MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN TOM ZOOK,** on April 14, 2003 at 8:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:
Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Emily Stonington (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

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 276, 3/27/2003; HB 628, 3/26/2003; SB 492, 4/9/2003; SB 483, 4/21/2003

Executive Action:

HEARING ON HB 276

Sponsor: **REP. MONICA LINDEEN, HD 7, Huntley**

Proponents: **Dave Gibson, Governor's Office**
Evan Barrett, Butte Local Development Corporation
Joe McClure, Big Sky Economic Development Authority
Jim Davison, Headwaters Economic Development Region
Bill Kennedy, Yellowstone County Commissioner
Sheldon Bartell, Gateway Economic Development Corporation
Webb Brown, Montana Chamber of Commerce
Jani McCall, Deaconess Billings Clinic
Linda Beck, Big Sky County Development Authority

Opponents: **None**

Opening Statement by Sponsor:

REP. MONICA LINDEEN, HD 7, Huntley, opened on **HB 276,** which creates an economic development trust fund within the coal tax trust fund. The interest earnings from that trust fund will be used for the regional economic development corporations. She clarified this would not take money away from **TSEP.** Currently, 75% of the money in the trust fund flows to **TSEP,** but on July 1, 2003, that is scheduled to go down to 50%. The other 25% was scheduled to go to the permanent fund, and this bill takes half of that 25% to created the economic development trust fund. In order to keep the general fund harmless over the next biennium, this bill would also insure that any interest earnings flow straight through to the general fund. She submitted and explained a sheet outlining the estimated earnings for the economic development trust fund. **EXHIBIT(fcs80a01)**

Proponents' Testimony:

Dave Gibson, Governor's Office, advised they were in strong support of the bill. They found a high correlation between capacity at the local and regional level and success of economic development. **HB 76** regionalizes economic development efforts. There will be up to 12 regional organizations that will provide strong incentives for regional cooperation. Bearpaw in Havre is an example of this working. **HB 176** is the long term funding mechanism to put more resources into the economic development corporations. He urged support for the bill.

Evan Barrett, Butte Local Development Corporation, and **Montana Economic Developers Association**, rose in strong support of this legislation. This is about putting some money into economic development long term. He contended economic development is not part of the problem as far as money is concerned, it is a solution for the problems Montana is having. Every job that is created in the state pays an income tax, and every profitable business pays a corporate license tax. Every plant that is built pays property taxes. The way out of the dilemma requires growth, which requires a strong partnership between the state and local development efforts. The **Treasure State Endowment** is a success story, and this is modeled after that endowment. **TSEP** builds the physical infrastructure of communities, and this bill builds the capacity for local development corporations to have the economic development infrastructure in place. He urged support for the bill and submitted some letters of support. **EXHIBIT(fcs80a02)**

Joe McClure, Executive Director, Big Sky Economic Development Authority, advised he had been involved in economic development for about 11 years, the last two in Yellowstone County. He advocated worker training, helping existing businesses purchase new equipment, and helping smaller manufacturers identify opportunities for lean manufacturing. They recruit new companies, but are committed to business expansion and retention. He submitted information on the "BEAR" program. **EXHIBIT(fcs80a03)** This type of legislation is what will sustain an effort like he described. This bill will provide assistance to communities surrounding Billings. They agreed to a change in the bill for the trust fund to continue generating revenue through June of 2005 and putting it in the general fund.

Jim Davison, Chairman, Headwaters Economic Development Region, advised this legislation provides the critical mass needed in economic development so local economies can be improved. Without the funds to support that, it is never going to happen. He urged favorable consideration of the bill.

Bill Kennedy, Yellowstone County Commissioner, testified Yellowstone County wanted to go on record in support if **HB 276.** They had a company interested in coming to Billings. They worked with the **Department of Labor** and every agency they could to put together the funds and the package to attract the company. At that time there was no pool of dollars to help local communities. The one concern of counties across the state is with the **Treasure State Endowment.** They have been told this would take money from the coal trust, and not **TSEP**.

Sheldon Bartell, Executive Director, Gateway Economic Development Corporation, advised 90% of their $3 million revolving loan fund is loaned out in four counties. They only have one delinquency. They have seen a big boom of small and medium sized businesses in their region. The corporation identifies a need for improved organizational capacity. They believe everyone in their organization should be as skilled as the executive director. That requires funds for training. He urged support for the bill.

Webb Brown, Montana Chamber of Commerce, stressed the regional concept. He started his non-profit career with the Sanders County Economic Development Corporation. They realized areas needed to cooperate more than compete. He described the **Travel Montana** program, where regions receive direct funding to develop tourism. Funding has been a problem for economic development. He thinks this bill is a great idea, and a great use of the funds that have been generated by one of the state's greatest natural resources--coal. The Chamber will not benefit directly, but the benefits that Montana will get will be countless.

Jani McCall, Deaconess Billings Clinic, and **City of Billings**, strongly supported **HB 276.** Both the clinic and the city worked closely with the Big Sky Economic Development Authority, the Yellowstone Legislative Coalition, and many community groups to promote economic development in the area. She asked for support for the bill because it involves a public/private partnership.

Linda Beck, Big Sky County Development Authority, strongly supported the bill.

Opponents' Testimony: None.

Informational Witnesses:

Mark Simonich, Department of Commerce, brought an amendment for the committee to consider. **EXHIBIT(fcs80a04)** He clarified it is not the intent of this program to be run like **TSEP**. **TSEP** is a program where the department takes applications every two years, and through a strenuous process of reviewing, ranking, and rating those applications, **HB 11** comes before the legislature. Funding is available every two years to communities through **TSEP.** Economic development cannot work if the funding only becomes available every two years. The bill's sponsor helped amend the bill in the House. It is like **TSEP** only insofar as the legislature determines it is in the long term best interest to the state and economic development to set aside a source of funds for economic development at the local level. The bill creates a trust fund within the coal trust similar to **TSEP.** The amendment speaks to his concern about the bill. Currently in the bill, the

Department of Commerce is charged with yearly distributing those funds to up to twelve regional development corporations equally with no questions asked or criteria established. Having served in various capacities and having gone through numerous legislative financial and performance audits, he thought the legislature would expect more accountability. The amendment ties the bill to **HB 76,** a **Department of Commerce** bill. **HB 76** modifies the Certified Communities Program to force the issue of regionalizing to develop capacity. Funds will be used for staff at the local level, as well as for projects. The goal is to develop local and regional capacity. **HB 176** creates an economic development advisory council, attached to the **Department of Commerce,** that will advise the department on the distribution of those funds and larger economic development issues, as well as on the development of rules. The amendment will make the distribution of the funds from the trust fund subject to the same rules the department develops for use in the Regional Development Act with **HB 76.**

<u>**Questions from Committee Members and Responses**</u>:
SEN. JOHN ESP asked **Mr. Simonich** why he thought it wasn't appropriate to have the legislature rank these projects.

Mr. Simonich said simply because when there are opportunities to work on projects related to developing new businesses or bringing businesses into the community, they come up very quickly. They often can't be planned for in advance. **TSEP** funds are only available every two years.

SEN. ESP asked about the definition of Certified Regional Development Corporation.

Mr. Simonich advised the regional development corporation is defined in **HB 76.** Previously, they had certified communities. Virtually any community in the state could become certified. There were communities certified with less than 400 population. They tried to regionalize and develop a rationale in **HB 76,** and this bill is tying back to that same rationale for regional development.

SEN. ESP asked **REP. LINDEEN** if up to twelve corporations are set up in **HB 76.**

REP. LINDEEN replied the sole purpose of **HB 76** was to create those regional economic development corporations. The definition is "certified regional development corporation means a private, non-profit corporation that has been designated by the department through a competitive process to manage and administer funds and programs on a departmental and regional basis."

{Tape: 1; Side: B}

SEN. ESP asked if the process is duplicated. He wondered about the competitive process, and if there is a periodic review of that process in statute. He had a further question about the chart. (Exhibit 1)

REP. LINDEEN said she did not recall why the chart would play out to 2024 when it was first made. She asked the **Legislative Fiscal Division**, to make the chart and they made the chart expand to 2024 for whatever reason. The bill only goes to 2015.

SEN. ESP said he understood it is probably capped at $43 million mechanically. He asked if there is a statutory cap.

REP. LINDEEN referred to page 4, line 14, which states from July 1, 2003, through June 20, 2016, the state treasurer shall quarterly transfer to the...fund 25%..." After 2016, the fund will be capped at whatever amount was transferred into it.

SEN. ESP said the intention is $43 million, but if interest goes up, it could be $60 million. **REP. LINDEEN** indicated yes.

SEN. ESP asked **Mr. Gibson** to respond. **Mr. Gibson** restated the question was how the regional development corporations would be established and what is the competitive process. He said they worked hard with all the economic developers around the state to develop a relationship with a considerable amount of trust. **HB 76** had no opposition, and there was agreement to stop the fragmentation going on with the certified communities program. The reason they chose the wording of "competitive process" is the time it will take to figure out what will work in each community. They don't believe in cookie cutters. The competitive process is defined through the **Department of Administration.** They anticipate putting out what is essentially an RFP. He said it was obvious in the Havre area it will be Bearpaw.

SEN. ESP asked if the contracts will be awarded into perpetuity. He wondered about a group wanting to compete five years from now to replace an existing corporation.

Mr. Gibson said they haven't set or codified any particular time limit. It is their intention for a time limit, and performance criteria have to be met. There is a periodic rebidding process. He thought three to five years is standard.

SEN. ESP asked if he thought it should be in statute.

Mr. Gibson advised **HB 76** had cooperation, and felt everyone would work together in determining what kind of time-lines are appropriate for re-certification. He was comfortable the current legislation covers it without exactly spelling out the time frame.

SEN. TRUDY SCHMIDT noted the definition was changed from certified community development, and wondered why.

REP. LINDEEN asked if she was referring to **HB 26** or **HB 276.**

SEN. SCHMIDT said she was looking at **HB 276** and current code. The definition is now for certified regional development corporations.

REP. LINDEEN advised **HB 76**, carried by **REP. MCKINNEY,** is where the change in definition comes for the certified communities to the certified regional development corporations. **HB 276** refers to **HB 76.** If **HB 76** was not passed**, HB 276** would be void.

SEN. SCHMIDT advised the information in the second technical notes is quite different and wondered if that is due to **HB 76.**

REP. LINDEEN advised the bill originally was very similar to the **TSEP** program. The changes were made in **House Appropriations** so it was not like the **TSEP** program. The change made to insure the money for the program would flow through to the general fund rather than to the economic development trust fund, is the reason for the big change between the two fiscal notes.

SEN. SCHMIDT advised in current code it says each grant is going to be matched with 1$ from the grant and $1 from the private company. She asked if that is no longer true in **HB 76** and **HB 176.**

Mr. Simonich stated it would be a straight pass through of funds to the regional development groups. If the amendment he proposed is adopted, it would be done pursuant to the rules developed in **HB 76.** That bill anticipates they would continue to operate like they did with certified communities, and that would require a local match. Regional organizations are representing a number of counties and communities, and he anticipates the local match would be developed with every one of those communities providing some of that matching funding.

SEN. SCHMIDT asked if they have to have the money up front in order to apply.

Mr. Simonich advised **Mr. Gibson** described the process; they will try to identify the regional organizations to be certified through an RFP process. They don't anticipate certifying all twelve in the first year. After they are certified, the regional organizations will develop the match money. At the time of the contract, they will be able to document the match money is available.

SEN. SCHMIDT asked if they then make a request of **Mr. Gibson's** office based on the match they received.

Mr. Simonich said they anticipate the corporations wouldn't necessarily have to show that in the implication stage. Once they are certified, and before the contract is written, it is anticipated they will be able to document where the match money is coming from. They will be reviewing on a regular basis to assure the match was provided in the year the funds were provided to them.

SEN. SCHMIDT asked what would happen if organizations have already raised the money.

Mr. Simonich said they don't really care when the money was raised, as long as it is money that is not already matched for something else. When he commits state dollars as match to federal dollars, he can't turn around and commit those same dollars for something else.

SEN. RICK LAIBLE asked if there are other programs funded for economic development currently within the coal trust system, with the decisions made through the **Board of Investments** on how that money should be used.

Mr. Simonich explained the coal trust is a source for a lot of the funding that is used in the state, particularly with economic development. The **Board of Investments** is responsible to invest all the state money, including the coal trust, etc. They have the ability to make loans, and the legislature has passed some specific programs for which the coal trust may be a source of what they're investing into those loan programs. There is also some statutory appropriations, specifically to the **Department of Commerce** and the **Department of Agriculture** for economic development purposes. Those statutory appropriations were created in the 2000 special session, and were set to sunset after the year 2005. **SB 115** has now extended the sunset out to 2010. $400,000 per year will be put into the corporations absent **HB 176.** Their goal is to build capacity at the local level.

SEN. LAIBLE asked how much money is put into economic development through the vehicle of the trust fund, or the various subcategories currently. He didn't think this would put it all under one umbrella.

Mr. Simonich said it solidifies it from the standpoint it would be regional. Under the certified communities program, there is the potential for 200 different communities to be certified. **HB 76** regionalizes, and this bill adds additional support to that regionalization. He could not say the total amount, and someone from the **Board of Investments** could provide those figures. They are trying to insure businesses would be able to go to a single organization and get all the help they need. Currently, there are eight separate state and federal programs all providing technical or financial assistance in the state for economic development. In some communities there is a single organization, like Bearpaw in Havre.

SEN. LAIBLE said there is nothing in the bill that consolidates all those different avenues. He agreed with the concept of 12 regional economic corporations.

Mr. Simonich said there is nothing they can or should do that would eliminate local economic development organizations. They want to be able to coordinate state resources being provided, and **HB 176** does that for them. As regional organizations are developed, the department will review every program they administer over time, and determine if they can be rolled over into the regional organizations. That couldn't all be done within this bill.

SEN. LAIBLE asked what happens when there are twelve regionals, and the splinter funds are consolidated.

Mr. Simonich said the local, independent organizations will not be consolidated, but state run programs will be. They believe that can be done administratively.

SEN. LAIBLE asked how the funding will be determined for the twelve organizations, and if the **Board of Investments** will be involved.

Mr. Simonich advised the **Board of Investments** will not be involved with this aspect. This aspect deals with interest being earned within the trust. The determinations of how the money gets disbursed and in what amounts will be done pursuant to rules the department will adopt. Those rules will be pursuant to **HB 76,** which also requires the creation of an economic development advisory council. That council will include the Chief Business

Officer in the Governor's office, the director of the **Department of Commerce**, one representative from a Native American economic development community, as well as a representative from each of the twelve regions.

SEN. LAIBLE asked **Mr. Barrett** how his development corporation is funded now, and how would the passage of this bill assist them in the future for economic development.

Mr. Barrett advised the Butte Economic Development Corporation is a local corporation, and they already work with a regional development corporation, Headwaters RC&D. They expect to maintain their continued capacity in their own county, but continue to work with Headwaters, which they would expect to be the regional development corporation for their area. The smaller communities lack the ability to have the finances and the staff for all the capacity they need. That is why the regionalization makes sense. In other areas of the state, the regional development corporations aren't quite as well developed, and it the process will be formative. A number of local groups will be looking at how they can regionalize. The idea of regionalization is not to supplant local effort, it is to supplement that local effort. ***{Tape: 2; Side: A}*** Every region is different, and that is why the rulemaking process is not a cookie cutter approach.

SEN. LAIBLE asked him about their current source of revenue.

Mr. Barrett said they have local contracted services they provide, they have memberships from private businesses, and a mill levy the local government imposes for economic development that is contracted out to them. They have some interest earnings from revolving loan funds they administer. He indicated a clear line of distinction needs to be drawn in terms of coal tax trust fund. The bulk of the use of the monies in the coal tax trust fund by the **Board of Investments** is to make direct loans to businesses through banks. It helps the economy in an area to have a business get a loan through the **Board of Investments** working in conjunction with a bank, but it doesn't develop capacity. This bill would use earnings to provide capacity building.

SEN. EMILY STONINGTON addressed **Mr. Simonich.** She said they got copies of **HB 76** in order to understand the amendments in that bill to 91-116, etc. She questioned in **HB 276,** he said none of these monies will be used for administrative costs, and yet in **HB 76** he said 8% will be used for administrative costs. In **HB 76,** there is $425,000 a year going to this program, and she wondered if these monies would be going into two different accounts.

Mr. Simonich indicated Certified Communities set aside $425,000 a year, and allowed the department 8% for administrative costs. At his insistence, they are not going to be taking any administrative costs, and the money is being reduced to $400,000 a year. From the time the bill passes, the department will not take administrative costs out of either source of funds. They are using staff that is funded through **HB 2** to administer those programs.

SEN. STONINGTON asked how they will support the advisory council.

Mr. Simonich said both through some of the appropriations for operations within the department, as well as the elimination of the Micro Business Advisory Council. The duties of the council will be rolled over into this new broader economic development advisory council. The department receives a small percentage of those micro-business loans that provide for the administration of that program. It is their intent not to siphon these monies off for administrative purposes at the department level, and get as much money to the regional development corporations as possible.

SEN. STONINGTON asked if the fiscal note on **HB 76** as amended in House committee is inaccurate.

Mr. Simonich believed it would not reflect current **HB 76.**

SEN. STONINGTON said this is the most recent fiscal note.

Mr. Simonich recalled they fixed **HB 76** so they do not take any administrative costs, and he believed that is the way the bill is currently drafted.

SEN. STONINGTON asked **REP. LINDEEN** about what was done with proceeds into the trust fund. Current law says that beginning in July 1, 2003, it reverts from having 75% of the flow go to the **Treasure State Endowment** back down to 50%. Initially, that was amended down to 25%, and the money was taken from **TSEP** for this program. It looks like they amended it back to 50%, and the 25% that was slated to go into the permanent fund is now going to this fund.

REP. LINDEEN said the change that was made initially in the bill was stricken, and was a drafting error. Effective July 1, 2003, 25% of the money currently flowing into the **Treasure State Endowment Fund** is scheduled to flow into the permanent fund. This bill captures the 25% and creates the Economic Development Trust Fund. The reason for the change from 50% to 25% to 50% was a drafting error.

SEN. STONINGTON said the intent of this is to collect that flow for 13 years, and then there will be stable principle amount. **REP. LINDEEN** said yes.

SEN. LINDA NELSON asked if there are any rules adopted pursuant to 90-1-116 now, or would rules have to be done.

Mr. Simonich said there are rules adopted now. New rules will be developed for the Regional Development Corporations. That is why they wanted this bill tied to whatever those new rules will be.

SEN. NELSON asked why they wanted to cross off the portion that gives each development corporation an equal amount, and why not put it in addition to that.

Mr. Simonich said that was his suggested language. If the committee determines they want the money distributed evenly, they can do so. There was some discussion in **House Appropriations** on **HB 276** about the differences in size, etc.

SEN. NELSON asked if the twelve regions are firm regions.

Mr. Simonich clarified there will be up to twelve regions. Currently, they are operating under certified communities and there are 67-70 certified communities in the state. Organizations will develop their own partnerships, and determine what those ought to look like. Generally, there will be geographic continuity, but a regional group could focus entirely on Native American economic development. Those would not be contiguous.

SEN. NELSON asked why there wouldn't be some impact to the general fund. When this 25% goes into the permanent fund, the interest trickles down into the general fund. If that is diverted, there would be some impact.

Mr. Simonich acknowledged that would be true, but for the 2005 biennium, none of the money comes to the regional development organization. For the upcoming biennium, all the money continues to flow to the general fund, and there is no fiscal impact in this coming biennium. He then clarified the issue regarding administrative costs for **SEN. STONINGTON** in assumption #3 on the fiscal note for **HB 76** dated 1/31/03, which says "under current law statutory appropriations." 100% of the funds in **HB 76** and **HB 276** will go to regional development corporations.

SEN. STONINGTON asked if they budgeted in **HB 2** for this.

Mr. Simonich advised it is part of their budget that has been approved that is **HB 2.** Existing staff and operational money are funded in **HB 2.**

SEN. ED BUTCHER said the money in the trust was doing something else before, so what is being replaced by the diversion of this money.

Mr. Simonich said in recent years, the funds that will be going into this new trust within a trust have been flowing into the **Treasure State Endowment Trust.** The 25% was due to sunset anyway, by decision of a previous legislature. After this bill, that would all be flowing into the general fund.

SEN. BUTCHER said it sounds good on the surface, but he had some apprehension. He wondered if a new layer of bureaucracy was being created with this regionalization. He was involved in the aging councils when they first started. They started as a regional organization, and evolved to a state organization. He had concern there was a lot of money funneled into the regional administration that really should have been going to senior citizens.

Mr. Simonich did not believe that is the case. He clarified this bill doesn't do anything; it simply makes funds available for regional organizations. The regional organization mechanism has been approved by the legislature in **HB 76.** He would argue it doesn't add another level of bureaucracy, because it is a better use of funds than they had in certified communities. They are trying to develop capacity, and they hope this structure will create that.

SEN. BUTCHER said local groups have a certain level of administration to function, and asked if **Mr. Simonich** foresees this being replaced to the point that won't be needed as much.

Mr. Simonich said those local organizations are local, private non-profits, and they are not state employees. Generally, the lion's share of the funds available in those local organizations is local money. They anticipate those local organizations will continue to survive and operate the best they can with the resources they have. The state will never be able to give them enough resources to make them full-fledged economic development organizations. **HB 76** says the state will fund no more than twelve regional organizations. They will be working hand in hand along with the more local organizations.

SEN. ROYAL JOHNSON asked **Mr. Simonich** if his testimony was in the next fiscal year, the money would not go into the project.

Mr. Simonich said he understood the money flows into this trust within the trust, but the earnings off of that flow to the general fund. They are not made available for the department to disperse to regional organizations for the next biennium in 2004 and 2005.

SEN. JOHNSON conveyed to **REP. LINDEEN** if that does not happen, the chart is incorrect. **REP. LINDEEN** believed the chart is correct. The interest earnings, as the bill is currently amended, would flow to the general fund. Then those estimated earnings in 2006-2016 would flow to the Regional Economic Development Corporations.

SEN. JOHNSON said in 2004, on the second to the top line in the chart, (Exhibit 1), it shows those new deposits as interest earnings, in the column that is third from the right hand side, going into this project.

REP. LINDEEN said in the trust fund deposits in the third column from the left, which in 2004 would be $3.8 million, $132,273 would not be a new deposit that would go towards the economic development corporations. That would flow to the general fund in 2004. This chart was created before they amended the bill.

SEN. JOHNSON asked if the use of the 3% and the 7% short and long term rate, is permanent fund differential, and if one is earnings on the permanent fund.

Taryn Purdy, Legislative Fiscal Division, advised what is causing the confusion is when it says earnings, it shows all of the deposits into the trust that would be created. The $3.8 in 2005 would earn $267,733 interest for the general fund. The new deposits is simply a breaking out of that. It would also go to the general fund. Once past that year, because the trust is building up to $7.4 in 2006, plus an additional $3.5, it shows the amounts in the trust would earn that much now for the new regional development. The new deposits going into the trust would earn that much. The total amount that would be going for regional development would be the $642,000 and $625,000.

SEN. JOHNSON asked **Mr. Barrett** about the organization he's the president of.

Mr. Barrett indicated his organization is the **Montana Economic Development Association,** and he is the legislative chair, but not the president.

SEN. JOHNSON asked how many districts that have economic development corporations levy a tax to implement their activities.

Mr. Barrett advised the source of local public money for local government corporation efforts include a voted one mill levy for economic development, which is currently done by Butte-Silver Bow and by Miles City. Dillon at one point did, but he didn't believe anyone else does the voted one mill levy. The other source of public money is up to a two mill levy can be done for port authorities that perform economic development activities, such as Big Sky Economic Development in the Billings area. At this point, not many utilize the tax levy as the vehicle for their funding. Most of it is done through local memberships and donations, etc.

SEN. JOHNSON asked how much one mill raises in Butte-Silver Bow.

Mr. Barrett stated one mill in Butte-Silver Bow raises approximately $60,000.

SEN. MIKE COONEY asked if this goes through, will there be new jobs and how they can measure whether the program had been successful or not.

REP. LINDEEN advised it is important to remember that two years ago, the legislative body talked a lot about the need for new economic development changes in order to create jobs and attract business to the state. Over the course of the last two years, there has been discussion throughout the state through **Mr. Gibson** and his office, and the efforts of **SEN. MAX BAUCUS** and the rest of the congressional delegation on how to change the economy to create better paying jobs. Despite the difficult financial situation in this session, there have been a handful of bills go through to change the economy of Montana and create jobs. One of them is the Workforce Training bill, and one is the creation of these economic development corporations in **HB 76. HB 276** will provide some funding for those groups. Economic development groups throughout the state are creating jobs. She suggested amending the bill so that these regional development corporations report back every two years.

{Tape: 2; Side: B}

SEN. BILL TASH asked **Mr. Gibson** about a performance review.

Mr. Gibson advised that concern highlights the reason for the amendment **Director Simonich** brought forth to create accountability. That is a major shortcoming of the Certified Communities Program.

CHAIRMAN TOM ZOOK remarked he didn't see how the amendment does any of that. All it does is say how the money will be disbursed.

Mr. Gibson says the amendment says the administrative rules, accountability, and structure of **HB 76** will be used for these funds. As **HB 276** is currently written, there is no accountability. He said they would work with the committee to make sure that is accomplished.

CHAIRMAN ZOOK quoted from the technical note: "Section 1 provides that earnings on the economic development fund that are to be transferred to the economic development special revenue account as required to meet obligations payable from the account in accordance with Section 5. Section 5 does not provide for any obligations to be created. It merely requires the department...to distribute all funds deposited in the economic development special revenue account to certified regional development corporations."

Mr. Gibson deferred to the department.

Andy Poole, Department of Commerce, advised the technical note talks about obligations in a way that is a very fine definition. They believe an obligation would be created to pay the regional development corporations if the bill is passed. The technical note indicates the payment may not be an obligation. He didn't think it has much substance, and thought everything is fine in the bill.

SEN. JOHNSON asked for the Budget Office to comment.

Chuck Swysgood, Director, Office of Budget and Program Planning, advised he reads and signs fiscal notes, but doesn't write them. He assumed that is something written by the department when the fiscal note was sent over to them.

Closing by Sponsor:

REP. LINDEEN closed on the bill. If Montana is to climb out of the current fiscal problem, they have to do everything they can to create jobs in the state. **HB 76** and **HB 276** are tools to make that happen. She hoped they would see fit to amend the bill so it can move on.

HEARING ON HB 628

__Sponsor__: **REP. DAVE KASTEN, HD 99, Brockway**

__Proponents__: **John Tubbs, DNRC**

__Opponents__: **None**

__Opening Statement by Sponsor__:

REP. DAVE KASTEN, HD 99, Brockway opened on the bill. The Blackfoot Tribe applied for a renewable resource grant in **HB 6.** It was ranked 26 out of 40 projects funded. The **Long Range Planning Committee** felt that even though the project ranked high, it really did not fit the criteria. Realizing the importance of water on or near the Blackfoot Reservation, the staff drafted a committee bill. As chairman of the committee, he would love to find the funds to fund the project. The project is called Oki Mamii (Hello Fish), and is a proposed educational program to provide fourth and fifth graders an opportunity to learn about native species, conservation, and the processes that operate to maintain healthy aquatic ecosystems. The project will be located in an elementary school in Browning, Montana. Most of the work will be in the classroom, but some will involve utilizing different locations. The goal of the project is to improve community appreciation of water resource issues on the Blackfoot Reservation. There will be coordination between the Blackfoot Tribe and the Fish and Wildlife program, the US Fish and Wildlife Service, etc. The Wetlands Program Coordinator for the Tribe will manage the project. $5000 in funding will come from the general license account, and $15,000 will come from the federal special.

__Proponents' Testimony__:

John Tubbs, DNRC, rose in support of this grant, as it was one of their original **HB 6** recommendations to fund. There was concern about opening up the door to school districts and this type of educational program, with the potential that it could go statewide. The committee recognized this was a good project, and encouraged finding a funding source.

Mike Barrett, Helena, testified and submitted written material to the committee. **EXHIBIT(fcs80a05)**

Larry Peterman, Fish, Wildlife and Parks, advised the funding sources are the general license account and the sport-fish restoration account. That is an excise tax on fishing equipment and tackle that gets allocated back to the states. One of the identified purposes for that funding is aquatic education, and it is a legitimate and perfectly valid funding source.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. NELSON asked what amount was requested in **Long Range.**

REP. KASTEN advised it was about $23,000. The school said they could do it for $20,000.

SEN. NELSON asked if they were looking at this as a one-time shot, or were they thinking more long term.

REP. KASTEN said the project will go on for about three years, and it could be continued in the curriculum.

SEN. KEITH BALES said it was his understanding the Browning school gets ANB the same as any other school district in the state.

REP. KASTEN believed that is correct.

SEN. BALES believed they get special funds over and above that.

REP. KASTEN said he was correct again.

SEN. BALES said that district is probably getting more money than other districts in the state, and asked about the justification for an additional grant.

REP. KASTEN said that is something that can be discussed in executive action. **CHAIRMAN ZOOK, SEN. JOHN TESTER,** and **SEN. JOE TROPILA** would have a better answer to that as they came through the process of **HB 6.** He stressed the importance of water in the state of Montana with the Tribes. This project will coordinate with **FWP** and the US Fish and Wildlife Service. That is part of the criteria behind the grant.

SEN. BALES asked if this is a pilot project to be implemented throughout the state.

REP. KASTEN said this is just a special project right now, but it's possibly something that could be implemented.

SEN. GREG BARKUS asked **Mr. Peterman** what other programs of this nature does the state do in public schools across the state.

Mr. Peterman described a program called "Family Fishing Adventures." Part of that program deals with developing fishing opportunities in ponds around cities. Part of it is angling clinics and an equipment loaner program. The other part is the "Hooked on Fishing, Not on Drugs" program. That is a national program at the fourth grade level.

SEN. BARKUS said those are actual curriculum issues organized through the schools.

Mr. Peterman said that is correct.

SEN. BARKUS said his question is regarding the licensing to fish on the Blackfoot Indian Reservation. He asked **Mr. Peterman** to explain to the committee what the relationship is, and who is required to buy licenses, and what kind of revenues the state gets.

Mr. Peterman advised to fish on the Blackfoot Reservation requires a tribal license.

SEN. BARKUS said there is no requirement to obtain a Montana fishing license to fish on the Blackfoot Reservation.

Mr. Peterman said that is correct.

Closing by Sponsor:

REP. KASTEN closed on the bill.

- recess 9:55 -
- reconvene 10:16 -

HEARING ON SB 492

Sponsor: **SEN. ROYAL JOHNSON, SD 5, Billings**

Proponents: **None**

Opponents: **None**

Opening Statement by Sponsor:

SEN. ROYAL JOHNSON, SD 5, Billings, advised this is a committee bill that directs the **Board of Regents**, on behalf of the **University System**, to approve an operating budget containing detailed revenue and expenditures and anticipated fund balances of current funds, loan funds, endowment funds, and plant funds. After the **Board of Regents** approves operating budgets, transfers between units may only be made with the approval of the **Board of**

Regents. Transfers and related justification must be submitted to the **Office of Budget and Program Planning** and to the **Legislative Fiscal Analyst.** The bill takes a closer look at how things happen in the **University System.** He thought the legislature wanted to see exactly how the **University System** spends their money, how they account for it, etc., for a long time. Since the lump sum was created in 1995, the **University System** has been able to operate much more efficiently. The **University System** wanted the lump sum, because before that the legislature allocated these expenses to areas the legislature does not understand. At that time, they did not have as much money as they wanted to put in the **University System**, and maybe they've never had enough. The **University System** wanted flexibility in how they handle the money. He thought it worked well, and accountability is much higher than in the past.

{Tape: 3; Side: A}

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor: **SEN. JOHNSON** closed on the bill.

EXECUTIVE ACTION ON SB 492

Motion/Vote: **SEN. BUTCHER moved that SB 492 DO PASS. Motion carried unanimously.**

HEARING ON SB 483

Sponsor: **SEN. BOB KEENAN, SD 38, Bigfork**

Proponents: **None**

Opponents: **Eric Feaver, MEA-MFT**

Opening Statement by Sponsor:

SEN. BOB KEENAN, SD 38, Bigfork, opened on the bill, which was at the request of the committee. The fiscal note is a vehicle to get the bill in front of them. Assumption #10 is the only one that has any significance in the long run. That says the provisions have no fiscal impact. The bill allows flexibility for the 17-7-140 trigger which calls for the Governor to reduce general fund expenditures when the ending fund balance drops to one percent of all general fund appropriations during the biennium. This bill will ratchet that down, so that doesn't happen six months before the end of a fiscal year. The Governor's office has concerns on page 3, lines 8 and 9 with the "base budget for the state general fund and state special revenue funds may not exceed 90% of that level." That is a precaution to prevent the situation they came into with this session. He thought they could work through those concerns.

Proponents' Testimony: None.

Opponents' Testimony:

Eric Feaver, MEA-MFT, said he had the undesirable task of being the only opponent to the bill. It is at the request of the committee, so he expected it has wings. He felt obligated to object to the amendment to statute on page 3, lines 8-9. He didn't know why they would want to adopt this amendment. It appeared to him it means whatever budget they adopt this biennium, when they come back in 2005, 10% of it is not ongoing and extraordinary. He didn't know why they would do that. If they believe now that 10% of what they are about to adopt is not ongoing and is extraordinary, then they should adopt that now. He had no idea why they would do that in advance. He had no idea how it works with present law, and what present law adjustments would mean--if they would be on the budget they adopted, or on the budget minus 10%. He wondered what kind of calculations they would be doing when they look at the Governor's budget as proposed. He declared the Governor's budget can be anything by way of the Constitution. What they are dealing with in the appropriations process would be very confusing. He thought the whole current legislature has been very confusing, and maybe this bill memorializes what they have been doing.

Informational Witnesses:

Director Swysgood said they were there to answer technical questions as it relates to the concerns they have.

Questions from Committee Members and Responses:

SEN. BEA MCCARTHY asked about the fiscal note, and #7 of the assumptions. She wondered who would buy copies of the analysis and what kind of market is anticipated.

Amy Stassano, Budget Office, thought there would be a market similar to the those that purchase the Governor's budget book. In addition to state agencies being required to purchase the books, citizens and lobbyist organizations might purchase it.

SEN. MCCARTHY asked if the money for agencies to make the purchase is in **HB 2.**

Ms. Stassano assumed it was not.

Ms. Purdy advised the **Legislative Fiscal Division** wrote that part of the fiscal note. Right now, they simply give away the analysis. This was the part of the bill to make it a revenue bill to beat the transmittal deadline.

CHAIRMAN ZOOK remarked the School Board Association ought to buy it and maybe their figures would be more accurate.

SEN. SCHMIDT asked **Director Swysgood** how long it would take before government would no longer be needed if they are going to go with this 10% reduction. **Director Swysgood** replied 10 years. **SEN. SCHMIDT** said no legislature would be needed either, and **Director Swysgood** said in ten years.

SEN. JOHN COBB asked about the technical problems.

Ms. Stassano advised the technical concerns they have come from issues like the way they currently fund personal services. It gets back to the way they level actual into the budget. Now agencies are put into two budgets, one is that they spend less than 90% of what they were appropriated, and the second budget is that they spend more than 90% of what was appropriated. The bill says it may not exceed, so if they only spent 85% of what they were appropriated, that's what their base budget would be. If they spent 95% of what was appropriated, they would have to be rolled back to 90%. In calculating even the 85% or the 90%, they have concerns about how to count biannual appropriations, especially if they were included in the first year of the biennium. There are questions about personal services, and fixed costs would roll into whatever that calculation would be. They view this as being like the rollback to the 2000 base level confusion in the first half of the session as to what counts and what doesn't count, and what services are cut in the across the board cut when they have to prepare the 5% plan.

Ms. Purdy advised the 10% idea came out of the 2000 base adjustment that was made at the beginning of the session. The **Legislative Fiscal Analysts** asked **SEN. KEENAN** and others whether or not starting off at a lower amount than what was spent, and then providing the legislature with those policy issues that essentially made up that difference is something that would be worthwhile because of the issues that arose at the beginning of the session. She referred to the definition of base budget on page 3. In 1997, there was a bill that changed that definition of base budget. She was on a committee with **Steve Bender**, then **OBPP**, that essentially helped put this together. It was made deliberately vague to allow some flexibility on how that base budget is defined. It could be actual expenditures, or appropriations in that year, etc. This would be designed to essentially say, if you had 10% less of your base than you do now, what would you give up. It is not designed as an across-the-board cut. It could be applied that way, but it was not necessarily designed for that. What the agencies and **OBPP** would be required to do, is lay that out. What happened at the beginning of this session, was that the agencies and **OBPP** didn't have time to respond to the initial action of the legislature and say what those reductions would be--what they would give up. This bill would put it into statute, so that requirement would be made. On an agency wide basis, if an agency had $1 million, their base budget would be $900,000, not necessarily across the board in each program. If the agency or **OBPP.** wished to get rid of a program, that could go into their 10% reduction.

CHAIRMAN ZOOK asked **Director Swysgood** to talk about what this was requiring the budget office to do. He understood they had to present a present law budget.

Director Swysgood affirmed they are required to present a budget based on present law. This year they did that and had decision packages to reduce that down to the revenue they had. There is already a statute that requires them to identify 5% of programs. That used to be 15%, and last session it was changed from 15% to 5%. He thought they could address that statute by making it a 10% requirement for agencies to list. The other concern would be that in this biennium when revenue was tight, agencies would certainly try not to spend under the 90% cap. That might effect some kind of reversion. They would spend the 90% and not get penalized. They would try to expend at the 90% levels. He didn't question the intent of the bill, but felt there might be a better way to do it.

SEN. STONINGTON thought present law was from actual expenditures adding in obligations under contract, etc., that create ongoing obligations for the next biennium. She asked if this requirement would create a 10% greater gap between the base budget and a present law budget.

Director Swysgood said he would assume the statute requires a present law budget based upon the money necessary to run government the next two years at the current level it was run in the previous biennium. Those things that would relate to that present law would be things that happened such as enrollment increases, Medicaid caseload increases, rents, some inflationary increases, and etc., that are in present law. He assumed they would still be required to present the present law budget based upon those assumptions, and then add decision packages in the budget as they did this year, to reduce it down to the 90%.

CHAIRMAN ZOOK said that is how he understands present law. It would require providing the same services that are being required today. If there are inflationary costs, they have to be included. As **Mr. Purdy** said, this doesn't change that.

SEN. STONINGTON asked if this would create a third budgetary presentation, where there would be actual expenditures minus 10% and decision packages to effect that. She asked how **Ms. Purdy** envisioned this working.

Ms. Purdy said she was correct. One of the concerns was how to apply this when determining base budget. Base budget is literally, pulled of SABHRS. Certain things are knocked off that are not ongoing, and that becomes the base budget. This would require agencies and the budget office to prioritize the services they provide. In **DPHHS**, there are changes in caseloads that are part of present law. Therefore, if the law is not changed, they have an obligation to fund that caseload at the level the law requires. This bill would require them to come in and say they have an obligation in present law. With going down to the 10%, they would present what they would not continue to do and the law changes that would be required.

SEN. STONINGTON said they paid attention to statutory changes in subcommittee that would be needed to implement reductions. She wondered if that would be part of the presentation as she would envision it.

Ms. Purdy said that is how it is envisioned.

SEN. SCHMIDT asked how the federal matches play into this.

Ms. Purdy allowed the federal match could be impacted by this. It does not require the federal dollars in and of themselves would be reduced by 10%, only general fund and state special revenue. A general fund reduction a department or **OBPP** would propose to meet that lower base could impact federal funds.

SEN. SCHMIDT asked about a specific program like **Youth Challenge** with a federal match. They would be required to lower the state match.

Ms. Purdy advised if that was a priority the **Department of Military Affairs** identified as an area they would reduce their budget to get down to that 10%, then there would be a corresponding reduction in federal funds.

SEN. SCHMIDT asked about **Corrections** when their client load is increasing, and if they would need to prioritize within their department and eliminate that.

Ms. Purdy said the 10% reduction requires them to prioritize how they would reduce that. Nothing prevents the budget office from putting funds in their budget to completely restore that or add to it. The legislature cannot tell the Executive what to put in their budget. They cannot be told the budget will be 10% lower than present law. It will be presented in way that shows this, and then it is up to the Executive to back their budget however they choose.

SEN. SCHMIDT asked how it would impact the **University System.**

Ms. Purdy indicated they would show how they would reduce their budget down to that amount in their budget, and it is up to the Executive how much they wish to provide to the **University System** in total.

SEN. BUTCHER asked if they were forcing agencies to seriously review programs funded the prior year and be able to justify them.

Ms. Purdy said that is the intent.

SEN. BUTCHER stated in most cases 10% of new programs probably didn't work out. In the current system, they just keep getting added to even if they weren't working out. This about accountability, so when subcommittees go into the decision packages, they decide which ones they want to add.

SEN. TESTER asked **Director Swysgood** about his comment regarding the requirement for agencies to find 5% cuts. If it was increased to 10%, he wondered what would be different in this bill, than just having the agencies define 10% cuts in their budget.

Director Swysgood believed the existing statute requires agencies to submit a list of 5% reductions. The budget office can look at that, appropriate it etc. The agencies define the ramifications, such as a statute that would need to be changed. Under this legislation, he assumed if they decided they didn't want to reduce an agency's spending by 10%, they would need a decision package putting that back in, and would also then have to show a decision package to get it back out.

SEN. BARKUS asked **Director Swysgood** about page 4, lines 20-21 of the bill--"the adopted budget must be limited so that a positive ending general fund balance exists at the end of the biennium for which funds are appropriated." He asked if the bill doesn't restrict the fact that if revenue estimates are substantially lower than prior years, the budget office could adopt a greater than 10% reduction.

Director Swysgood said they would do the same thing they did for this upcoming biennium. Present law required them to fund government at the necessary revenue to keep it functioning at the same level as in the current biennium. Revenues coming into the state did not allow for that. They had decision packages showing how they got down to the amount of revenue they anticipated coming forward in the budget.

{Tape: 3; Side: B}

SEN. BARKUS talked about the ending fund balance on page 5. He said if revenue estimates are lower, they may have to cut programs further than the Governor's budget.

Director Swysgood didn't think the bill restricts the Executive from doing anything, it just makes it more complicated. It is their prerogative to present a budget to the legislature that they feel is adequate and necessary to run government. With the requirements of this, they would present those decision packages. If they went above the 90%, they would say why in the decision package. If the legislature didn't want that, it could be cut back.

CHAIRMAN ZOOK said at the present time the legislature doesn't see the 5% offered up by agencies. The **Fiscal Analyst's Office** gets them, but those reductions don't necessarily come before the subcommittees, unless the analyst includes something in her options.

Director Swysgood believed that is correct. The budget office uses the information to try to reduce expenditures. He indicated that information is public record, and can be made available to whoever wants it.

CHAIRMAN ZOOK asked with this bill, would that not appear before the subcommittees.

Clayton Schenck, Legislative Fiscal Analyst, clarified this is nothing but a new starting point, and has been made more complicated than it is. Right now, there is a totally incremental budget, and there is no review under normal circumstances of what was spent in the prior year. This says they are going to look at 10%, and it is required in statute that it has to be presented that way. The data has to be provided. The current law was taken from a model in Nebraska. That model works in Nebraska, and it doesn't work here. It was an opportunity for agencies to submit data that so the legislature could prioritize. If they didn't have the money, they could decide to fund the new items, continue funding items, or make a choice. It required discipline on the part of the Executive and the Legislature. What has been submitted has not been useful data. Unless the Legislature or the Executive demand it be useful data, it won't work. Agencies can put up their most popular programs up. The 5% is just make-work for the agencies. The reason the Legislature doesn't see the data is because the Fiscal Analysts don't find the data worthwhile, and he didn't think the Executive does either. His office made an attempt to make that bill work, but there isn't any interest in really doing that. He suggested this bill is something to make that work. It starts at 10% below, and requires that of the agencies. He suggested if the agencies put in their most popular projects, and don't put in the low priority items so there is an opportunity to compare, nothing changes. This will require discipline on the part of the Executive and the Legislature to call the agencies' bluff if they don't use this the way it is intended.

SEN. COONEY asked why the Nebraska model doesn't work here.

Mr. Schenck advised he sat down with the Legislative Fiscal Analyst from Nebraska and discussed this. It didn't work in Nebraska when it first was done. The agencies came in and offered up the law program at the University. The first time it came up, the Legislature got together and took a popular project out and held the agency hostage until they came back in and offered the marginal items. He was not advocating for or against this, but indicated the Legislature has to make it work.

SEN. COONEY thought even under this proposal, the same thing could happen, unless the legislature wants to hold programs hostage and do what was done in Nebraska. Whether using this or current law, the same thing is going to happen.

Mr. Schenck said that is correct. The difference is the legislature doesn't even see what is out there now. This proposal requires it go back to the 90%. It gives the Legislature an opportunity to look at 10% of what agencies are doing now. That can be an advantage, but only if the data is not garbage in.

SEN. COONEY said his other concern is if they were to adopt this, no agency would likely spend under the 90%. There is no incentive to spend under 90%, because there is a good chance their budget would come in lower. He asked **Mr. Schenck** if he had that concern.

Mr. Schenck said he didn't, because this is a starting point for the budget. Right now, it starts at the base level of what was spent before, and the legislature doesn't usually look back. If they wanted to, they would have to vote to take it back. In this case, they will start 10% below, and vote to go back up. There is a difference in the committee voting a positive versus a negative vote. He looked at it as just a starting point, and he couldn't imagine it influencing agencies decisions as to what level not to spend at.

SEN. LAIBLE asked how this would interact with present law.

Mr. Schenck said present law is a benchmark, and he thought it a wise benchmark in terms of knowing whether they are cutting existing services or looking at new services. He didn't see where it has an impact on the concept of present law, it means they have more decision packages to look at in terms of getting there.

SEN. LAIBLE asked if the bill passes, the next Legislature will have individualized packages from each agency to implement present law adjustments as opposed to global amendments to accept them. One of the problems he had, was trying to get a breakdown of what those present law adjustments are within personnel, etc.

Mr. Schenck advised how the decision packages are crafted is up to the Executive. The **Legislative Fiscal Division** works with them, and they cooperate on general concepts of how to get there. It is ultimately their decision. It is hard for the Legislature to have an impact, but they can. Years ago, agencies used to come in and ask for more money for supplies, etc., and it had nothing to do with programs. The process has improved over the years, in that it is at least program related. If the Legislature wants a better breakdown, and not have those decision packages be so large, that is something he didn't think they could do within the context of this bill. He thought it is a valid issue for the Legislature to consider. It would require a change in the criteria in the statute. He suggested an interim study. He didn't think this bill changes that, other than the fact that if they just come in with one decision package that takes them from 90% to 100% without a lot of explanation, not much would be accomplished. It should be program related and broken down to specify what it is. That is one of the unknowns about this bill. Without some guidance and Executive/Legislative cooperation, that won't occur.

SEN. STONINGTON said her initial reaction to the bill was negative, but she was warming up to the idea after listening to the discussion. The frustration of being a Legislator, is it's hard to dig into the inner workings of a bureaucracy and figure out what the lower priorities are. They tend to do across-the-board cuts. The agencies tend to come forward with a MIAMI type project that everyone loves. She said **Director Swysgood** has seen this from the side of a budget director and a legislator, and she asked how he would envision something like this working to the benefit of a state that is having a hard time balancing tax burden with providing services.

Director Swysgood thought everybody gets frustrated in this process. He said he is as frustrated putting a budget together as he was frustrated as a legislator trying to figure out what was in it. He felt the simplest way to do it, is do away with present law, and start from a previous base. Then everything is seen from where the Legislature left at the base level until they leave here again. The problem he had with some of this, is with interpretation. They have an obligation and a right to present a budget based upon what the Executive feels is necessary to run state government. In those decisions that are put in that budget, before this biennium, they didn't really know what went into present law without really digging into it. It didn't matter to him whether they start at 90% or not, they will make it work and do what they think the bill says they are to do. If it is interpreted differently by others, they will defend why they did what they did. He didn't have a problem with more understanding of what goes in the budget.

SEN. STONINGTON said the agencies would be presenting the proposed reductions. She asked how he would compare that to starting at the previous bienniums base of actual expenditures.

Director Swysgood indicated when they go through the process of putting together a budget based on present law, agencies come in with what has happened since the last budget. The budget office looks at that and the base. Sometimes he asked for a different proposal if there is some question about increasing costs. He described why the 15% was unworkable. The 5% list is more realistic. Agencies have realized if they put something on it, they might lose it. He didn't have a lot of concern about the concept, he just wanted to be able to make it work. The Legislative staff just analyzes what the budget office does, makes suggestions, and raises issues. He wanted to be able to implement this the way it is intended if it passes.

CHAIRMAN ZOOK said he always had a problem with the Governor being forced to present a present law budget. He was sure that is in statute somewhere. He asked **Mr. Schenck** to give them a background, and why there was such a statute. It forces incremental increases in the budget. The Governor can come up with a decision package to reduce that, but wondered if it is important to know what it costs to continue services at the present level. He asked for clarification.

Mr. Schenck said the concept of the current law goes back before he was here. He was not sure where it started. He thought **REP. DAVE LEWIS** was part of establishing the concept of current law, which is basically the same as present law. The concept was changed back in the 1990s from current law to present law. A bill sponsored by former **REP. JOHN MERCER** changed it to a present law concept. He suggested it is nothing but a benchmark. He didn't suggest it forces incremental increases in the budget. The starting point of the base is simply a starting point, and it doesn't mean anything in terms of where they wind up. Present law is only a benchmark to where they want to go. He suggested it lets them know a figure of what it would take to continue doing what they're doing. They prioritized the budget two years prior, set a level of what they thought government services should be, and gave an idea of what it would take to continue that. If they didn't have that concept, and they just came in with a budget, they wouldn't be talking about a $232 million deficit. There wouldn't be a benchmark on which to base a deficit. They would have to come up with one that would probably be more arbitrary. They know what it is they're cutting back. If they are not looking at present law, they wouldn't know what services are being eliminated versus carried on. That is something that may catch up with them when they go back home after the session. One of the arguments against unspecified cuts are the unintended consequences constituents are asking about. Present law is simply a benchmark. If it is looked upon as goal they have to reach, he agreed it is going to force budget increases. He didn't think it should be looked upon that way. It should be looked upon as a benchmark to decide whether they want to re-prioritize or not.

CHAIRMAN ZOOK said as far as present law, that isn't what he meant. He was involved in getting that terminology changed. The idea was to make it more accurate as to what it really meant. His point was the Governor has to bring a budget forward that contains present law, and that includes increases.

Mr. Schenck said that is correct.

CHAIRMAN ZOOK said that must be in statute somewhere.

Mr. Schenck said present law is defined in statute and requires the Governor to submit an Executive budget. The Governor cannot be told how much he or she should submit in terms of the total budget. The Governor simply has to provide the Legislature a benchmark of what present law costs, and the decision packages that would get there. They can proceed from that to offer reductions or increases. This is an unusual session, in that present law is something that can't be achieved. That doesn't happen very often. There was confusion with decision packages to get there and then decision packages to get back down. In a normal session, when they're dealing with revenue growth and expenditure growth, and trying to make those match those decision packages, it is a matter of prioritizing as to whether they will get to that present law level. In most cases, the Executive budget will at least get them to present law and beyond. In this session, present law doesn't mean much. In a normal session, he wondered how much difference it made to know that it was present law versus a new proposal. His concept had always been that is does help him to know whether they're dealing with a new program or the existing services.

CHAIRMAN ZOOK remarked no matter what, they seem to spend more.

{Tape: 4; Side: A}

<u>**Closing by Sponsor**</u>:

SEN. KEENAN commented it had been an interesting discussion. He hoped this bill would trigger these kinds of discussions and see where they are going to go. He fully expects Section 1 will be amended out. He discussed Section 2. Regarding the 15% which was changed to 5%, he recalled in 2001, in the Human Services Subcommittee, the **Child Support Enforcement Division** came in with a proposal and it was accepted. Offices were closed down, etc. Section 3 is the result of **Greg Petesch, Legislative Services,** when drafting the bill noted the Legislature is required to have a balanced budget, but there is no requirement in statute that the Executive have a balanced budget at the end of the fiscal year. He felt Section 4 is a reasonable approach that sets the 17-7-140 trigger at a proportionate level going through the biennium. He submitted an amendment that was part of the bill. **Mr. Petesch** wouldn't let him put it in the bill because it is already an option to allow people to donate as they see fit to state government for any agency or subagency or local education agency, etc. He felt given the times, it was important to put that option in front of people. He was hearing from a lot of people to raise their taxes. He wanted to give them the option they don't need their taxes raised, they can contribute some money if they see fit.

EXECUTIVE ACTION ON SB 483

Motion: SEN. KEENAN moved that SB 483 DO PASS.

Motion/Vote: SEN. KEENAN moved a CONCEPTUAL AMENDMENT THAT SECTION 1 BE STRICKEN. Motion carried unanimously.

Motion: SEN. KEENAN moved that SB048301.ATP BE ADOPTED.
EXHIBIT (5)

SEN. KEENAN explained the amendment would require the State Treasurer to provide information on the state website on how to donate funds to any state function. The proposal came out of Arkansas, where Governor Huckeby did that two or three years ago. It has spread to 15 other states.

Discussion:

SEN. ESP said since staff said this was an option already, if the amendment just emphasizes how that can take place. **SEN. KEENAN** said that is correct.

SEN. SCHMIDT said they just passed a similar bill that was a tax credit.

SEN. KEENAN thought it was **REP. HOLLY RASER'S** bill.

SEN. BUTCHER asked if this would set up a special revenue account within these agencies so it is very clearly defined what was donated into the agencies. It would probably be unrestricted. His concern was if it went directly into an agency it might not go where the taxpayer designated it. He asked if this is addressed or if the sponsor feels it needs to be more clearly defined.

SEN. KEENAN said that is not addressed.

Ms. Purdy indicated the language would allow making an unspecified donation to the general fund, or if the donee wished to specify, it would be a private donation of private funds. If a citizen or any organization makes a donation to a state program and says it can only be used for something specific, the state of Montana is obligated to spend it only on that. It essentially becomes a private fund that does not require an appropriation. It could work either way.

SEN. BUTCHER expressed concern about accountability in the process. He wondered if that would be trackable the way this language is without having the special fund designation within the agency.

Ms. Purdy said yes. If he wanted an additional bit of comfort on that, there could be a requirement that a report would be made of any funds received, the purpose for which they were received, and what they were used for. That report could go to the **Legislative Finance Committee.**

SEN. BUTCHER felt that could be very useful for the subcommittees in the Legislature to be aware of those kinds of funds coming in. When the subcommittee within whatever agency is reviewing those budgets, they would be aware $5 million came in for a project. His concern was with that becoming part of the base budget.

Ms. Purdy said he hit on a bigger issue within state government, which is the donation of private funds to state government. None of these funds could be put into the base, because as private funds they would simply not be counted. The question of how much state government spends from private sources is a bigger issue.

CHAIRMAN ZOOK asked if these funds are tracked, and if they are given a different account number. **Ms. Purdy** indicated yes.

SEN. STONINGTON asked if a donation to a program in **DPHHS** be considered a charitable contribution that could be taken as a tax reduction.

Ms. Purdy said she would defer that to more of a tax expert, but her understanding is there are ways to set this up that it would be tax deductible.

SEN. JOHNSON advised if donating to programs in a city or county, a tax deduction can be received, not a tax credit.

Vote: Motion carried unanimously.

ADJOURNMENT

Adjournment: 11:30 A.M.

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SEN. TOM ZOOK, Chairman

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PRUDENCE GILDROY, Secretary

TZ/PG

EXHIBIT(fcs80aad)