

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 2

Call to Order: By CHAIRMAN CHUCK SWYSGOOD, on April 23, 1997, at 9:15 a.m., in Room 312-2.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood (R)
Sen. Arnie A. Mohl (R)
Sen. Linda J. Nelson (D)
Rep. Tom Zook (R)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)

Members Excused: None

Members Absent: None

Staff Present: Clayton Schenck, Legislative Fiscal Division
Sharon Cummings, Committee Secretary

CHAIRMAN SWYSGOOD It is my intention to wrap up HB 2 today. Yesterday evening I asked the agencies if they had any areas of reduction in their current budgets that they could come forth with to help us address budget concerns. Is there anything forthcoming from the Executive Branch?

GOVERNOR MARC RACICOT After you made your request last evening, I had the opportunity to discuss the situation with the Budget Director. He had been in touch with all the agency directors and people involved in putting together our agency financial plans. Regretfully, we are at a point where we simply cannot come up with any additional areas to suggest to make further reductions. We have a pay plan that has been approved by the legislature that relies on a 3% vacancy savings extracted from our personnel budgets. HB 170, the GABA bill, does not have a General Fund impact because the costs of implementing that have been assumed by state agencies. HB 188, the debt service for technology bill, has been assumed by the agencies without any additional appropriation. The cost of HB 74, the bill that deals with state travel, has been assumed by the agencies. There has been a 10% reduction in equipment that was placed upon the agencies by this committee and, in addition to that, there are numerous unfunded bills that have passed the legislature that have additional expense. The amendments and vetoes of those bills have been overridden by the legislature in excess of \$1 million additional expense that has been unfunded. In view of these facts, it is

with regret that I inform the committee that we cannot be of any assistance in providing the information that would allow the committee to make further reductions. I gave that order last evening and it seemed appropriate and fitting that I appear before the committee in the event you may want to question my reasoning for that. I'd be delighted to respond to your questions.

SPEAKER JOHN MERCER, HD 74, POLSON I have a handout for the committee. **(EXHIBIT #1)** I have an idea that I'd like to present to the committee that, I think, will resolve this issue. I'd like to thank everyone for all their work. The Montana Constitution requires a balanced budget which is a duty that belongs to the legislature. We have been struggling how to put this together. I'm discouraged that my good friend, **Dave Lewis**, in all his ingenuity couldn't find someplace in a \$5 billion budget to cover these things. I've learned a few things from him so I'll try some ingenuity of my own. While looking at the list of what **GOVERNOR RACICOT** wants in **(EXHIBIT #1) PRESIDENT AKLESTAD** agreed to put up the \$40,000 for expedited appeals from the Legislative Branch Feed Bill. The \$40,000 for the public radio safety network can come from the Governor's Office budget. The \$200,000 to encourage doctors can come from money we will save in HB 14 by not bonding the entire purchase of Virginia City. With the almost \$50 million increase in the corrections budget, I had a hard time understanding why there needs to be additional money for many of these areas, but there does need to be so that we can try to give **GOVERNOR RACICOT** what he wants. For the \$200,000 for foster care we recommend taking \$100,000 from the State Auditor's office and \$100,000 from the Department of Corrections because \$100,000 shouldn't be noticed in their large sum of money. **Dave Lewis** recommended and I propose you adopt a reduction in the contingency fund account in the Department of Administration to cover the \$321,547 for Highway Patrol equipment. The \$350,000 for the school improvement program, I've always felt it was better to give the money to the schools as the best way to improve schools, but maybe creating an additional program in Helena is another way to improve schools. **GOVERNOR RACICOT** and **Superintendent Nancy Keenan** feel that is important for them, they have come down a long way on their demand for that. We recommend we pay for that \$350,000 by taking \$50,000 out of the current Office of Public Instruction budget, they will have to tighten their belts around there. And take the remaining \$300,000 by reducing the Manufacturing Extension Program. The next item is \$2 million for increased enrollment on top of \$2 million for research and development. You might recall that I've been hoisted in effigy for trying to create a personal endowment program for the university system by using the Coal Tax Trust Fund. We didn't get the votes to do that, I wish we would have, I don't think we would be in the budget problem we're in. I told the university people that if we couldn't get a long term solution I wasn't going to go for any more one time fixes because what we have been doing is loaning money from the Coal Tax Trust Fund with no intention of paying it back to pay for research.

That borders on criminal activity if you ask me and is disingenuous by those who claim to protect the coal severance tax. You do what you have to do to meet the demands that are presented to you and I think the research programs at the universities are more important probably than the political problem I have for going back on my word that I would not fund research in a phony way. We recommend adopting the Governor's idea that we take \$2 million from the science and technology money in HB 578. The last item is the \$2 million for increased enrollment in the university system, I would like to thank the Commissioner of Higher Education, **Richard Crofts**, for finally speaking in terms that the legislature understands when he said that they had \$6.8 million more money this time than they had last time. We just gave them another \$2 million so they have \$8.8 million more than they had last time and with this \$2 million they will have \$10.8 million more than they had last time. Having graduated from the University of Montana myself and my wife graduating from there and we both have fairly decent jobs, other than this one, we think higher education is something that is very valuable. Therefore, this additional \$2 million would come from the following. I spoke with **CHAIRMAN SWYSGOOD** and he felt there was a little over \$600,000 left over from the ending fund balance that will keep us above the \$25 million the Governor indicated he did not want to go below, a number of legislators think it is too low already. We will then take \$871,000 from the GABA bill and \$398,000 from HB 561 which is to combine services in the Departments of Labor and Revenue. I try to explain year after year to every new person who comes to the legislature that anytime you simplify something it costs more, it is a hard thing to explain. A lot of people, especially those here in the Capitol, have enjoyed the high drama. I don't think people in the streets of Montana have much of an idea of what is going on here. It is a simple concept, we are required to balance the budget, we're required to have money in the bank in case floods or fire come or in case the economy turns down. We feel we have to stick with the \$25 million, we cannot spend money we don't have but yet we've made every effort to address the Governor's concerns. The Governor is probably one of the people I admire more than anyone, he has stuck to his guns on these things. I am a little bit surprised that he wasn't able to find some other way to work this out on his own but he has indicated in his e-mail that the legislature needs to do what they can and sometimes 150 minds are better than 1 in terms of coming up with ideas. I encourage the committee to put this together so we might have it on the House floor at 1:00 p.m. We need to wrap the session because if we don't wrap the session then we can't save the money, if we don't save the money then we can't fund the death penalty and that is something that is very important along with these other items.

{Tape: 1; Side: A; Approx. Time Count: 9:28; Comments: None.}

GOVERNOR RACICOT I want to point out that when we talk about "What Racicot Wants" that communicates the message that I have

been trying to convey in terms that don't quite meet what I tried to ultimately communicate. When we are talking about all these issues that surround the budget, these are not things that I want. I would not want, as a matter of personal choice, to expend an extraordinary amount of money on the corrections allocations. I have regret that our society remains in such a condition that that's called for. As a consequence it's not what I want, it's a matter of responsibility to be addressed in honest terms, which we have done. The legislature, up until now, has responded to the corrections dilemma and been responsible for the short term. I believe there are going to be some long term problems and in 1999 when you return you may think it would have been wiser to address them now. When it comes time to talk about what I want, the university system budget isn't what I want it is what I think is responsible. It is true that there have been funds allocated to the university system, some of that was contingent because HB 187 has not yet passed. Most of it is encumbered by the pay plan which, through vacancy savings, has been extracted out of presently existing university system budgets. In addition, there is much that goes into the extension agencies which is encumbered and cannot be used for enrollment increases or operational expenses that this legislature previously agreed to, not only in this session but in sessions gone by. How is it that we could suggest that agreements reached with faculty during 1994 and endorsed by the legislature in 1995 can be reneged upon now? To me that is a fundamental obligation. It doesn't have to do with what I want, it has to do with what our legal and moral obligations are when we talk about university system funding. I think your failure to fund the university system ultimately translates into explosive increases in tuition for students across the state or denial of access. We may get embroiled in the context with which we have been associated over the course of the last 90 days but, I would suggest to you, the people of Montana would not endorse the concept that we simply allow these costs to be transferred to students and parents. When we talk about the school improvement program, that's not something I want, it's a matter of responsibility. There is \$25 million of Title I money that the State of Montana receives for math, science and language skills each year. We presently are obliged to comply with that requirement and if we do not, we place that money at risk. As a consequence, it doesn't have much to do with what I want as much as it has to do with what my responsibilities are. When we address the remaining issues, although they appear small in the overall context of the percentages of the budget we are dealing with, they are immensely large in terms of their impact. We have cut to the bone, we have participated in the process of shaping, molding and mutating the budget. We have tried to do everything we possibly can, in good faith, to try to assist this committee and this legislature to get where you would like to be. We don't want to spend one more penny than is absolutely necessary. I regret that there may be some perception that what is being pursued here is "What Racicot Wants," that would be a very unfortunate thought to embrace. This has nothing to do with what I want, this has to do with my

conscience and my responsibility. I regret that the Speaker has regret that we couldn't help him. We suggested numerous alternatives, many different ways to get to an end line, each of which has been rejected. I think those particular words don't carry great persuasive force. The fact of the matter is that we have presented a number of alternatives to the legislature to deal with these issues rather than a system of cobbled together proposals that, in essence, rely on extraordinarily thin margins of error and may have some funding difficulties. My understanding is that the \$871,000 in the GABA bill has already been assumed by the agencies. That is an expense that is not available to be extracted twice, I may be incorrect in that assumption. My understanding is that all the General Funding allocation for the GABA bill has already been imposed on the agencies with no additional funding. I think there are some difficulties approaching the resolution of this session in precisely this way. I'm hopeful that we might have an opportunity to address that in a constructive fashion. **MR. CHAIRMAN**, there are other thoughtful, constructive ways of addressing the final issues of this session that do not involve this kind of manipulative process that cobbles together a series of unrelated thoughts and once again places all the budget deliberations of the legislature throughout 87 days in a state that no longer maintains the equilibrium that they sought to maintain. This is my reaction to this particular proposal, I never heard of it before being presented this morning. There is one thought that I want to leave you with. We have tried very diligently to be of assistance to this legislature. We are not ending up in a position of being stubborn just simply to be stubborn. This has nothing to do with winning and losing, it is not a contest of wills with me. This boils down to trying to do the right thing for the right reasons and has absolutely nothing to do with "What Racicot Wants".

CHAIRMAN SWYSGOOD It is an honor to have you appear before us, Governor. We respect your diligence and concerns. This has not been an easy process for us, we have a constitutional mandate to balance the budget within the existing revenues that are presented to us. We are trying to do that and while we may have differences as to just what those revenues are, we are proceeding in our best effort to create the least impact on agencies and people that we can. We have some concerns with the ending fund balance and the fact that approximately \$22 million is one time money. We have a concern about the potential for floods and fires this year and how we are going to pay for those supplementals next session if they do come in. I pray that your expectations of revenues that will be forthcoming are there.

{Tape: 1; Side: A; Approx. Time Count: 9:38; Comments: None.}

Motion/Vote: REP. TOM ZOOK MOVES TO OPEN HB 2. THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT
#HB000283.A07. (EXHIBIT #2) THE MOTION CARRIED ON ROLL CALL
VOTE.

Motion/Vote: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT
#HB000229.A16. (EXHIBIT #3) THE MOTION CARRIED ON ROLL CALL
VOTE.

Motion: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT
#HB000260.A05. (EXHIBIT #4)

Discussion: Frank Cote, State Auditor's Office We oppose this amendment. We have had \$150,000 cut from the General Fund. We feel our department has played fairly this session and worked hard to come up with compromises. We agreed to cut the fiscal note in half on the Kasselbaum/Kennedy legislation and fund it with state special revenue thereby eliminating the need to have additional General Fund spent on an important project. The insurance industry agreed with that decision, they didn't like it but agreed. Currently, the insurance industry pays fees to be regulated, those fees are well in excess of what the insurance department receives from the General Fund. They are receiving approximately \$.70 worth of regulation for every \$1.00 of fee paid. That is not fair to the insurance industry or to the securities industry which is in a similar situation. We've worked hard to make this situation work for everyone involved, the legislature and the industry we regulate. I propose an alternative to funding the foster care program. While looking at our budget situation last night we found we didn't have any more to give to you but did find another \$220,000 worth of revenue that you already have in your state checking account. That comes in the form of additional fine revenue in excess of what we estimated. I suggest that you change the amendment to fund foster care with that General Fund.

CHAIRMAN SWYSGOOD I appreciate you coming forward with your revenue offer. That revenue flows into the revenue estimate part of our budget and that is closed so I have no way of getting it out.

SEN. LINDA NELSON I think this is too much of a hit for the Auditor's office. I remember clearly when I offered this amendment to get them the extra money that \$50,000 was special revenue they were willing to use. This is an extra dig and I don't appreciate it.

CHAIRMAN SWYSGOOD There is one correction to be made on this amendment. The money should go to foster care, not the family preservation program.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE.

Motion/Vote: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT
#HB000290.A94. (EXHIBIT #5) THE MOTION CARRIED ON ROLL CALL
VOTE.

Motion/Vote: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT
#HB000235.A08. (EXHIBIT #6) THE MOTION CARRIED ON ROLL CALL
VOTE.

{Tape: 1; Side: A; Approx. Time Count: 9:49; Comments: None.}

Motion: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT
#HB000235.A06. (EXHIBIT #7)

Discussion: REP. BEVERLY BARNHART What are the reductions in HB
14 that are paying for these additions?

CHAIRMAN SWYSGOOD If HB 14 passes in its current form there is
\$300,000 less cost to the General Fund than was originally put on
our status sheet. Less money is needed for debt retirement
because the funding of Virginia City/Nevada City is half bonding
and half from the Cultural Trust.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE.

Motion: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT
#HB000242.A06. (EXHIBIT #8)

Discussion: CHAIRMAN SWYSGOOD We need to make this contingent on
HB 578 passing.

REP. BARNHART Does this mean HB 578 won't go into effect for two
years?

CHAIRMAN SWYSGOOD HB 578 is still in free conference committee.
If it comes out and passes, the Montana Science and Technology
Alliance (MSTA) will be extended 2 years, they have \$3.5 million
available to them to invest. With this amendment we are
directing that \$2 million go to the Montana university system for
research and development. The remaining \$1.5 million would be
there for the MSTa to administer.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE.

Motion: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT
#HB000243.A06. (EXHIBIT #9)

Discussion: Mary Bryson, Department of Revenue I hate to
question the Speaker's numbers but the removal of \$398,000 in
General Fund from the UI/DOR consolidation eliminates all the
General Funding for that program. This will inhibit our ability
to implement the employer wage reporting consolidation program
that has been approved by this legislature and is requested by
the employers in Montana.

Pat Haffey, Department of Labor and Industry Employers throughout the State of Montana encouraged us to pursue this project believing they would experience a savings of about \$14 million.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE.

{Tape: 1; Side: B; Approx. Time Count: 10:17; Comments: None.}

Motion/Vote: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT #HB000285.A07. (EXHIBIT #10) THE MOTION CARRIED ON ROLL CALL VOTE.

Motion: REP. ZOOK MOVES TO AMEND HB 2 WITH AMENDMENT #HB000237.A08. (EXHIBIT #11)

Discussion: Judy Erickson, Chair, Montana Cultural Trust I urge you to pursue other options for funding the purchase of Virginia City/Nevada City. We have heard from a lot of private citizens about not funding the agency. The people of Montana want more from this session than prisons and roads, we'd like some assurance that our cultural heritage will be preserved.

REP. BOB RANEY, HD 26, LIVINGSTON I hate to see you empty the Arts and Cultural Trust when there is an alternative that is easy for you to do. The ending fund balance in the Travel Montana program has been running at \$2 million per year for several years. This is money that is readily available to you in cash, it would only take another \$1.5 million that you take from that program and it would continue to operate almost as it does now. I hope you consider this other option.

Mona Jamison, Virginia City Lobby HB 14 is the vehicle to get this done. Hopefully we can marshall the political will to do this and that members of both parties will vote yes. As a last backup, we reluctantly support this amendment. We urge everyone to work for the passage of HB 14.

SEN. NELSON I'm concerned that if we do this we will assure that HB 14 doesn't pass.

CHAIRMAN SWYSGOOD There is always a risk in anything we do here. This is the best we can do at this particular point in time.

REP. ZOOK People need to remember that there is a lot more in HB 14 than Virginia City and Nevada City and some of it is very important.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE.

Motion/Vote: REP. ERNEST BERGSAGEL MOVES TO AMEND HB 2 WITH AMENDMENT #HB 000202.A12. (EXHIBIT #12) THE MOTION CARRIED ON ROLL CALL VOTE.

Motion/Vote: REP. BERGSAGEL MOVES TO AMEND HB 2 WITH AMENDMENT #HB000230.A16. (EXHIBIT #13) THE MOTION CARRIED ON ROLL CALL VOTE.

Motion/Vote: REP. BERGSAGEL MOVES TO AMEND HB 2 WITH AMENDMENT #HB000286.A07. (EXHIBIT #14) THE MOTION CARRIED ON ROLL CALL VOTE.

{Tape: 1; Side: B; Approx. Time Count: 10:28; Comments: None.}

CHAIRMAN SWYSGOOD We put a number of contingency amendments in this bill that depend on what happens with HB 14. I need to caution everyone that these address a few minor areas of what is contained in HB 14. There are still a great number of issues and projects contained in HB 14 that are very important to the people of Montana. I hope HB 14 ultimately passes and these amendments won't be needed.

Motion: SEN. NELSON MOVES TO AMEND HB 2 WITH AMENDMENT #HB000291.A94. (EXHIBIT #15)

Discussion: Joe Mazurek, Attorney General This amendment would allow us to avoid laying off 3 Montana Highway Patrol officers who are currently employed. This takes \$205,000 per biennium from the gambling revenue account. You've done that twice before and passed legislation this session which expressly authorizes this. This addresses your General Fund needs and your gas tax concerns. This is a public safety issue and we would appreciate your support of this motion.

SEN. NELSON My problem with this has always been the gas tax, I endorse this switch in funding and think we need these officers on the road.

Vote: THE MOTION FAILED ON ROLL CALL VOTE.

{Tape: 1; Side: B; Approx. Time Count: 10:37; Comments: None.}

Motion/Vote: REP. ZOOK MOVES TO RECONSIDER ACTION TAKEN REGARDING SB 83. THE MOTION CARRIED UNANIMOUSLY.

Motion: REP. ZOOK MOVES TO RESCIND COMMITTEE ACTION ON SB 83.

Discussion: CHAIRMAN SWYSGOOD We approved language giving \$1.5 million to the Department of Public Health and Human Services and another \$4.2 million to the university system that I would like to rescind.

Vote: THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: REP. ZOOK MOVES TO AMEND HB 2 WITH (EXHIBIT #16). THE MOTION CARRIED UNANIMOUSLY.

Discussion: REP. ZOOK I'd like to say what a shame it is that so many people are tied up this morning and for several days and not being able to go about their business. We are tied up because \$4.6 billion is not enough for our state government to operate. We are talking about .0025 of that amount of money today. I consider myself a moderate, fiscally conservative, person but I think this borders on the ridiculous. The Province of Alberta, in the last four years, has reduced their provincial budget by 20%, they are enjoying a tremendous boom and everyone is as happy as can be. Maybe we can learn some lessons from what is happening in other places.

SEN. NELSON This has been a very frustrating experience. I have not been a player, it's like I've been in a poker game but I haven't been given the cards. The amendments have been coming quickly without a chance to study them or ask intelligent questions. I think something better should take place considering the amount of time we spend in our subcommittees. I believe the process is flawed.


Dave Lewis, OBPP We still have a number of problems with HB 2 as it is right now. The funding for HB 561, the DLI/DOR consolidation, is a big deal as far as employers are concerned. This will save them a lot of money when it comes to reporting various taxes. We would like to offer an option to taking all the General Fund from that project. We would like to have you consider cutting the MSTA money back to \$1.2 million to fund this consolidation.

CHAIRMAN SWYSGOOD I appreciate your offer but that would be one time money in the eyes of this committee and we have said we will not use one time money to fund this budget. That would not be acceptable to us at this time. I'd like to thank everyone for their hard work. This has been a difficult process, but this is the process that is handed to us and we deal with it in the best way we know how. I'm frustrated that we have gone to the extent we've had to go with this budget and still try to maintain some type of ending fund balance which I don't think is enough. We have a number of problems with the ongoing cost of corrections and concerns with fire and flood potential. We have done the best we can with what we have had to work with, we balanced the budget with the revenues that were presented to us in HJR 2.

Motion/Vote: REP. ZOOK MOVES TO CLOSE HB 2. THE MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 10:48 a.m.


SEN. CHARLES "CHUCK" SWYSGOOD, Chairman


SHARON CUMMINGS, Secretary

CS/SC