

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN DON HARGROVE, on January 16, 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 125, 1/13/97;
SB 131, 1/13/97
Executive Action: SB 19 DPAA; SB 94 DP;
SB 92 DPAA

HEARING ON SB 131

Sponsor: SEN. KEN MESAROS, SD 25, CASCADE

Proponents: John Loucks, School Administrators of Montana

Opponents: None

Opening Statement by Sponsor:

SEN. KEN MESAROS, SD 25, CASCADE, stated that SB 131 proposes a minor change which would increase the number of acres that the Board of Land Commissioners may sell or lease to a school district for use as a school site. He explained that he is presenting this bill for the purposes of a particular school district, noting that he is sure there may be others which would

benefit, and indicated that this school is in dire need of expansion, that they are land-locked, and have identified some State land as a possible site for future construction. He pointed out that this change in statute would not mandate that the Board of Land Commissioners approve this type of transaction, that it simply offers the option and increases the amount of acres which can be made available.

SEN. MESAROS indicated that he felt 25 acres was realistic for a school site, that, in determining that number, he took into account the Educational Facilities Program and the needs and recommendations from the school district, noting that they had recommended 30 to 35 acres.

Proponents' Testimony:

John Loucks, School Administrators of Montana, reported that they requested an increase in acreage as a result of a feasibility study which recommended a building site consisting of 30 to 35 acres for this particular school district's educational facility, that the new facility should occupy an area consisting of enough acreage to insure future expansion capability, as well as provide for parking, bus barns, recreational facilities and vocational buildings.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SEN. MESAROS stated that he thinks this is a reasonable request, that he believes this is more realistic than the present 10 acres, and he hopes the Committee will make a favorable recommendation.

HEARING ON SB 125

Sponsor: SEN. CHRIS CHRISTIAENS, SD 23, GREAT FALLS

Proponents: Neil Peterson, Bureau Chief, Income and
Miscellaneous Tax Division, Montana Department of
Revenue
John Cadby, Montana Bankers Association
Bob Pyfer, Senior Vice President, Montana Credit
Unions League
Joan Mandeville, Montana Telephone Association

Opponents: None

Informational
Testimony: John North, Montana Department of Environmental
Quality

Opening Statement by Sponsor:

SEN. CHRIS CHRISTIAENS, SD 23, GREAT FALLS reported that SB 125 was requested by the Department of Revenue to adopt the Uniform Unclaimed Property Act, and bring it into compliance with the 1995 Uniform Unclaimed Property Act. He explained that the purpose of unclaimed property laws are to reunite owners with property that is rightfully theirs, to protect the holders of abandoned property from subsequent claims after the property is transferred to the State, and to insure that any economic windfall resulting from unclaimed property will benefit the State and its citizens.

He indicated that, when eligible property is determined to be unclaimed, the holder reports and transfers that property to the State's Unclaimed Property Administrator, who attempts to notify the owners. He reported that cash is transferred to the State General Fund, that non-cash items are held for a period of time and then sold, and the Administrator maintains a fund from which owners can make claims for payment, adding that this property is held in perpetuity for the owner or the owner's heirs.

SEN. CHRISTIAENS pointed out that the 1995 Uniform Unclaimed Property Act retains the basics of this procedure, but will update, modernize and substantially improve the laws. He reported that, when more than one state is involved, the Uniform Unclaimed Property Act provides specific rules regarding which state is entitled to custody of unclaimed property, to meet the test of the 1993 U.S. Supreme Court decision in Delaware vs. New York. He stated that it retains the basic five-year time period for presuming property has been abandoned, but revises the time periods for certain types of property, explaining that shorter time periods would prevent losses of assets which might otherwise dissipate. He added that it provides a general rule for determining what constitutes unclaimed property, further defines what constitutes communications between an owner and a holder, and also establishes a general rule regarding dormancy charges for all types of property. He pointed out that this will also limit heir-finder agreements, that no person can enter agreements to charge a fee for finding unclaimed property less than two years from the time the property is transferred to the Unclaimed Property Administrator.

He reported that the Uniform Unclaimed Property Act will significantly increase interest and penalties for non-compliance. He stated that the interest, at 12%, is not generally waivable by the State, and penalties would be increased to \$5,000, for inadvertent failure to report unclaimed property, and up to \$25,000 plus 25% of the value of the property for willful failure to report property, adding that the State would also be allowed to examine the books and records of stock transfer agents, paying agents, and other third party administrators. He indicated that the State's publication requirements would be reduced to once a year, and that the term "holder" would be redefined as the person

actually obligated to make payment to the owner, and that mineral rights will be included as property subject to the Act. He further stated that this bill will change where unclaimed property funds are deposited, from the Public School Trust Fund, to the General Fund, pointing out that all of Montana citizens will benefit from the deposit of unclaimed property funds into the General Fund.

SEN. CHRISTIAENS asked that the Committee act favorably on this bill, stating that it represents sound public policy by providing that property separated from Montana owners would be safely held until it is claimed by the owner or the owner's heirs. He indicated that a number of people wish to testify on this bill, adding that he believed there would be some amendments proposed.

Proponents' Testimony:

Neil Peterson, Bureau Chief, Income and Miscellaneous Tax Division, Montana Department of Revenue, reported that the Abandoned Property Program consists of 2 FTE who process reports from holders and claims from owners, and advertise unclaimed property. He further reported that, in FY 1996, they received approximately 1,200 reports from holders of property valued at approximately \$1.8 million, and received another \$220,000 from the State through uncashed stale-dated warrants. He stated that, currently, their records indicate 4,500 different holders have remitted abandoned property to the State, that, in FY 1996, they had 1404 claims from owners, and refunded almost \$900,000 to owners, adding that they are currently holding property for approximately 150,000 different owners.

He explained that Sections 5 and 14 of the bill deal with which state is entitled to unclaimed property, and provide specific rules to comply with the Supreme Court decisions in Texas vs. New Jersey and Delaware vs. New York. He described the procedures as a two-step process which requires the property to be held by the state of the owner's last known address, however, if there is no last known address, the property will be held by the state of commercial domicile of the holder. He added that the next major function of the Act, contained in Sections 3 and 4, deals with dormancy periods. He distributed copies of a chart showing the proposed changes in dormancy periods (**EXHIBIT 1**), and explained the changes. With regard to money orders, he reported that they heard testimony from a number of people who felt that there is a good chance people will cash money orders after the five-year period, so it is being extended to seven years. He explained that the change regarding money or credits owed to a customer is to prevent dissipation of assets, and then reported that the dormancy period on gift certificates would be three years, noting that gift certificates which are redeemable for merchandise are turned over at 60% of their value, instead of 100% of their value, as required on gift certificates redeemable for cash. He continued to explain other changes in dormancy periods, and noted

that they are not extensive, that most property will retain the five-year dormancy period.

Mr. Peterson then pointed out that another major provision of Section 3 outlines what constitutes unclaimed property, and what type of communications need to take place between the owner and the holder in determining whether or not property has been abandoned. He indicated that the 1981 Act focused primarily on written communication between the owner and holder of property, but the 1995 Act takes into account other types of communications, as long as a record is maintained by the holder, noting that this would include electronic communications.

He pointed out that the Uniform Unclaimed Property Act also provides for increased audits for the Administrator, in Section 20, and increases enforcement, in Section 24, which deals with penalty and interest. He explained that the audit provisions allow the Administrator to require a verified report or self-audit from the holder, instead of having to conduct a full audit, that the holder can complete and return a prescribed set of forms, a self-audit package, that would be less intrusive than a full audit. He added that it will also allow the Administrator to audit the records of an agent of the holder who may maintain records of the holder.

He then indicated that the prior Act contained only criminal penalties, which were rarely or never enforced, and that the 1995 Act changes those to civil penalties, providing for a penalty of \$200 a day, up to a maximum of \$5,000, for inadvertent failure to turn unclaimed property over to the State, and \$1,000 a day up to a maximum of \$25,000, plus 25% of the value of the property, for willfully failing to turn property over to the State. He pointed out that the 1995 Act also allows the Administrator to waive penalty and interest, when it can be shown that failure to turn the property over by the holder was due to good cause and not neglect, noting that this is common practice by administrators, but had not been previously spelled out in the Act

He reported that the 1981 Act did not address heir-finder agreements, but the 1995 Act prohibits agreements entered into less than 24 months after the date the property was paid or delivered to the Administrator. He explained that the purpose of this is to give the owners the opportunity to be reunited with their property without paying a finder's fee, noting that, in some states, owners were being contacted before the state had a chance to advertise.

Mr. Peterson reported that the 1981 Act dealt with service charges only on certain types of property, but that the 1995 Act applies this dormancy charge limitation to all types of property, stating that dormancy charges can not be unconscionable, that there must be a written contract between the owner and the holder to impose these charges, and they must be consistently imposed. He explained that, previously, with certain types of property,

holders would deduct dormancy charges ranging from a few percent to a substantial percentage of the value of the property, right before it was turned over to the State, which was a way to limit how much money was transferred to the State, and that these dormancy charge limitations are designed to combat that practice.

He further indicated that, under this bill, the publication requirement would be reduced to once a year, noting that they currently advertise twice a year and plan to continue that, if not increase it, but that this would simply reduce that requirement to once a year. He added that Section 8 will change reporting dates for some businesses, specifically banking and financial organizations, and cooperatives, from May 1st to November 1st, but that life insurance companies will still report May 1st.

He explained that funds would be deposited to the General Fund, rather than the Public School Trust Fund, as previously set out in the Act, to provide a non-earmarked revenue source to fund state-wide priorities, rather than just education.

Mr. Peterson then indicated that Section 18 provides that, if the Administrator, through good faith, determines a particular item of property has no value and destroys that property, the Administrator is indemnified from any subsequent action by an owner, and pointed out that, because of this indemnification clause, the bill would require a two-thirds vote in both houses.

He summed up his comments by stating that SB 125 will reorganize the sections and make them more readable, that it will modernize the Act, and expand the definitions of property. He distributed copies of written testimony from **Mr. Robert Sullivan, retired, Missoula, Montana, (EXHIBIT 2)** and from **Mr. William Johnson, President, National Association of Unclaimed Property Administrators, (EXHIBIT 3)**. He then offered an amendment **(EXHIBIT 4)** to address an exemption for patronage refunds owed to a member of a rural electric or telephone cooperative, that they are not required to be turned over as abandoned property, providing they are used for educational purposes. He indicated that this exemption was passed in the 1993 Legislature, but was overlooked in the drafting of this bill.

{Tape: 1; Side: A; Approx. Time: 10:33 a.m.; Comments: None.}

John Cadby, Montana Bankers Association, indicated that they support the bill, but would like to offer a couple of amendments the Committee might wish to consider. He gave a history of the Uniform Unclaimed Property Act, which began in 1955, and stated that the 1981 Act was never officially adopted by the Montana Legislature. He pointed out that Section 11 of the Uniform Code has been left out of SB 125, explaining that Section 11 provides for interest or dividends to be paid on abandoned property held by the State, if it is claimed within ten years. He noted that

this may have been an oversight, and he wanted to bring it to the Committee's attention.

He remarked that the penalties set out on page 18 are pretty stiff, although they have been changed from criminal to civil penalties. He pointed out that the penalty is being increased for inadvertent failure to report, from \$50 a day, with a maximum of \$1,000, to \$200 a day and a maximum of \$5,000. He stated that, obviously, this is to provide motivation to file these reports in a timely manner, noting that he thinks everyone tries to do it conscientiously, but that they believe the penalty is a little stiff, and the Committee might reconsider that. He added that the penalties for willful failure to report, or fraudulent reports, are really severe, but their only concerns are regarding the penalties in subsection (2) for inadvertent failure to report.

Mr. Cadby maintained that the Department of Revenue, currently, can arbitrarily conduct audits, or "fishing expeditions" to locate unreported abandoned property, and indicated that this makes them a little nervous because there is no set criteria. He reported that, under Federal law, 12 USC 484 subsection (b), examiners may, at reasonable times and upon reasonable notice to a bank or other financial organization, review its records solely to insure compliance with applicable state unclaimed property or escheat laws, and upon reasonable cause to believe that the bank or financial organization has failed to comply with such laws. He indicated that a clause could be put in the bill to the effect that there must be reasonable cause for these kinds of audits, and added that, with these two amendments, they would support the bill.

Bob Pyfer, Senior Vice President, Montana Credit Unions League, stated that they support the bill, and reported that they had discussions with **Mr. Peterson** because of concerns that the dormancy periods might become more burdensome under this bill. He indicated that they have written assurance that there will not be any increased burdens in these regulations, that, in fact, they should be less burdensome. He then stated that their other concern had to do with Section 27 which, if interpreted literally, would require holders of property to go back ten years and report property not previously reported, due to the shortened dormancy periods. He noted that **Mr. Peterson** made it clear that the intent is to address changes in types of property, or new property to come under the law, and that they are satisfied with this explanation, as well. He then stated that they do feel that quadrupling the penalty for inadvertent failure to report may be a bit stiff, but, by and large, their concerns have been taken care of.

{Tape: 1; Side: A; Approx. Time: 10:42 a.m.; Comments: End of Tape 1, Side A.}

Mr. Pyfer indicated that they would like to offer a minor, technical amendment to line 27 on page 5 of the bill, which would change the reference to a "bank account" to read "an account in a financial organization", explaining that the term "bank account" is not a defined term in the Act, but the term "financial organization" is, referring the Committee to page 1, subsection (5), which defines a financial organization. He added that the provision on page 5 addresses tolling the dormancy period by a deposit or withdrawal to an account, which is the most common way to toll that period, and that this is critical to avoid unnecessary reporting, so they feel it is important to clarify that.

Informational Testimony:

John North, Montana Department of Environmental Quality, stated that they do not take a position either opposing or supporting the bill, but wanted to point out that a bill is being introduced in the House, at the request of the Department and the Governor, which would create a reclamation and rehabilitation account to be funded by civil penalties under the mining reclamation laws, and by abandoned operator's bonds received under the reclamation laws, amending the existing Unclaimed Property Act. He asked that the Committee consider amending SB 125 to insert a contingency clause which would help implement that legislation, adding that he would be willing to work with the Department of Revenue to develop the appropriate amendments.

Proponents' Testimony:

Joan Mandeville, Montana Telephone Association, stated that they would like to testify in support of the amendment proposed by the Department of Revenue regarding the exemption for cooperatives. She reported that their unclaimed patronage capital is currently being used for a wide variety of projects, including distance learning projects, and indicated that they continue to aggressively attempt to locate owners of unclaimed accounts, that a list is published at least once a year and sent out to their membership. She added that, if the Committee did not adopt that amendment, she would encourage them to work with some of the implementation questions regarding funds that have already been spent, and how they would tie into this Act.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. VIVIAN BROOKE asked **Mr. Peterson** to explain his testimony regarding the requirement for advertising being changed from twice a year to once a year.

Mr. Peterson explained that current statute requires them to advertise twice a year, once shortly after they receive the May reports, and again after they receive the reports in November.

He indicated that this bill would change that requirement to once a year, by November 1st, after the last group of reports are filed. He added that they do anticipate continuing to advertise twice a year, if not more, and they also plan to start some campaigns to increase awareness of the property being held.

SEN. BROOKE asked when the penalties were last changed.

Mr. Peterson responded that he believes it was in the 1981 Act.

SEN. DELWYN GAGE referred to Section 10, subsection (2), on page 10, and asked **Mr. Peterson** what is meant by "or information concerning a traveler's check, money order, or similar instrument."

Mr. Peterson explained that, normally, they do not get a name associated with a traveler's check or money order, or similar instrument, that the issuing company more than likely does not have a name, and they have nothing that can be advertised. He added that property with a value of less than \$50 is reported in the aggregate and, again, they do not have the names of the owners.

SEN. GAGE asked if those companies just report a total value of uncashed instruments, and that is all the information provided to the Department.

Mr. Peterson replied yes, that they receive a fair amount of property with no name associated with it because the holder's records were bad. He added that it is getting better as more companies become automated, and property is coming in with names and addresses.

CHAIRMAN DON HARGROVE pointed out that the Committee heard a lot of recommendations from **Mr. Cadby**, including a reference to Section 11, and also concerns regarding the penalties, and good cause for audits. He asked **Mr. Peterson** to comment on those recommendations.

Mr. Peterson indicated that he believes one of the primary purposes of the Uniform Unclaimed Property Act was to increase compliance, and to stiffen penalties and encourage holders to turn property over. He pointed out that, in a situation where a holder inadvertently does not report, their practice has been to waive penalties and interest, and they probably will continue to do that, but that they raised the penalty to \$200 a day and a maximum of \$5,000 for uniformity, noting that they are not particularly married to any amount.

CHAIRMAN HARGROVE asked what he meant by uniformity.

Mr. Peterson replied that it is uniformity with other states.

CHAIRMAN HARGROVE asked if it isn't compliance with Federal guidelines.

Mr. Peterson responded that is correct. He then indicated that Section 11 was omitted because they did not feel they have the ability, in the short term, to adjust their computer system to track the amount of interest that would be owed on accounts turned over under the 1995 Act. He added that, at some point down the road, they should be able to do that, but that this was the primary reason for leaving Section 11 out, and explained that the person who designed their computer program has left the Department, and they have no one else with expertise in that area.

CHAIRMAN HARGROVE asked if they continue to have 2 FTE in this function.

Mr. Peterson answered that, currently, that is all that is dedicated to this program, adding that they have a proposal in the Governor's budget to add an FTE, so that they can have people available to do searches for owners, as well as to make a more visible effort at locating owners. He added that two positions would be involved in the audit and enforcement areas to educate holders about unclaimed property laws and perform audits.

SEN. GAGE indicated that the amendment concerning cooperatives does not appear to fit the bill, that it refers to page 7, line 7.

Mr. Peterson acknowledged that it is incorrect and needs to be changed, that it should refer to page 5, line 7. **SEN. GAGE** corrected that to line 8. **Mr. Peterson** indicated that they will have to work on that amendment, adding that they are willing to work with the other proponents on their amendments, also.

Closing by Sponsor:

SEN. CHRISTIAENS remarked that this bill covers a lot of different territory in the area of abandoned property. He reiterated that it would require a vote of two-thirds of each House, and indicated that he will be watching the Committee's action on this bill to give him a better feel for how it may fare on the floor of the Senate because, if it does not receive two-thirds of the vote, he may want to bring it back to the Committee for further amendment.

He concluded, stating that he thinks the increase in penalties is meant as a motivation to file reports, and this bill brings this law into compliance with current standards. He added that he thinks this is an excellent piece of legislation and, with the amendments, deserves the Committee's favorable vote.

CHAIRMAN HARGROVE stated that the Committee will delay executive action on SB 125 in order to allow time for the Department and proponents to prepare the suggested amendments.

SEN. GAGE requested that **Mr. Peterson** supply the Committee with a copy of Section 11, which was omitted from the bill.

{Tape: 1; Side: B; Approx. Time: 11:01 a.m.; Comments: None.}

EXECUTIVE ACTION ON SB 19

Amendments: SB001902.atp

Discussion:

SEN. GAGE explained that the amendments (**EXHIBIT 5**), would provide that, in critical situations, the Budget Director may approve proposed changes however, before approval, the Budget Director would notify the Fiscal Analyst, who would determine if the Legislative Finance Committee should be contacted for their review of the proposal. He indicated that the Budget Director would be required to prepare a full report of the reasons for the action to be presented to the Legislative Finance Committee at their next meeting, adding that, in talking with the Fiscal Analyst, he was informed that this procedure is provided for in statute for other situations, and they felt it would work well in this case.

Motion/Vote: **SEN. GAGE's** motion to ADOPT AMENDMENT SB001902.atp CARRIED UNANIMOUSLY

Motion/Vote: **SEN. GAGE's** motion that SB 19 DO PASS AS AMENDED CARRIED with **SEN. THOMAS** voting NO

COMMITTEE DISCUSSION

SEN. THOMAS offered a motion that SB 119 do pass. **Mr. Niss** reported that he has received some rather extensive amendments to SB 119 and has not had a chance to review them. **SEN. THOMAS** withdrew his motion.

CHAIRMAN HARGROVE then suggested the Committee review SB 110 for executive action. **Mr. Niss** reported that he has also been presented with amendments to SB 110 that have not been reviewed.

CHAIRMAN HARGROVE discussed the procedures for confirmation of the Governor's Board appointments, and informed the Committee that the Committee Secretary is preparing forms for each of the Boards, which will contain the statute relative to each Board, and the names, addresses and telephone numbers of the appointees. He indicated that specific questions to be asked of the

appointees would not be established, and asked **SEN. GAGE** what methods he has used so far.

SEN. GAGE reported that he looks at the statute for each board, noting that some contain maximum terms for members, but some do not, and indicated that he asks appointees if they are related to anyone on the board, adding that, if this is not the appointee's first term on that board, he contacts others on that same board to inquire about the appointee's attendance record.

CHAIRMAN HARGROVE stated that he thinks those are appropriate questions, and then indicated that the Committee members should be informal in their interviews, and make sure they are comfortable that the appointee wants to serve on that board, and that they are qualified to do so, according to the requirements in statute. He indicated that the Committee members should keep in mind that the Governor has appointed these people to serve and that, if there is no particular conflict but, perhaps, a minor deviation, the Committee could recommend to the Governor not to reappoint that person in the future. He mentioned that, in interviewing the appointees, he attempts to determine if they have a particular ax to grind, and could perhaps be disruptive to the function of the board. He added that the forms being prepared by the Committee Secretary are primarily for recordkeeping purposes, and that the board appointments will be batched into several Resolutions to recommend to the full Senate. He indicated that, if there is a real problem with one or more of the appointees, those could be presented on a separate Resolution.

CHAIRMAN HARGROVE referred to the Governor's Department Director appointments, and indicated that each will be presented in a separate Resolution. He announced that each Director will be asked to appear before the Committee in a regular hearing, with the usual public notice, and that no prior research by the Committee members will be required.

SEN. GAGE noted that the Board of Athletics, and perhaps others, requires that members serving on the Board not have a conflict of interest, and that he asks appointees about this specifically.

CHAIRMAN HARGROVE indicated that the Committee would hear the first of the Governor's Director appointments on January 24, 1997, and that two or three would be scheduled each week, noting that they will be scheduled in the same order as the list presented to the Committee.

EXECUTIVE ACTION ON SB 92

Amendments: SB009201.ash (EXHIBIT 6)

Motion: SEN. BROOKE moved to ADOPT AMENDMENT SB0092.01.ash

Discussion:

There was discussion among the Committee Members as to whether or not a fiscal note was required for SB 92. It was determined that a fiscal note was not required.

SEN. THOMAS pointed out that testimony from the Commissioner of Higher Education's office indicated a lack of interest in having the Commissioner serve on this Committee. He stated that he did not see a strong prevailing need to include the Commissioner of Higher Education in that position, in statute, but that including the Coordinator of Indian Affairs makes a tremendous amount of sense.

SEN. GAGE concurred, adding that comments by LeRoy Schramm, Office of the Commissioner of Higher Education, indicated his office had not been contacted regarding this appointment.

{Tape: 1; Side: B; Approx. Time: 11:18 a.m.; Comments: End of Tape 1, Side B.}

CHAIRMAN HARGROVE asked if the amendment could be revised to delete the Commissioner of Higher Education. Mr. Niss responded that it could be done orally with a substitute motion.

Motion/Vote: SEN. THOMAS's motion to ADOPT a SUBSTITUTE AMENDMENT CARRIED UNANIMOUSLY

Motion/Vote: SEN. BROOKE's motion that SB 92 DO PASS AS AMENDED CARRIED UNANIMOUSLY

EXECUTIVE ACTION ON SB 94

Amendments: None

Motion: SEN. BROOKE moved that SB 94 DO PASS

Discussion:

SEN. GAGE stated that he does not see the necessity for this bill, that those things can be accomplished without statutory authority, and he will vote no on this bill.

CHAIRMAN HARGROVE reported that he was on this Committee, and would agree with SEN. GAGE from the standpoint that this sort of thing should not be necessary, that one of his greatest frustrations on that particular committee was the fact that there was a lot of subjectivity, but almost nothing in terms of objectivity or performance evaluation. He stated that, however, this is a step in the right direction, and he will support the bill.

Vote: The motion that **SB 94 DO PASS CARRIED** with **SEN. GAGE** voting **NO**

COMMITTEE DISCUSSION

SEN. THOMAS offered a motion that **SB 131** do pass.

VICE CHAIRMAN MESAROS reported that it has just been brought to his attention that a similar bill will be presented to this Committee in the near future by **SEN. MIKE FOSTER**. He asked if the Committee wanted to delay executive action until they could discuss that bill, and perhaps combine them.

SEN. GAGE asked if the other bill would do more than **SB 131**.

VICE CHAIRMAN MESAROS responded that he believes **SEN. FOSTER's** bill would provide for 50 acres for high schools, and 25 acres for elementary schools, noting that he is not sure of those figures, but that it would be more than provided for in **SB 131**.

CHAIRMAN HARGROVE asked what his recommendation would be. **VICE CHAIRMAN MESAROS** indicated that he would check on the status of that other bill. **CHAIRMAN HARGROVE** announced that executive action on **SB 131** would be suspended.

With regard to **SB 42**, **Mr. Niss** reported that he completed his research of Article 10, Section 11, subsection (4) of the Montana Constitution, and that his conclusion is that the language relative to land exchanges by the Department of Fish, Wildlife and Parks is self-executing. He further reported that he has been contacted by the attorneys for the Department, who have made a counter-offer to **VICE CHAIRMAN MESAROS's** and **SEN. GAGE's** amendments, and asked if the Committee was interested in discussing this.


VICE CHAIRMAN MESAROS stated that it is his intent to review the amendments, and that he would be prepared to take executive action on **SB 42** tomorrow, if the Committee so desires.

CHAIRMAN HARGROVE asked if **SEN. GAGE** had any comments. **SEN. GAGE** responded that is fine with him. **CHAIRMAN HARGROVE** announced that the Committee would consider executive action on **SB 42** tomorrow.

ADJOURNMENT

Adjournment: 11:27 a.m.


SEN. DON HARGROVE, Chairman


MARY MORRIS, Secretary

DH/MM