

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN DON HARGROVE, on January 14, 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 92, 1/9/97; SB 94, 1/9/97;  
SB 104, 1/9/97  
Executive Action: SB 28 DO PASS

#### HEARING ON SB 92

**Sponsor:** SEN. DOROTHY ECK, SD 15, BOZEMAN

**Proponents:** Gene Kiser, Montana Board of Crime Control  
Mike Cronin, Public Information and Victim  
Information Specialist, Montana Department of  
Corrections  
Judy Garrity, Prevention Resource Center,  
Interagency Coordinating Council

**Opponents:** None

**Opening Statement by Sponsor:**

SEN. DOROTHY ECK, SD 15, BOZEMAN, reported that she serves on the  
Joint Oversight Committee on Children and Families, which  
recommended SB 92. She explained that services to families by a

combination of various agencies causes confusion and, a number of sessions ago, they recognized the importance of looking at government reorganization in order to avoid duplication of services, and to plan services provided so the agencies involved can do the best they can for families and children. She indicated that what used to be a memorandum of understanding among state agencies evolved into the Interagency Coordinating Council, and that the directors of the various state agencies serve on this council or, in some cases, form working groups to represent them. She noted that it was recommended that the Director of the Department of Corrections be added to the Council, and added that there are amendments (**EXHIBIT 1**) to the bill to include the Commissioner of Higher Education and the Coordinator of Indian Affairs on the Council as well. She then explained that it was recommended the Commissioner of Higher Education be added to the Council because the University System is participating in many of their programs, noting that participation has not been limited to the original group, that anyone who appears to be appropriate to the workings of the Council has been included.

**SEN. ECK** then reported that another change recommended by the Joint Oversight Committee on Children and Families is that the Council present a unified budget for state prevention programs. She indicated that the Council has also begun developing benchmarks, although they have not been implemented as yet.

**Proponents' Testimony:**

**Gene Kiser, Administrator, Montana Board of Crime Control** read written testimony which is attached to these minutes as (**EXHIBIT 2**).

**Mike Cronin, Public Information and Victim Information Specialist, Montana Department of Corrections** stated that they are charged with maintaining public safety and trust by holding juveniles, as well as adult offenders, accountable for their actions through custody, supervision, treatment and skill development. He indicated that it would be their pleasure to continue their work at reducing the number of juveniles traveling through the system by having their Director participate on the Interagency Coordinating Council, noting that the Department recognizes the value of working toward prevention of criminal behavior by juveniles.

**Judy Garrity, Coordinator, Prevention Resource Center, Interagency Coordinating Council**, distributed copies of a narrative (**EXHIBIT 3**), and reported that, at the last meeting of the Interagency Coordinating Council held December 10, 1996, the Council was presented with a concept paper by **Kirk Astroth, MSU Extension Service**, Council Chair, which recommended adding these three members to the Council, and that the Council was unanimous in it's support of that amendment. She indicated that they have also put together a unified budget which is in the Governor's

budget book, and that this bill makes some modifications to that unified budget in that it broadens it to cover, in addition to child abuse and neglect, a number of prevention areas.

She outlined the five target areas of prevention as child abuse and neglect, prevention of violence and crime, high school completion and job readiness, prevention of unintended and unhealthy pregnancies, focusing on teen pregnancy, and the prevention of substance abuse and alcohol use, adding that the Council is also in support of the benchmarks, noting that benchmarks have been developed for those key prevention areas, which are also published in the Governor's budget book.

LeRoy Schramm, Office of the Commissioner of Higher Education stated that they would bow to the wisdom of the Council to add the Commissioner of Higher Education to this Council, that the University System does have some programs dealing with transition from school to work, making school more relevant to the jobs, noting that this is probably the area in which the Commissioner's office would be able to participate on the Council.

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

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. DELWYN GAGE asked SEN. ECK what was meant by a unified budget.

SEN. ECK responded that the purpose is to see what the departments commit so far as budgetary items to the various programs, that it is a matter of pulling together parts of various budgets which address a common issue.

SEN. GAGE asked if the members of the Council set aside a portion of their own budget, or if it will be an allocation to the Council.

SEN. ECK replied that, originally, the concept of a unified budget was for each agency to set aside a sum of money, and the ICC would then decide how that money would be used, but that they are not at that point as yet. She explained that, as a step toward a unified budget, funds are allocated from various sources, that some are from savings in state programs, some are from Federal programs for prevention, and that local governments are asked for their unified budget to address problems in their areas, noting that funds also come from grants or partnership programs, and other sources of funds which are available, citing an example in Gallatin County where the Health Department became involved. She noted that it is a matter of state agencies, private organizations, local governments and schools coming

together and deciding what the needs are, and where the money is going to come from.

**SEN. GAGE** indicated that it had been mentioned in testimony that this is in the Governor's executive budget proposal, and asked where it is located in that budget proposal.

**SEN. ECK** deferred to **Bob Anderson, Office of Budget and Program Planning**.

**Bob Anderson, Office of Budget and Program Planning**, responded that it is located on the summary page, in the back, and offered to provide a copy to the Committee. He noted that it is not really a budget, that it is a summary of budget items from the various departments.

**SEN. GAGE** asked if any of the sections of Code referred to would allow for a designee to serve in the place of the member on this Council.

**Mr. David Niss** responded that he would have to research it, but that he would expect that language to appear in the section referred to.

**SEN. GAGE** asked if they should clarify in the bill that a designee could serve in place of the Council member.

**SEN. ECK** responded that, when the ICC was originally established, it was felt that it was important for the directors, themselves, to be involved, noting that working groups representing Council members were formed to establish the benchmarks. She pointed out that, unless there is a commitment from the department director, someone of a lesser rank would not be able to make decisions, adding that it is obvious each member can not attend each meeting.

**SEN. GAGE** noted that he would assume this would not need a fiscal note, in-as-much as the members are not reimbursed.

**SEN. ECK** indicated that, originally, each department used loose funds the director might have to help fund this, but now there are more formal arrangements, but that the costs are low, and that it is part of their work, not something that has been added.

**VICE CHAIRMAN KEN MESAROS** asked what is the Council's budget and how much would it be increased with the expanded membership.

**SEN. ECK** deferred the question to **Ms. Garrity**.

**Ms. Garrity** responded that the ICC has no budget as such, that there are minimal expenditures which come out of the member agency budgets. She added that the only expenses for the meetings are travel expenses incurred by the three private citizens. She then stated that the Prevention Resource Center is

budgeted under the Department of Public Health and Human Services in a separate budget category, although it does receive donations from members of the ICC.

CHAIRMAN DON HARGROVE asked Ms. Garrity if the ICC has a paid staff member who has been contracted as a consultant. Ms. Garrity responded they no longer have this paid staff member.

CHAIRMAN HARGROVE asked if that person was Mr. Keith Colbo. Ms. Garrity replied that is correct, reporting that, in July, 1996, they gained an FTE position from the Family Services Division and hired a Coordinator for the Prevention Resource Center. CHAIRMAN HARGROVE asked if that was her, and she responded that is correct.

CHAIRMAN HARGROVE then asked if someone was doing her old job. Ms. Garrity responded that the FTE was not her old job, and that she was not sure exactly where the FTE came from.

CHAIRMAN HARGROVE asked if it was an existing FTE. Ms. Garrity responded that it was, as far as she knew, that the FTE was made available for the Resource Center.

CHAIRMAN HARGROVE asked SEN. ECK where the amendments came from to add the Coordinator for Indian Affairs and the Commissioner of Higher Education to the Council.

SEN. ECK replied that they came from the ICC who had evidently been working with representatives from these two groups, and saw the advantage of having them there.

Closing by Sponsor:

SEN. ECK stated that she felt this is one of the more constructive moves they have made in State Government, and that she hopes it will also impact local governments where groups are being formed to work with the ICC and with state agencies to make sure they have the opportunity to develop programs at the local level which are multi-agency supported, and serve the people of Montana in a better way. She added that they are hoping to meet with local governments in order to help them develop a system to provide services more effectively, and to meet the needs of the community as they develop more programs.

{Tape: 1; Side: A; Approx. Time: 10:32 a.m.; Comments: None.}

HEARING ON SB 94

Sponsor: SEN. VIVIAN BROOKE, SD 33, MISSOULA

Proponents: None

Opponents: None

Opening Statement by Sponsor:

SEN. VIVIAN BROOKE, SD 33, MISSOULA, stated that SB 94 was also requested by the Joint Oversight Committee on Children and Families, that it is a simple bill and she did not expect any proponent or opponent testimony. She indicated that it has become evident in their work on the Joint Oversight Committee, as well as in all human services programs, that there needs to be more effort at evaluation. She explained that they would establish goals to be accomplished in the interim and, at the end of that period, conduct a self-evaluation to see if they have met those goals, and that they would encourage human services programs to do the same. She noted that, even though the Committee's duties are lined out in statute, they undertake other studies during the course of the interim and felt this was important to keep the Committee on track, and to evaluate whether the Joint Oversight Committee is really doing its work.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. GAGE asked who will conduct the performance evaluation.

SEN. BROOKE responded it would be conducted by the Committee and staff, that it would be a self-evaluation.

Closing by Sponsor:

SEN. BROOKE has no closing comments.

CHAIRMAN HARGROVE announced that there would not be a hearing on SB 123, which he sponsored, and which was originally scheduled for hearing today. He stated that SB 123 would exempt the University System from the \$.30 fee for every \$1,000 issued in revenue bonds, and that he had originally thought the University System was unique in having to pay that fee. He explained that he has since discovered all state agencies are liable for the same fee, although there is probably some debate as to whether the University System receives the same benefit as other agencies do. He indicated that he was not comfortable with the fairness of it, and will give the University System a chance to collect another sponsor, should they wish to.

HEARING ON SB 104

Sponsor: SEN. TOM BECK, SD 28, DEER LODGE

Proponents: Donald W. Hutchinson, Commissioner, Banking and Financial Division, Department of Commerce

Opponents:        **Keith Colbo, Montana Independent Bankers**  
                 **Bill Leary, Montana Bankers Association**

Opening Statement by Sponsor:

**SEN. TOM BECK, SD 28, DEER LODGE** stated that SB 104 will give the Department of Commerce and the Banking Commission the authority to examine the books and affairs of bank holding companies. He explained that these books would be examined only if the Banking Commission determined there was a need to do so, indicating that **Donald W. Hutchinson, Commissioner, Banking and Financial Division, Department of Commerce** would explain this further.

Proponents' Testimony:

**Donald W. Hutchinson, Commissioner, Banking and Financial Division, Department of Commerce** explained that SB 104 would amend Section 32-1-220, "Examination of Holding Companies and Affiliated Entities", which states the division may examine the books and affairs of bank holding companies "under the Bank Holding Company Act of 1956 in order to resolve issues relating to the safety and soundness of banks under the jurisdiction of the division." He pointed out that the key words in the bill are "may examine", which would allow the Division, in the course of a regularly scheduled examination of a bank, to have access to a holding company's books in the event a safety and soundness issue is discovered during a bank examination, which includes transactions originating in the bank holding company. **Mr. Hutchinson** indicated that this authority would insure the safety and soundness of banks for depositors and shareholders, as well as the fact that having access to the holding company records would expedite the Division's application for national accreditation. He added that the Federal Reserve Board has announced cutbacks in holding company examinations, and the Division would not look at holding company books unless it appears there are safety and soundness concerns for the bank.

*{Tape: 1; Side: A; Approx. Time: 10:44 a.m.; Comments: End of Tape 1, Side A.}*

Opponents' Testimony:

**Keith Colbo, Montana Independent Bankers**, indicated that they reluctantly rise in opposition to SB 104, that they would like to place on record some of their concerns. He pointed out that the banking industry is very heavily regulated and examined, that the costs of examination are paid by the industry, and then passed on to their customers, adding that the banking industry is regulated by the FDIC, the Federal Reserve, the OCC, as well as by the State, depending on the nature of the charter. He stated that they would prefer to see a level of cooperation between the examiners to address some of the concerns brought as justification for this bill, noting that some of that has been

done, but it could go further, and that cooperation is the key to successful regulation of the industry.

**Bill Leary, Montana Bankers Association**, stated that they, too, are reluctantly in opposition to SB 104. He pointed out that the Federal Reserve System already examines Montana bank holding companies, that it is their understanding these reports are available to the Commissioner of Banking and it appears this authority would be a duplication of effort and expense, adding that Montana banks pay the total cost for the Commissioner, which is currently \$1 million per year. He indicated he would ask what national accreditation can do for the State of Montana, as well as for the Commissioner's office, and related his experiences with accreditation of hospitals, pointing out that accreditation did not necessarily improve delivery of services.

**Questions From Committee Members and Responses:**

**VICE CHAIRMAN MESAROS** indicated that the language "may examine the books and affairs" seems to be discretionary in regard to issues of safety and soundness, and asked **Mr. Hutchinson** if there are set parameters for these examinations as far as frequency, scope, etc.

**Mr. Hutchinson** responded that the concept is they would have the authority in the event the need arises during a regularly scheduled examination of a bank. He pointed out that, should they run into a situation where a bank and a holding company have a transaction which they feel could impact the safety and soundness of the bank, they would want the ability to examine the holding company books to find out whether it was a problem or not. He added that, historically, this would only occur in the case of a troubled bank.

**VICE CHAIRMAN MESAROS** asked **Mr. Hutchinson** if the Federal Reserve reports are made available, what is in them, and what beyond that they would need.

**Mr. Hutchinson** responded that the Federal Reserve has cut back their examinations of holding companies to less than every three years, especially those not heavily indebted, the one-bank holding companies, which would include the greater percentage of those in Montana. He indicated that, if something is discovered, it is important to solve the problem when you are there and often the reports from the Federal Reserve are outdated and are geared more to bank ownership, make-up of the directorates, and so forth, rather than day to day safety and soundness issues.

*{Tape: 1; Side: B; Approx. Time: 10:51 a.m.; Comments: None.}*

**SEN. GAGE** asked both **Mr. Colbo** and **Mr. Leary** if their organizations were aware of this proposal prior to the session.



**Mr. Colbo** responded they did not find out until later, adding that they have a very close, supportive relationship with the Commissioner and the Division.

**Mr. Leary** replied that they did not have any real advance notice of this bill.

**SEN. GAGE** asked **Mr. Hutchinson** what kind of information they get from looking at the books and affairs of the holding company that they can not get from looking at the books and affairs of the bank.

**Mr. Hutchinson** responded that concerns may arise regarding property arrangements whereby the holding company may own a facility or a piece of equipment that the bank uses, or space that an affiliated insurance company operates, and that questions have arisen in the past about the holding company using market value in its transactions. He added that, quite often, they have been found to be charging well above market value in given circumstances. He indicated there have been four situations where they needed access to information and contacted the Federal Reserve but, for one reason or another, they were not able to get here on a timely basis.

**SEN. GAGE** related his experience as a member of the Board of Directors for a bank in Cut Bank when he was instructed by letter that the contents of a bank audit were not to be divulged to anyone except the officers and directors of that bank. He reported that he had a lengthy discussion with the auditors about it, but he never did find out who made that decision, or if it was statutory. He asked **Mr. Hutchinson** if there is anything in the State of Montana which prohibits audit reports or reports to Directors or other bank officers from being divulged to anyone other than those people.

**Mr. Hutchinson** responded that there is statute which prohibits the results of examinations being divulged to anyone other than officers and directors of that particular bank, but that he could not address the issue of the letter **SEN. GAGE** referred to. He pointed out that even if they are subpoenaed for examination records, it is pretty difficult to get that information and that only the representatives of the defense and plaintiff in the issue are allowed access to that information.

**SEN. GAGE** reported that, in the situation he cited earlier, he asked the auditors who they thought owned the bank, and he told them the stockholders own the bank and that, as a Director, if there was something in the report he felt the stockholders should know, he would tell them. He asked **Mr. Hutchinson** why those stockholders would not be entitled to know what is in that audit report.

**Mr. Hutchinson** replied that most of this legislation runs to troubled institutions, and that the authority they are seeking

would only be used in the case of a troubled institution, noting that he suspected **SEN. GAGE** was not in that situation.

**SEN. GAGE** asked **Mr. Leary** and **Mr. Colbo** if either of them would have any idea why that would be in statute.

**Mr. Colbo** responded that he did not know, and reminded **SEN. GAGE** that, at one time, he was Commissioner of Banking.

**Mr. Leary** responded that he did not know, and could not answer that question.

**CHAIRMAN HARGROVE** asked **Mr. Hutchinson** if he felt that, had this been worked on a little bit more between the Department and the banking industry, this problem could have been solved without legislation.

**Mr. Hutchinson** responded that the information was brought before both **Mr. John Cadby**, **Montana Bankers Association**, and **Mr. Colbo** in a meeting in **Mr. Colbo's** office, probably in October. He indicated that possibly they could work with the bankers associations to come up with language which limits them to the conditions he described, which is their concern. He added that, if the concern goes deeper than that, he did not see where they could reach an agreement.

**CHAIRMAN HARGROVE** asked if **Mr. Hutchinson** is looking at further wording for this bill.

**Mr. Hutchinson** responded that, if it is acceptable to the bankers' position, he thinks it could be stated more clearly.

**CHAIRMAN HARGROVE** indicated that he would charge **Mr. Hutchinson** to consider that, and to keep in touch with **Mr. Niss** if they planned to present an amendment.

**VICE CHAIRMAN MESAROS** asked **Mr. Colbo** if he would like to respond to this.

**Mr. Colbo** stated that, although he would not repute **Mr. Hutchinson's** comments, he did not recall anything, that it was never formally discussed with his organization, and he wanted that made absolutely clear. He reported that his organization would be meeting on Friday, and he would take this issue up with them, in **Mr. Hutchinson's** presence, to see if something can't be worked out, adding that the MBA Board would also be meeting and they would discuss the language and see if they could come up with a compromise to be brought back to this Committee.

**VICE CHAIRMAN MESAROS** asked **Mr. Leary** if he would also like to respond.

**Mr. Leary** reported that the MBA board will also be meeting Friday, and that they will bring this issue to the Board to see if they can't work out some suitable amendatory language.

**CHAIRMAN HARGROVE** indicated that executive action would be delayed until next week, and asked **Mr. Hutchinson**, historically, how often he would envision this authority to have been used.

**Mr. Hutchinson** responded that it would have been necessary in one instance in Anaconda and that there was another instance in the eastern part of the State where this would have solved a problem very easily, noting that sometimes there is a confrontational issue between the examiner and the CEO of the bank. He pointed out that, in good times such as we are in now, it is very unlikely this would be necessary, but we all know these times do not last forever.

**CHAIRMAN HARGROVE** indicated that it was his understanding the Federal Reserve is cutting back on their services and that this, to some extent, would augment their efforts. He asked if this is something which would cost money in terms of man hours.

**Mr. Hutchinson** replied that they are looking at it in the course of general examinations, pointing out that it could cost money in terms of a troubled bank if, as often happens, they start going in every six months, adding that they do charge for those examinations in addition to the normal billing.

**SEN. FRED THOMAS** asked both **Mr. Colbo** and **Mr. Leary** if they planned to visit with their respective organizations about this, and pointed out that it would seem to him that with the holding companies doing a lot more of the work, as an entity in the communities, it seems to be something they should look at.

Closing by Sponsor:

**SEN. BECK** noted that he is on the Board of the Pioneer Savings and Loan in Deer Lodge, and that his experience has been that CEOs of banks and savings and loans detest examinations because it seems an examination is an attempt to find fault with the organization, however, it is a benefit to the Directors. He indicated that his point is that an examination is for the protection of the depositors and borrowers, and the examiners need the authority to review what they think is pertinent in an examination, including access to the holding company records. He added that he believes that, if there is concern about a bank, it is appropriate to look at the records of the holding company.

{Tape: 1; Side: B; Approx. Time: 11:10 a.m.; Comments: None.}

EXECUTIVE ACTION ON SB 28

Amendments: SB002801.adn (EXHIBIT 4)  
SB002802.adn (EXHIBIT 5)

**Discussion:**

**Mr. Niss** reported that amendment SB002801.adn is from the Teachers' Retirement Board, and amendment SB002802.adn is from the School Administrators Association. He indicated that amendment SB002802.adn would require that only one of the two teacher positions on the Board be filled by a teacher who is actively employed as a public school classroom teacher, and that the other position be filled by someone currently serving as a school principal or superintendent.

**SEN. THOMAS** indicated that he was not following the amendments, and there was general discussion among the Committee members about how the amendment fits the bill.

**Mr. Niss** indicated that paragraphs 1 and 2 were title amendments to conform to the substance, which was to limit the requirement from at least one, to only one position being filled by a teacher actively employed as a public school classroom teacher, and the other position filled by a teacher currently serving as a school principal or superintendent.

**CHAIRMAN HARGROVE** asked if everyone understood the amendment, and then indicated they should review the other amendment before taking a vote.

**Mr. Niss** stated that amendment SB002801.adn would reduce the number of Board positions appointed by the Governor from 6 to 5, that the Governor would no longer appoint the Superintendent of Public Instruction. He explained that the language on lines 18 and 19 of the bill would be stricken, and paragraph 13 of the amendments on page 2 inserts a subdivision (b) after line 22 which would provide for one member appointed by the Superintendent of Public Instruction. He pointed out this would change the composition of the Board in that the Superintendent of Public Instruction would no longer serve on the Board, but would appoint a member actively employed as a public school classroom teacher holding a class 1, 2 or 4 teaching certificate. He added that paragraph 16, on the last page of the amendment, would provide for a retroactive applicability section with an immediate effective date, which would immediately unappoint the Superintendent of Public Instruction.

**CHAIRMAN HARGROVE** asked **David Senn, Executive Director, Teachers' Retirement System** to explain the reason for the amendment.

**David Senn, Executive Director, Teachers' Retirement System**, explained that their intent is to remove the Superintendent of Public Instruction from the Board because the Superintendent sits on a lot of different boards, and is unable to attend the Teachers' Retirement Board meetings except very sporadically. He indicated that they like the relationship with that office because they both deal with the teachers and educators in the State of Montana, that a lot of information is shared between the

offices, and they would like to continue with that close working relationship by having the Superintendent appoint a member who would be a voting, participating member of the Board. He reiterated that the Superintendent does not have the time to attend the Teachers' Retirement Board meetings, and then pointed out a typographical error on the bottom of page 1, paragraph 9, which would strike (b) and strike (i), when it should strike (b) and insert (i).

**SEN. THOMAS** indicated that he is not inclined to support the bill, but that he would move the bill and the amendments offered by the School Administrators for the purpose of discussion. He stated that he would argue against the amendments, that he did not believe there was a problem which needed to be addressed with the bill, and that he did not think it was the right thing to do in reforming the bill.

Motion: **SEN. THOMAS** moved that **AMENDMENT SB002802.adn** be adopted.

**SEN. BROOKE** indicated that she would vote against the amendments, as well, and stated that she thinks it is arrogant for a group to use a bill to insert their language to advance their cause, that the bill was designed specifically to appoint a teacher who is actively teaching to the Board, and that now they are trying to specify an active principal or superintendent.

*{Tape: 1; Side: B; Approx. Time Count: 11:20 a.m.; Comments: End of Tape 1, Side B.}*

Vote: The Motion that **AMENDMENT SB002802.adn** be **ADOPTED FAILED** with **SEN. GAGE** voting YES, and **SEN. WILSON, SEN. THOMAS, SEN. BROOKE, VICE CHAIRMAN MESAROS** and **CHAIRMAN HARGROVE** voting NO.

Motion: **SEN. GAGE** moved that **AMENDMENT SB002801.adn** be adopted.

Discussion:

**SEN. GAGE** stated that he would move amendment **SB002801.adn** on the basis that the Superintendent of Public Instruction was not able to provide any input to the Board. He added that the Superintendent would appoint someone with the same philosophy regarding the issues, and it would give that office representation on the Board.

**SEN. BROOKE** stated that it did not seem to her the amendments address the issue that the bill is supposed to address, that it revises the structure of the Board when the point of the bill was that teachers who are actively employed should be members, adding that she would vote against the amendment.

**SEN. THOMAS** indicated that he agreed with **SEN. GAGE's** point, but that the amendments do more than that and, if there were an easy

way to segregate the Superintendent of Public Instruction amendments, and instead have the Superintendent make a recommendation to the Governor who would then appoint the person, he would be more inclined to vote in favor of it.

**CHAIRMAN HARGROVE** stated that he would also agree with **SEN. GAGE**, but pointed out that often the head of an organization does not participate as much as they should, noting that he was not sure this is the place to address that.

Vote: The Motion that **AMENDMENT SB002801.adn** BE ADOPTED FAILED with **SEN. GAGE** voting YES, and **SEN. WILSON, SEN. THOMAS, SEN. BROOKE, VICE CHAIRMAN MESAROS** and **CHAIRMAN HARGROVE** voting NO.

Motion: **SEN. THOMAS** moved that **SB 28 DO PASS**.

Discussion:

**SEN. THOMAS** stated that he would argue against the bill, pointing out that he did not think it was necessary. He indicated that he inquired about the appointment process, that he understood a superintendent and a principal were appointed and was told there were not many other people interested in being considered for this appointment. He pointed out that superintendents and principals are the supervisors of the teachers, that they are teachers themselves, and it may be that they are the ones who surface as the leaders among the teachers, adding that he did not think they were addressing a significant problem in this bill.

**SEN. BROOKE** noted that, in testimony about the bill, it was stated that this was too specific, that there was no need to be that specific about who would serve on the Board, but pointed out that most boards are very specific about their membership qualifications, and this would be a logical extension of the description of the Teachers' Retirement Board, to insure that there would be teachers serving on the Board. She stated that she thinks it is an entirely appropriate direction to go in.

**SEN. GAGE** indicated that many areas of state and local government are continually asking to be given more flexibility, but that this bill is requesting that we tell them exactly what we want on this Board. He stated that it also bothers him because a classroom teacher will be out of the classroom when the Board meetings occur.

**CHAIRMAN HARGROVE** pointed out that, as the Committee goes through the various interim board appointments they are charged with reviewing, they will discover that the requirements for qualification to each board is very specific, noting that it may be debatable if that is good or bad, but indicated that he thinks a teacher who is not yet retired is probably the most interested person on the Board, and he thinks the bill, as presented, is appropriate.

**Vote:** The motion that SB 28 DO PASS CARRIED with SEN. BROOKE, SEN. WILSON, VICE CHAIRMAN MESAROS and CHAIRMAN HARGROVE voting YES, and SEN. GAGE and SEN. THOMAS voting NO.

**COMMITTEE BUSINESS - THE GOVERNOR'S BOARD APPOINTMENTS**

CHAIRMAN HARGROVE announced that there are 52 boards to which the Governor has made interim appointments, for a total of 156 people. He stated that he would pass the list around based on seniority of the Committee members, starting with SEN. GAGE, and asked that each Committee member select 9 boards to investigate. He indicated that forms would be handed out for them to fill out for each appointee, and asked that the Committee members review the statute relating to each board they have chosen to investigate. He noted that it is interesting to see how closely the appointees match the qualifications.

Mr. Niss related one of the errors found in a previous appointment to the Board of Oil and Gas Conservation, pointing out that statute dictates that members not own any mineral interests, and that an appointee had to convey away his ownership in mineral interests in order to serve on the Board.

SEN. GAGE asked to what extent they were to investigate the background of the appointees. CHAIRMAN HARGROVE responded that the focus would be on if they are eligible for the appointment.

SEN. GAGE asked the other Committee members to let him know if they have any knowledge of, or concerns about an appointee on any of the boards he selects, noting that he would do the same.

CHAIRMAN HARGROVE indicated that the process for confirmation of these appointees will be the same as any bill before the Committee, noting that these board appointments are separate from the department directors appointed by the Governor, which the Committee will also review.

Mr. Niss indicated that he attempted to retrieve a copy of the form used by the Committee previously for appointments by the Governor, but that he was unsuccessful, and pointed out that it was a simple form containing the name of the board and the statutory authority for the members being appointed. He added that the form was helpful in keeping track of the investigations, and can then be batched into a resolution, noting that the Committee could either prepare one resolution for the entire list, or batch the appointees into several resolutions.

CHAIRMAN HARGROVE acknowledged that this is a lot of work, and asked the Committee members to try to work on them a little each day. He then indicated that this is a public process, and that an appointee could be asked to appear before the Committee if they thought it necessary.

**VICE CHAIRMAN MESAROS** reiterated that an appointee could be asked to appear before the Committee if a Committee member is uncomfortable about someone, but that it is mostly verification that the appointee meets the statutory requirements for appointment. He then asked who, in the Governor's office, is handling these. **CHAIRMAN HARGROVE** responded that Susan Ames is handling these in the Governor's office.

**SEN. BROOKE** indicated that one of the questions she raises with an appointee is how available they are to serve. **CHAIRMAN HARGROVE** added that he always asks if they want to serve.

**SEN. BROOKE** reported that the House Business and Labor Committee held hearings for two days about complaints from the public about boards, and indicated that **REP. BRUCE SIMON** would be more than happy to give a brief report to the Committee on what he saw as some of the trends with the boards and the public.

**CHAIRMAN HARGROVE** responded that he would ask **REP. SIMON** to address the Committee, noting that apparently there is a feeling by the general public that, in many cases, licenses were denied without justification by some of the boards. He noted that he would attempt to schedule that briefing in the next couple of days.

There was general discussion among the Committee members about the order in which the list was to be circulated among them.

**SEN. THOMAS** asked if the forms will include suggested questions, and **SEN. BROOKE** indicated that, previously, the form only set out the statute.

**SEN. THOMAS** indicated that he felt the discussions in the House Committee did not point out that the boards are not there to serve the licensees, that they were created to protect the public and it is possible those people who were denied licenses should not have had them.

**CHAIRMAN HARGROVE** indicated that most of the appointees he has contacted are very enthusiastic and eager, as well as qualified to serve, noting that there will be exceptions but he did not feel it was necessary to separate them out, unless there is a serious problem, and suggested that the Committee recognize the Governor has appointed these people. **VICE CHAIRMAN MESAROS** agreed that there are exceptions, relating that a friend of his was previously appointed to a board, but was ready to recommend that particular board be eliminated.

**SEN. GAGE** asked if the form would include the number of meetings the board held. **CHAIRMAN HARGROVE** responded that would be set out in statute.

**CHAIRMAN HARGROVE** gave the Committee a brief overview of the kind of information they should record about the appointees.

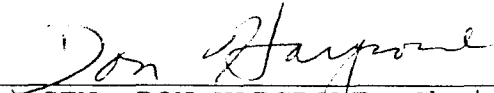


**SEN. THOMAS** noted that, although he would be happy to investigate the appointees to the Board of Nursing, he should let the Committee know that his wife is on that Board.

**SEN. BROOKE** stated that she considers that a conflict, noting that, last time, she had to call a couple of people she knew but asked them the same questions she asked everyone else. She added that she would take the Board of Nursing if no one else would.

ADJOURNMENT

Adjournment: 11:47 a.m.



SEN. DON HARGROVE, Chairman



MARY MORRIS, Secretary

DH/MM