

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on March 24, 2005 at 8:00 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 Cobb (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. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. Jon Tester (D)

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:

Executive Action: SB 267; SB 445; SB 147; SB 133; SB
439; SB 477; SB 496; SB 501; SB
499; SB 27

EXECUTIVE ACTION ON SB 267

Motion: SEN. TRUDY SCHMIDT moved that SB 267 DO PASS.

Motion: SEN. SCHMIDT moved that SB026701.ASB BE ADOPTED.

EXHIBIT(fcs65a01)

Discussion:

SEN. SCHMIDT indicated the amendment applies to the grants referenced in section 2.

SEN. GREG BARKUS inquired how this affects the fiscal note. SEN. SCHMIDT replied she did not have a revised fiscal note.

SEN. BOB KEENAN thought this amendment would change (1)(b) from two months rent to four months.

Vote: Motion carried 12-7 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.

Motion: SEN. SCHMIDT moved that SB 267 DO PASS AS AMENDED.

Motion/Vote: SEN. COBB moved TO TABLE SB 267. Motion carried 17-2 by voice vote with SEN. HANSEN and SEN. WILLIAMS voting no.

EXECUTIVE ACTION ON SB 445

{Tape: 1; Side: A; Approx. Time Counter: 7.5}

Motion: SEN. CAROL WILLIAMS moved that SB 445 DO PASS.

CHAIRMAN MIKE COONEY said they were being asked to amend the bill to allow the Department of Military Affairs to work with the Board of Regents to establish the standards that would be used in determining who would be qualified for this waiver.

Motion: SEN. COONEY moved that SB044501.AEM BE ADOPTED.

EXHIBIT(fcs65a02)

Discussion:

SEN. KEITH BALES inquired about their time-line for getting bills out and getting them passed. He asked, if they amend something

today, what effect that has. **CHAIRMAN COONEY** stated if they can get these bills acted on today, and they have prepared amendments, the Committee Report will be prepared and read over the rostrum today. The bills will be on Second Reading on Tuesday, Third Reading on Wednesday, and they will have met transmittal. **SEN. BALES** thought it had to be the 67th day. **CHAIRMAN COONEY** indicated that Monday is not going to be a legislative day.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. JOHN ESP moved that SB 445 DO PASS AS AMENDED.

Discussion:

SEN. WILLIAMS recalled the Board of Regents was concerned about the impact on tuition and what it was going to do to their budget if the full amount of this was realized. She favored a sunset on the bill.

Motion: SEN. WILLIAMS moved a CONCEPTUAL AMENDMENT TO SUNSET THE BILL ON JULY 1, 2007.

Discussion:

SEN. ESP asked if this would only sunset the amendments in the bill and not the whole section of law. **Taryn Purdy, Legislative Fiscal Division**, replied it would only sunset the provisions in SB 445.

SEN. BALES wondered about the practical effect of a sunset if this is used as an incentive for recruiting. In order to make this work, he thought four to six years would be needed.

SEN. COREY STAPLETON agreed. He said they would be better off to kill the bill than to wound the recruiters.

SEN. GREG LIND asked why not allow completion if someone is enrolled during the sunset period.

CHAIRMAN COONEY said, with a two-year sunset, people who would be recruited or joined would be able to take full advantage, if the University offered it, for their University education. After two years, it may not be offered again, and would be up to the next Legislature.

Ms. Purdy inquired if they would like a time limit for the scholarship in the amendment.

SEN. JOHN BRUEGGEMAN indicated he does not like sunsets but suggested four to six years would be best.

SEN. ESP said he was unclear how they would know much of anything in two years. He inquired if they would apply for the waiver right away as soon as they enrolled in the National Guard, or would it be something they do later on after they are done.

SEN. WILLIAMS replied she would be happy to amend her amendment to four years if that would satisfy the concern. She thought people could apply for the waiver right away. She was concerned about the mandates they are putting on the University System, as they go through this session, for things that they did not have in their budget. This would not be a huge hit, but they could work with that for four years.

SEN. LIND indicated he would support the amendment. They will know the effect in four years.

SEN. BOB HAWKS added that all military people have date-of-service records. This should pay on date-of-service for qualification purposes, he contended.

SEN. STAPLETON said they are eligible for four years, and there would be a grandfather clause. He inquired if they would have a period of time to use the credits. **SEN. WILLIAMS** indicated they would have to apply for the program, and then would have however long it would take them to complete the program. She did not know if they should go into that much detail on this change at this moment because of the difficulty of getting the bill out today. She wanted to leave the four-year sunset on, and if they have to clean it up in the House with a little more detail, that would be fine with her.

SEN. RICK LAIBLE stated he agreed with the four years but wondered whether it would be easier if they had a report prepared to bring back to the subcommittees for review in two years. There are concerns about the time frame.

Ms. Purdy said the consensus of the committee appeared to be about whether or not this would be grand-fathered. **SEN. WILLIAMS** said her amendment would sunset the bill in four years. Then the program could be looked at to see if it actually helped with recruiting and what impact it had on the University System. She was trying to do this because she could not vote for the bill unless they do this. She had a real concern about the impact on the University System. There may be other details to work out, but she wanted to vote on her amendment. **Ms. Purdy** asked if the grandfather meant that someone who joined the National Guard

during that four-year-period or started school in that four-year period would be allowed to complete a degree under the provision of the bill. **SEN. WILLIAMS** replied, yes. **Ms. Purdy** inquired if someone started college under this criteria would be able to complete within a five-year period, and **SEN. WILLIAMS** answered affirmatively.

CHAIRMAN COONEY advised one of the things that was expressed by proponents in the subcommittee hearings was they hoped to get these two bills over to the House, get the House bills over here, and then have further discussion about the whole package. If this amendment has technical issues, they will be able to fix them. This is an attempt by **SEN. WILLIAMS** to find some middle ground for those dealing with University concerns.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: **SEN. BRUEGGEMAN CALLED THE QUESTION ON SB 445.**

Motion carried 15-2 by voice vote with SEN. BARKUS and SEN. WEINBERG voting no.

EXECUTIVE ACTION ON SB 147

{Tape: 1; Side: A; Approx. Time Counter: 24.8}

Motion: **SEN. DON RYAN** moved that SB 147 DO PASS.

Motion: **SEN. RYAN** moved that SB014703.ACE BE ADOPTED.

EXHIBIT(fcs65a03)

Discussion:

SEN. RYAN said the amendment was to include the cooperatives in the bill. It was unintentional that they were stricken.

Vote: Motion carried unanimously by voice vote.

Motion: **SEN. RYAN** moved that SB 147 DO PASS AS AMENDED.

Discussion:

SEN. RYAN advised this basically takes what was done in the last session to give the entitlement increase to the schools. The state took away the state share of what they put into the countywide retirement that school districts have to pay on a countywide basis. They took the money out that was paid for

federal employees. That created less GTB that the state had to pay. That money, in addition to money that was coming from HB 124 block grants that moved into what was called the flex fund, was not allowed to go into the flex fund. They used that money to help fund what they gave to the entitlement increase in the last session. One of the things they heard from the big schools was that they had to cut back those services for special education and low income students because all of those services had to be paid solely out of federal dollars. The bill was passed with the idea that they were going to get so much money from No Child Left Behind that they would not know what to do with it. That money has not come through. The Superintendent in Glasgow said all he had gotten from No Child Left Behind so far was paperwork. They want to undo that and give the flexibility back to districts to get the services to low income and special education students that they deserve. They passed SB 333, **SEN. FRANK SMITH'S** bill, because impact aid was also included in this. That bill passed because the courts have said that is a supplanting issue. The fiscal note is about \$1.3 million less for the biennium than the total that is in the bill.

SEN. JOHN ESP said the other side of the argument is that they require those federal grants to sustain that indirect cost with other entities. The bill last session was an attempt to make those federal monies that flow into the schools pay their own indirect costs and not have the taxpayers pick up that burden. What they are doing by reversing that is putting that burden back on local taxpayers where school districts choose to do that. Before the bill last session, districts had a choice. The Legislature made it so they did not have a choice; they had to fund their federal indirect costs with federal dollars. In 2001 it was \$122 million, in 2006 it is estimated to be \$170 million, so that is \$50 million more flowing into Montana. The indirect costs involved in that additional \$50 million is \$10 million or more of local property tax burden on that extra money from 2001 to 2006.

{Tape: 1; Side: B}

SEN. ESP continued that schools should have to live by the same rules that the Department of Public Health and Human Services, Natural Resources, and all the rest have to live under as to their indirect costs.

SEN. LAIBLE referred to the fiscal note. If this bill passes it will be a \$10.3 million increase in 2006 and \$11 million in 2007. One of the biggest issues in this state is property taxes. If this bill passes, it means that anytime they get additional

entitlement money to the state, property taxes will go up because of paying the indirect costs.

SEN. BARKUS raised the issue of how indirect retirement costs are; he thought they are truly direct costs. If all the federal funds are doing is funding salaries, the rest has to be borne by the county, including health insurance, retirement, etc.

SEN. BRUEGGEMAN agreed with **SEN. ESP'S** point. He thought it was a real problem that the federal funds are not included in the calculation of how they spend federal dollars. They are not necessarily thinking about retirement funds. He said he was voting for the bill. The bill last session was a fairness issue, and he did not disagree with that. His district is a high growth county and reservation area, and all these factors combined, when that bill was implemented, to create a financially difficult situation. He would be inclined to support No Child Left Behind and other grants paying for their own retirements. It is creating a huge liability for local taxpayers. He was voting for the bill, because in his area, with respect to the Reservation issue, the school districts are getting hammered. Districts are having to make decisions about how many teachers they are going to cut, simply because of what happened last session. He thinks the policy from last session is fair, but how it applies is very difficult.

Vote: Motion carried 12-7 by roll call vote with **SEN. BALES**, **SEN. BARKUS**, **SEN. COBB**, **SEN. ESP**, **SEN. KEENAN**, **SEN. LAIBLE**, and **SEN. STAPLETON** voting no.

EXECUTIVE ACTION ON SB 133

{Tape: 1; Side: B; Approx. Time Counter: 6.1}

Motion/Vote: **SEN. BARKUS** moved that SB 133 DO PASS. Motion carried 17-0 by voice vote.

EXECUTIVE ACTION ON SB 439

{Tape: 1; Side: B; Approx. Time Counter: 6.9}

Motion: **SEN. LIND** moved SB 439 DO PASS.

Motion/Vote: **SEN. HANSEN** moved that SB 439 BE TABLED. Motion carried 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 no.

EXECUTIVE ACTION ON SB 477

{Tape: 1; Side: B; Approx. Time Counter: 9.2}

SEN. SCHMIDT advised she distributed an informational memo to the committee.

EXHIBIT (fcs65a04)

Motion: **SEN. WILLIAMS** moved that SB 477 DO PASS.

Discussion:

SEN. WILLIAMS indicated the bill is important to Missoula, Great Falls, and Dawson County. They had an agreement with the Department of Corrections that they were supposed to be doing updates on per diem expenses for regional facilities. Missoula has not had a good experience with the Department of Corrections on this, and they have been supporting much of the Department of Correction's activities because they are not being reimbursed appropriately.

SEN. SCHMIDT indicated the handout she distributed might clarify further what **SEN. WILLIAMS** was saying.

SEN. LIND hoped the committee would support this so the counties could capture their costs.

SEN. BALES recalled testimony that there were some problems with this bill. The bill needs more work, but he did not think they have the opportunity nor the time to do that before transmittal, and he thought they needed to pass it.

Vote: Motion carried 13-3 by voice vote with **SEN. COBB**, **SEN. KEENAN**, and **SEN. STAPLETON** voting no.

EXECUTIVE ACTION ON SB 496

{Tape: 1; Side: B; Approx. Time Counter: 13.7}

Motion: **SEN. COBB** moved that SB 496 DO PASS.

Discussion:

CHAIRMAN COONEY contended this is a problem they will have to address soon, either this session or in the upcoming session,

unless they believe that driver education is not a valuable program. He believes it is, and he is afraid if they continue down the road with the current funding situation they will literally keep people from participating in this program. As a result, he did not think they would be producing the qualified drivers they should be. When they hand the keys to a car to a young or elderly person, they may not be well-equipped or prepared to take on that responsibility with life and death consequences. He wished he had a different way of funding this, and this was the best method they could come up with. Even at this level of funding, it will only bring the state's share up about 50%. He hoped they would support the motion.

SEN. RYAN indicated the insurance companies believe that this helps them keep their rates down. He thought if they want this program, they ought to help with this part of the process. One of his concerns is the minimum rate paid to a driver education teacher in this state is \$6 an hour, and the average is \$15; the maximum is \$60. They need to make sure there is some cost containment in this. Most people have the belief that driver education can get them a reduction in insurance, and it does not.

SEN. LANE LARSON indicated that last night he was coming home from Montana City, and a semi going about 70 mph took the rear-view mirror off the side of his truck. He added in the large schools, there is a lottery system to take driver training. In addition to driver training, State Farm has an additional program that will give a reduction in insurance. Without driver training, there is no chance for the reduction. He contended sending people out with no training is a big problem. They study the book that they get from the Highway Patrol, and then they pass the test.

CHAIRMAN COONEY pointed out that the other cost savings with driver education is, when a child goes through the program, the teachers are the ones that give the test. There is a cost savings to the state of Montana when that student does not have to use the services of the driver exam station. The witnesses who appeared on behalf of this bill made it clear that the state provides the money for local districts, and the districts decide how they spend it on the program. Unless they want to start telling school districts how to spend these monies, then he did not know how to address some of the concerns **SEN. RYAN** raised.

Substitute Motion/Vote: **SEN. ESP** made a substitute motion that **SB 496 BE TABLED**. Substitute motion carried 11-8 by roll call vote with **SEN. COONEY, SEN. HAWKS, SEN. LARSON, SEN. LIND, SEN. SCHMIDT, SEN. TESTER, and SEN. WILLIAMS** voting no. **SEN. GALLUS** voted no by proxy.

EXECUTIVE ACTION ON SB 501

Motion: SEN. HAWKS moved that SB 501 DO PASS.

Discussion:

SEN. HAWKS maintained, in the number of bills they have seen in this particular category, that this one makes sense to him. There is a considerable sacrifice made on the part of employers with regard to supporting the troops. He thought the bill was worthwhile.

Vote: Motion carried 13-4 by voice vote with SEN. BARKUS, SEN. COBB, SEN. HANSEN, and SEN. WEINBERG voting no.

EXECUTIVE ACTION ON SB 499

Motion: SEN. DAN WEINBERG moved that SB 499 DO PASS.

Discussion:

SEN. WEINBERG advised this is SEN. KEENAN'S bill and deals with crisis services in the state. In Public Health, Welfare, and Safety, they stripped away the bulk of the bill. What remains is the title and the definitions.

CHAIRMAN COONEY stated he had just been informed they did not hold a hearing on this in this committee. SEN. STAPLETON indicated it did not need one. It had a hearing in subcommittee. The Constitution says it needs first, second, and third reading. SEN. ESP indicated they formed a joint select committee to look at the issues. SEN. STAPLETON said it is an important bill. There is some work to be done, but the bill should move forward.

SEN. WEINBERG said the select joint committee was formed to look at crisis services, and they have been meeting twice a week. They got a late start, and have only met for a couple weeks. They have more work to do, and he did not know what they would get done before the end of the session and may carry on into the interim. The bill addresses a real concern that affects a lot of people. There is a group of them that are committed to finding a solution to this. For the present purpose, SB 499 allows them to use this bill as a vehicle for the next several weeks to see what they come up with in the select committee. They may add to it or not. He wanted to keep the bill alive.

SEN. SCHMIDT said she supported the bill. The committee is working hard on this issue, and something needs to be fine-tuned in this area.

Vote: Motion carried 17-0 by voice vote.

EXECUTIVE ACTION ON SB 27

{Tape: 2; Side: A}

Motion: SEN. LAIBLE moved RECONSIDER ACTION ON SB 27.

Discussion:

SEN. LAIBLE advised this was his budget stabilization bill. He talked to **Dave Ewer, Budget Director**, who is supportive. He wanted to keep the bill alive and get it to the House.

Vote: Motion failed 8-11 with SEN. BALES, SEN. BARKUS, SEN. COBB, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting aye. SEN. BRUEGGEMAN voted aye by proxy.

ADJOURNMENT

Adjournment: 9:13 A.M.

SEN. MIKE COONEY, Chairman

PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT ([fcs65aad0.PDF](#))