

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By CHAIRMAN CHUCK SWYSGOOD, on March 12, 1997, at 10:12 a.m., in Room 108.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Larry Baer (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. B.F. "Chris" Christiaens (D)
Sen. Eve Franklin (D)
Sen. Loren Jenkins (R)
Sen. Greg Jergeson (D)
Sen. John "J.D." Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Miller (R)
Sen. Arnie A. Mohl (R)
Sen. Linda J. Nelson (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: Sen. James H. "Jim" Burnett (R)

Members Absent: None

Staff Present: Taryn Purdy, Legislative Fiscal Division
Sharon Cummings, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: None
Executive Action: HB 4, BCCAA; HB 110, BCC

EXECUTIVE ACTION ON HB 4

Motion: SEN. J.D. LYNCH MOVES HB 4 BE CONCURRED IN.

Motion: SEN. LYNCH MOVES TO AMEND HB 4 WITH (EXHIBIT #1).

Discussion: SEN. LYNCH What is the Institute of Museum Services? Brian Cockhill, Montana Historical Society The

Institute of Museum Services, now the Institute of Museum and Library Services, is a federal agency that is set up solely to regrant to museums and libraries throughout the United States.

SEN. DARYL TOEWS Can someone explain what we are doing with the game management trust. **Jerry Wells, Department of Fish, Wildlife and Parks (FWP)** We are looking at one of the most severe winters in a long time. Our game damage program has had more action, our expenses have gone up markedly, consequently we are requesting authority for an additional \$100,000. **SEN. TOEWS** I'm curious about this because you haven't spent anything on damage in my district. **Mr. Wells** This is not a compensation program, it is to alleviate game damage. The winter conditions in your part of the state are severe and we have spent a great deal of money in fencing, hazing, etc.

SEN. CHRIS CHRISTIAENS I'd like some information on the Army Community of Excellence program. **Allan Stricker, Department of Military Affairs (DMA)** The Community of Excellence program is a competitive program. In FY96 we were awarded money which we have expended, this is money that came to us approximately 2-3 weeks ago for FY97. The program is used to improve facilities or processes and give us better operating efficiencies and improve the morale of the soldiers, running tracks, exercise equipment, unit awards displays, etc. These are not supportable with state or federal funds. We are currently converting one of the old mess hall buildings into a day room. This funding paid for the material. **SEN. CHRISTIAENS** Where was that in the budget we looked at earlier? **Lt. Col. Stricker** This has never been in the base.

SEN. LYNCH If the name has been changed to Institute of Museum and Library Services, why wouldn't we have the new title in the amendment? **Mr. Cockhill** The money was awarded before the title change, so this is the correct title for the money we will spend. If we receive a grant next year we'll come to you with a different title.

SEN. MIKE TAYLOR Why are we inserting the Department of Corrections (DOC)? Why didn't we see the amendment to allow DOC to spend \$350,000 for out of home care in subcommittee? **Jane Hamman, Office of Budget and Program Planning (OBPP)** This federal funding has just become available and is for FY97, subcommittee addressed FY98-99. This enables DOC to spend it in the current year. This amendment should help to alleviate their deficit situation in those services. This DOC's first budget amendment in HB 4.

SEN. ARNIE MOHL What is the state special fund on item #6? **Doug Booker, DMA** This was an audit recommendation. The money that comes from FEMA should not go to the individuals but deposited into the state accounting system. We received the state special revenue to continue this in FY98 & 99. This is for FY97.

SEN. MIGNON WATERMAN Please clarify the \$70,000 grant. **Lt. Col. Stricker** This is being used to build a day room which is an alternative to the bar. The only entertainment option on Fort Harrison currently is the service club, this will provide an alternative.

SEN. LARRY BAER Does the DOC amendment have anything to do with community houses such as pre-release centers? **Ms. Hamman** I believe this has nothing to do with pre-release centers. **SEN. WATERMAN** When the kids were moved to DOC a number of them were not found IV-E eligible for federal money they received while in human services. DOC has figured out how to make them IV-E eligible and we now have this money in FY97. IV-E is a category for kids that have special needs. **SEN. CHRISTIAENS** This is for youth in transitional centers in the state and will relieve us of some General Fund money. **CHAIRMAN SWYSGOOD** I'm sure we'll see another supplemental associated with juvenile corrections.

Vote: THE MOTION TO AMEND HB 4 WITH (EXHIBIT #1) CARRIED UNANIMOUSLY.

Motion/Vote: SEN. LYNCH MOVES HB 4 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY. CHAIRMAN SWYSGOOD will carry HB 4.

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

EXECUTIVE ACTION ON HB 110

Motion: SEN. TOM BECK MOVES HB 110 BE CONCURRED IN.

Amendment: Amendment #hb011001.a35. (EXHIBIT #2)

Motion: SEN. WATERMAN MOVES TO AMEND HB 110 WITH AMENDMENT #HB011001.A35.

Discussion: **SEN. WATERMAN** This amendment states that if there isn't enough money in the two DPHHS accounts to pay the \$2.5 million for the Arco suit and should there be federal claims they will be appropriated from the General Fund so DPHHS will not have to go into their budget for these claims. I discussed doing an amendment with **CHAIRMAN SWYSGOOD** that would allow DPHHS to come in for a budget supplemental, this is an easier way to take care of this problem. **REP. SWANSON** states they are confident there is \$2.5 million in the accounts and if that is correct this amendment will have no effect. If they are short this amendment would keep DPHHS from cutting current programs.

SEN. CHRISTIAENS What is your level of comfort with this amendment? **CHAIRMAN SWYSGOOD** I don't know what we can do about funding this. The supplemental process is not possible. I probably won't support this amendment because I don't think it is necessary. We need to keep our eye on what happens with this, I

have some concerns about what is going on here. The Arco lawsuit funding needs to be appropriated.

SEN. LYNCH I oppose the amendment, I'm comfortable that the money is there. I'm afraid to send anything back to the House.

SEN. TOM KEATING The amendment is to rectify the shortfall in the bill so they don't have to come in for a supplemental. The loan to the Attorney General for the Arco lawsuit will be made out of money from the DPHHS block grant that would normally revert. This is revenue that would show up in the next biennium, so we are postponing the expenditure until the next biennium to fund something that is going on now. I think that is dishonest and it should be funded out of General Fund.

CHAIRMAN SWYSGOOD I appreciate your concern and can't argue with that, I think you are entirely right. I also share **SEN. WATERMAN'S** and **SEN. LYNCH'S** concern with this bill but I believe the lawsuit must be funded.

Vote: THE MOTION TO AMEND HB 110 WITH AMENDMENT #HB011001.A35 FAILED WITH **SEN. KEATING** AND **WATERMAN** VOTING YES.

Vote: THE MOTION THAT HB 110 BE CONCURRED IN CARRIED WITH **SEN. WATERMAN, KEATING** AND **MAHLUM** VOTING NO. **SEN. BECK** will carry HB 110.

{Tape: 1; Side: A; Approx. Time Count: 10:39; Comments: None.}

DISCUSSION ON HB 354

CHAIRMAN SWYSGOOD This amendment strikes almost everything in HB 354, **CHAIRMAN SWYSGOOD** reads the amendment. We took highway state special revenue to fund the highway patrol, approximately \$8 million. This created a problem with the construction money in Department of Transportation (DOT). We are going to have to address this problem in the 1999 legislative session. We also took away the 12.5% of the coal tax which was a \$10 million cut. DOT paid some bonds off early and that also helped create the problem they are facing of not having matching funds for construction after 1999. This amendment states any General Fund that is in excess of estimates will go to the highway patrol so the other money can stay in DOT. I had planned to put that in HB 354 but **Greg Petesch, Legislative Services Division** says I'm changing the scope and purpose of the bill. It would take a committee bill for us to do this.

Motion: **SEN. LYNCH** MOVES TO PUT THE AMENDMENTS TO HB 354 INTO A COMMITTEE BILL.

SEN. KEATING This is excess revenue over and above the estimate by the Revenue Oversight Committee (ROC), if it occurs as General Fund it will pay for the highway patrol for FY97, 98, & 99.

CHAIRMAN SWYSGOOD Any General Fund money that comes in over and above ROC's estimate would go to DOT on a dollar to dollar basis that was appropriated in the FY98-99 budget plus anything that could be appropriated in FY97 would also be replaced. That money would stay in the highway state special account and be supplanted with the excess General Fund money.

SEN. WATERMAN This means we're bringing DOT to the top of the priority list that might be in the General Fund? **CHAIRMAN SWYSGOOD** No, this doesn't affect anything that has already been budgeted. This affects the money that might be carried over in the ending fund balance. **SEN. WATERMAN** This is the highest priority for anything in the ending fund balance.

SEN. GREG JERGESON The ending fund balance is the beginning fund balance for the next biennium and you will be affecting that. **CHAIRMAN SWYSGOOD** Yes, that money would not be available for the beginning fund balance.

SEN. WATERMAN Do you have any idea what the total dollar amount of this is? **CHAIRMAN SWYSGOOD** No.

SEN. TAYLOR Do you have an idea of the total dollar amount? **SEN. MOHL** Right now DOT pays DOJ \$33 million per biennium. At the end of the 99 biennium there will be a surplus of about \$5 million which DOT will have to borrow to keep operating. At the end of 01 DOT will be down another \$1 million if everything goes the way it is right now. Somewhere along the line we will have to have some increased funding. The original intent on the highway patrol funding was that this would be for a short term.

SEN. JERGESON Will this change the base of the funding mix in the next biennium? **Ms. Hamman** The base would be continued as the actual expenditures occurred in the even numbered year. If we were unable to continue whatever mix resulted from that it would be a proposal for legislative consideration that would be presented in the budget to switch it back to something else. It would be very clear for your deliberations.

SEN. JERGESON If you use \$5 million General Fund for the highway patrol, as the budget is built for the next biennium that \$5 million is in the base. Would there have to be a decision made for that funding to continue as a \$5 million General Fund appropriation or would it revert back to funding from state special? **Ms. Hamman** If the \$5 million of General Fund resulted in the highway patrol base budget, then the budget recommendation for the next biennium would include \$5 million in the base. If enormous amounts of gas tax was collected and we thought DPHHS needed that \$5 million of General Fund, we could recommend gas tax to replace all or part of the \$5 million. That would be presented as a new proposal for your consideration and not a part of the base. This would be a funding switch out of the base.

SEN. LOREN JENKINS Could this be put in DOT but not give authority for them to spend the money so it would help build up their special revenue account? **Ms. Hamman** As I understand this if General Fund becomes available, dollar for dollar the General Fund would go in and the state special gas tax would go out so they would not be able to spend more. As the gas tax goes out it will go into the ending fund balance in DOT to avoid the problem we are facing for the next legislative session. It doesn't increase DOT's spending authority.

SEN. KEN MILLER Could we do this next session just as easily? Say that so we don't have to raise gas tax we'll take the reversions and put them into DOT? **CHAIRMAN SWYSGOOD** Yes, you could do that. This is a round about way to do that. **SEN.**

MILLER I'm opposed to this as I don't want to tie the legislature's hands. Something may be more important in 2 years. **CHAIRMAN SWYSGOOD** We're not tying hands with this, those decisions will still have to be made during the next session.

{Tape: 1; Side: A; Approx. Time Count: 10:55; Comments: None.}

SEN. LYNCH We don't have complete discretion on the gasoline tax. I think we're fudging by doing this with the highway patrol. We can't take \$5 million from the gas tax and put it into anything. This tax is supposed to be used for highways.

SEN. WATERMAN Last session the administration recommended we switch the highway patrol back to General Fund dollars and the legislature chose not to do that. We could make the switch and do what you are recommending in this bill. **CHAIRMAN SWYSGOOD** You can do that if you want to take the money away from someone else that already has it.

SEN. JERGESON Is this an appropriations bill, we need to get a ruling from **Mr. Petesch** on that. **CHAIRMAN SWYSGOOD** He didn't indicate this might not be legal to do. **Taryn Purdy, Legislative Fiscal Division** I'll talk with **Mr. Petesch** but the only way DOT can get that money is if you appropriate it, this is General Fund that would be appropriated to DOJ for that purpose.

SEN. LYNCH This could be put into HB 2. **CHAIRMAN SWYSGOOD** I'll do that.

DISCUSSION ON LC 175

CHAIRMAN SWYSGOOD LC 175 needs to be a committee bill, DNRC is presenting this as an alternative funding source in lieu of RIT. This is to operate state lands and alleviate the impact to the General Fund as related to SB 267.

{Tape: 1; Side: B; Approx. Time Count: 11:04; Comments: None.}

SEN. BECK I'd like the committee to see the RIT proposal we came up with.

Motion: SEN. BECK MOVES TO DRAFT A COMMITTEE BILL FROM LC 175.

SEN. LYNCH Is this to divert \$6 million out of RIT and put it into state lands? **SEN. BECK** No, this is money going into the permanent trust. Currently the investment department takes out a fee for investing the money and we are suggesting the money be taken out before it goes to the trust.

SEN. KEATING This doesn't come out before the money goes into the trust fund, it comes out of the income from the trust money. Right now the department is taking administrative money out of the spendable income from the sale of timber and property rents. The proposal would be to take money from the sale of assets and that is a different constitutional problem. There is \$12 million of assets each year that DNRC is tapping and \$27 million of spendable income that is a return on the activities of the department. Also there is \$30 million of interest income off the trust fund. I'd like to know the total amount of money they are going to get for administration out of this, not just the additional \$6 million for the biennium.

SEN. CHRISTIAENS I believe we need to have this committee bill as subcommittee action hinges on the passage of this bill.

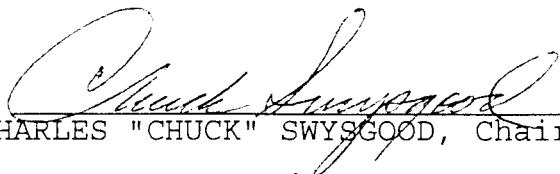
SEN. LYNCH I would like to see the bill before I vote on it. If this motion is simply to allow the bill to be looked at and requires a two-thirds vote to pass the bill, I can support it.

SEN. CHRISTIAENS Perhaps **Mr. Petesch** needs to look at this also.
CHAIRMAN SWYSGOOD We can change the appropriation to a fund transfer.

CHAIRMAN SWYSGOOD We'll get copies of LC 175 for committee members and make the decision on that on Friday.

ADJOURNMENT

Adjournment: 11:12 a.m.


SEN. CHARLES "CHUCK" SWYSGOOD, Chairman


SHARON CUMMINGS, Secretary

CS/SC