

## MINUTES

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

Call to Order: By CHAIRMAN DON HARGROVE, on February 11, 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. Bill Wilson (D)

Members Excused: Sen. Fred Thomas (R)

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 264, 2/6/97; SB 269, 2/6/97  
Executive Action: SB 271 DP

#### HEARING ON SB 264

Sponsor: SEN. KEN MILLER, SD 11, LAUREL

Proponents: Erik Hanson, Governor's Office  
Richard Crofts, Commissioner of Higher Education  
Jeremy Fritz, Associated Students of Montana State  
University

Opponents: None

##### Opening Statement by Sponsor:

SEN. KEN MILLER, SD 11, LAUREL, explained that the purpose of this bill is to get the blessing of the legislature for the Western Governors' University, adding that the Governor supports this program. He pointed out that there is no appropriation in this bill, that the bill only provides that, should the

University and the Governor wish to, they can participate in this, and the legislature would then decide the level of funding.

**Proponents' Testimony:**

**Erik Hanson, Governor's Office**, stated that the Governor is in support of SB 264. He thanked **SEN. MILLER** for bringing this bill to the attention of the legislature, adding that they would like to get the legislature's approval as the Governor's Office goes forward in developing and being a part of the development of the Western Governors' University. He explained that the Western Governors' University is real that, although people allude to it as the "virtual university" and it will be provided electronically through computers and technology, it will be a real, operating university. He distributed material (**EXHIBIT 1**), attached, and stated that the Western Governors' University (WGU) will be an operational, well-publicized, high-quality, fully-accredited school of higher education by 1998, and will offer an Associates Degree, along with numerous other courses aimed at job-specific training in several fields. He added that, from this base, WGU will grow, and projections are that several four-year degree programs will be offered by the 1999-2000 school year. He referred the Committee to the materials for further information.

He stated that they believe Montana has much to gain from participating in the process of developing WGU, that Montana is a unique state with unique demands for higher education, and Montana's institutions should be just as involved as other institutions throughout the West in development of courses specifically targeted to Montana industries and needs, as far as workforce development. He reported that Montana is one of thirteen states leading the way to delivering higher education services through WGU, that they would like to continue participating in that process, and the Governor asks for the Committee's support of SB 264 to give the legislature's collaboration in this important project for Montana and Montana education.

**Richard Crofts, Commissioner of Higher Education**, reported that, in December, 1995, under the leadership of **Governors Leavitt and Romer**, the Western Governors' Association met in Las Vegas to consider the creation of something which was, at that time, called the Western Virtual University. He stated that many of those associated with higher education viewed the whole activity with a great deal of skepticism, and his personal sense was that he doubted the governors could ever, as a group, keep their attention focused on this issue long enough to bring it to fruition. He added that he would endorse **Mr. Hanson's** statements that it is a reality, it is happening, adding that the skeptics have pretty much gone by the wayside, and it is a very dynamic, living organism, at this point. He noted that he hears presentations on it every month or two and, each time it is discussed, it looks to be a slightly different animal. He

indicated they were happy to be a part of convincing the Governor to endorse this, reporting that \$10,000 has been committed from the Governor's Office, and \$30,000 from the University System as a "down payment" on their initial membership, noting that the requirement was for \$100,000 and the creation of at least one center in the state as a focal point for the Western Governors' University. He remarked that this is an exciting moment in the history of higher education, that things are happening with technology that are almost beyond belief. He said that he is often asked if the Western Governor's University will be a competitor for the Montana University System, but stated that they view this as a collaborative operation, and very much wanted to be a part of the development of this enterprise. He indicated that they believe they will be able, when this electronic operation is up and running, to bring courses and programs into the State of Montana for its citizens that they could not otherwise provide, and they have every intention of proposing to the Western Governors' University that some of Montana's courses and programs be spread throughout the West and, perhaps, internationally by electronic means. He said they are excited about this, that it is full of unknowns and a lot of the policies are in the process of being put together, but they believe it is very important for the State of Montana to be a participant in the development of what they are pretty sure will be a thriving and lively organization.

**Jeremy Fritz, Associated Students of Montana State University,** stated that the students rise in support of this bill. He indicated that the classroom of 2000 will be exposed to more information in one year than their grandparents were in a lifetime. He added that this is the beginning for students to be able to reach out in the technological age and advance their skills and education, and advance their skills for the workforce. He referred to the industrial age, indicating that now we are in the information age, that students graduating from universities or colleges, or even from high school, need informational technology, and this is one way they can develop those things so they can be competitive in the workforce, with better skills, more suited for a better environment, and more job encouraged. He reiterated that students at MSU rise in support of this bill.

**Opponents' Testimony:**       None

**Questions From Committee Members and Responses:**

**SEN. DELWYN GAGE** referred to **Dr. Crofts'** testimony regarding the \$10,000, \$30,000 and \$100,000, and asked if that would be annually.

**Dr. Crofts** responded that the only information which has been made available at this time is that there is a \$100,000 "joining fee". He added that they do not anticipate putting additional state dollars into this program, right now, although he would hesitate to say that, somewhere down the line, that would never

be required. He stated that they are actively, and with success, seeking private funding, that the Sloan Foundation has given over \$500,000, corporations are signing on in support of this, and they are designing a business plan to make the operation self-sustaining, that the Western Governors' intention is for this to be spun-off as a separate, not-for-profit corporation. He remarked that he does not have any reason to believe, at this moment, that more money will be required, indicating that the remaining \$60,000 is in their budget for the next biennium, and has been approved by their appropriation subcommittee.

**SEN. GAGE** asked **Mr. Hanson** if the Governor has anything in his budget for this project.

**Mr. Hanson** replied yes, that the Governor has a \$60,000 appropriation in his budget which, as **Dr. Crofts** mentioned, has been approved by the education joint subcommittee.

**SEN. GAGE** asked if there is anything from the University System beyond the \$30,000.

**Mr. Hanson** responded that, within the Governor's budget, there were additional requests for money to develop distance learning within the state, and those monies could have been used in relation to the Western Governors' University, however, no other money is necessary for participation in the Western Governors' University.

**SEN. KEN MESAROS** referred to the material **Mr. Hanson** distributed, which describes an internet catalog and mechanisms for delivering services through public libraries and school extension sites or companies. He pointed out that there will be some costs involved, down the road, and asked how this is addressed, and if a fiscal note has been requested.

**Mr. Hanson** reported that a fiscal note is not attached to this bill. He explained that the \$60,000 is the participation fee, which is all this bill is asking for, and all they are asking for at the moment. He stated that, down the road, costs will be absorbed into existing budgets if not funded through additional sources, but that they will come back to the legislature and ask for those funds, if they feel it is necessary, along with the Commissioner of Higher Education and the Board of Regents. He added that it will be an ongoing process, but that the legislature will always be involved in appropriating the monies, if it can not be absorbed within current budgets.

**CHAIRMAN DON HARGROVE** asked **SEN. MILLER** why this bill has been presented, and if the executive feels they need the legislature's blessing, or is it a matter of just letting them know.

**SEN. MILLER** replied yes, that pretty much explained it. He indicated that the sponsors of the bill, and the Commissioner's office and the Governor's office talked it over, that it was

apparent they did not need this bill and the Governor could, through his authority, go ahead and participate. He indicated that it has already been brought to the subcommittee, but they felt they wanted to bring it to the entire legislature and get their blessing. He then referred to **SEN. MESAROS'** question, and reiterated that there is no funding in this bill, that it strictly provides that the Governor may participate and, if anyone wishes to put money into it, that is the legislature's decision, down the road.

**CHAIRMAN HARGROVE** noted that it is getting harder and harder to pin down costs or responsibilities but, assuming the Internet is working, and they have all the hardware, software, instructors and other things they need, putting this together may be an extension of the day-to-day work. He asked **Dr. Crofts** if they envision tuition being a part of this process and, further, if he sees that this will ever be a budgeted item.

**Dr. Crofts** reported that, currently, they are working to develop a business plan, and he thinks that, right now, their preference will be to identify areas where they want to offer programs, courses and certificates. He indicated they would conduct an RFP process from existing organizations, including but not limited to universities, soliciting proposals for the instruction. He added that they want to use a variety of technologies, that some may be done by satellite, some over the Internet, some with video tape, and some with audio conferencing, that all of the technologies would be used. He indicated that one of the factors students will consider will be price, that the various approved organizations will set their fees, and students would decide if the convenience of a particular program is worth the cost. He added that they believe the various organizations will bring existing courses into the program and there is no intention to hire faculty, noting that two administrators were borrowed from the Utah and Colorado systems. He indicated that they are trying to de-emphasize structure, as much as possible, by using existing resources and brokering what is already out there, making it available in the various electronic media. He noted that one of the policy issues not yet decided is if there will continue to be a distinction between in-state and out-of-state tuition, that some from the academic side have told the Governors they need to work on the political side of that issue. He indicated that, increasingly, with electronic delivery of programs, the location of the student is irrelevant. He indicated that courses are already being offered over the Internet, with registered students from throughout the country and around the world. He pointed out that, when a student takes an Internet-style course, never going to the classroom and never hearing a lecture, it no longer makes much sense or difference if that student is a regular student at MSU-Bozeman, a student at Harvard, or a student in Tokyo, that all students get the same learning experience. He noted that there will probably be a tuition arrangement where out-of-state students might pay some additional cost over in-state students, but another option would be for each program to have a set fee.

**Dr. Crofts** reported that he talks a good deal around the state, with campuses and with the legislature, and stated that this is a revolutionary moment in the history of higher education. He remarked that he used to say it is a revolutionary moment second only to the invention of the printing press, but that, in terms of transforming the way they do their educational business, where they are now is more revolutionary than the printing press was because the printing press kept the same kind of educational model, but made it easier for students to get textbooks, and they are now talking about a learning style that has very little to do with textbooks and is available anywhere, anytime somebody wants it. He added that one of the people at MSU involved in distance learning, which is now referred to as "distributed education", said that they evaluate programs by the "3:00 a.m. basement test", which means can a student get this learning experience whenever they want it, in their home. He noted that is a revolutionary moment, because it is entirely different than everything they do, that it brings them into the discussion of so many policies that it is almost bewildering, but this also makes it a very exciting moment to be a part of higher education.

**CHAIRMAN HARGROVE** agreed that it is a great change, remarking that they may be able to save a lot of money in buildings.

**SEN. GAGE** indicated that he would assume, down the road, there will be a considerable amount of change in statute, particularly in the area of certification of instructors, and asked **Dr. Crofts** if he anticipates change.

**Dr. Crofts** replied not only in statute, but in policy. He reported that, two years ago, they went through a long process of negotiating what was, at that time, truly innovative faculty contracts which called for very significant salary increases in return for increased productivity. He noted that increased productivity did not include any way to measure this kind of faculty activity in delivering programs electronically. He stated that the Western Governors' University will require that any certificate, any course, or any program be competency-based, that, at regular points, students will be assessed and, when they know what they need to know, and can do what they need to be able to do, they will get the certificate or degree, or whatever they are seeking. He pointed out that, in the long-run, that pressure may have the greatest amount of impact on all of their campuses than any of the electronics, reporting that they have been, in most programs, under pressure from the accrediting agencies to move in the direction of competency-based programs. He noted that they work hard to do that, but have not made much progress however, once this is operating and people are participating, that progress will rapidly increase, adding that he thinks this will accrue to all the traditional students, those who will still be on the campuses, because of that change in philosophy. He reiterated that there will be policy changes, perhaps statutory changes, that the way they do business is being transformed.

Closing by Sponsor:

SEN. MILLER thanked the Committee for a good hearing, stating that he thinks they have heard some really exciting possibilities of what is yet to come. He pointed out that they do not have all the answers, that they need to participate to come up with the answers on all the details of how this will work, where the credits will be, what the tuition will be, adding that, if they do not participate in this, Montana will be left out and that would be a shame. He indicated that he sees this as having some huge possibilities, that, referring to **CHAIRMAN HARGROVE's** comment about doing away with buildings and campuses, he does not see it that way, that he sees this as an add-on. He added that the student right out of high school will still need that campus, that they will not be able to sit down at home and have the discipline to take the courses to get a degree, but this could be valuable for the non-traditional student, that they could be measured on what knowledge they have from the "University of Hard Knocks", receive credit, and complete degree courses from any campus participating in this program. He continued that students attending school at one campus, who wish to take a course not offered at that campus, can take that additional course, while still taking other courses, and get a full degree. He indicated that he hopes the Committee will give this bill their support.

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

HEARING ON SB 269

Sponsor: SEN. SUE BARTLETT, SD 27, HELENA

Proponents: Dennis Taylor, Deputy Director, Montana Department of Justice  
Craig Reap, Chief, Montana Highway Patrol  
Gary Becker, President, Association of Montana Highway Patrolmen  
Tom Schneider, Montana Public Employees Association, Montana Federation of State Employees

Opponents: None

Opening Statement by Sponsor:

SEN. SUE BARTLETT, SD 27, HELENA, reported that SB 269 requires the development of a pay plan for state employees who are in what is being called "protective service" occupations, identified on page 3 of the bill, beginning on line 24. She pointed out that there are several references to other sections of the Code, and distributed material describing those references, as well as other internal references to the Code (**EXHIBIT 2**), attached. She then reported that **Mr. Niss** drafted some amendments (**EXHIBIT 3**), attached, one of which is in regard to the list of occupations covered by this bill. She indicated that, after the bill was drafted, a number of people approached them regarding other

positions they felt would fall within a protective service occupation designation, and that amendments 1-5 will enable the Department of Administration and the departments in which the people in those occupations work, to work together and provide an opportunity for positions similar to those included in the bill to be incorporated into this pay plan, as well, opening up an opportunity to include those occupations missed, through oversight or not having had the opportunity to talk with the appropriate agency and appropriate people.

**SEN. BARTLETT** referred to page 10, line 8 of the bill, and pointed out that the intent is to establish a market-based salary schedule for the protective service occupations. She indicated that the entire salary approach for state employees is market-based and they wanted to conform to those principles, but look specifically at protective service occupations, and reported that the work to develop this salary schedule, and the required salary surveys to establish what the market rate of pay would be for these occupations, will be done during the interim. She referred to amendment number 6, which eliminates the State of Washington as a part of the market that would be surveyed, and explained this will make the states that will be surveyed consistent for what is currently used in state government salary surveys, and which would be used in the development of a salary schedule for protective service occupations. She reported that the proposed pay plan would be submitted to the 1999 Legislature, that it would not become effective until July 1, 1999, after action by the 56th Legislative Session and, consequently, there is no fiscal impact in this biennium. She added that a fiscal note has been prepared, but not yet distributed, noting that, because no implementation would occur until the biennium ending in 2001, there is no fiscal impact shown in the fiscal note for the current biennium. She referred to the final amendment, and described it as a coordination instruction with HB 13, the sick leave and pay plan bill. She explained that bill includes a section that the administration hopes will pass, dealing with incorporating a competency-based set of measures, in addition to market-based measures, for determining appropriate salary levels. She added that, should both HB 13 and SB 269 pass, that amendment insures that the pay plan which is developed is compatible with changes that may be taking place in the methodology used by the Department of Administration.

**SEN. BARTLETT** remarked that was a pretty cut-and-dried technical run-down on the bill but, for the heart and soul of the bill, she would like to let the proponents testify as to the reasons this separate pay plan is needed for protective service occupations.

**Proponents' Testimony:**

**Dennis Taylor, Deputy Director, Montana Department of Justice,** reported that he is appearing for **Joe Mazurek, Attorney General,** who wanted to be here, but had to attend a mandatory court-ordered settlement conference. He pointed out that the Attorney



General does not testify before the legislature on very many bills, but that would be here on this one, were it not for another commitment, to underscore, by his presence as Attorney General and Chief Law Enforcement Officer in the State of Montana, the importance of adoption of SB 269. He reiterated that he appears on behalf of the Attorney General to support creation of a new, separate and more functional state law enforcement classification and pay plan. He stated that the current state-wide classification and pay plan is simply not working for state law enforcement professions, and is not working for a criminal justice agency such as the Montana Department of Justice. He indicated that it has not worked for a very long time, and he would say they are at a breaking point that requires action now. He noted that the impetus for this bill was the work by the Montana Highway Patrol Officers Association and the Montana Public Employees Association, that it affects more than the 212 officers in the Montana Highway Patrol, it affects agents in the criminal investigation bureau, the narcotics investigation bureau, the gambling control agency, and a host of other state law enforcement, or protective service occupations.

He reported that, in recent years, trained, senior and very capable, valued officers are leaving state service to go to work for Montana local law enforcement at significant increases in compensation and benefits and improved working conditions. He indicated that, in the past, Montana Highway Patrol Officers were among the highest paid law enforcement officials in the state but that, now, nearly the opposite is true. He explained that all law enforcement professionals in state government are trained at the Montana Law Enforcement Academy and that, without exception, recruits who enter the Montana Law Enforcement Academy as Highway Patrol recruits are older, better educated and more experienced, they have considerably more military experience and, more importantly, considerably more law enforcement experience and are in better physical condition, but that they end up being among the lowest paid law enforcement officials in the state. He indicated that, with a better pay plan, they believe they can bring about a positive change for all state law enforcement professionals, and remarked that too many of their trained, seasoned officers are leaving.

**Mr. Taylor** cited, as an example of why he believes the system is broken, and has been for a long time, that their current classification and pay plan values gross vehicle weight inspectors in the Department of Transportation, and pays them the same, as a Highway Patrol Officer I. He indicated that, for nearly 15 years, **Sgt. Gary Becker** has been paid at the very same rate as the approximately 12-14 Highway Patrol Officer IIs that he supervises, that he has the same rate of pay as those people he supervises, but is not entitled to overtime pay, as are his subordinates, because he is in a supervisory role. He pointed out that a common-sense understanding of classification and pay schemes would indicate those are examples which demonstrate that the current system is not working. He added that the biggest way

they know the system is not working is that officers are voting with their feet, they are leaving the Department. He said they are anxious to work with the Department of Administration to come up with a better system that will work for them, which will value the critical skills, knowledge and abilities required of law enforcement officers, and more appropriately recognize the dangerous working conditions they face. He urged the Committee's support of SB 269, noting that they concur with the amendments.

**Col. Craig Reap, Chief, Montana Highway Patrol**, reported that, since becoming Chief in 1994, the pay issue has been one of the most critical, most time-consuming issues he has dealt with. He reported that, recently, a couple of officers who had very specialized training, and were in the 5-7 year range, went to another police department in the same city where they had been working for the Department, and their pay was increased \$3,000-\$5,000 annually.

He pointed out that they took all that specialized training with them, and the Department struggled to fill the gaps left by these officers who had been instructing other officers in specialized areas. He indicated they are losing new officers, as well as individuals who leave even before they begin their training, and they are also losing seasoned officers in the 5-7 year area, who have specialized training. He urged the Committee's support of the bill, indicating that he thinks they need this to show the officers that their service is appreciated.

*{Tape: 1; Side: A; Approx. Time: 10:46 a.m.; Comments: End of Tape 1, Side A.}*

**Gary Becker, President, Montana Association of Highway Patrolmen**, reported that the pay plan has been an issue as long as he has been in the Highway Patrol. He reported that he came to the Highway Patrol from a police department in Sidney, and it was five years before he was earning a wage equal to what he was making when he left the police department. He pointed out that their officers are called upon for duties local and county law enforcement officers are asked to do, such as responding to armed robberies, dealing with mentally ill people and assaults, noting that a lot of the time, the officers deal with these incidences on a first-hand basis, on the highway, by themselves, as well as backing up local and county agencies. He indicated that it is demoralizing for the officers to perform these duties alongside local and county officers, knowing those officers are making \$3,000-\$5,000 more per year. He stated that they definitely support this bill, and appreciate the Committee's consideration.

**Tom Schneider, Montana Public Employees Association**, noted that he is also representing the Montana Federation of State Employees, and reported that the current market-based pay plan was developed by a governor's Blue Ribbon Commission, of which he and **SEN. GERRY DEVLIN** were members. He indicated that Washington was included when the market plan was put together solely because

the pay in South Dakota, included as a surrounding state, was so low it skewed the results when they put the surrounding states in. He reported that, since that time, South Dakota can be surveyed without having that skewed result, but that the State of Washington raises a red flag because it is not a surrounding state, it is far more industrialized, and has a salary pattern that does not match the surrounding states. He noted that Washington has now been taken out, that it was included in this bill because it was originally included in the market plan, but they have all agreed to take it out of this bill to make it consistent with what is going on in the current market analysis in Montana.

**Mr. Schneider** pointed out that this bill compares law enforcement to law enforcement, which is the biggest problem they have dealt with since the inception of the market-based plan. He explained that, even though Highway Patrol Officers are included as a class in the survey, it is only one function in state government, as compared to other functions, and is not compared as a law enforcement function, per se. He indicated that this bill provides that law enforcement be compared with law enforcement, both in-state and in surrounding states. He added that the amendments will coordinate this with section 1 of HB 13, which allows the Department of Administration to do pilot projects and broad-banding, and they see this as an extension of that to allow law enforcement to be a pilot project in looking at broad-banding and correcting some pay problems with the state. He said that they think it is a good bill, that it coordinates well with HB 13, and would ask for the Committee's support.

Opponents' Testimony: None

Questions From Committee Members and Responses:

**SEN. VIVIAN BROOKE** referred to testimony that local agencies pay similar positions at a much higher rate, and asked **Mr. Taylor** if local communities are able to access more federal funds, or revenues derived from gambling, to put toward law enforcement.

**Mr. Taylor** reported that he was the Chief Administrative Officer for the City of Missoula, and the Budget Director for the City of Helena, and has worked with local law enforcement. He indicated that, over the years, they worked hard to bring law enforcement salaries up in local government, that they were appalling low. He noted that he does not suggest local law enforcement are well-paid, that there is still work to be done, but that one of the biggest reasons they are able to pay better at the local level than state law enforcement officers is gambling revenues that they do not see in state government. He added that the decision to take county elected officials off the statutory pay plan, and put them on a cost of living adjustment, whereby elected official salaries were driven by the CPI for the past 6-8 years, and statute requires that Under Sheriffs be paid at 95% of the salary of the Sheriff, therefore that legislation had a very significant

increase on county law enforcement officials. He pointed out that more money is available in most local governments, that it has been growing as gambling revenues have increased, even with the I-105 property tax freeze, noting that a change in state law also had an impact on local law enforcement salaries.

**SEN. BROOKE** asked **SEN. BARTLETT** if she envisions, in reviewing the pay schedule, that there would be a corresponding review of the requirements to enter those positions so that, if the rewards are greater, then perhaps the requirements are higher.

**SEN. BARTLETT** responded that she worked in the classification function of state government, when they originally set the system up, noting that it has changed substantially but, to the best of her knowledge, they look at the comparability of qualifications and job duties required of positions in identifying equivalent positions to be surveyed for salaries elsewhere in the state, and in surrounding states. She indicated that **Mark Cress, Department of Administration**, could verify this further.

**Mark Cress, Department of Administration** replied that **SEN. BARTLETT's** answer was correct. He explained that, if they were to do market surveys on law enforcement, they would look at jobs from other employers which have the same kinds of entrance requirements, or the same competencies required by the positions with the state.

**SEN. BROOKE** asked if the 56th Legislature might envision revisions of requirements, for instance, for correctional officers if they were to be included in this.

**Mr. Cress** responded that he does not believe this bill would result in changes to the qualifications required, noting that representatives from the Highway Patrol could speak to any plans, but that, with this bill, and given the current requirements, they would try to price those requirements against similar requirements that other employers have.

**SEN. GAGE** asked **Mr. Taylor** to explain to the Committee how the current system was put in place, and if it had to do with budgeting.

**Mr. Taylor** explained that the current system was put into place in 1973, as a result of legislation which put all state agencies into a single pay plan, noting that this was at the same time public sector collective bargaining statutes were adopted, on the heels of executive reorganization when some 230 agencies were compressed into 20 departments. He indicated that the idea was to have internal equity, that similar skills should be paid similar amounts, and uses a single ruler to measure all of the professions. He stated that it probably brought rationalization to the disparate salaries existing at the time but, after approximately 30 years, this single ruler that they measure a grade 13 social worker or a grade 13 employee in Labor and

Industry really does not reflect the working conditions or skills they value for protective service professions.

**SEN. GAGE** asked **Mr. Taylor** if there is a provision, either in statute or county by county, for something like \$2,000 a year in hazard pay for county commissioners.

**Mr. Taylor** responded that he does not know, and remarked that, in some of the hearings he has attended, that may be appropriate.

**SEN. GAGE** asked if there is any plan for switching their funding from the Department of Transportation to some other area, noting that some of the people on the Highway Board are very concerned about all of the areas receiving funding out of the gas tax revenues, and they are getting tired of raising the gas tax in order to keep the highway funds for highway construction.

**Mr. Taylor** answered they have heard that, this year and last session, too. He explained that they were taken out of the gas tax, until the final setting of the budget, when they went back in. He said that he thinks something will be decided when the various budgets are looked at and balanced.

**SEN. GAGE** asked if he meant this session. **Mr. Taylor** replied that he would guess.

**Col. Reap** reported that, during the 1995 session, the Governor proposed taking both the Motor Vehicle Division and the Highway Patrol off of the gas tax, and that measure was not adopted. He added that the Governor considered doing that again this year, but they think that is a decision for the legislature to make, that they really do not care how they are funded. He reported that, in 1994, they were running short in the General Fund, so the Motor Vehicle Division was put on the gas tax because there was more gas tax revenues then, than there will be this year. He added that the Attorney General believes it is time to take a serious look at whether or not to fund the Highway Patrol 100% from gas tax. He indicated that there will be proposals for the Highway Patrol to receive some of the benefits of bed tax, and there will be some support for gradually moving off total reliance on the gas tax, by replacing it with General Fund. He reiterated that they do not care how the legislature chooses to fund them, but the Highway Patrol budget has been reduced by approximately \$2.5 million, which is a reduction of six officers who are currently on the road. He noted that the subcommittee was afraid there will not be enough gas tax funds, without a tax increase to match Intersurface Efficiency Transportation Act funds. He indicated that they have more money they can bring down at a very favorable state-federal match for the Department of Transportation to construct roads, and would be agreeable to a different mix of funding, as long as they can get the cuts that have been made to date restored.

**SEN. GAGE** referred to the bottom of page 3, which references people in the Department of Corrections under 53-1-202(2) and, noting that it looks to be pretty broad and could cover those people who work in alternative programs, half-way houses, drug and alcohol abuse programs, etc., he asked **SEN. BARTLETT** if it is her intention to include all of those people, as well.

**SEN. BARTLETT** stated that she believes this language specifies people who "supervise or otherwise guard persons incarcerated in a component of the department of corrections", which would be the prisons and the state portions of regional jails, noting that all pre-release centers are operated by private, non-profit organizations whose employees are not state employees, so they would not be affected by this legislation. She said that she believes pretty much all of the community correction program facilities are private, non-profit. She added that this may include parole and probation officers who work in the intensive supervision portion, but she does not believe that was the intent, adding that she thinks, despite the broadness of the language, in reality it is limited to correctional facilities the state operates.

**SEN. GAGE** referred to page 10, New Section 6(3), and indicated it appears that, if the legislature does not appropriate funds, it will not do anything.

**SEN. BARTLETT** replied that is always the story, and is exactly right.

**SEN. MESAROS** pointed out that the inequities have been identified through testimony, and asked either **SEN. BARTLETT** or **Mr. Taylor**, if this was implemented today, how much it would cost the state.

**SEN. BARTLETT** responded that she has no idea, but that **Mr. Taylor** or **Mr. Schneider** may.

**Mr. Taylor** indicated that they are not able to estimate exactly what the cost increase would be, but that this bill is aimed at providing a vehicle to increase salaries to make them comparable to what local law enforcement, in Montana and the region, are paid. He explained that it is structured to allow them to build a budget to submit to the Governor, prior to the 1999 Legislative Session, so that any increase will be balanced with other demands on the executive budget. He pointed out that, if they came to the legislature, this session, and requested a 10% increase for the 260 peace officers in the Department of Justice, alone, that would be a fairly difficult figure to put in an already tight executive budget.

**SEN. MESAROS** asked if there have been any projections or estimates, noting that some figures have been identified in certain situations, but pointed out that this could add up to quite bit.

**Mr. Taylor** stated that it is really hard for them to estimate at this time since the only comparison they have is a single Highway Patrol match with the Highway Patrol in the surrounding states. He indicated that they are asking to evaluate the classification rules used to value progressions, to create a hierarchy of jobs and a pay plan, and make market-based comparisons, in-state and out-of-state, with only law enforcement because, currently, they are lumped in with all grade 13 and 14 positions, and law enforcement is not distinguished from other professionals and occupations in those grade levels. He added that he believes there will be an increase, and it will be greater than a single-digit increase.

**SEN. GAGE** said that three or four years ago, he talked with people in law enforcement and, at that time, was told there are people in those positions who qualify for the Food Stamp Program. He asked **Mr. Taylor** and representatives of the Highway Patrol if that is still a valid statement.

**Mr. Taylor** reported that he talked to a new officer who had just completed his field officer training program, and was stationed in the Kalispell area. He said this officer told him that 100% of his salary was going for lodging, alone, that his spouse was an R.N., and they were living off of his salary. He indicated that, even more critical for them is that career Highway Patrol officers are required to move three and four times in their career, that new officers do not want to go to some communities because they can not afford to buy a house.

**Mr. Taylor** pointed out that he has moved twice and, although he is among the highest paid in public service, he is still recovering from that. He asked the Committee to imagine a grade 12 law enforcement officer who has to make those moves as a condition of employment, and part of their career. He said that he does not know if any officers are on Food Stamps, but that it would be a disgrace if that were the case. He pointed out that the starting pay for an officer is \$22,000 a year, the lowest of any new officer in law enforcement, but they have better skills and are better trained, however, a Highway Patrol Officer could go to work in Dillon for \$7,000 more, or Billings, or Bozeman, but none of those officers could work for the Highway Patrol without additional training. He added that Highway Patrol Officers are higher skilled than the rank-and-file entry officer in other Montana law enforcement professions, and yet they are the lowest paid in the state.

**SEN. BILL WILSON** asked **Mr. Taylor** what kind of additional training these other law enforcement officers would need.

**Mr. Taylor** indicated that **Col. Reap** could better answer that question. **Col. Reap** explained that they would have to go through the entire accident investigation program, that very few local police departments or sheriff's departments train to the level they do. He pointed out that officers are required, in most

cases, to do the entire accident reconstruction by themselves, because there are no other officers available and, within city limits, officers can call a supervisor or additional officers with the technical training, but the Highway Patrol does not have that luxury because of the size of the state and the number of officers they have. He indicated that, in addition, their shooting program is probably more detailed than many local law enforcement agencies, for the same reason, that these officers do not have the back-up availability. **Col. Reap** then referred to other defensive tactics, weaponless defense, the use of other "tools of the trade", which is more extensive training these officers receive for the same reason. He noted that they do periodically compare the training programs of local law enforcement agencies.

**SEN. WILSON** asked if the starting salary graduates with more education or more time.

**Col. Reap** responded that, under the current plan, an officer can take a test after five years and, if successful, go to a higher grade but that, within the first five years, there is no room for an officer to gain any additional pay. He pointed out that other agencies offer increases after serving a probationary period, noting that some of these increases are substantial, adding that Highway Patrol Officers see their peers getting raises in the first and, perhaps, third and fourth years, and they start looking around.

**SEN. GAGE** noted that he thinks the number one reason for government is the protection of the people and their property, so he views this differently than pay for people working in the Department of Revenue, for instance. He asked **Mr. Schneider** what the effect would be to the collective bargaining system if Section 3 were deleted from the bill, and an amendment was adopted requiring the funds to be appropriated to implement this pay schedule.

**Mr. Schneider** replied that he did not think there would be any effect. He pointed out that the current state pay plan can not deal with law enforcement, because of its size and, if this bill were to pass to handle law enforcement as law enforcement, they could work with the survey information.

**CHAIRMAN HARGROVE** asked **Col. Reap** to give the Committee an idea of the career force structure in the Highway Patrol, as far as years of service, if there are people who come in with 20 years service somewhere, and is it pretty much a pyramid.

**Col. Reap** responded that he started as a patrolman in 1976, he was a road officer for eight years, was promoted to Sergeant, and had to move to another location. He said that, after three years, he was promoted to Lieutenant, moved again, three years later, he was promoted to Captain and moved and, in four years, was promoted to the position he currently holds, and moved here.



He reported that there are several other officers who mirror that process, but there are officers at the other extreme, who have 25 or more years, and have never left their home town. He pointed out that some officers prefer it that way, but that he has heard that it is too expensive to move, that, although there is a slight pay increase and the state does cover some of the cost of the move, there are other costs involved, noting that, of the four homes he has owned, he made money on one, and that profit was gobbled up by the loss on his next home.

He noted that there are 23 first-line supervisors and four field lieutenants, plus one lieutenant at headquarters, and there are five captains who are the district commanders.

**CHAIRMAN HARGROVE** asked if they have people from other states who retired, came to Montana and passed the tests, and became members of the Montana Highway Patrol.

**Col. Reap** answered that a couple of individuals served 20 years in the military and joined the Highway Patrol, but he does not know of any who retired from another profession and joined the Highway Patrol.

Closing by Sponsor:

**SEN. BARTLETT** indicated that the Committee asked some excellent questions. She stated that it is her understanding, in talking with people who supervise the occupations covered in this pay plan, that the turnover has reached almost crisis proportions. She indicated that she has heard the Highway Patrol has sent people to training and, before their training is completed, they were hired by another law enforcement agency who could pay them more money. She pointed out that the state is using money, unproductively, and said that, if this pay plan comes before the 1999 Legislature, they will have good information about what kinds of increases will be necessary to make these positions competitive in a law enforcement profession market-based pay plan. She added that they are not unaware those difficult decisions lie ahead, but they want to at least take the first steps to see how far out of whack the current pay levels are. She said she hopes the Committee will approve SB 269.

*{Tape: 1; Side: B; Approx. Time Count: 11:23 a.m.; Comments: End of Tape 1, Side B.}*

EXECUTIVE ACTION ON SB 271

Motion:           **SEN. WILSON** moved that SB 271 DO PASS

Discussion:

**SEN. BROOKE** pointed out that, when they were discussing budget decisions, she wanted to amend **SEN. GAGE's** bill to give the Legislative Finance Committee the authority to make the budget

adjustments the bill gave to the Budget Director, that she thought that was giving away a lot of authority to the executive, and they could not do that because it was simply a committee, not the full legislative body. She indicated that she thinks this is a similar situation in rulemaking, that they would hold up the process, and she does not see how any composition of legislative individuals can do this without the full legislative process being brought to bear on it.

**CHAIRMAN HARGROVE** agreed that it is very much the same circumstances and, giving his feelings as to what interim committees actually do, noted that it acts as a conscience.

**SEN. WILSON** asked **CHAIRMAN HARGROVE** who is on the Administrative Code Committee, and how that comes about.

**CHAIRMAN HARGROVE** responded that the members are appointed, as are other committees, and listed the members, noting that they only met twice in the last interim. He stated that it is a bi-partisan committee comprised of members of both Houses.

**SEN. WILSON** asked what issues the committee handles. **CHAIRMAN HARGROVE** said that, in one case, the President canvassed the committee members, through the committee counsel, to see if there was enough interest in meeting to decide an issue regarding water standards for a subdivision, that the rules were not applied uniformly. He added that the other issue had to do with Dental Hygienist, but he can not think of any others.

**SEN. MESAROS** said that he is going to support the bill, but noted that he has certain reservations. He pointed out that, as Senators, they are appointed to serve four years, not just ninety days, and he believes that more can be done to follow legislation through to rulemaking, noting that anyone who has followed a certain piece of legislation has experienced some frustration in that regard. He reiterated that he has certain reservations about this particular bill, but thinks they need to support that concern.

**SEN. GAGE** pointed out that one of the concerns they have had is statements of intent which do not say anything in particular. Referring to a bill which would eliminate the requirement for statements of intent, he asked **CHAIRMAN HARGROVE** if he anticipated the Code Committee will be busier in the future.

**CHAIRMAN HARGROVE** answered that he would think so, noting that a statement of intent can be helpful in the rulemaking process.

**SEN. GAGE** asked, regarding the case in which the Code Committee contacted the administration regarding with their concerns, what the reaction was. **CHAIRMAN HARGROVE** replied that they received a letter from the Governor stating that he thought they were being intrusive.

**SEN. BROOKE** referred to the second page of the Governor's veto message (**EXHIBIT 4**), which states that "A legislative committee

may comment on administrative rules, as existing law allows.", and indicated that it would seem the executive would recognize that a duly composed committee which reviews these should be able to have a strong voice.

**CHAIRMAN HARGROVE** pointed out that this gets into the separation of powers issue.


**SEN. GAGE** commented that he thinks it certainly gives better balance, that he looks at it with regard to appropriations and, referring to **SEN. BROOK's** comments, the legislature has review authority, but that is where it ends on appropriations as far as budget amendments or transferring funding, and those kinds of things, and this would give them a stronger voice in rulemaking. He added that he thinks it is a better check and balance on one branch of government, in the rulemaking area, than they have right now.

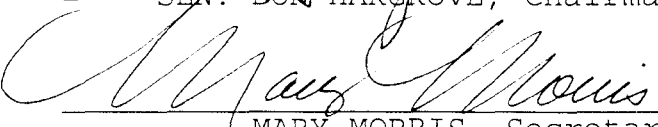
**CHAIRMAN HARGROVE** indicated that, in a sense, they really do not have any, between sessions, other than the good conscience of people talking and getting together, noting that this is what they have to think about on the bill regarding the Consensus Council.

**Vote:** The motion that **SB 271 DO PASS CARRIED**, with **SEN. GAGE, SEN. WILSON, SEN. MESAROS** and **CHAIRMAN HARGROVE IN FAVOR**, and **SEN. BROOKE OPPOSED**.

ADJOURNMENT

Adjournment: 11:37 a.m.

  
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SEN. DON HARGROVE, Chairman

  
\_\_\_\_\_  
MARY MORRIS, Secretary

DH/MM