

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN DON HARGROVE, on January 10, 1997, at 10:00 a.m., in Room 331

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 47, 1/7/97; SB 76, 1/7/97;
SB 87, 1/7/97;
Executive Action: SB 47, DO PASS; SB 76, DO PASS
AS AMENDED; SB 87, DO PASS AS
AMENDED

HEARING ON SB 76

Sponsor: SEN. GERRY DEVLIN, SD 2, TERRY

Proponents: Joe Kerwin, Deputy Secretary of State for Elections

Opponents: None

Opening Statement by Sponsor:

SEN. GERRY DEVLIN, SD 2, TERRY stated that SB 76 has to do with the voter information pamphlet and the various committees that write the arguments on the issues. He reported that he was appointed to write an opinion on an issue and that, by the time he was notified of the names of the other committee members, the

deadline had already passed. He indicated that SB 76 proposes to change the deadlines by which the committees have to be appointed, as well as clarifies the amount of space that can be used for a rebuttal in the voter information pamphlet, noting that it is being changed from a maximum of 250 words to a maximum of one page, and not limiting the content to typewritten text. He added that representatives of the Secretary of State's office were in the room and would be able to answer any questions.

Proponents' Testimony:

Joe Kerwin, Deputy Secretary of State for Elections, stated that SB 76 attempts to deal with some problems encountered by their office regarding the voter information pamphlet. He pointed out that, ordinarily, the May 6th deadline for making appointments is not a problem but that, this year, there were about 16 constitutional initiatives for which committees had to be appointed. He noted that people often put things off until close to the deadline and, when there is not a full committee, the public does not get all viewpoints of the argument, adding that their office will continue to encourage them to make their appointments early on in the process, but this change would give them more flexibility.

Mr. Kerwin distributed copies of a synopsis of the concerns regarding the committees and arguments for ballot issues (**EXHIBIT 1**), and indicated that the bill also deals with how arguments are submitted, pointing out that, currently, arguments are limited to either 500 or 250 typewritten words, that no graphics, bullets, columns, etc. could be included. He explained that there have also been questions as to what counted as a word, for instance in the case of numbers either written out in words or using symbols and numbers, and that software spell-check features do not count numbers as words, and the count would be misleading. He noted that they would like to be able to make the necessary adjustments, but there are times when the intent is not clear, and they are required to take it verbatim, exactly as it is submitted. He cited the example of an argument that was submitted and which was over the word limit, and at the point it had to be cut off was in the middle of a sentence which could have changed the intent of the argument. He stated that this situation could be a disadvantage to the public, and SB 76 would change the requirement to one page, regardless of the content, size of type or handwriting.

Opponents Testimony: None

Questions From Committee Members and Responses:

SEN. DELWYN GAGE indicated that he discussed this bill with Greg Petesch, Legislative Services Division, and that one of his concerns is that the committee members may not realize an appointment needs to be made until the five-day period has passed. He then pointed out that the sentence in subsection (3)

on page 3 is difficult to understand, that he asked **Mr. Petesch** if that could be rewritten to make it clearer, and asked **Mr. Kerwin** if he had a problem with that.

Mr. Kerwin responded no.

SEN. VIVIAN BROOKE referred to page 3, lines 15 and 16, which states that the committee members may fill the vacancy by unanimous written consent, and asked **Mr. Kerwin** written consent of whom.

Mr. Kerwin responded it is the written consent of those committee members who have already been appointed.

SEN. BROOKE asked it that should be further outlined or stated there that it is the written consent of the committee. **Mr. Kerwin** responded that they would not have a problem with that.

SEN. GAGE pointed out that it was also not initially clear that the committee members would also have to notify the Secretary of State's office of the appointment they had made, but that this was clarified on the bottom of page 2.

CHAIRMAN DON HARGROVE asked **Mr. Kerwin** if he saw any probability that people would get lazy and take advantage of this situation.

Mr. Kerwin responded that they hope not, that they would still encourage people to make the appointments as early as possible. He pointed out that the problem occurs when there are a lot of initiatives introduced, as in this past year, and it becomes difficult to make those appointments. He added that they hope this would not be abused, but that is something they will definitely watch for.

CHAIRMAN HARGROVE asked **Mr. Kerwin** if the "one half" for the rebuttal is one half of a page. **Mr. Kerwin** responded yes. **CHAIRMAN HARGROVE** then asked if the argument used only half a page, if the rebuttal could then only be a quarter of a page. **Mr. Kerwin** responded no, that they will get a half page, regardless of the space used on the original argument.

SEN. KEN MESAROS asked **Mr. Kerwin** if there is a limit on the size of print. **Mr. Kerwin** responded that they could do whatever they want within this format, noting that their office would remind them that they should not make the print too small for senior citizens or others to read, but that it is the committee's decision as to how they wish to present their argument.

SEN. GAGE pointed out that there is nothing in the bill which indicates who on the committee will be responsible for getting the members together, and that he mentioned to **Mr. Petesch** that this should be clarified.

Mr. Kerwin pointed out that MCA 13-27-404 sets out that the appointee of the President of the Senate is the chair of any committee to which that officer makes an appointment but that, once the committee meets, they can choose their own chairman.

SEN. GAGE asked Mr. Kerwin if the President of the Senate does not appoint on some of those committees.

Mr. Kerwin responded that the sponsor of an initiative will make the three appointments for the proponents and, for everything else, the President of the Senate will make an appointment and, at that point, it is up to the defacto chair of the committee.

Closing by Sponsor:

SEN. DEVLIN indicated that there is a problem, that he would like to see it fixed, but if the committee wanted to amend SB 76, that would be fine with him.

{Tape: 1; Side: A; Approx. Time: 10:15 a.m.; Comments: None.}

HEARING ON SB 87

Sponsor: SEN. GREG JERGESON, SD 46, CHINOOK

Informational

Testimony: Angela Fultz, Chief Deputy Secretary of State

Proponents: None

Opponents: None

Opening Statement by Sponsor:

SEN. GREG JERGESON related that, as Vice Chairman of the Legislative Audit Committee, he knows how laws enacted by the Legislature often create conflicts in statute which result in audit exceptions, and indicated that SB 87 arises out of just such a circumstance. He reported that, in the process of adopting HB 576 passed by the 1995 Legislature, which related to how proprietary funds are handled, another portion of statute requiring the Secretary of State to put excess proprietary fund revenue into the General Fund came into conflict. And then, he added, as they were preparing testimony for this hearing on SB 87, they discovered yet another possible conflict relating to the first page, noting that amendments will be presented to clarify that. He explained that the Secretary of State's office has been put on a business-like basis in that they charge fees to cover the costs of the services they provide, and do not generally access General Funds. He indicated that Section 1 on page 1 of the bill requires that the Secretary of State's office charge a particular fee for particular services, but that some of these fees may be less, or may be more than the actual cost of providing the service, and the amendments will propose that they

adopt fees commensurate with the costs. He then indicated that representatives of the Secretary of State's office were in attendance and could explain the bill a little better.

Informational Testimony:

Angela Fultz, Chief Deputy Secretary of State, indicated that audit recommendations were to insure that their fees are commensurate with costs and to clarify how, as a non-allocated agency, they are to return excess fees. She pointed out that SB 87 accomplishes these goals, adding that these recommendations were also reiterated by the Legislative Fiscal Division to allow them to meet the full letter of the law.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. GAGE noted that he had asked Greg Petesch why there was an exception for corporate papers, and that Mr. Petesch had indicated that would be taken care of in the proposed amendments.

Closing by Sponsor:

SEN. JERGSON asked the Committee's indulgence with regard to the amendments, but stated that he felt they would clarify the bill, and that adoption of the bill as amended would eliminate the certainty of an audit exception, at least in the Secretary of State's office.

CHAIRMAN HARGROVE announced that executive action on SB 87 would be postponed until the Committee had a chance to review the amendments.

Committee Discussion

SEN. GAGE reported that the amendments for SB 19 were available and passed copies out to the Committee, (EXHIBITS 4 and 5) noting that they have been reviewed by the Budget Office, the Legislative Fiscal Analyst's office and REP. MATT MCCANN, Chairman of the Legislative Finance Committee. SEN. GAGE explained that the amendments deal with the appointing authority so the Governor is not designated to make those decisions for the Judicial or Legislative branches. He added that the amendments also require notice be given to the Legislative Finance Committee when there is a critical issue that needs immediate attention, and that the Budget Director make a full report to the Legislative Finance Committee at their next meeting.

CHAIRMAN HARGROVE noted that the Committee would look at these amendments, and then announced that on Monday, the Committee would not have their regular hearing, that there will be a joint

briefing with the House State Administration Committee for an overview of retirement benefits legislation. He noted that **Sheri Heffelfinger, Legislative Services Division**, would give the briefing and that the location would be announced. He then informed the Committee that he had spoken with **David Niss**, some of the Senators involved, as well as with **PRESIDENT GARY AKLESTAD**, regarding some of the bill assignments for this Committee, and that the philosophy is that if a bill affects the administration of a department, it will probably be assigned to this Committee; that if it is not concerned with the direct operational mission of that department, it would be assigned to another committee, adding that this Committee currently has more bills assigned to it than any other committee.

SEN. GAGE mentioned that there is one more amendment to SB 19, which would apply an effective date of July 1st.

CHAIRMAN HARGROVE noted that they would try not to take executive action on a bill the same day of the hearing and, if the Committee has extra time, they can consider action on bills which have been previously heard.

SEN. MESAROS reported that they are still meeting with **Pat Graham, Director, Department of Fish, Wildlife and Parks**, and that there may be some amendments forthcoming for SB 42.

{Tape: 1; Side: A; Approx. Time: 10:26 a.m.; Comments: None.}

HEARING ON SB 47

Sponsor: SEN. MIKE FOSTER, SD 20, TOWNSEND

Proponents: None

Opponents: None

Informational

Testimony: Mike Warren, Project Manager, Department of Revenue

Opening Statement by Sponsor:

SEN. MIKE FOSTER, SD 20, TOWNSEND, apologized to the Committee for being late, and reported that SB 47 was requested by the Department of Revenue to provide some flexibility in accepting signature alternatives for the various taxes and fees administered by the Department, which would allow for more efficiency in using modern technology and electronic funds transfer. He indicated that **Jeff Miller, Department of Revenue**, would be able to explain the bill further.

Informational Testimony:

Jeff Miller, Administrator, Income and Miscellaneous Tax Division, Department of Revenue indicated that Mike Warren, Project Manager, Department of Revenue, is in their technology development unit and could better explain the bill.

Mike Warren, Project Manager, Department of Revenue, stated that this bill will allow the Department to use signature alternatives for some of the various tax returns within the Department of Revenue, adding that they currently have this authority under MCA 15-30-211, which allows the Director of the Department of Revenue to determine signature alternatives for withholding tax returns. He explained that, since that time, they have been collecting withholding tax and OFLT returns electronically, not requiring any signature document with those, and that this legislation would recodify that and allow the Department to apply it to all of the taxes and fees it administers, thereby allowing them to take advantage of available technology.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN HARGROVE asked Mr. Warren what are some of the signature alternatives.

Mr. Warren responded some of the signature alternatives range from a pin number to biometric pads, which are digitized signatures where a person actually signs their name on a form that records not only the signature, but the pressure and things like that.

Closing by Sponsor:

SEN. FOSTER noted it would be nice to always carry bills like this, and thanked the Committee for a nice hearing.

{Tape: 1; Side: A; Approx. Time: 10:30 a.m.; Comments: There was miscellaneous discussion among the Committee Members.}

EXECUTIVE ACTION ON SB 47

Amendments: None

Motion/Vote: VICE CHAIRMAN MESAROS moved that SB 47 DO PASS.
Motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 76

Amendments: SB007601.agp (EXHIBIT 2)

Discussion:

David Niss reported that the amendment for SB 76 only affects three lines at the top of page 3, Subsection (3), lines 5-7, which is the clarification suggested by SEN. GAGE to make it clear what some of those phrases apply to.

SEN. BROOKE noted that it appears "within 5 days" is a new timeline being added. Mr. Niss responded that is correct, that it is new language.

She pointed out that it appears to be an addition, that it was not required prior to this. Mr. Niss responded that is correct.

There was general discussion between SEN. BROOKE, CHAIRMAN HARGROVE, and Mr. Niss regarding this amendment.

{Tape: 1; Side: A; Approx. Time: 10:37 a.m.; Comments: End of Tape 1, Side A.}

CHAIRMAN HARGROVE then asked Mr. Niss to read the whole amendment. Mr. Niss read "Within 5 days after receiving notice under subsection (2), but not later than 5 days after the deadline set for appointment of committee members, the secretary of state shall notify the appointees."

SEN. BROOKE asked if notification would be by certified, return receipt requested mail. Mr. Niss responded yes. SEN. BROOKE then asked what would happen if the Secretary of State did not do this, and CHAIRMAN HARGROVE responded that he would be breaking the law.

SEN. BROOKE then asked if a modifier might be needed on page 2, regarding unanimous written consent, and CHAIRMAN HARGROVE asked what she might suggest. SEN. BROOKE responded that she did not know if anyone would read that section standing alone, but that it could read "the unanimous written consent of the rest of the committee members". CHAIRMAN HARGROVE indicated that, if it is unclear, it should be clarified and that he would have no objection to it. SEN. BROOKE then noted that Section 2 clarifies this.

Motion/Vote: VICE CHAIRMAN MESAROS moved that Amendment SB007601.agp BE ADOPTED. The motion CARRIED UNANIMOUSLY.

Motion/Vote: VICE CHAIRMAN MESAROS moved that SB 76 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 87

Amendments: SB008701.agp (EXHIBIT 3)

Discussion:

Mr. Niss indicated that the effect of the amendments to SB 87 is to insert "commensurate with costs" in subsection (1), and that everything down to subsection (2) is stricken so that everything between and including lines 14 through 29 is stricken from the bill and replaced with this language in subsection (1) regarding charging fees commensurate with costs for filing and copying services.

CHAIRMAN HARGROVE commented that there may be some varying philosophies on such a thing however, in his opinion, we would probably save money in the long-run, certainly by the time we deal with specific amounts that small, which is sure to be more of a waste of time.

SEN. BROOKE asked about the exception for corporate papers, and then noted that it would be stricken from the bill.

VICE CHAIRMAN MESAROS asked **Ms. Fultz** what rates their Department sets other than those listed, or if they have others in mind.

Ms. Fultz responded that the Secretary of State's office has a whole list of fees, some of which are set in statute such as candidate filing fees, and others which are set by rule, so that there is a mixture of fees charged by their office. She pointed out that they are not looking to do anything with the candidate filing fees during this next fiscal biennium, that they would like to go through another fiscal biennium of adhering to the rules of HB 576, so that they are taking it step by step. She added that **VICE CHAIRMAN MESAROS** is correct in that there are fees which are not listed, and offered to provide a complete list for him.

VICE CHAIRMAN MESAROS asked if some of those fees would increase and others decrease.

Ms. Fultz replied that they do not expect any of their fees to increase, that one of the requirements of HB 576 is that their Legislative subcommittee has to approve their fees, and they are not allowed to change those fees during the fiscal biennium, adding that they are not looking at changing their fees this session, so they should remain the same for the next few years.

CHAIRMAN HARGROVE asked if the fees are handled in law or in rule, or just handled administratively.

Ms. Fultz responded that it would more than likely be handled administratively with the approval of the subcommittee, but that, if the subcommittee so directs them to, they will put it in rule.

Motion/Vote: **SEN. BROOKE** moved that **AMENDMENT SB008701.agp** BE **ADOPTED**. The motion **CARRIED UNANIMOUSLY**.

Motion/Vote: **SEN. BROOKE** moved that SB 87 DO PASS AS AMENDED.
The motion **CARRIED UNANIMOUSLY.**

{Tape: 1; Side: B; Approx. Time: 10:48 a.m.; Comments: None.}

COMMITTEE DISCUSSION - SB 19

CHAIRMAN HARGROVE pointed out that as long as there were representatives from the Budget Office present, the Committee should take advantage of the opportunity to discuss the amendments to SB 19, noting that he would like to make sure **SEN. GAGE** has a chance to look at the amendments. He indicated that it appears there be a matter of practicality as to what authority the Finance Committee actually has, and asked **Taryn Purdy, Legislative Fiscal Division**, to explain to the Committee how the amendments will affect things, and what her opinion is.

Ms. Taryn Purdy, Legislative Fiscal Division, responded that it is a housekeeping measure which would give agencies an opportunity to make changes prior to a regularly scheduled Finance Committee meeting for very time-sensitive or emergency situations. She added that **REP. MATT MCCANN**, Chairman of the Finance Committee, is aware of these amendments and has agreed with them, and that the Legislative Fiscal Division concurs with them also.

CHAIRMAN HARGROVE asked her about the second amendment, and **Ms. Purdy** explained that it is a title change that has an effective date of July 1st, and it also eliminates a discrepancy regarding when budgets have to be submitted. She indicated that, currently, their office has to receive budgets by September 1st, but the bill sets out that a schedule will be worked out for the Budget Office to receive them through the month of September. She added that the amendment also broadens the supplemental to allow the various approving authorities to authorize transfer of appropriations from the second year into the first, rather than the Governor, as is set out in the bill.

SEN. FRED THOMAS asked **Ms. Purdy** who the various approving authorities are, besides the Board of Regents. **Ms. Purdy** responded the Board of Regents is the approving authority for the University System, for the Legislative Branch, the various committees such as the Finance Committee are the approving authority, and for the Judicial Branch, it is the Supreme Court.

SEN. THOMAS asked if the intent of the law was to have the Governor as the approving authority for those types of changes.

Ms. Purdy responded that the law only allowed the Executive Branch to make those transfers, and that this bill will allow other agencies to have the same authority, and puts it in the appropriate approving authority. She added this is in line with the budget amendment law, that the authority is for executive

agencies but not anyone else, that there are other approving authorities for those.

SEN. BROOKE asked, regarding second amendment in the first set of amendments, if a significant change corresponded to a monetary level. **Ms. Purdy** responded that is the 25% and \$25,000 threshold, and that the other threshold, no matter what the size of the agency, is \$1 million.

SEN. BROOKE asked if, in that case, where there is a time-sensitive expenditure or situation, using the example of the Aspen Program who needs to pay their employees because they have run over budget, if this would give the Budget Director approval to give them the money they need.

Ms. Purdy responded that, if that program was funded by a transfer of funds from another program, and this was an unanticipated expense, they would be allow them do so. She added that, in the example cited however, she would think that would not be an unanticipated expense, and a transfer for that purpose would not be brought before the Finance Committee. She noted that, if it is a situation where additional authority is needed, the supplemental law would come into play and this amendment would not apply, that the Budget Director would be able to do that at any point deemed necessary.

SEN. BROOKE asked if this would lock in a particular expenditure, even though it is reviewed by the Legislative Finance Committee, and there is no way to retract it.

Ms. Purdy responded that can definitely happen, and that the only recourse is the wrath of the Legislature.

CHAIRMAN HARGROVE indicated that he would prefer to wait until **SEN. GAGE** was present before taking executive action on SB 19, and asked **VICE CHAIRMAN MESAROS** if he would like to discuss SB 42.

COMMITTEE DISCUSSION - SB 42

VICE CHAIRMAN MESAROS indicated that **Mr. Graham** had referenced some statutes regarding land transfers by the Department of Transportation, and that he has not had a chance to review the statute.

CHAIRMAN HARGROVE asked if **VICE CHAIRMAN MESAROS** planned to have an amendment. **Mr. Niss** noted that he has all amendments for SB 42 except the one **VICE CHAIRMAN MESAROS** is discussing with **Mr. Graham**. **VICE CHAIRMAN MESAROS** indicated that it may just be a clarification, and an amendment may not be required.

EXECUTIVE ACTION ON SB 19

Amendments: SB001901.atp and SB001902.atp (EXHIBIT 4)

Discussion:

CHAIRMAN HARGROVE noted that **SEN. GAGE** had returned to the meeting. He asked that the Committee turn their attention back to SB 19, informing **SEN. GAGE** that **Ms. Purdy** had discussed the amendments and explained their effect, and asked if he had any questions.

SEN. GAGE replied that he does not have any questions, but that he had not had time to review the amendments to see if they fit the bill, noting that he has every confidence in **Ms. Purdy**, and that **Mr. Niss** has probably also reviewed them. **Mr. Niss** responded that he has not reviewed the amendments, but that they have been through the edit process.

Motion/Vote: **SEN. GAGE** moved that **AMENDMENT SB001901.atp** be **ADOPTED**. Motion **CARRIED UNANIMOUSLY**.

Motion: **SEN. GAGE** moved that **AMENDMENT SB001902.atp** be **ADOPTED**.

Discussion:

SEN. BROOKE stated that this amendment makes her a little nervous, and she is going to vote against it. She indicated that she realizes it is important that the government's business be conducted in an orderly fashion and that people get paid and the work gets done, but even though it has been reviewed by some members of the Legislative Finance Committee, she would still like to voice some reservation.

CHAIRMAN HARGROVE asked **SEN. BROOKE**, specifically, what concerns her about the amendment.

SEN. BROOKE responded that it gives the Budget Director more authority, taking away from the Legislature. **CHAIRMAN HARGROVE** stated that he understood, that he is sure they have all felt that way.

SEN. GAGE asked **SEN. BROOKE** if she is not happy with the whole budget amendment process, which also allows the Budget Office to authorize the use of funds which have become available, other than General Funds, which were not available when the Legislature was in session to appropriate them.

SEN. BROOKE reiterated that she realizes they have to conduct their business in an orderly fashion, but stated that she feels this goes beyond the budget amendment process and gives the Budget Director more authority to move money around and make some fairly significant decisions that they will be committed to.

SEN. GAGE noted that he is not happy with the budget amendment process, either, that he would rather have some authority to approve or disapprove expenditures.

SEN. THOMAS stated that, potentially, a Budget Director could decide to make a transfer which would have to be explained to the Finance Committee later on, and that perhaps he will be a director under an out-going Governor. He pointed out that there would be no wrath of the Legislature, because there would be a new Governor and, undoubtedly, a new budget director. He stated that this is a can of worms, adding that none of his thoughts are based on who the budget director is, that this is not a consideration at all.

SEN. BROOKE pointed out that most businesses and boards have an executive committee to review issues and decisions via conference call, and that they are given authority to back up an executive in making a decision.

SEN. THOMAS asked if this does not go to transfer of authority, delegation of authority to another group.

SEN. BROOKE explained that she was referring to appointment of an executive committee which would be called on during this process.

CHAIRMAN HARGROVE stated that, whether or not this amendment is adopted, he is not sure it would affect the authority of the Legislative Finance Committee. **SEN. GAGE** concurred that it would not, and added that, under current law, those transfers can be made, as with the budget amendments, that the Legislative Finance Committee has to review them and has the authority to say no.

CHAIRMAN HARGROVE noted that he is reminded of a bill passed by the Committee last session to put some real authority in the Administrative Code Committee, which was then vetoed by the Governor.

SEN. GAGE pointed out that bill had to do with rules. He then indicated that he had suggested that the Legislative Finance Committee could meet by conference call when a critical situation arose, which is not a difficult thing to do, noting that this certainly is not the only solution. He asked if the Committee would feel more comfortable with an amendment, or would like to review an amendment dealing with a conference call to a bipartisan majority of the Legislative Finance Committee.

{Tape: 1; Side: B; Approx. Time: 11:09 a.m.; Comments: End of Tape 1, Size B.}

SEN. THOMAS added they could build in notification of the Legislative Finance Committee by mail, instead of waiting until after July when the Committee meets again, which would include an explanation and that, if there was a problem, the Committee could call themselves in to made a decision as to whether or not to allow it.

SEN. GAGE indicated that, if the Committee would like, he would be happy to put together another amendment, or perhaps several for the Committee to review.

CHAIRMAN HARGROVE stated that, in effect, he did not think it would make any difference. SEN. THOMAS concurred, and SEN. GAGE also agreed.

SEN. GAGE pointed out that he thinks the whole question is do they want to accommodate the Legislative Finance Committee, or tell them they do not have any authority other than review.

SEN. MESAROS encouraged the Committee to delay executive action on this amendment until everyone has had time to review an additional amendment.

SEN. THOMAS stated that he thinks this legislation points up the problem of dealing with the fact that budgeting is only done every other year. He indicated that legislation was almost passed in 1988 to allow the Legislature to meet annually by splitting the 90-day session in half and having a budget session one year, and a general session the next with that budget oversight in the second year. SEN. BROOKE noted that she had seen a similar bill draft this session.

SEN. GAGE stated that even that will not solve the problem in the case of a critical situation where they need to transfer money, and the Legislature is not in session. SEN. THOMAS agreed, but pointed out that it would only be a 12-month period, instead of 24-months.

Vote: The motion that AMENDMENT SB001902.atp be ADOPTED FAILED, with SEN. GAGE, SEN. BROOKE, SEN. MESAROS and SEN. THOMAS voting NO.

(NOTE: CHAIRMAN HARGROVE misstated the amendment number in reporting this vote)

SEN. GAGE indicated that he voted no on the amendment and would request that the Committee not take executive action on the bill until such time as another amendment can be presented.

CHAIRMAN HARGROVE indicated he would like for the Committee to discuss SB 42, although he would not ask for a vote today.

VICE CHAIRMAN MESAROS reported that he did not have any to add other than Mr. Graham indicated he would review one section of the bill and perhaps submit some information or clarification to the Committee.

CHAIRMAN HARGROVE commented that the bill is a little loose as far as the Department is concerned, and that they will see what Mr. Graham brings in. He asked VICE CHAIRMAN MESAROS if he will be working with Mr. Graham on this.

VICE CHAIRMAN MESAROS responded that he would feel more comfortable working with **Mr. Graham** in trying to bring it all together, rather than having amendments coming in from different directions.

SEN. BROOKE asked if the concern was that the Department does not have to hold a public process.

VICE CHAIRMAN MESAROS responded that his concern is giving them more authority for acquisition of more property, more authority with less oversight. He added that he certainly supports the concept of trying to accommodate the small parcels; the schools, and somebody inadvertently building on the land, but that there has been a lot of resistance to more power to the Fish and Game Commission and their land acquisitions.

SEN. BROOKE indicated that her concern was on the other side, that if they have that authority, what are their restrictions or how do they go about deciding they do not have to go through the bidding process, noting that a school is definitely a legitimate cause, but how do they decide they are not going to go out and get the biggest bang for their buck.

CHAIRMAN HARGROVE noted that this just deals with the transfer to other public entities, but pointed out that, in current law, the Department could take all the lands in Montana, cut them into small enough pieces, and get rid of them. He acknowledged that they haven't done that yet, so maybe it does not need fixing.

SEN. GAGE commented that there is a provision in the Constitution which gives them the authority to sell land, not just transfer to other agencies, and that is what they are hanging their hat on. He added that the reason they want some of this language in the bill is there are those who would challenge their authority and they want it clarified in statute, but that they think they have that authority by Constitution, anyway.

SEN. THOMAS noted that, if that is the case, then they should take the opportunity to write it right.

SEN. GAGE asked **Mr. Niss** to research that to see if it is a fact.

ADJOURNMENT

Adjournment: 11:20 a.m.


SEN. DON HARGROVE Chairman


MARY MORRIS, Secretary

DH/MM