

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on March 14, 2005 at 10:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Mike Cooney, Chairman (D)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. John Brueggeman (R)
Sen. John Esp (R)
Sen. Steven Gallus (D)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Lane L. Larson (D)
Sen. Greg Lind (D)
Sen. Don Ryan (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. John Cobb (R)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: HB 116, 3/10/2005;, SB 445,
3/10/2005
Executive Action: HB116; SB 27; HB 493; SB 18; SB 207

HEARING ON HB 116**Opening Statement by Sponsor:**

REP. DEBBY BARRETT (R), HD 72, Dillon, opened the hearing on **HB 116**, Require agency to report intended changes in budgets and program transfers. Before an agency makes budget or personnel transfers, they report to the Legislative Finance Committee. This bill requests that a copy of that report is also sent to the Legislative Oversight Committee of that department. There is no cost to the bill. Fish, Wildlife, and Parks (FWP) was appropriated \$320,000 for fishing access sites. The Legislature found out two years later that they spent only \$40,000 for fishing access sites. In her view, one of the problems with Montana government is that one group works with the budget, and the other group works with the policies. If HB 116 is passed, agencies can still transfer funds and personnel; this will just give the Legislature an opportunity to keep up with what the agencies are doing.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony:

Amy Sassano, Office of Budget and Program Planning (OBPP), stated her availability for questions.

Questions from Committee Members and Responses:

SEN. BOB HAWKS asked if this bill came from the interim committee on which **REP. BARRETT** serves. **REP. BARRETT** said the bill was hers. She cited term limits as an issue; they need pertinent information at the right time.

SEN. RICK LAIBLE asked about the FWP example and what happened to the rest of the money that was appropriated for fishing access. **REP. BARRETT** thought the Legislative Finance Committee may know because they see the report. That is the reason for the bill. The Legislature may not need to fund that program; they need to make sure legislative intent is carried out.

SEN. TRUDY SCHMIDT asked about the meaning of "on a regular basis". **REP. BARRETT** advised the language was amended in the House so agencies report significant changes to the Legislative Finance Committee. There are small amounts that are sometimes transferred, and they don't need to know that.

SEN. KEITH BALES advised he served on the Legislative Finance Committee in the last interim. At each of those meetings they saw a list of changes; he did not think there was much discussion, and the committee gave their approval. **Taryn Purdy, Legislative Fiscal Division**, remarked that it used to be that if an agency wanted to divert from the original operating plan, any change of five percent had to be reported. This was deemed to be a waste of time. About ten years ago the current statute was put into effect. It said the operating plan must be exactly the way it was appropriated. If there is a change that meets a certain threshold, it has to be reported to the Legislative Finance Committee before the agency can effect that change. This is a proxy for a policy change. Most of the changes are accounting changes, but there are occasionally some policy changes in the reporting documents.

Closing by Sponsor:

REP. Barrett advised the statute may not have been followed exactly by some agencies. Members of the House Appropriations Committee requested a copy of these transfers. Some of them were there, and some were not. Some agencies said they were transferring from one program to another, and there was no total. This bill will remind the agencies of what they are supposed to do. With term limits, it will be important for Legislators to get this information in a timely manner. This is not micro-management. Currently, when the Legislature finds out that legislative intent was not followed, all they can do is a legislative audit after the fact.

The committee had a brief discussion about the upcoming hearing on HB 2. **Ms. Purdy** explained the process for amendments.

HEARING ON SB 445

{Tape: 1; Side: A; Approx. Time Counter: 23.5}

Opening Statement by Sponsor:

SEN. DAN MCGEE (R), SD 29, Laurel, opened the hearing on **SB 445**, Authorize tuition waiver for qualified national guard members. Current law says the Board of Regents may waive tuition on 5000 credits each academic year in accordance with the Montana National Guard Education Benefit program if funds are available. The Education Committee decided the National Guard should be considered in the same category as the rest of those who apply for waivers in Subsection (2). He did not sign the fiscal note.

He handed out a spreadsheet of the kinds of waivers currently being utilized.

EXHIBIT (fcs56a01)

Proponents' Testimony:

Roger Hagan, Montana National Guard, thanked **SEN. MCGEE** for honoring their request to carry the bill. He did not agree that there is a general fund expenditure in this bill. If this bill passes from the Senate to the House, it should not be shown on the status sheet because there is no expenditure. It is an option for the Board of Regents to spend from their existing budget, so it does not include additional general fund. If this committee or the House Appropriations Committee chose to make this an appropriations bill, then the fiscal note would be proper and it could be shown on the status sheet. The bill is only for the National Guard and does not include the Reserve.

{Tape: 1; Side: B}

The bill would provide additional flexibility for recruiting. The fiscal note reflects tuition and registration fees. That was changed to include tuition only. He preferred tuition and fees, if at all possible. He encouraged the committee to repeal 10-1-121, MCA, and provide the Department of Military Affairs the ability to make regulations for who is qualified in the National Guard to receive this scholarship program.

Opponents' Testimony:

Rod Sundsted, Associate Commissioner for Fiscal Affairs, Montana University System, expressed concern about the impacts of the bill on the University System. The University System currently has the authority to waive tuition for National Guard members if they choose; they have not done that. They waive tuition and fees for war veterans; that would include National Guard members who served in the Iraq War. If the bill is passed without any funding, the Regents will either have to say no to the National Guard members or raise tuition. This would be \$45 more tuition to students over the biennium. Students are very concerned about waivers. He asked that they fund \$1.3 million in the appropriation in HB 2 so students do not have to pick up the tab, and the Board of Regents does not have to say no to the National Guard when they grant all the other waivers.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. HAWKS asked about the percentage of student increase per student hour. **Mr. Sundsted** advised the average tuition for a resident student is about \$4000; it would be about half a percent.

SEN. JOHN ESP asked about the meaning of "discretionary waivers to 6%". **Mr. Sundsted** said the current statute limits the Regents to 2% waivers on non-resident students and 6% on resident students. They try to be judicious in granting waivers.

SEN. GREG BARKUS asked about state funding of the National Guard. **Mr. Hagan** replied, for the Army National Guard, 84% of total expenditures are federally funded with the remainder funded by the state. For the Air National Guard, 91% is federally funded, and 9% is state-funded. **SEN. BARKUS** asked him to quantify that in dollars. **Mr. Hagan** advised that the total expenditures for the federal programs for the Army National Guard was \$69,082,000 for FY 04; for the Air National Guard it was \$71,840,000. The actual taxable income exceeds the appropriations from the state general fund to the Department of Military Affairs for operation of the Air and Army National Guard. **SEN. BARKUS** asked if \$15 million was a fair number to quantify the state funding for the Air and Army National Guard. **Mr. Hagan** said there about \$142 million in federal expenditures and the state funding is ten to eleven percent, on average. **SEN. BARKUS** said there are several other initiatives providing benefits to National Guard or reservists in this session. He wondered about the fiscal impact if those all passed. **Mr. Hagan** said he would be glad to present that to the committee. Of the fifteen initiatives, nine are alive and five involve money.

SEN. DON RYAN asked **Mr. Hagan** if they are going to prioritize. **Mr. Hagan** said they hoped the budget could provide support for all the initiatives. They recognize that is not possible. He hoped, as the bills move to the last appropriate committee, that they can weigh the best options.

SEN. SCHMIDT asked **Mr. Hagan** why he wanted to repeal 10-1-121. **Mr. Hagan** answered he is proposing that they that they work with the Board of Regents to establish regulations. There will be no National Guard members presenting themselves at the Registrar's office for waivers. The National Guard would give a waiver voucher for those identified within the regulations as eligible. They are asking that the statute be repealed so they have a greater flexibility for the changing times in recruiting and retention.

SEN. ESP asked **Mr. Sundsted** how many students the 5000 credit hours equates to. **Mr. Sundsted** advised it is 167; it is divided

by 30. **SEN. ESP** asked about the discretionary waivers for in-state students and how they decide who to give those to. **Mr. Sundsted** said those are similar to scholarships for students in particular programs on the basis of achievement or need. **SEN. ESP** said the faculty and staff fee waivers have been going on for quite awhile. The one for children and spouses is a new program, and he wondered if that was an initiative of the Board of Regents, part of collective bargaining, or part of statute somewhere. **Mr. Sundsted** indicated the dependent fee waiver came out of collective bargaining last year and is a pilot program. It is not a permanent waiver and is not in their policy. It was looked at as a way to retain and recruit employees. **SEN. ESP** asked about the athletic portion for out-of-state and in-state and why the waivers are larger for out-of-state. **Mr. Sundsted** advised it is tied to the tuition rate. Non-resident athletic waivers are foregone revenue. The quarterback from California would not be in Bozeman without the waiver.

SEN. BARKUS told **Mr. Hagan**, when he gathers the requested information, to include a matrix of the nine bills that are alive, the fiscal impact, and a short summary. **Mr. Hagan** said he will get that information to the whole committee.

SEN. SCHMIDT referred to repealing 10-1-121. The qualifications are listed quite clearly, and she wondered how they plan to change it. **Mr. Hagan** said they have no pre-planned specifics on how the regulation would look. The Department of Military Affairs and the Recruiting and Retention Teams would be the best to quantify the focus of the tuition waiver.

CHAIRMAN MIKE COONEY said the Board of Regents currently has the ability to offer National Guard fee waivers if they so choose. **Mr. Hagan** advised that is correct; based upon existing statute they can offer up to 5000 credits. **CHAIRMAN COONEY** asked if they pass this legislation, and it does not get funded, how the University System could be expected to provide fee waivers without that funding. **Mr. Hagan** expected that the Department of Military Affairs would form a great relationship with the Board of Regents. **CHAIRMAN COONEY** asked if that relationship could exist under current law. **Mr. Hagan** advised it could; they have been depending on the National Guard Scholarship program. The greater latitude of the scholarship program is they can give it to non-University colleges as well.

{Tape: 2; Side: A}

Closing by Sponsor:

SEN. MCGEE said he appreciated the position of the Board of Regents. Current law suggests that the Board of Regents may make tuition waivers to National Guard members if there are funds available. From 2000 to 2005, there was a 100% increase in fee and tuition waivers by the Board of Regents. In the year 2000, there was \$900,000 in-state discretionary athletic waivers and \$1.7 million in out-of state for a total of \$2.7 million; in 2005, it is \$5.1 million. He said he was not questioning the building of athletic programs. The bill asks that National Guard members be considered at the same level as others for tuition fee waivers. That gives the National Guard a tool for recruiting and retention. He thought they would continue to have quality athletic programs even with qualified National Guard members being granted tuition fee waivers.

CHAIRMAN COONEY advised **REP. SUE DICKENSON** was not present due to bad roads, and that the hearing on her bill would be rescheduled.

EXECUTIVE ACTION ON HB 116

{Tape: 2; Side: A; Approx. Time Counter: 7.2}

Motion: **SEN. BALES** moved that HB 116 BE CONCURRED IN.

Discussion:

SEN. BALES was of the opinion that this is a good bill. It does not require any more work from the Departments than what they are already doing. He agreed with the comments of **REP. BARRETT** regarding term limits and the importance of knowing what the departments are doing.

SEN. HAWKS asked if they are creating duplication of effort.

SEN. ESP advised last session they passed a bill that required the departments to report to the Legislative Finance Committee and to the Law and Justice Committee for public defender and district court costs. This bill provides clarification.

CHAIRMAN COONEY did not think this would be duplicative. **SEN. SCHMIDT** asked about the staff for the Interim Legislative Finance Committee. **Ms. Purdy** advised the Finance Committee is staffed by their office. **SEN. SCHMIDT** asked about duplication. **Ms. Purdy** replied the Legislative Finance Committee is a policy committee as well. They are trying to mesh the two together so there is no duplication.

Vote: Motion carried unanimously by voice vote. SEN. COBB voted aye by proxy.

SEN. BALES volunteered to carry the bill on the floor of the Senate.

EXECUTIVE ACTION ON SB 27

{Tape: 2; Side: A; Approx. Time Counter: 12.4}

Discussion:

CHAIRMAN COONEY asked if the monies put into this would apply to the spending cap. Ms. Purdy advised this bill would not have an impact on the cap in this biennium. If additional expenditures are allowed beyond what the Legislature already approved, any additional funding out of the rainy day fund would have to go against the cap. That is not really part of this bill. This would not spend any monies that were not already appropriated and therefore included in the cap; 25% could be used for fires, but those are expenditures that would take place anyway so they would not be over and above.

Motion: SEN. LAIBLE moved that SB 27 DO PASS AS AMENDED.

SEN. SCHMIDT asked about the effect on the cap in future bienniums. Ms. Purdy emphasized, as the bill is currently written, there is no impact on the expenditure limitation.

SEN. CAROL WILLIAMS said she came to the Legislature believing that the ending fund balance was the rainy day account. In the hearing on this bill, David Ewer, Budget Director, said his preference was to increase the fund balance rather than have a rainy day account. She liked the rainy day fund idea in principle and thought they should eventually move to it. She cited concerns with education, looming federal cuts in Medicaid, etc., and did not think they can afford this. SEN. LAIBLE said he understood her concerns. This bill does not give the opportunity to spend any less money or any more money; it is only a stabilization tool to be used by OBPP. There is no fiscal impact this biennium. If the economy continues to grow and the revenue comes in, this gives the Governor and the budget office money for fires. The Legislature gives them the spending authority but does not give them the money. If there is a shortfall, they can use the stabilization account in order to not cut services to those in need. SEN. WILLIAMS reiterated she

agreed in principle, but did not think they have the money at this time to do it. **SEN. LAIBLE** maintained this does not go into effect until July 1, 2006. The money probably would not go into this account until 2008. **SEN. WILLIAMS** said they will not know about the federal cuts until the time this would go into effect. She thought it has too big a price tag for this particular session, but it is a good idea, eventually.

CHAIRMAN COONEY inquired if there were federal cuts, and they either had to make cuts in DPHHS or backfill, if this can be done in the bill as currently written, and if an expenditure like that would apply to the cap. **Ms. Purdy** advised the way the bill is currently written, the only thing that the 75% could be used for is to avoid the Governor ordering reductions in expenditures. The Governor can order DPHHS to spend 10% less. This fund would allow DPHHS to spend up to their appropriation. If there was a different use for the funds, such as to replace lost federal funds, that would increase the appropriation and consequently impact the cap.

SEN. BARKUS countered that this takes the politics out of the ending fund balance. The Governor currently has a lot of flexibility in budgeting toward an ending fund balance. The problem is not the ending fund balance; it seems to be the spending cap. He thought this bill is good budget policy for the state of Montana.

SEN. BALES stated that the Governor can reduce spending by 10% if sufficient revenue is not coming in. For anything over that, there has to be a special session for the Legislature to make the necessary cuts, which happened in 2002. This would be a buffer to keep them a little farther away from a special session. **Ms. Purdy** said that is accurate. **SEN. BALES** thought this is a good bill. If this had been in place in the 2001 biennium, they might not have had to cut the budget for all the agencies. In 2002, they reduced the amount of money to DPHHS and thereby reduced the amount of matching money from the federal government. This takes care of those unforeseen times when there is a downturn.

Vote: Motion failed 9-10 by roll call vote with **SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. COBB, SEN. ESP, SEN. GALLUS, SEN. LAIBLE,** and **SEN. STAPLETON** voting aye. **SEN. KEENAN** voted aye by proxy.

Motion: **SEN. STEVE GALLUS** moved that SB 27 BE TABLED.

SEN. BALES respectfully wished the bill would not be tabled. He was under the impression that **SEN. TESTER** favored a rainy day fund during the interim in Legislative Finance Committee.

SEN. GALLUS said although his was a non-debatable motion, he favored the discussion. He made the motion because the bill did not have the votes. **CHAIRMAN COONEY** said they would see if they could find **SEN. TESTER**, but he believed the vote was cast properly.

SEN. GALLUS withdrew his motion.

SEN. LAIBLE said he was surprised at the vote. They have been talking about this concept for a long time. There was testimony by OBPP in favor of the bill. He hoped this was not a political issue, because they determined it does not affect the cap. It has no fiscal note, and they would not put any money into this until 2008. He appreciated **SEN. GALLUS** withdrawing his motion.

SEN. JOHN BRUEGGEMAN stated if the bill is not tabled, it has to be reported out with a do not pass recommendation.

CHAIRMAN COONEY advised the bill failed by a vote of 9-10. There may be a motion to table the bill, and they will take a roll call vote to make sure the vote is counted properly.

{Tape: 2; Side: B}

SEN. BALES said the bill could just sit in committee. He asked **SEN. TESTER** about his support of the rainy day fund in the interim Finance Committee. **SEN. TESTER** advised he voted to push the bill out of the Interim Finance Committee. The ending fund balance of \$80 million that the Governor is striving for takes care of a lot of his concerns. He indicated that **SEN. SCHMIDT** talked to him about his proxy, and he instructed her to vote no.

Motion/Vote: **SEN. GALLUS** moved that SB 27 BE TABLED. Motion passed 11-8 by roll call vote with **SEN. BALES**, **SEN. BARKUS**, **SEN. BRUEGGEMAN**, **SEN. COBB**, **SEN. ESP**, **SEN. KEENAN**, **SEN. LAIBLE**, and **SEN. STAPLETON** voting aye.

EXECUTIVE ACTION ON HB 493

{Tape: 2; Side: B; Approx. Time Counter: 5.0}

Motion: **SEN. GALLUS** moved that HB 493 BE CONCURRED IN.

Motion: **SEN. GALLUS** moved that HB049301.ATP BE ADOPTED.

[EXHIBIT](#)(fcs56a02)

Ms. Purdy advised this amendment was proposed by the Department of Commerce and clarifies that "department" is the Department of Commerce.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. GALLUS moved that HB 493 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. RYAN asked if there is a fiscal note with this bill. **CHAIRMAN COONEY** replied this is bonding authority.

SEN. ESP asked how much bonding authority. **CHAIRMAN COONEY** advised it shall not exceed \$20 million.

Vote: Motion carried unanimously by voice vote.

SEN. GALLUS will carry the bill.

EXECUTIVE ACTION ON SB 18

{Tape: 2; Side: B; Approx. Time Counter: 9.4}

Motion: SEN. BALES moved that SB 18 DO PASS.

Motion: SEN. BALES moved that SB001801.ATP BE ADOPTED.

EXHIBIT(fcs56a03)

Discussion:

SEN. BALES advised the bill adds a district judge in the 18th district. The amendment changes the date to January 2, 2006, which reduces the fiscal note by \$125,000 in 2006. There was testimony that they would not be ready to start until that time.

SEN. RYAN asked if this will allow for the election of the judge, or if there will still be an appointment. **SEN. BALES** indicated they will appoint the judge, and the judge can hire the law clerk and other staff so they can all begin work on January 2, 2006. The judge can be appointed prior to that.

Vote: Motion carried unanimously by voice vote.

SEN. HAWKS observed Gallatin County has two hard-working district judges who are not able to keep up with their caseload and provide justice on a timely basis. The caseload is growing with the population, and there will be a crisis situation if this does not pass. The Gallatin County Commissioners placed this as their highest priority need.

Motion/Vote: SEN. HAWKS moved that SB 18 DO PASS AS AMENDED.
Motion carried unanimously by voice vote. SEN. COBB voted aye by proxy.

EXECUTIVE ACTION ON SB 207

{Tape: 2; Side: B; Approx. Time Counter: 16.2}

Motion: SEN. ESP moved that SB 207 DO PASS.

Motion/Vote: SEN. LAIBLE moved that SB020701.ATP BE ADOPTED.
Motion carried unanimously by voice vote.

EXHIBIT(fcs56a04)

Motion: SEN. BARKUS moved that SB 207 DO PASS AS AMENDED.

Discussion:

CHAIRMAN COONEY advised there may be some future cost to this.
SEN. SCHMIDT said her notes show the fiscal note was cut in half, and there will be no impact for the next two years.

Vote: Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 11:53 A.M.

SEN. MIKE COONEY, Chairman

PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT ([fcs56aad0.PDF](#))