Page 1, line 24.

Strike: "\$27"

Insert: "\$24"

And, as amended,
DO PASS