MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
FREE CONFERENCE COMMITTEE ON HOUSE BILL 124

Call to Order: By **CHAIRMAN ROYAL JOHNSON,** on April 18, 2001 at 12:30 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:
Sen. Royal Johnson, Chairman (R)
Rep. Bob Story, Chairman (R)
Rep. John Esp (R)
Sen. Bob Keenan (R)
Rep. Jeff Mangan (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Robyn Lund, Legislative Secretary
Lee Heiman, Legislative Attorney

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

Committee Business Summary:
Hearing(s) & Date(s) Posted:
Executive Action: HB 124

CHAIRMAN JOHNSON said we are back to where we have almost the original bill and a number of people are working on different situations. He asked **Judy Paynter, Department of Revenue** to distribute the information and explain the differences. He said they would try to go through each of the suggestions that have been made in the last 24 hours and make a decision.

Judy Paynter, Department of Revenue referred to a large sheet entitled "Impacts of Proposed Funding Shifts on State Government", **EXHIBIT(frh87hb0124a01).** She said she tried to find **Director Swysgood** when they got done analyzing this, but couldn't find him, so does not know what his position is. The impact to the state would be $20,781,606. When they were working with the

Budget Director before on what was acceptable, 2.3%, it cost $20,398,000, so total cost is almost identical. She is going to compare the proposal marked "Counties (includes road fund) HB 20 and SB 417 are out, 2.3% Growth ALL YEARS", **EXHIBIT(frh87hb0124a02)** with the one marked "Cities", **EXHIBIT(frh87hb0124a03).** The Cities proposal is 3% for the first four years, dropping to 54%, and estimated to be 2.3% for the out years. Cities have current law revenues of $56 million in fiscal year 2011. Under the entitlement share, they end up with $1.6 million less that year because of the revenue sources they are giving up. At 3%, they are $672,865 ahead or a little over 1% because they have a big revenue base that grows faster than the county base. Their base in 2002 is $42,871,950 and they go up to $56,035,556 in 2011. There is a dramatic contrast between cities and counties. The proposal for Counties, 2.3% ALL YEARS Revenue Net Expenditures, exhibit(2) starts with $26,487,147 in 2002 and for fiscal year 2011 goes to $26,175,964. Their revenue stays almost flat vs the counties having growth. When you give them 2.3% every year, their entitlement share in fiscal year 2011 is $7.4 million on a revenue base of $26 million. If you were to give them 3%, they would make $9.8 million on a revenue base of $26 million. When you apply a growth factor for counties, they end up gaining more, percentage wise, in their budget than the cities do. If you separated the growth rate between counties and cities and gave counties 2.3% and cities 3%, counties still come out better than cities. Included is an additional calculation, **EXHIBIT(frh87hb0124a04)** entitled "Counties, HB 20 and SB 417 Are Out, 2.3% Growth In Out Years".

SEN. KEENAN asked if there would be individual disparities if you have a big city like Billings and a small county, depending on the size of their budget. **CHAIRMAN JOHNSON** asked if it is correct that when you say "county", you include everything in the county; cities and county residents. **Judy Paynter** said the sheet shows the county government, the road fund, and the specials. **CHAIRMAN JOHNSON** asked if the cities are strictly incorporated cities. **Judy Paynter** said yes. **CHAIRMAN JOHNSON** referred to **SEN. KEENAN'S** question and said the city residents take part in both of these situations and end up with the lesser dollar amount as you go out the ten year period, cities end up with $672,000 on 3%, and counties end up with $7 million even at 2.3%.

REP. ESP asked what that does to the combined governments of Butte/Silver Bow, Anaconda/Deer Lodge. **Brad Simshaw, Department of Revenue** (DOR) said they would be rolled up into the county. DOR has not looked at individual counties or cities or consolidated county/city governments. **REP. ESP** asked if they would be counted at 3% or 2.3%. **Brad Simshaw** said it would be whatever is decided on for counties. **CHAIRMAN JOHNSON** said that is a policy decision that the Revenue Department is asking this committee to make. **REP. ESP** said if they were changed to be treated as cities, wouldn't it change the numbers $20,000 or $30,000. **Brad Simshaw** said it would not change the big picture.

SEN. STONINGTON commented that the two problems they have been trying to solve are the total impact to the state general fund, and as they reduced the impact, the fact that it became untenable for cities because they actually lost revenue in that package. She said that this proposal is a good middle ground. Counties are doing well with either the 2.3% or 3% scenario. This allows the counties to have some growth and keep the cities where they can participate and not feel they are losing money in doing so. She said she liked the looks of this proposal.

CHAIRMAN JOHNSON asked everyone to look at this proposal. He said this has been brought for consideration, and people will have to decide if it is something they want to support. He asked **Amy Carlson, Budget Department** to comment and she said she would get the proposal to **Director Swysgood** later today. **CHAIRMAN JOHNSON** asked for comment from cities and counties.

Tynette Gleason, Butte/Silver Bow said they would like to be considered under the city portion, rather than the counties. They have always functioned underneath the cities in the budget process. **CHAIRMAN JOHNSON** said that is understandable, but since their county situation is unique, it may not be fair to the other counties in the state. That is one of the policy decisions the legislature will have to make.

Harold Blattie, Stillwater County asked if this is 2.3% for counties ALL YEARS vs out years. **Judy Paynter** said ALL YEARS.

CHAIRMAN JOHNSON said they would wait and consider this further after **Budget Director Swysgood** had commented on it.

Alec Hansen, Montana League of Cities and Towns said the situation for cities is that their revenues going into this program: motor vehicles, gaming, financial institutions, and alcohol are an estimated 2.75% growth per year. At 2.3%, they lose money in the out years. By fiscal year 2011, they lose $1.6 million a year. The loss does not occur at 3%. In fiscal year 2006, instead of losing money in the out years, they make $326,730 and in 2011 they make $672,865. Those are marginal increments in municipal revenues, but there are many other good ideas that have gone into this bill. They are not about to sabotage the bill if cities and towns do not drop below the water line. They will support the bill at 3% growth rate for cities.

Jani McCall, City of Billings said they agree with **Alec Hansen,** they absolutely need the 3%.

Tim Burton, City of Helena said they hold the same position.

Gordon Morris, Montana Association of Counties said that no marginal implications for counties would be adverse. He asked if the goal is to get the total down to $20 million. At 3%, it is $315 million and that brings it to $32 million. Based upon the 2%, it is down to $20,781,000. When we talked last Friday, we were looking at 3% through 2005 and 2.3% beginning in 2006 for counties, that brought it down by $5 million. Is there any room for negotiation? **Judy Paynter** said that to do 3% the first four years and then do 2.3% costs an additional $7 million. The goal, without having the opportunity to find the **Budget Director** this morning, was that he said if you do the scenario that spends $20.4 million, he is okay with that. Her goal was to get as close to that as she could, to make it palatable for him and good for both cities and counties. **Gordon Morris** said he welcomes the consideration the Department of Revenue brought. He understands where the cities are with this. They have solved the dilemma for the cities and his initial analysis is that anything above that would be above the line. He would feel comfortable recommending this to his counties.

REP. MANGAN said he is concerned that the **Budget Director** is not here. This scenario would cost $4 million to the state in fiscal year 2008. We are looking at a number of 20. What we have basically done in this process is to eliminate growth to schools that came out of Senate Tax, we have eliminated a growth rate to counties at 3%. We phased the declining reimbursements back in over magical numbers that are 7-8 years away from today, that we cannot possibly foresee. We have forgotten the underlying philosophy of the bill, partnership for economic development. We are forgetting the growth in the general fund. We are forgetting what cities' and counties' local governments give to the state as far as economic development with good streets, better schools, better infrastructure, and a quality way of life for one person's magic number ten years away. He said it almost offends him the way people have been pitted against each other in this whole process. He feels they are not looking at the real issue, they are looking at something they couldn't possibly estimate eight years out and that is not good policy.

REP. ESP said **Gordon Morris** asked what the 3% for counties in the first four years would cost and you estimated $7 million. He said it is more like $2 million. **Brad Simshaw** said the total entitlement for the counties over the ten year period if it were 2.3% for ALL YEARS would be $303.7 million. If it were 2.3% in the out years, it would be $311 million. **Judy Paynter** said once you increase the 3%, you have to continue that base increase and that is what adds to it.

SEN. STONINGTON said it is important to remember that this bill is good for cities and counties. It takes them out from under the risk of what this legislature does every session over which they have no control, which is to cut their tax base. We are just down to the fine points on this bill. This is a good bill, and it is important for cities and counties. She said she does not want to see the support lost that we have on this bill. The Senate body is very nervous about this bill, they have not resolved the issue of trust. From their point of view, it is the lack of trust of local governments for the legislature. We need to try to improve that trust level. If people can live with the compromise that makes the Budget Office happy, that makes the cities at least stay whole, and the counties and schools not hurt from this, then the bargain that has been struck in the whole bill is so valuable that it is not worth quibbling over. She is afraid of seeing this bill go down, because we are struggling over the fine points and not trying to help people who are insecure about this, or who are afraid of what it is doing to their county. We should come together on this bill and go out of here to work with legislators to understand what a good bill it is for their communities and their counties.

CHAIRMAN JOHNSON reminded everyone that we have an interesting situation here. This is a bill that if we don't truly want to injure cities and towns, we must have some form go through and pass. He said we have a real problem, no matter how it comes out of this committee, with getting it through the Senate. If it fails on the Senate floor, we must have a back up, because we cannot afford to lose the other reimbursements. Every bill that goes through this legislature goes through the administration before it gets into law, and we don't have time to have anyone in the administration put us in the position of not having anything go through. He reminded everyone that we are not talking about the same situation as we do in most bills.

REP. STORY commented that his position is never to force anything on the local governments. It was to try to help them get something through that would work. He agrees with **REP. MANGAN,** that it is a frustrating process when you think you have deals made and you can't hold them together. If the counties are willing to live with the 2.3%, get this on the road. If we can keep it alive we will try to fix it. He is concerned that we will never get the opportunity again.

SEN. KEENAN said he is not looking at this bill as to whether it is good for cities and counties, he looks to see whether it is good for the state as well. In state government the big picture is that we have talked a lot about school funding. School funding and school policy are driven by collective bargaining. The pay plan drives everything in state government. His fear is that we are setting up another type of a matrix that will carry us out to infinity where cities and counties are not going to be happy. When we get another eight years out, we will have another collective bargaining process with local governments coming in and saying they can't live on the budget they have; and it has to be reworked to increase their payment. He is concerned about losing control at the state level by having all these agreements set so that when the legislature comes to town, all we do is write the check. University system is the same situation, the collective bargaining process drives that, and the students get what is left. What happens is that the state is put into a corner where we have to dole out the money that we are obligated to, but where do we get the money. If you look at the budget, we have relied on the federal government. He said that is his concern. Where are we as state legislators who are coming here to manage the state budget. Are we just locking ourselves into all these obligations that we have to carry out. We aren't managing anything, we are just writing checks and raising taxes to cover our obligations.

REP. MANGAN said one of the reasons he is frustrated is that we have gotten away from the philosophy of the bill. This is a partnership with the State of Montana and local governments to spur the system in economic development for the entire state. They grow with us and they decline with us under this bill, it is not a payment for services situation. This is a case where we are agreeing to partner with our local governments for the betterment of the people of Montana. The frustration happens when we get stuck on a fiscal year, particularly eight years out, with poor numbers because we can't foresee that. We are not including any state growth in those factors, and at this point we are saying we are going to have to pay local governments. He said that is not the case and agreed this is a good bill. He said if it wasn't, he would not be so passionate about it.

SEN. KEENAN asked how cities and counties will "grow with us and decline with us". Where is the decline when you have a 3% automatic growth rate going out. If the state declines, how do the counties and cities decline in their revenue streams from the state. **REP. MANGAN** said the growth rate is the formula. When they factor in those numbers, it won't be 3% or 2.3% in those out years. That could change, depending on what those numbers are.

Judy Paynter referred to page five of the tan bill, line seven. This lays out the calculation. What they are doing is taking four years, the average growth rate and the Montana growth rate product and personal income growth. You average them and get 70% of that average. If the state is growing, those indicators follow the state growth, and the 70% will be larger as it grows up. When the state is declining and it comes down, it will be less. It grows or declines more evenly than the state does because there is averaging.

Gordon Morris commented he looked at Flathead, Missoula, Lewis and Clark, Silver Bow and Anaconda counties. Flathead, Missoula, Lewis and Clark are fine with this. However if you look at Silver Bow they go negative after the first year and are negative all the way out. This is due to the fact they are a consolidated government. You are blending the municipality and the gambling money into a county environment. He recommended taking Anaconda and Butte/Silver Bow and putting them into the 3% municipal category. Then no one would be negative under the 2.3%.

Dennis ----- said he would support that recommendation. The reason those two consolidated governments go negative is that they have high gambling revenues like other cities and counties. The growth rates on gambling are higher, and at 2.3% they would go negative. He said they don't want any losers, and if it is necessary, they will put those governments in a separate category or in with the cities at 3%.

REP. ESP referred to page eight of the bill. If revenues go down drastically, there is a mechanism to reduce the growth rates so there is some protection for the state involved in that portion. His other point is that the state does get to manage some things; one is the court system, the other is welfare. They do have some control that they did not have before.

SEN. STONINGTON noted that because the state is the policymaker in the whole arena of state and local government law, we are the ones with the responsibility for controlling the policies that drive costs, and we do that to local governments. That is what brought this bill forward. Local government was saying you do it to us every time; you change tax policy, you cut our tax base, you tell us we have to do more, and you don't give us the money to do it. What they came here saying was give us the pool of money that you already impacted on SB 184, that reimbursement amount, and we will throw in these other revenue funds that come to the state anyway. Gaming and alcohol money already come to the state and get sent back out to local governments. Motor vehicle money is the only money that doesn't currently come here and get parceled back out. Local government said they would throw that money in too, and asked to be taken out of the picture where the legislature can change tax policy and they have no say in it. That is what this bill is all about. It is saying let's take that lump of money, you get it as an entitlement share; we'll give you a growth factor, because we the state will get the growth out of those revenue sources, and you will go with the state's economy. If it goes up, you will get growth; if it goes down, you will take the bite along with the state. She said she doesn't see how it could be a better deal for both the state and the local governments.

SEN. KEENAN asked what is being done with the small dying Eastern Montana counties. From what was just said, are we locking in our current tax policy with this bill. **REP. STORY** said that for counties this is a stabilization fund. Those counties that are losing people, losing tax base, etc. are basically on their 2001 base with a growth factor on it. Any rural county will come out better under this bill than they are under current law. The tax policy issue is one that affects our tax policy to some extent. In these particular revenues, if we go into gaming or motor vehicle revenue, alcohol and financial institutions and the legislature make a change that causes those revenues to decrease, we are bound by this bill to leave that money in the entitlement share. If we want to do something with houses or business equipment, it is still a case by case decision whether we are going to reimburse for that or not. The other issue is the $55 million on the top. So far that is only a two year appropriation. Without some ongoing thing, the next legislature may decide not to fund that and start phasing it out like we are doing on SB 417 and HB 20. Then you shift all that back on local property tax.

SEN. KEENAN said what this bill is doing, speaking from the state's perspective, we are taking this snapshot and projecting it out. This bill deals with tax reductions that have become the burden of local governments over the last years. If we reduce taxes, it is the state's loss in revenue, not local government's. If we increase taxes, it is the state's gain, not local government's. Is that right? **REP. STORY** said yes.

CHAIRMAN JOHNSON called the next meeting for 5:00 P.M. today, since **REP. STORY** had to leave for another meeting. He asked **Amy Carlson** what the **Budget Director's** commitment is. **Amy Carlson** said she believes he can be there at 5:00 PM. **CHAIRMAN JOHNSON** said they were not going to adjourn right now, they are going to go through some amendments because they are not sure whether the Director would accept this, even if they voted it in.

{Tape : 1; Side : B}

SEN. KEENAN said he had Amendment HB012483 which was requested by **Mary Wittinghill, EXHIBIT(frh87hb0124a05). Lee Heiman** explained that it is an amendment to the orange bill. It fits into the brown bill on page 80, lines 8 and 11. **Mary Wittinghill, Montana Taxpayers Association** (MTA) said they were concerned after SB 184 increased mill levies. This amendment still allows local government to have floating mill levies in areas of the state that are experiencing stagnant growth. It does not allow local government jurisdiction to have both the growth from the newly taxable property and the added growth resulting from one half the average rate of inflation over the past three years. This puts it at an either/or situation. As the bill is now it has growth of newly taxable property, and the counties and local jurisdictions can grow the budget that they are starting from by one half the average rate of inflation. This amendment still gives counties and local governments the opportunity for growth because it gives options, plus they have the option of going to a vote of the people for increased expenditures. There will also be growth in the entitlement. MTA believes this amendment would insure that all counties could get some growth while protecting those increasing mill levies. Those increases should go to the voters for determinaton. **CHAIRMAN JOHNSON** asked for verification that #2 of the amendment should read "line 11". **Lee Heiman** said yes.

SEN. STONINGTON asked if we are controlling numbers of mills able to be levied here or are we on the budget. **Judy Paynter** said we are controlling revenue. You can take the number of dollars in property tax that you had the year before and you can get exactly those dollars next year, plus newly taxable property. What you have as base revenue does not ever grow on your property tax, so what the committee did was say you can grow your base by one half the rate of inflation and use your newly taxable property to help you with the growth that is occurring in your community. That is why the committee gave them both.

REP. ESP asked if they were just budgeting authority. **Judy Paynter** said that if you don't have the revenue you can't spend it. **REP. ESP** said then this is budgeting authority for what the growth can be at the local level. **Judy Paynter** said yes, to generate the revenue for them to spend. **REP. ESP** asked if the growth in the entitlement share is a minor portion of the counties total revenue. **Judy Paynter** said yes. This is also a limitation that you can get only one half the rate of inflation, so if your community is not growing you can increase this source of revenue only by half the rate of inflation. If you are faced with pay raises and utility costs you can get half the rate of inflation, but beyond that you do not have a source of revenue. If you are growing, you can use your newly taxable property to supplement, due to the fact that one half the rate of inflation usually doesn't cover costs and any new growth services.

Harold Blattie, Stillwater County Commissioner, said the number the committee originally put in place was 2%, but that was marginal. One half of the inflationary rate, last year the inflationary rate was 1.6%, this year it has been 1.6%, 2.2%, 3.4%. Half of 3.4% for this coming year would be 1.7%. We need a dose of reality; this amount won't pay the light bills, the increases in insurance, or our operating costs. Our employees deserve reasonable cost of living increases. By changing the plus to an "or", it is a slap. He urged that the amendment be rejected.

Alec Hansen said one half the rate of inflation is less than the actual cost increases for local government. He said he saw an article in the newspaper about a state set aside of dollars in anticipation of paying more for power. Power increases alone will exceed one half the rate of inflation by many times. This amendment is based on the assumption that growth is all gravy. If you have more people, more houses, more businesses, and more traffic, you need more services. Growth doesn't pay for itself. Estimates are that for every dollar you get out of a piece of taxable property, you probably put $1.38 in services into it. This is based on the idea that if you have growth you don't need an inflationary adjustment. But growth does not cancel out inflation. You still have to pay higher energy rates, etc.

SEN. JIM ELLIOTT, SD 36, TROUT CREEK commented he appreciated how hard this committee had worked to make this a better bill than it was before it went into the Senate. Every amendment he has seen brought before this committee has had one of two purposes. One is to correct a flaw or a series of flaws that were discovered in the bill. He reminded everyone that had this bill passed the Senate, those flaws would now be law. The second issue that the amendments address is to please the Budget Office. Had the bill passed the Senate, we would have either seen an amendatory veto, or the bill would now be law. As one of the 24 people who voted against the bill, he was ready to compromise on what he would accept. But, if the purpose of this committee is to make the bill okay for the Budget Director, that is the committee's will. He had thought the purpose of the committee was to put the bill in a form that was acceptable both to the House and the Senate. He said he had not seen any changes in the bill to make him like it any better, or to make his counties like it any better.

Chuck Swysgood, Director Office of Budget and Program Planning referred to the exhibits. He said he is concerned about the exception to the combined counties and cities: Butte/Silver Bow and Anaconda/Deer Lodge. He said he would assume that it would add a little cost to the bill, but it might not be significant. Under this concept, Butte/Silver Bow might be in the red under 2.3% and we don't want to do that. He said he is not sure how that would be addressed, unless it would be to give those counties with combined governments a different rate that would keep them whole. Looking at the bottom line, he is concerned with cost in this bill. His responsibility is to the fiscal ability of the state to meet its obligation now and in the future. Unless there are significant changes in revenues as it relates to those two local governments that are combined, the money has not changed that much and he can't argue against this concept. If it works out that those two local governments aren't any worse off than they would have been otherwise, then he doesn't have a problem with it. He said we need to look at the impact for Butte/Silver Bow; they would be impacted the most because of their size. When those figures are worked out, he said he would be glad to look at them and give a final decision.

CHAIRMAN JOHNSON asked if that meant that the figure that was an impact to the state, that was in the neighborhood of $21 million would be agreeable. **Director Swysgood** said it is not a significant enough difference to be a problem, and he would accept the proposal if that is what the committee wants.

CHAIRMAN JOHNSON said we are back to the amendment we were talking about and it has not been moved. He asked if anyone wanted to move that amendment or if there were any more amendments. **Lee Heiman** said there were no more amendments. (No one offered to move the amendment.) **CHAIRMAN JOHNSON** said they would adjourn until 5:00 P.M. and consider the changes in numbers for combined local governments at that time. **Judy Paynter** said they would run the numbers.

ADJOURNMENT

Adjournment: 1:55 P.M.

____
SEN. ROYAL JOHNSON, Chairman

____
Linda Keim, Secretary

BS/RJ/

EXHIBIT(frh87hb0124aad)