

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on April 8, 2005 at 3:30 P.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. Jon Tester (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (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: SB 524, 4/6/2005; SB 525, 4/5/2005

Executive Action: SB 525; SB 524; HB 4; HB 83; HB
119; HB 748; HB 232; HB 18; HB 476
Committee Bill

CHAIRMAN MIKE COONEY announced that **SEN. JON TESTER** would assume the chair.

HEARING ON SB 524

Opening Statement by Sponsor:

SEN. MIKE COONEY (D), SD 40, Helena, opened the hearing on **SB 524**, Revise date of valuation of certain classes of property. SB 524 was a committee bill that was a result of an amendment to HB 2 impacting the Department of Revenue. The Department came forward with a proposal for agriculture and timber land assessment. This bill would allow the Department to move the assessment out one year. The bill was drafted incorrectly; the year 2010 should be 2009.

Proponents' Testimony:

Randy Wilke, Department of Revenue testified the bill extends the date for the reappraisal from December 31, 2007 to January 1, 2009. This bill calls for a slower approach to complete the agricultural classification activity, and they would complete that activity by January 1, 2009. There has been no reclassification for 40 years. The collateral benefit to this would be the implementation of the computer system.

SEN. ROBERT STORY, SD 30, Park City, advised he spoke with the Director about the issue of moving the date. He was the one who moved the date back last session, but agreed in this case with moving the date forward.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. DON RYAN asked about the clerical error regarding the dates and what the correct numbers should be. **CHAIRMAN COONEY** said the first 2009 was correct. Where it says 2010 it should also read 2009.

Closing by Sponsor:

CHAIRMAN COONEY said the committee was well aware of this since it was a committee bill, and he would appreciate their consideration.

CHAIRMAN COONEY assumed the chair.

HEARING ON SB 525

Opening Statement by Sponsor:

SEN. JON TESTER (D), SD 15, Big Sandy, opened the hearing on **SB 525**, School funding formula study. This bill was at the request of Senate Finance and Claims Committee. During this session they defined quality education, worked with HB 63 for the interim funding plan, and the final step is the funding formula. SB 525 establishes a legislative Quality Schools Interim Committee to assess the educational needs of children, to determine the costs of a basic system of education, to evaluate the state's share of costs that allows Montana to live within a structurally balanced budget, and to develop a funding formula. By creating this interim committee, legislators can take the time to thoughtfully develop a funding formula with adequate input. SB 525 calls for the examination of the state's existing projected financial resources as well as the needs and concerns of Montana taxpayers. The interim committee will be a continuation of the current Joint Select Committee on Education Funding. SB 525 will allow legislators to fully implement the definition of quality education that was signed into law by the Governor. The elements of the new funding formula will be comprehensive, complete, and simple. It will include teachers salaries and benefits, funding for students, facilities, transportation, supplies and materials, Indian Education for All, Special Education, Gifted and Talented, etc. SB 525 allows the Legislature to look closely at the needs of quality education in Montana, properly address those needs, and then adequately fund our schools by developing a long-term funding formula that adequately funds quality education. There is \$200,000 in HB 2 for this study. By October 1 the committee must submit a preliminary report and submit a final report by December 1. The committee will be comprised of four representatives and four senators, two from each party.

Proponents' Testimony:

SEN. ROBERT STORY advised he was a member of the Joint Select Committee. The Joint Select Committee started working on the drafting of this bill about ten days previously. There was input from a lot of different people to get the bill workable and acceptable to most of the parties involved in these discussions. They tried to keep the bill relatively general but still have

enough guidelines in the bill so the committee has things it needs to do and a time line. He warned about amendments that tie the hands of the committees. The committee needs to get some things done by October because of the court decision. There was some discussion in the joint committee that this bill may have to be amended in the House Appropriations Committee so they have some money to spend in this biennium. They cannot wait until the first of July to finance some of the work of the committee, especially the needs and costs studies.

Linda McCulloch, State Superintendent of Schools, read from written testimony.

EXHIBIT(fcs75a01)

Jack Copps, Montana Quality Education Coalition (MQEC), rose in support of SB 525. He thanked the sponsor and the Joint Select Committee. The Supreme Court declared the current funding system "constitutionally deficient". The Supreme Court decision also said the Legislature is responsible for providing a "threshold definition" for what constituted quality. A basic system of quality elementary and secondary education was defined in SB 152. The MQEC is grateful for that and for the bipartisan effort that went into the development of that definition. That was an important first step, but there is more work to be done, and the Supreme Court recognized that. They said "whatever definition the Legislature devises, the current funding system is not grounded in principle of quality and cannot be deemed constitutionally sufficient". It is the responsibility of this Legislature to develop a new funding system that correlates the definition of quality to the cost of relevant educational needs. That is what this bill does, and that is why it is so important to this process. They appreciate the language in SB 525 and do not recommend major changes to the bill. They believe there are a few important amendments to further delineate the important work of this interim committee. In Section 1 on page 1 in the grey bill he distributed, there was a list of significant data sources that they believe are essential to the work of the committee.

EXHIBIT(fcs75a02)

In studies where data is segregated from other pertinent data the results are of little value. It is essential, as the work of this interim committee moves forward, that it examine all pertinent data to be sure there is a rich, in depth, comprehensive understanding of K-12 schools and their educational needs. When they arbitrarily pick and choose data, the results are what they intend them to be but are not very reliable.

Objectivity requires a thorough, fair, and comprehensive effort. They believe a bona fide process requires benchmarks, and they suggested three benchmarks. The first would establish the parameters and scope of the needs assessment by June 21. The second was the completion, publication, and dissemination of a committee-approved final report and recommendations by September 21. In the original language in the bill, the bill referred to October 1 for this particular deadline. They included an October 1 deadline with an amendment that reads "completion, publication, and dissemination of final draft legislation for consideration by any special session of the legislature as may be called pursuant to procedures specified in law by October 1, 2005. They believe the work of the interim committee needs to be completed in a timely manner, and if it does not result in a special session, then there will continue to be an unconstitutional funding system for K-12 public schools in this state until the conclusion of the 2007 legislative session. He said that was unacceptable. On page 3 of the grey bill they recommended a change that says "shall examine the state fiscal capacity compared to those resources identified by the committee as necessary to provide for the funding of a basic system of free quality schools". The changed the word "resources" to "fiscal capacity" because they mean two different things. Supreme Court Justice Jim Rice said, "it is the state's fiscal capacity that may provide a limit as to what can be done in terms of funding a quality system, but it is not the existing resources that limit the state's capacity to fund a quality system." There is a possibility that the fiscal capacity of this state may prevent some funding. They also added the words "and other Montana citizens".

REP. CAROL JUNEAU, HD 16, Browning, supplied a letter to the committee with an attachment quoting the Supreme Court decision and the Sherlock case as it pertains to Indian Education for all. She read from her letter in support of the bill.

EXHIBIT(fcs75a03)

{Tape: 1; Side: B}

REP. JUNEAU concluded her remarks.

Eric Burke, MEA-MFT, stood in strong support of SB 525. They believe it is an appropriate step in the right direction of trying to craft a school funding formula for the state of Montana. The amendments offered by the MQEC give more specificity and more guidance to the work plan. Any type of formula will rest on the assessment done by this interim committee, and therefore the assessment has to be based on a good rationale, facts, and best evidence of the actual needs of

Montana schools. It is important that this committee adopts language that will give the interim committee the best chance of getting there.

REP. NORMA BIXBY, HD 41, Lame Deer, testified it was important that Indian Education be a part of this study. Indian educators determined what a basic, free, quality education is for all children in Montana and for American Indian students. Those are stated in SB 152 by **SEN. RYAN** that was signed by the Governor. Those in the Indian community worked hard on determining the educationally relevant factors that funding will be based on. The MIA hired Professional Development Resources to determine the costs to implement Indian Education for all for the whole state of Montana in the public school system. That amount of money was about \$84 million, which was later amended to \$64 million and again to \$23 million. She hoped the interim committee would bring in the experts to look at what it would take to develop a curriculum and build it into the funding formula. Indian Education should be a normal part of the process. That is basically what the constitutional language says and what the Supreme Court said as well. She reiterated **REP. JUNEAU'S** request to include someone from the Indian community with some knowledge of school funding as part of the committee.

Steve Meloy, Montana Board of Public Education, spoke in support of SB 525. They supported the inclusion of ex-officio, non-voting members. Since he has been with the Board of Public Education the Superintendent of Public Instruction and the Commissioner of Higher Education have not missed a meeting of the Board. He urged the committee to resist taking their ex-officio status from them. It is the best way to get their participation in an ongoing manner.

Bruce Messinger, Superintendent of Helena Public School, voiced support for SB 525 as well as the amendments brought forth by **Mr. Copps**. He sat in on the Joint Select Committee meetings and saw a clear need to identify the needs of the children of Montana. There are children in large and small districts that are being under-served by the present system. The AA superintendents and others were ready to serve and provide resources through the process.

Shawn White Wolf, Montana Indian Education Association, stated they would like to see Montana Indians included in the language of the bill.

Mary Whittinghill, Montanan Taxpayers Association, rose in full support of SB 525. They had the opportunity to work with both the definition committee in the House and the Joint Select

Committee on funding and enjoyed building communication with the education community. She stated they have no problem with the amendments. They like the language in the bill that encourages public participation of citizens and taxpayers and look forward to working with the committee.

Lance Melton, Montana School Boards Association, noted they worked with MQEC to propose the amendments, and they support those amendments. They also support the amendments suggested by **REP. JUNEAU**. They think it is important to have part of the process dedicated toward addressing Indian education under the Constitution.

Dave Puyear, Montana Rural Education Association (MREA), stated strong support of the proposal of MQEC. The needs assessment is important to educators across the state, and the time line is important.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. GREG BARKUS said he struggled with the term Indian Education for All ever since he first heard it. He asked if Indian Education would be provided to all segments of the population.

REP. BIXBY responded the lawsuit was for K-12. Indian Education for All would be implemented for the K-12 school system in Montana. Once those young people are educated, they can hopefully educate others, especially parents and grandparents.

SEN. JOHN COBB asked **Mr. Copps** about the use of the phrase "any available data". That means anything that anybody wants to bring to the committee has to be analyzed. He thought there should be some flexibility so the committee does not have to look at everything. **Mr. Copps** advised the intent was the committee would look specifically at this data and make decisions as to what other information would be relevant.

Closing by Sponsor:

SEN. TESTER thanked everyone who testified. Public input will be critical to the process to get the job done right. He thought this committee should be thanked for bringing this bill forward, and he thanked the Joint Committee for the work they have done. He stressed it is critical, as this bill advances, that the Legislature maintains control of the process. He asked that they act as quickly on the bill as they comfortably can.

Recess 4:17 p.m.

Reconvene 4:20 p.m.

EXECUTIVE ACTION ON SB 525

{Tape: 1; Side: B; Approx. Time Counter: 21.2}

Motion: SEN. SCHMIDT moved that SB 525 DO PASS.

Discussion:

SEN. CAROL WILLIAMS inquired why there was no line item for Indian Education for All. SEN. RYAN advised there was no exclusion. The committee itself will be eight legislators and three ex-officio groups. They did not bring any other groups into it like they did in the K-12 School Renewal. All of the various interest groups will be part of the public participation. He considered the Native Americans to be members of the public. If they want to be included in the language, that is not a problem, but they will be part of the process.

Motion: SEN. RYAN moved that SB052501.ACE BE ADOPTED.

EXHIBIT (fcs75a04)

Discussion:

SEN. RYAN said this is a technical amendment to clean up the language.

SEN. TRUDY SCHMIDT asked if they do not plan to conduct any more studies and plan to use existing studies. SEN. RYAN indicated there will be a needs assessment. They will use all available studies including current ones and studies to be conducted.

Vote: Motion that HB052501.ACE be adopted carried unanimously by voice vote.

Motion: SEN. COBB moved that SB 525 DO PASS AS AMENDED.

Discussion:

SEN. RYAN addressed the grey bill. He said he understood the concerns of the educational community. He and SEN. TESTER had a brief discussion, and it was the same discussion heard in the joint committee. They want to give the committee flexibility to do what they need to do. They are very aware of the data that is

out there and want to make sure to access it all. They want to make the language as clean and simple as possible and to get started as quickly as possible.

SEN. TESTER inquired about accessibility to money before July 1. He asked if the cleanest way to add that was when this bill gets over to the House. **Taryn Purdy, Legislative Fiscal Division**, advised, it is.

Vote: Motion that SB 525 DO PASS AS AMENDED carried 17-0 by voice vote.

EXECUTIVE ACTION ON SB 524

{Tape: 1; Side: B; Approx. Time Counter: 30.1}

Motion: SEN. COBB moved that SB 524 DO PASS.

{Tape: 2; Side: A}

Motion/Vote: SEN. COONEY moved a CONCEPTUAL AMENDMENT to strike "2010" and insert "2009". Motion carried unanimously by voice vote.

Motion/Vote: SEN. COONEY moved that SB 524 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 4

{Tape: 2; Side: A; Approx. Time Counter: 0.1}

Motion: SEN. COONEY moved that HB 4 BE CONCURRED IN.

Motion: SEN. COONEY moved that HB000402.AJW BE ADOPTED.

EXHIBIT(fcs75a05)

Discussion:

Ms. Purdy explained in the current year, 2005, there are certain funds that become known when the Legislature is in session. When they are in session the Legislature is the budget amendment authority. HB 4 contains all of those funding sources that were known to be available to agencies since the Legislature went into session. Any new funds that are known to become available to agencies after this point but not known before this point can be added to a budget amendment after the Legislature leaves. If any

funds are known about now and are not in this bill, it is illegal for those funds to be added through a budget amendment after the Legislature leaves. These budget amendments represent the last of those funds that are known to be available.

CHAIRMAN COONEY referred to item #2 on page 2. **Ms. Purdy** advised this is homeland security money. These are monies that the Disaster and Emergency Services Division has known about for some time. This represents all of the homeland security money they are anticipating in this year. They are also anticipating some money in the next biennium but do not know how much it is going to be. The Division did not bring these funds to the Legislature for discussion. They left it to the budget amendment and pretty much left it to the last minute. She did not have any options for the committee but noted that if they do not approve these funds now, the funds cannot be spent. The Legislative Fiscal Division will be working with the Executive to insure that a major component of public policy like homeland security is not left out of the legislative discussion.

Vote: Motion that HB000402.AJW be adopted carried 11-0 by voice vote.

Motion: SEN. COONEY moved that HB000403.AJW BE ADOPTED.

EXHIBIT(fcs75a06)

Ms. Purdy advised these are amendments that came in after the previous amendment was drafted. If there are any questions she would defer them to the budget office.

Vote: Motion that HB000403.AJW be adopted carried 11-0 by voice vote.

Motion: SEN. COONEY moved that HB 4 DO PASS AS AMENDED.

Discussion:

SEN. GREG LIND asked for the total of the spending authority that was just amended into the bill. **Amy Sassano, Office of Budget and Program Planning (OBPP)**, advised what was in the bill prior to these amendments was about \$67 million. That is a moving target because the bill re-appropriates money in the next biennium that is not spent when it is currently appropriated. She had not added up the amendment. **SEN. LIND** asked if incorporating these appropriations into this bill is an end-run around the carry forward savings. **Ms. Sassano** advised these funds are primarily federal funds that are received either during

the interim or during the session and this carries those forward. The 30 percent carry forward funds are only for HB 2 appropriations. **SEN. LIND** inquired if it was possible to get this information earlier in the session. **Ms. Sassano** indicated the introduced version of the bill is everything they know of through about the third week in September. The amendments they offer in House Appropriations Committee are any grants agencies become aware of between that date and when that bill is heard in the House Appropriations Committee. The amendments are any of those new federal funds that they became aware of between House Appropriations Committee and this committee. **SEN. LIND** wondered if there might be some incentives in the system to delay notification.

SEN. BOB HAWKS observed many times there is a matching arrangement for federal funds and the authorization of those matches has to go through the Legislature. He asked if there is prior approval in those situations for the use of these funds.

Ms. Sassano indicated the budget amendment statute is pretty clear; it primarily authorizes federal funds and authorizes some other funds in very specific circumstances. In most cases it is absorbed within an agency's existing HB 2 budget. **SEN. HAWKS** asked about legislative intent in those cases and if there is some provision in this mechanism for legislative intent to prevail. **Ms. Sassano** advised she was not sure how to answer that. There is a section in the statute that a budget amendment cannot be approved if it obligates general fund in the future. These are primarily one-time projects, and if they were ongoing those funds would be requested in HB 2.

SEN. DAN WEINBERG asked if **Ms. Sassano** was aware of anybody that deliberately slowed down the process and kept this information from the Legislature until today. **Ms. Sassano** said she could not answer that with 100 percent certainty. Her office sends regular correspondence to agencies to encourage them to get the budget amendments in as soon as they can because the statute is very specific. There have been cases in the past when they disapproved budget amendments because the contract award date was prior to the Senate Finance and Claims Committee. She thought the agencies do not want to risk losing the spending authority.

SEN. WEINBERG wondered if he was the only one who was uncomfortable and asked again whether anyone is deliberately delaying the process to do this. **Ms. Purdy** clarified this is a constitutional issue. The only reason the budget amendment law exists is because the Legislature voluntarily gave up a portion of their constitutional appropriation power. They recognized that when they are not here the federal government does not stop working. Agencies continue to receive money from the federal government that they did not know about or maybe they applied for

and did not receive word back. That is the reason for the bill. When the Legislature is gone the law allows the Interim Finance Committee to review these. The Interim Finance Committee does not formally review them before they are approved by the budget office, but they do review what budget amendments were approved. The legislative fiscal staff looks at every budget amendment that comes through and makes a determination of whether or not those appear to meet the statutory requirements including whether or not the Legislature could have looked at that budget amendment. She assured **SEN. WEINBERG** that people from the legislative branch look at these after the Legislature adjourns.

SEN. COREY STAPLETON inquired about page 9, line 22 and an amendment in Section D of HB 2 regarding food stamps. **SEN. COBB** advised this is 2005 food stamps. The amendment he did was for the next biennium. The budget office requested spending authority for the \$6-10 million. **SEN. STAPLETON** asked about the Chaffee education vouchers. He indicated he could get the information later.

SEN. LIND asked if these funds are restricted and would not be used for other purposes. **Ms. Sassano** replied, no.

Vote: Motion THAT HB 4 BE CONCURRED IN AS AMENDED carried 11-1 by voice vote with **SEN. STAPLETON** voting no.

CHAIRMAN COONEY advised he would carry the bill on the floor.

EXECUTIVE ACTION ON HB 83

{Tape: 2; Side: A; Approx. Time Counter: 17.6}

Motion: **SEN. HAWKS** moved that HB 83 BE CONCURRED IN.

Discussion:

SEN. HAWKS recalled this is an efficiency move by the Office of Public Instruction (OPI). Currently the local school district is taking funds from the 55 mill fund and paying foster home care and court placement care in their local districts. These care and the reimbursement rates are complicated. That complication led to errors in the payment of these fees, and once those payments are made at the local level it is nearly impossible for OPI to go back and get reimbursements or get overpayments back. The levy comes to OPI, they pay those requests, and the funds are sent back to the local level. Because of that shift the bill generates some pass-through expense and shifts some work from the local level to the state level.

Vote: Motion carried 9-4 by voice vote with SEN. BALES, SEN. BARKUS, SEN. ESP, and SEN. LAIBLE voting no.

SEN. HAWKS would carry this bill on the floor.

EXECUTIVE ACTION ON HB 748

{Tape: 2; Side: A; Approx. Time Counter: 25.2}

Motion: SEN. COONEY moved that HB 748 BE CONCURRED IN.

Discussion:

CHAIRMAN COONEY stated this is a bonding bill for \$5 million for water resource projects.

Cathy Duncan, Legislative Fiscal Division, advised the bill was brought by the Long Range Planning subcommittee. The bill replaces the appropriation of TSEP regional water funds for this coming biennium and allows them to bond. The bill relieves the pressure on the cap and allows for the funds to be available should the federal match come in quicker.

Vote: Motion that HB 748 BE CONCURRED IN carried 11-3 by voice vote with SEN. BALES, SEN. KEENAN, and SEN. STAPLETON voting no.

EXECUTIVE ACTION ON HB 232

{Tape: 2; Side: A; Approx. Time Counter: 29.6}

Discussion:

Ms. Purdy said this is REP. MARK NOENNIG'S bill to maintain the court assessment fee for the court IT. She indicated this bill has been completely superceded by HB 536, REP. TIM CALLAHAN'S bill, which keeps the court assessment fee in place indefinitely. She believed this bill is no longer necessary.

Motion: SEN. SCHMIDT moved that HB 232 BE CONCURRED IN.

{Tape: 2; Side: B}

SEN. ESP asked if the court assessment fee flows into the general fund. Ms. Purdy advised the way HB 536 works is the fee goes to the general fund and general fund is used to fund court IT.

SEN. LIND inquired if the other bill has been transferred to the Governor. **Ms. Purdy** said it is either on third reading in the Senate or has just passed third reading.

Motion/Vote: **SEN. BARKUS** moved that HB 232 BE TABLED. Motion carried 15-0 by voice vote.

EXECUTIVE ACTION ON HB 18

{Tape: 2; Side: B; Approx. Time Counter: 3.1}

Motion: **SEN. SCHMIDT** moved that HB 18 BE CONCURRED IN.

Discussion:

SEN. STAPLETON asked why the \$120,000 was not spent or reverted. **Ms. Purdy** advised these funds have been in this account for four to six years. None of them were spent for a while and this act was extended. If this does not pass, and that fund were to expire then the \$120,000 would go into the general fund. She spoke to **Evan Barrett, Governor's Office**, who told the State-Tribal Economic Development Commission not to spend any money out of this account. **SEN. STAPLETON** asked why the bill was needed. He said he missed the hearing but recalled the conversation four years ago when the Commission was given \$200,000 with the intention of having some meetings. **SEN. HAWKS** advised that was discussed in the hearing. According to **Andy Poole, Department of Commerce**, the commission met and things were beginning to gel. He said it would be unfortunate to stop now. **SEN. STAPLETON** asked if **SEN. HAWKS** was comfortable with the bill. **SEN. HAWKS** said he would support it given what he heard.

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

EXECUTIVE ACTION ON HB 476

{Tape: 2; Side: B; Approx. Time Counter: 10.8}

Motion: **SEN. SCHMIDT** moved that HB 476 BE ADOPTED.

Discussion:

SEN. LIND asked if this is included in HB 2. **Ms. Purdy** indicated it was not. **CHAIRMAN COONEY** advised if this bill is passed this would have to be put in conference committee.

SEN. HAWKS asked for a description of the testimony. **SEN. SCHMIDT** said there has been a marriage license fee increase in 26 other states, and it has been 24 years since the fee has been increased for Montana. Proponents included the Board of Crime Control and Pam Bucy from the Attorney General's office, among others. **CHAIRMAN COONEY** recalled there is coordinating language with SB 67, **SEN. BRENT CROMLEY'S** bill, which also increases the marriage license fee. The dollars that would be raised through the increase in the fee would be used to set up some pilot projects around the state. This was done in Lewis and Clark County, and it has been a successful program. They were hoping to raise additional dollars through grants to set up the program in other communities around the state. The Board of Crime Control would fund up to two communities to provide compliance monitoring for defendants convicted of the first and second offense. This bill was heard on second reading and was referred to this committee because of the fiscal note.

SEN. LIND advised there is a problem with pursuing followup on the perpetrators of adult misdemeanors. Only three counties in the state have individuals that follow up on the fines and the compliance. A program was instituted in Lewis and Clark County that by all testimony was extremely successful. It provides a funding source and a solution.

SEN. ESP remembered it the same way, but thought the money should be raised privately. He did not think they should raise the fee to do the program at this time.

Substitute Motion/Vote: **SEN. STAPLETON** made a substitute motion that HB 476 BE TABLED. Motion failed 9-10 by roll call vote with **SEN. BALES, SEN. BARKUS, SEN. COBB, SEN. ESP, SEN. HANSEN, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON** voting aye. **SEN. BRUEGGEMAN** voted aye by proxy.

SEN. LAIBLE commented they were talking about domestic violence and making the assumption that because people get married that there is a direct correlation. He claimed that there is more spouse abuse among unmarried people than among married people. He did not hear testimony in that regard, but he thought they were punishing the wrong people. This is the wrong message to send people that do not get married. He thought they should pass a bill that says if you want to live together you have to get a permit and then let them pay for this. He said he would vote against the bill.

SEN. WILLIAMS favored putting an earmarked amount of money in the budget for this, but she did not think they would get the votes.

SEN. WEINBERG favored putting the bill back in their folders and addressing it the following week to give them time to get more information.

SEN. SCHMIDT withdrew her motion.

SEN. ESP thought these sorts of things can be done with private funds. He recalled that **SEN. WILLIAMS** had a motion on the floor that had to do with drop-in centers for the mentally ill. In his area there is a drop-in center in Billings. That could not be funded in the budget, and at the end of their fiscal year when the money ran out **REP. ROY BROWN** and he, in cooperation with the Billings Gazette and others, did a fund raiser. In about two weeks they raised enough money to fund the center for that year and about a third of the next year. He thought these sorts of things are important enough to find the money to do them in those communities. He thought that is entirely appropriate for something like this.

SEN. LIND questioned the idea of raising private funds to fund adult misdemeanor probation officers. **SEN. ESP** was not sure how the mechanics of it would work, but he thought if people put their heads together in the community they could figure it out. Anybody can give money to the Montana state government and direct it for any purpose they want.

EXECUTIVE ACTION ON COMMITTEE BILL

{Tape: 2; Side: B; Approx. Time Counter: 23.4}

SEN. COBB referred to the draft of a committee bill that excluded money dedicated for a specific purpose by means of a ballot issue or provider tax from the state expenditure calculations.

EXHIBIT(fcs75a07)

He indicated this is the last day to ask for a committee bill. The provider taxes on the nursing homes and hospitals match with federal dollars. There are certain things that are already excluded from the expenditure calculations such as federal money, etc. This would take about \$130 million out of the state expenditure calculations. The Legislature has no control over ballot initiatives, and the provider taxes are something that the providers put on themselves in order to raise money.

Motion: SEN. COBB moved FOR A COMMITTEE BILL TO EXCLUDE BALLOT INITIATIVE ISSUES AND PROVIDER TAXES FROM STATE EXPENDITURE CALCULATIONS.

Discussion:

SEN. BARKUS held that this is the wrong direction. He did not think that the people going to the polls have the ability to review the budget in the kind of detail and with the kind of scrutiny that is necessary to make sure the overall government budget does not grow too fast. He would concur with a committee bill for a ballot initiative that asked the people of Montana if it is okay to increase the spending cap and allow government to grow faster than the underlying economy. He thought this was part of the shell game. He stated respect for SEN. COBB and his ability to get into the budget and work the details to the benefit of health and human services and said he appreciates that work.

SEN. LIND asked SEN. BARKUS to provide a rationale for why the legal arrangement for the provider tax comports in any way with economic growth and why those two things should be tied together. SEN. BARKUS said he was speaking more to the ballot issues and not the provider tax.

SEN. KEITH BALES said he supported the provider taxes but was somewhat concerned about them. The reason for those taxes was to get federal funds that would bring the provider rate up to 80 percent. The problem he saw was the impact if the federal government starts reducing funding and then taxing the institutions and cutting them at the same time. He thought flexibility was needed.

SEN. ESP thought something needs to be done but in a less politically charged atmosphere or session. The way they have to count expenditures does not necessarily track logically. He did not think this was the time to sort this out.

{Tape: 3; Side: A}

SEN. LAIBLE expressed concern about unintended consequences. The hospitals have imposed these fees on themselves. He wondered if there would be a problem if the Legislature put a provider tax on someone else even though the patients were paying for that provider tax. SEN. COBB advised he was just asking for a committee bill, and this does not have to be a committee bill hearing. His intention was to include the provider tax for nursing homes and hospitals. SEN. LAIBLE reiterated his concern. SEN. COBB said this would amend existing law.

SEN. WILLIAMS thanked **SEN. COBB** for doing this. She was concerned all session that the people of Montana directed the Legislature to do something through the initiative process. In a lot of ways they trumped the Legislature because they said these funds need to be spent on certain programs. She did not think the Legislature should be held to the cap because of decisions the public has made. She said she would support the motion.

SEN. HAWKS commented these sorts of arrangements that they make for federal funds are not long-term. He thought they need to keep this in mind, but take advantage of it while they can.

CHAIRMAN COONEY asked if the motion carries when there would be a bill. **SEN. COBB** said he talked to **Greg Petesch, Legislative Legal Services**, and this could be written up right away. They have until the end of the session to get this done. This is the last day to ask for a committee bill to implement HB 2.

SEN. ESP asked **SEN. COBB** if he spoke with **Mr. Petesch** about the ramifications of pointing out to the federal government that the provider tax is not thought of by the state of Montana as real money and real expenditures. **SEN. COBB** said any money they receive from the federal government is already excluded. It is all real money; the question is if it should count against the cap. **SEN. ESP** expressed concern about calling attention to this and any legal ramifications.

SEN. BARKUS asked if the provider tax refers to the funds paid by the local providers and not the federal funds coming back to match those. **SEN. COBB** said this would exclude provider taxes for hospitals and nursing homes and refer back to those statutes. This would not include intergovernmental transfers. **SEN. BARKUS** said these dollars are paid by insurance companies and private pays in institutions and are being paid back to the state as a provider tax by the institutions. **SEN. COBB** said it is a charge per bed per day. How they get the money is their own problem.

Vote: Motion carried 12-7 with **SEN. BALES**, **SEN. BARKUS**, **SEN. ESP**, **SEN. KEENAN**, **SEN. LAIBLE**, and **SEN. STAPLETON** voting no. **SEN. BRUEGGEMAN** voted no by proxy.

ADJOURNMENT

Adjournment: 5:40 A.M.

SEN. MIKE COONEY, Chairman

PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT ([fcs75aad0.PDF](#))