MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on March 15, 2005 at 9:00 A.M., in Room 317 Capitol.

ROLL CALL

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

Members Excused: Sen. Bob Keenan (R)
Sen. Don Ryan (D)

Members Absent: None.

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

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

Committee Business Summary:
Hearing & Date Posted: HB 301, 3/4/2005; HB 53, 3/8/2005; HB 28, 3/8/2005; SB 501, 3/10/2005
Executive Action: SB 100; HB 301; HB 28

HEARING ON HB 301

Opening Statement by Sponsor:

REP. KATHLEEN GALVIN-HALCRO (D), HD 26, Great Falls, opened the hearing on **HB 301,** Revise use of Lewis & Clark license plate funds. Four entities would receive allocations from a state special revenue account, and the monies would be divided equally to support projects that are related to Lewis and Clark. These entities include the Lewis and Clark Interpretive Center Foundation in Great Falls, Pompeys Pillar Historical Society in Billings, Travelers' Rest Preservation and Heritage Association in Missoula, and the Montana Historical Society.

Proponents' Testimony:

Hal Stearns, Immediate Past-President, Montana Lewis and Clark Commission, spoke in favor of preserving the Lewis and Clark license plate. The dollars are equally divided, and will go a long way towards insuring what the Commission has been about since the beginning--to continue the legacy.

Jay Russell, Executive Director, Lewis and Clark Interpretive Center Foundation, rose in support of the bill, reading from written testimony.

EXHIBIT(fcs57a01)

Arnie Olson, Montana Historical Society, testified in support of HB 301, reading from written testimony.

EXHIBIT(fcs57a02)

Loren Flynn, Traveler's Rest Preservation and Heritage Association, spoke in support of the bill. He read from written testimony.

EXHIBIT(fcs57a03)

James Parker Shield, Vice-Chairman, Little Shell Tribe, testified in support of SB 301. The afore-mentioned facilities will tell the Lewis and Clark story and will also provide venues to tell the Indian story. He felt the license plate funds would help long-term sustainability of visitation and tourism, which is important to the future of economic development and cultural exchange in Indian County. Their tribe will benefit from continued visitation at these sites, especially Lewis and Clark Interpretive Center in Great Falls, long after the Bicentennial.

Stuart Doggett, Montana Innkeepers Association, advised they support HB 301. He thanked the bill's sponsor for bringing this forward and concurred with previous testimony. They are looking forward to the Lewis and Clark signature events. Tourism generates $9 billion a year to the economy from non-state residents, and provides 37,000 jobs in the state. The funding from these license plates will fund these three programs well into the future.

Clint Blackwood, Montana Lewis and Clark Bicentennial Commission, rose in support of HB 301. The goal of the commission was to prepare the state, coordinate activities for the Bicentennial, and sustain the interest in the Lewis and Clark legacy. There is a 70% return rate on visitation.

Amy Grmoljez, Montana Tourism Coalition, advised the Coalition believes that the Lewis and Clark adventure has greatly benefitted Montana, and they appreciate the sponsor bringing this bill forward.

Ronda Carpenter Wiggers, Great Falls Chamber of Commerce, addressed the fiscal note, and declared this is a good use of this money. This does not affect the spending cap. The technical notes in the fiscal note refer to administrative costs, which she contended is for writing three checks. She referred to page 4, lines 14 and 15, that says the Department is to determine what this money is used for. That does not seem to fit with the rest of the bill. She was not sure that oversight was necessary, nor the $5000 in administrative costs to write three checks.

Stephanie Ambrose Tubbs, Foundation Board, Lewis and Clark Interpretive Center, testified, in many ways, she grew up on the Lewis and Clark trail. Her father wrote the book *Undaunted Courage*. She asked for support of HB 301. One of the great opportunities of the Bicentennial is to show visitors a good time, so they will tell others about it and want to return. She stressed that the competition for those trail travelers is stiff and will continue to be so after the Bicentennial. Speaking on behalf of Montana's Lewis and Clark trail advocates, she said she wants those travelers to have a quality experience in Montana. Her father said many times that, of all the trail states, Montana has the best sites and the most important stories related to the expedition. These three entities need help and support to teach those stories to the citizens of America. Sustaining interest in the Lewis and Clark trail by supporting those entities should be a priority.

Phyllis Friesz, Great Falls, testified these three sites are nationally known. The Bicentennial is just the beginning; these

sites will continue to promote the story for years to come. People who buy the Lewis and Clark License plates want and expect that their support will go to Lewis and Clark activities. These three sites have newsletters, large databases, and can promote the purchase of these license plates. She strongly urged the committee to vote for HB 301.

Steven, Kubick, Chairman, Upper Missouri Lewis and Clark Bicentennial Commission, encouraged support for the bill. This will provide a legacy to carry through to the Tricentennial in 3003.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

CHAIRMAN MIKE COONEY commented that this is an expenditure and will apply towards the cap.

SEN. BOB HAWKS asked **Mr. Stearns** about dividing the money equally and assumed the need is equal. He asked if the Montana Historical Society is included. **Mr. Stearns** replied, yes. **SEN. HAWKS** asked if Three Forks plays a role in the celebration of the Bicentennial. **Mr. Stearns** said it is a key part of the Montana story. The state park at Three Forks has a new interpretive site. The Commission hopes to use the contingency dollars to continue with the upkeep of signs. That would involve the Headwaters State Park. **SEN. HAWKS** inquired if that source of funding would be adequate. **Mr. Stearns** said the issue is to keep the dollars flowing for maintenance and upkeep. There is a strong commitment to do that.

SEN. KEITH BALES asked what type of activities are going on in the Sidney area where the Yellowstone and the Missouri come together. He wondered if there was a need for some follow through in that area. **Mr. Stearns** advised there is a marvelous relationship between Montana and North Dakota at Fort Union. The first of the commemorative events of this year will take place on April 29, 30, and May 1. There are fourteen regions and commissions in Montana and all are involved with the idea of continuing with the maintenance and upkeep of signs and the right-of-ways of signs to help direct people to the various sites. **SEN. BALES** asked whether there is anything in the area that will need further funding into the future. **Mr. Stearns** indicated the National Park Service is involved with Fort Union. The story of the expedition in the area around the Yellowstone confluence with the Missouri and the story of the Native

Americans of that area will continue to be told. The signs will go a long way towards that.

SEN. RICK LAIBLE observed, in the fiscal note, the revenue will be increasing at 7.6% per year. He asked **Mr. Olson** about committing to long-term projects. **Mr. Olson** indicated it is hard to predict the future in terms of license plates. Currently, about 50% of license plate renewals are by mail. There will be continuation, but there will be attrition at some point. This is a diminishing funding source over time. They have to be careful not to commit to something without the funds to continue. This will enhance what they are doing as long as the money is there; when it is gone it is gone. **SEN. LAIBLE** expressed concern about the dollars dropping off and wondered about sustaining interest in the future. **Mr. Olson** advised this is just one of several sources of funding. He did not know if there will be interest thirty years from now. In the foreseeable future, that interest is there.

Closing by Sponsor:

REP. GALVIN-HALCRO emphasized that everyone involved agreed that it should not cost $5000 to write four checks a year. Regarding **SEN. LAIBLE'S** concern about the waning of interest in the license plates, she said people would continue to contribute to those organizations. She is a teacher of U.S. history and takes 150 students to the interpretive center if Great Falls. There are more than a thousand students from Great Falls that go to the interpretive center.

{Tape: 1; Side: B}

HEARING ON HB 53

{Tape: 1; Side: B; Approx. Time Counter: 2.2}

Opening Statement by Sponsor:

REP. HAL JACOBSON (D), HD 82, Helena, opened the hearing on **HB 53**, Conform Board of Horse-racing laws to GASB. **REP. JACOBSON** indicated HB 53 is a committee bill of the Legislative Audit Interim Committee. Currently, revenues from the Board of Horse-Racing are deposited into an agency special account. That is not acceptable under federal accounting guidelines. The monies should be deposited in a state special revenue account. The bill was heard in the State Administration Committee.

Proponents' Testimony:

John Northey, Legislative Audit Division, said state law requires that the state accounting system be in accordance with Generally Accepted Accounting Principles (GAAP). This bill will bring it into compliance by requiring the funds to be deposited in a state special revenue fund, rather than the state agency fund. This is a technical accounting issue.

Sam Murfitt, Board of Horse-Racing, supported the minor change, but expressed concern about the $400,000 shown in the fiscal note. This is pass-through money that was kept by the Board of Horse-Racing for the racetracks. Once a year, the money is distributed back to the racetracks.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. DAN WEINBERG asked **Mr. Northey** about the federal mandate and what happens if they do not comply. **Mr. Northey** said this is not technically a mandate from the federal government. There is a body of governmental auditors that draws up standards. The purpose is uniformity in financial statements. Under those standards, these funds are being improperly accounted for. When the Legislative Audit Division audits a state agency, they not only count the dollars that the agency handles, but they also test for compliance with applicable state and federal laws and regulations. They found non-compliance and are required, under auditing standards, to report that. They never recommend that the law be ignored; it is either complied with or changed. They are recommending that the law be changed. This does not change the source, the amount, or the disposition of the funds. It is only the name of the account.

SEN. GREG LIND asked about the turnover in this account. **Mr. Murfitt** replied they try to distribute all of it. The $400,000 is the most they had in the account. This last year it was $380,000. Their goal is to give it all back. The dollars are distributed based on race days.

SEN. LAIBLE asked if this applies to the cap. **CHAIRMAN COONEY** replied that is the reason the bill is before the committee; state special revenue monies apply to the cap. **SEN. LAIBLE** said it is the same amount of money, they are still appropriating it the same way, and he wondered about the logic that this would apply to the cap. **CHAIRMAN COONEY** responded that all state special revenue monies, as well as general fund monies, are the dollars that apply to the cap. The reason they capture these

bills is to find out where they are in terms of the cap. If they have to make cuts in order to stay below the cap, they will have that opportunity. If they let these bills pass and get signed into law, they have lost that opportunity.

SEN. JOHN ESP asked **Mr. Northey** if it makes any difference if the bill goes into effect on July 1 instead of October 1. **Mr. Northey** said, ideally, that would be appropriate. If they amend the bill, it will go back to the House. From an audit perspective, they do not care; they care about the action to correct the problem.

Closing by Sponsor:

REP. JACOBSON said the bill becomes yet another piece in the mosaic called the state budget.

HEARING ON HB 28

{Tape: 1; Side: B; Approx. Time Counter: 13.9}

Opening Statement by Sponsor:

REP. DAVID WANZENRIED (D), HD 97, Missoula, opened the hearing on **HB 28,** Reserve funds for large-scale IT and equipment for Legislature. These funds can only be used for major Legislative Branch information technology projects. They are faced with the prospect of replacing some expensive and obsolete systems, such as the voting boards in each House. The cost of replacing each one of those will range between $500,000-$600,000. The policy question is whether to run government like a business. They rely on one-time monies to take care of those needs. This bill suggests following a practice used in the private sector to set up a reserve account and to fund it on an ongoing basis. Agencies are allowed to carry forward 30% of unexpended funds in their appropriation. This bill proposes allowing the Legislative Services Division to reserve part of that 30%. Deposits to the account reduce general fund reversions; however, long-range impact to the general fund is zero. The bill would allow depositing unexpended money from the feed bill. The Senate President and the Speaker of the House would determine what part of that money would be put in the reserve account. The money in the reserve account can only be expended at the direction of the Legislative Council. The mainframe could cost from $500,000 to $1 million to replace. The Word Perfect system that operates LAWS is scheduled to be replaced in the next three or four years and will cost from $500,000 to $900,000.

Proponents' Testimony:

SEN. JOHN BRUEGGEMAN asked to be on record as a proponent.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. ESP referred to the comment about the President of the Senate and the Speaker of the House. He said he could not find that in the bill. **REP. WANZENRIED** advised page 2, line 29, refers to the approving authority. In the case of the House, that would be the Speaker of the House, and, in the case of the Senate, that would be the Senate President. They would make the recommendation of what would be deposited in the account. It would not be expended without the specific endorsement of the Legislative Council. **SEN. ESP** thought the budget director was the approving authority. **REP. WANZENRIED** indicated the budget director is the approving authority for the carry forward on line 22 of the bill. **SEN. ESP** asked why the budget director would not be the approving authority for Subsection (b). **REP. WANZENRIED** said he would have no objection to that.

SEN. BALES thought all the other departments and branches of government are facing the same problems as the Legislative Branch with software and hardware updates. He asked why this is simply for the Legislative Branch and not all of state government. **REP. WANZENRIED** suggested the Legislative Branch is further ahead than the Executive Branch in projecting those needs and having a plan to deal with replacement costs associated with that. Whether to extend the idea through the entire Executive Branch is a policy question and would make a good business practice as well.

SEN. JON TESTER said he could only think of a few accounts this would apply to. **REP. WANZENRIED** indicated it would apply to the budgets of the Audit Division, the Legislative Services Division, the Finance Division, and the feed bill. **SEN. TESTER** asked how many dollars were in the reversion in this biennium. **Karen Berger, Legislative Services,** said in the current year they will possibly revert close to $620,000. That is a total of carry forward appropriations that are left over at this point in time between the four programs. **SEN. TESTER** asked what percentage that was of the total budget. **Ms. Berger** said the budget of the Legislative Branch at the beginning of any biennium exceeds $20 million, and that includes the feed bill. **SEN. TESTER** asked **REP. WANZENRIED,** since they are talking about Legislative Branch

budgets, why they would want OBPP determining how this money was expended. **REP. WANZENRIED** declared, if that helps insure that the bill passes, he was willing to concede that. He recognized there is a separation of powers issue. His guess was it doesn't make any difference; if leadership in the Legislature can agree, it would seem as though the budget director would see to it that the money would be spent in that manner. He maintained the bill is good public policy.

SEN. GREG BARKUS said there was a bill that came before this committee and passed through the Senate that increases the 30% to 50%. **CHAIRMAN COONEY** advised that was **SEN. BRUEGGEMAN'S** bill. It passed the Senate and is probably sitting in the House. **SEN. BARKUS** said these are legislatively appropriated dollars that are not spent and are reverted back to the agency. The discretion to spend is given to the Legislative Council. They are taking an appropriation that is approved by the entire body, and now the appropriation is only approved by the Legislative Council. **REP. WANZENRIED** explained if there was $100,000 at the end of year, up to $30,000 could be deposited in this reserve account. The Legislative Council would determine whether to spend those monies to replace any one of these systems. Whether or not it would be appropriate to have the entire Legislature involved in making the decision in replacing those systems is a policy question. The Leadership would be involved in making the decision if the money gets to a certain level and that system needs to be replaced. There would probably be some advance notice to the Legislature prior to the session if they were planning to replace the voting system. This bill insures that there will be money available when that time comes. **SEN. BARKUS** asked if he is correct in stating that they are taking an appropriation that is approved by the entire body, it is unspent and reverted back, and now the appropriation authority lies with the Legislative Council. They have full ability to approve the appropriation. **REP. WANZENRIED** replied, yes.

SEN. TESTER asked if the $620,000 is the total reverted amount. **Ms. Berger** replied that is the amount they anticipate reverting out of the 30% they currently have on the books. **SEN. TESTER** asked, if that 30% is $620,000, if $1.8 million will be reverted. **Ms. Berger** said the $1.8 million has already reverted; this was only the 30% that was established after it was done. It would revert at the end of this year. A good share of that is the feed bill.

{Tape: 2; Side: A}

SEN. TESTER asked if the increase of 30% to 50% applies in this bill. **Taryn Purdy, Legislative Fiscal Division,** advised those two bills need to be coordinated.

SEN. ESP commented that the Legislature will have input into what those funds can be spent for through this bill. He asked about an amendment to clarify the approving authority as the President and the Speaker. **REP. WANZENRIED** said if it is not defined anywhere else, he had no objection. He thought it was clear the way it is. **SEN. ESP** agreed it is clear in Subsection (b). The feed bill portion is not included. **Ms. Purdy** clarified that approving authority is a term used numerous times in the budgeting and appropriations statute. It is defined in 17-7-102 (3).

SEN. LAIBLE asked, when they have a reversion, if the 30% stays in the agency and becomes part of their base. The amount that they send back to the general fund is not in their base. Under this statute any money that accumulated would go in the base for the following biennium. **Ms. Purdy** explained a carry forward appropriation, such as the 30%, is not considered part of the base. When the 2004 base was determined for this coming biennium, any carry over funding expenditures were excluded and do not carry forward.

SEN. BALES asked if the bill would allow the Legislative Branch to carry this money over for longer than just the biennium. **REP. WANZENRIED** advised, that is correct.

Closing by Sponsor:

REP. WANZENRIED stated they are proposing a change in public policy in the Legislative Services Division. The purpose of this reserve account is delineated on page 1, line 16. He reiterated that the bill comes from the Legislative Council and was carefully discussed during the interim. It represents an opportunity to do what is done well in the private sector, which is to anticipate needs and not rely upon one-time monies being available by coincidence for a major investment.

The committee discussed HB 2 scheduling and housekeeping issues.

HEARING ON SB 501

{Tape: 2; Side: A; Approx. Time Counter: 15.3}

Opening Statement by Sponsor:

SEN. DAN MCGEE (R), SD 29, Laurel, opened the hearing on **SB 501,** Tax credit for employers of national guard and reserve. The bill includes the Army, Navy, Marine Corps, Air Force, and the Coast Guard. The bill allows a $50 income tax credit, per employee, for employers in the state of Montana. This is a token recognition of the sacrifice made by employers when they employ reservists and national guard. The cost is $140,000 each year.

Proponents' Testimony:

Roger Hagan, Officer and Enlisted Association, acknowledged the sacrifice of families and employers. This bill recognizes employers of members of the National Guard and Reserve. Federal legislation has been introduced to recognize employers for their support of members of the National Guard and Reserve. That legislation has not moved as fast as they would like it to. He handed out a spreadsheet of the National Guard Association's legislative initiatives that was requested by **SEN. BARKUS** in a previous hearing.

EXHIBIT(fcs57a04)

Their goals include recruiting and retention, recognition for employers, and recognition those who have gone to contingency operations since 2001. LC 1164 is a veteran's war bonus proposal to recognize those who served in contingency operations since September 11, 2001. The last veteran's war bonus in Montana was for those who served in Vietnam. He clarified that state funding for the Montana National Guard is $1,363,648 and federal funding is $149,350,156. To fund the National Guard in Montana, 0.9% comes from the state general fund and 99.1% comes from the federal government. The federally funded National Guard and Air National Guard payroll was $87,518,193 for federal fiscal year 2004. The effective marginal tax rate for citizens of Montana is approximately 4%. By multiplying the federal payroll by 4%, their members pay $3.5 million into the general fund every year. It is important to have supportive employers and that is why SB 501 is before the committee.

Tina Whitaker, Employer Support National Guard and Reserve (ESGR), testified their national committee is orchestrated by the Department of Defense. In Montana, their target audience is the employers of Montana, Guard members and reservists. This additional thanks to employers will go far in insuring that employers continue employing and hiring guardsmen and reservists.

Ronda Carpenter Wiggers, Great Falls and Helena Chambers of Commerce, appeared in support of SB 501 on behalf of small

business members who share employees with the national guard and reservists. They thanked **SEN. MCGEE** and the National Guard Association for bringing this bill.

Opponents' Testimony: None.

Informational Testimony:

Jim McKeon, Department of Revenue, stated he was there to answer any questions.

Questions from Committee Members and Responses:

SEN. WEINBERG asked if sacrifice implies intent, or if a sacrifice can be given unwillingly or unwittingly. **SEN. MCGEE** thought when someone purposefully and knowingly allows someone to do something with a negative impact on oneself, that would qualify as a sacrifice. **SEN. WEINBERG** asked when employers hire members of the national guard if they know that going in.

{Tape: 2; Side: B}

SEN. MCGEE replied he hired an individual who served in the Army National Guard in Montana. He knew there would be times when that individual would be gone. He knew, by hiring someone in the National Guard, that would be a person who understood discipline and how to take instructions; that was an asset. If he could join the National Guard, he would do it. Had his employee been called up to go to Iraq for a year, he would have held the position open for him. It would have been a sacrifice because his personnel are field personnel. **SEN. WEINBERG** said he was looking for an answer to his question that applied across the board to employers. He wondered if employers, in general, know when they are hiring National Guardsmen. **SEN. MCGEE** answered, yes. They know there are times when those employees will be gone. They willingly allow for that to be part of their workplace.

SEN. TESTER said **SEN. MCGEE'S** answer showed there are benefits to hiring a guard member that are over and above a tax credit. He asked, why $50. **SEN. MCGEE** replied, it is a token.

SEN. LAIBLE asked **Mr. Hagan** if a young person signs up for the National Guard if they know full well the sacrifices they are going to make. **Mr. Hagan** guessed the time to answer that question best would have been September 12, 2001. Most are willing and joined with their eyes open. There are laws that employers cannot discriminate. There are few employer/employee issues in Montana compared to other states. **SEN. LAIBLE** observed

over the last two sessions there have been numerous bills to assist the National Guard and reservists. He wondered if those bills would be considered additional compensation or a gesture to honor the National Guard. **Mr. Hagan** indicated, if they take a snapshot of the current bills, it is a mix of both. HB 411 concerns funding of the veterans' nursing homes. There was language in I-149 that put veterans' nursing home funding in question, and there may be a need for those nursing homes in the future. HB 485, which is tabled in House Taxation, is a tax exemption for the National Guard and Reserve. Many of these bills are for recruiting and retention, many are a thank-you from the state of Montana, and many are thanking veterans for their service. The Montana Constitution says the Legislature is given the opportunity to provide special recognition and privileges to service men and women and veterans of Montana. **SEN. LAIBLE** said he would like a copy of that section.

SEN. SCHMIDT recalled, in the decision packages for the Department of Military Affairs, there was something to do with scholarships. She asked if that was reflected on the spreadsheet. **Mr. Hagan** said, no. That was in the Martz budget and was reaffirmed by Governor Schweitzer. These initiatives are brought forward by organizations or sponsored by Legislators who have brought them for their constituents; then there is the budget in HB 2. **SEN. SCHMIDT** asked for a list of all of the bills. **Mr. Hagan** said he would be glad to print a list.

Closing by Sponsor:

SEN. MCGEE advised whether or not they give this tax credit to employers is not going to make or break the businesses or the state. It is a token gesture that recognizes the factors that an employer must address when they have employees that are guardsmen and reservists.

SEN. MCGEE advised there would be amendments to SB 146 by the Department of Justice and the ACLU.

EXECUTIVE ACTION ON SB 110

{Tape: 2; Side: B; Approx. Time Counter: 18.7}

Motion: SEN. COBB moved that SB 110 DO PASS.

Motion: SEN. COBB moved that SB011001.ASB BE ADOPTED.

EXHIBIT(fcs57a05)

SEN. COBB advised there is a spending cap on the waiver. The Department asked for a plan to control costs if they spend over that cap. The Department believes they will not get close to the cap. There will be more notice to the public.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. COBB moved that SB 110 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 491

{Tape: 2; Side: B; Approx. Time Counter: 22.5}

Motion: SEN. GALLUS moved that SB 491 DO PASS.

SEN. GALLUS said he wanted to amend the bill and request a new fiscal note. The fiscal note would be cut by $600,000. The expense is adding overtime to the benefit package. The firefighters agreed to the highest average compensation language instead of the final average compensation.

Motion: SEN. GALLUS moved A CONCEPTUAL AMENDMENT TO TAKE OVERTIME OUT OF THE BILL AND REVERT TO A SYSTEM OF HIGHEST AVERAGE COMPENSATION INSTEAD OF FINAL AVERAGE COMPENSATION.

Discussion:

SEN. SCHMIDT asked if that is already in the bill. **SEN. GALLUS** said there is new language on page 2, line 19, that deals with the highest average compensation. Firemen can go up in grade from captain to chief. They can then change communities and go down in salary, which can adversely affect retirement. The major expense to the general fund and the retirement fund came from including overtime in the bill.

SEN. LAIBLE asked if they would need a definition of highest average compensation that excludes overtime. **SEN. GALLUS** indicated current law is 50% of regular remuneration excluding overtime. The amendment would revert back to existing language. Highest average compensation is defined in the bill.

SEN. ESP said in the hearing that meant the highest consecutive 36 months. He asked if that language could be clarified in the conceptual amendment. **SEN. GALLUS** said he would not mind that at all.

CHAIRMAN COONEY asked if **SEN. GALLUS** wanted to continue the exclusion of holiday payments. **SEN. GALLUS** said that would revert back to current law. **Ms. Purdy** asked for clarification. **SEN. GALLUS** said the only new language he wanted in the bill was on page 2, line 19 through 23.

{Tape: 3; Side: A}

SEN. BARKUS noted page 2, line 11 would be included in the amendment, and **SEN. GALLUS** agreed.

SEN. ESP asked why they would want lump sum payments for annual leave paid. **SEN. GALLUS** advised some retirement systems have highest average compensation, and some retirement systems have final average. The definition of highest average is in current law. Lump sum language is consistent with the sheriffs, highway patrol, game wardens, and judges.

Vote: Motion carried unanimously by voice vote.

SEN. GALLUS said he wanted to delay action on SB 491 and asked the Chair to request a revised fiscal note.

EXECUTIVE ACTION ON HB 301

{Tape: 3; Side: A; Approx. Time Counter: 5.5}

Motion: SEN. COBB moved that HB 301 BE CONCURRED IN.

Discussion:

SEN. WEINBERG indicated people in the tourism industry have talked to him about money being sucked away from other parts of the tourism industry in favor of the Lewis and Clark celebration. He wondered if this is a legitimate concern and if that applies to this bill.

SEN. CAROL WILLIAMS said they heard this bill in subcommittee. She did not think that applied to this bill. These license plate fees are supposed to be spent on Lewis and Clark activities. She indicated she heard that herself from time to time.

CHAIRMAN COONEY concurred that the license plate program came about to raise funds specifically for the Lewis and Clark project. The observation expressed by **SEN. WEINBERG** is legitimate in other discussions.

SEN. BARKUS expressed concern that this license plate is commemorating an event that will be done next year versus an institution. He was disappointed that the state has lost Big Sky Country to the variety of license plates.

SEN. LAIBLE said he looks at this as a way to stimulate tourism. His only concern was declining revenues. He said he would support the bill.

SEN. LANE LARSON hoped everyone would support this bill. Pompeys Pillar is in the middle of nowhere, and it is hard to get funding for that area. Anything they can do to help will be appreciated.

SEN. SCHMIDT wondered where they would amend the bill to address the $5000. **Ms. Purdy** explained that could be done in HB 2.

SEN. HAWKS said there have been several events with long-term impacts, such as the fires of 1988, that generated tourism. The introduction of wolves has had a major long-term impact. The types of things that keep Montana in the press are important to tourism. This is shared equally throughout all the districts in the state.

Ms. Purdy corrected her previous comment. The money would be appropriated in HB 2. The issue that was raised with the technical amendment is that the money is all accounted for before it can go into administration. A conceptual amendment could be made to that effect. She recommended that if they were to allow some administrative costs, that they come out before the statutory appropriation. The conceptual amendment would be to adjust statute to allow the use of these funds for administrative costs. The question would then be whether or not they wished to limit the amount of administrative costs that could be made. The administrative costs would be outside of the statutory appropriation.

Motion: SEN. LAIBLE moved a substitute motion to cover administrative costs within existing appropriations.

SEN. SCHMIDT withdrew her amendment.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. COBB moved that HB 301 BE CONCURRED IN AS AMENDED. Motion carried 17-2 by voice vote with SEN. BARKUS and SEN. ESP voting no.

SEN. BALES inquired about HB 53. He could not see any way that this bill would have any effect on the cap. Special revenue or general revenue both count towards to the cap. Whether they kill or pass the bill, it will still count towards the cap. He wondered what the logic is for holding it. **Ms. Purdy** advised she wanted to confer with experts, including **Greg Petesch, Legislative Counsel**, that those monies are not currently being counted. Agency funds are not being counted in the cap, but moving it to state special would be. **CHAIRMAN COONEY** said he had no problem with the bill moving.

EXECUTIVE ACTION ON HB 28

{Tape: 3; Side: A; Approx. Time Counter: 19.4}

Motion: **SEN. WILLIAMS moved that HB 28 BE CONCURRED IN.**

Discussion:

SEN. WEINBERG commented that **REP. WANZENRIED** said they should run government the way businesses run, but he did not agree this is the way businesses run. He did not think they stash away money; they take out loans when a big project comes up. He inquired where the money is kept and what kind of interest it draws. **Ms. Purdy** advised those amounts are invested by the Board of Investments in the short term investment pool. Unless a statute says they can keep their own interest, the interest goes to the general fund. **SEN. WEINBERG** said if he was running a business, he did not think he would stash away money at a few percentage points if he could borrow money at a low rate, which the state can do. He was not opposed to it, but he did not think it was, fundamentally, a good business plan.

SEN. BARKUS said it seemed to him that the oversight is taken away from the Legislature when the appropriation is authorized by the Legislative Council. He granted that there is some oversight in the Legislative Council, but he did not think it gets the good look it gets in Senate Finance, House Appropriations and by the budget office.

SEN. ESP asked if they should move an amendment to coordinate this with **SEN. BRUEGGEMAN'S** bill.

Motion: **SEN. ESP moved to COORDINATE HB 28 WITH SB 247.**

Discussion:

SEN. LAIBLE advised he was originally in support of this bill. The more testimony he heard, the less supportive he became. This is a policy change for one division.

SEN. SCHMIDT asked about **SEN. BRUEGGEMAN'S** bill. **SEN. ESP** said it changed the 30% to 50%. Half the amount left over could be put into the fund.

Vote: **Motion carried unanimously by voice vote.**

SEN. ESP said this bill statutorily appropriates these monies to be used for this purpose. This has been done in other areas. The oversight is here and now. This bill says they can use this money for information technology projects, hardware, software, consulting services, and replacement updates to existing systems, once it is statutorily appropriated.

SEN. BALES had a problem with the language about consulting services for new initiatives. He had a concern about where those initiatives come from, and whether or not they are at the direction of the Legislature or the Legislative Branch staff. He was not sure that they want the Legislative Branch or any other branch buying new software and pigeonholing money away for new software. There is an IT director and an IT program and everything was supposed to be going through them. He was not certain how this would interface with that. He was very uncomfortable with some of the aspects of this bill. They might be able to amend it, but he was not sure that even then it is an advisable policy.

SEN. BARKUS asked **SEN. STAPLETON** if the new language in Section (1) would authorize the Legislative Branch, under the direction of the Legislative Council, to purchase a new POINTS system. **SEN. COREY STAPLETON** answered, basically. He did not support the bill and thought it was a bad precedent. They would be agreeing to appropriate before any due diligence is done on any system.

CHAIRMAN COONEY said it was his impression that all IT projects have to be done in consultation with the CIO (Chief Information Officer). That question was not specifically asked of **REP. WANZENRIED** or of the Legislative Services staff. He wondered if that is an assumption that cannot be made. **SEN. STAPLETON** said the Legislative Council does not answer to the CIO. They will do what they want to do. If they want to appropriate money to a flawed and improvised system that has not been studied, they can do that.

SEN. LAIBLE asked who sits on the Legislative Council. **CHAIRMAN COONEY** said it is Legislators and Leadership.

{Tape: 3; Side: B}

<u>Motion/Vote</u>: SEN. COBB moved that HB 28 BE CONCURRED IN AS AMENDED. Motion failed 7-12 by roll call vote with SEN. COONEY, SEN. COBB, SEN. ESP, SEN. LARSON, SEN. LIND, and SEN. WILLIAMS voting aye. SEN. TESTER voted aye by proxy. SEN. KEENAN and SEN. RYAN voted no by proxy.

<u>Motion/Vote</u>: SEN. COBB moved that HB 28 BE TABLED AND THE VOTE REVERSED. Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 11:42 A.M.

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SEN. MIKE COONEY, Chairman

_____
PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT(fcs57aad0.TIF)