MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on April 1, 2005 at 8:38 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:
Sen. Mike Cooney, Chairman (D)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. John Brueggeman (R)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Steven Gallus (D)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Lane L. Larson (D)
Sen. Greg Lind (D)
Sen. Don Ryan (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. 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: HB 2, 3/24/2005
Executive Action: HB 2

Section E

Motion: SEN. JON TESTER moved that HB000225.AAG BE ADOPTED.

EXHIBIT(fcs69a01)

Discussion:

SEN. TESTER explained this amendment removed some positions that were near and dear to his heart.

REP. EVE FRANKLIN described the amendment as a heartbreaker.

SEN. JOHN ESP thought the positions were important. He stated this was about all he got done during the first half of the session. He urged the committee to resist the amendment because these things are important to rural Montana.

SEN. KEITH BALES objected to the amendment. He asked **Jeff Jacobsen, Director, Agriculture Experiment Station,** to comment. **Mr. Jacobson** advised the weed management positions were research positions. The integrated one is a position that would look at grazing, chemical, biological, and multiple tactics for noxious weed control. The second is a bio-control position dealing with rangelands, crop lands, and forest land. This is a two-thirds partnership with the state, and it is a challenge to come up with non-state dollars for the other third. **SEN. BALES** indicated the livestock specialist was an existing position at Fort Keogh. The person in that position quit to take other employment just about the time of the budget in the last biennium, so that position did not get filled. **Mr. Jacobsen** advised all five positions were positions at Montana State University (MSU). Some were in Bozeman, and one was in Miles City. All five of those individuals left for other employment at various inopportune times in the last three to ten-year time frame. **SEN. BALES** commented this is an extremely harsh cut. These are positions that were filled in the past, were cut when there was no money, and were placed back in this budget because there was an ending fund balance of $300 million. These entities have no way of backfilling or any cushion. The weed problem is becoming paramount throughout the entire state. He urged the committee to vote no.

SEN. KEN HANSEN asked for support for the amendment. He indicated he had heartburn with this too. He is a farmer and rancher, but cited the need to live within our means. There have been cuts that break his heart, and this is one of them. He hoped the committee would concur on the amendment.

Motion: SEN. STEVE GALLUS moved TO SEGREGATE #7 AND #8 and vote on them separately.

Discussion:

SEN. JOHN COBB inquired if these are all vacant positions. **SEN. TESTER** replied these are all new proposals, and he believed they all ought to be in this amendment.

SEN. DON RYAN advised he would oppose the substitute amendment. These are all of value to the state of Montana.

SEN. GALLUS wished to vote on #1-6 and #9-10 first and them vote on #7 and #8.

SEN. BOB KEENAN recalled four years ago when he was chairman of this committee. It is the Chairman's call whether or not to accept segregation. **CHAIRMAN MIKE COONEY** advised he had ruled to accept.

SEN. TESTER stated that every one of these positions is a great resource for each industry it represents. He offered the motion to trim some money, and he encouraged a vote on the whole amendment.

Vote: Motion carried 11-8 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, SEN. LARSON, and SEN. STAPLETON voting no.

SEN. GREG BARKUS reminded the committee that they voted yesterday to restore $600,000 to the Governor's budget for business recruitment. They voted $150,000 to fund an Environmental Impact Statement (EIS) on the Gallatin River, and now they were taking $800,000 out of the crux of Montana's economy. He thought this was wrong.

Vote: Motion carried 11-8 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. COBB, SEN. GALLUS, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.

Alan Peura, Legislative Fiscal Division handed out a technical amendment HB000233.aag. This amendment eliminates the funding match formula language.

EXHIBIT(fcs69a02)

Motion: SEN. COONEY moved that HB000233.AAG BE ADOPTED.

Discussion:

SEN. BALES indicated he would vote against the amendment because the committee did make cuts in Section B that were of any consequence. He declared he would have an amendment on the Senate floor to restore these positions and take the money from Section B. He found it very sad that this committee and this Legislature would penalize the part of this state that is trying to create jobs and move this state forward economically. These entities took a huge cut in comparison. He said he would rather have this language remain.

SEN. GREG LIND maintained they took $2 million from Section B for low income energy assistance. **SEN. BALES** agreed, but that $2 million compared to the $500 million increase is insignificant compared to what they just did.

Vote: Motion carried 10-9 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. COBB, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, SEN. RYAN, and SEN. STAPLETON voting no.

Motion: SEN. TESTER moved that HB000227.AAG BE ADOPTED.

EXHIBIT(fcs69a03)

Discussion:

SEN. RICK LAIBLE inquired whether Meagher County has an agent who is retiring. He expressed concern about the impact on this rural county. **REP. FRANKLIN** responded that, historically, Meagher County never had an extension agent. This was a new proposal asking for an allocation if the county passed a local mill levy as a match.

SEN. LAIBLE asked **Mr. Peura** if some counties typically do not have an extension agent. He thought extension agents were an important component of the agricultural communities. **Mr. Peura** believed Meagher County was one of only a couple of counties in Montana that does not have an extension agent. He clarified the county is scheduled to hold a mill levy vote in May should this decision package remain in HB 2. If the mill levy passes, the county would fund approximately $27,000 and the match would be for $35,000 a year. If the mill levy vote fails, that appropriation would revert back to the general fund. **SEN. LAIBLE** referred the question to someone from the extension service. **Doug Steele, MSU,** advised there are two counties without county extension agents. The Meagher County agent position was abolished on September 1, 1960, along with Petroleum County.

Petroleum County is covered in part by the Fergus County office. **SEN. LAIBLE** asked if the extension service works with 4-H groups and are important to rural communities. **Mr. Steele** advised the main areas of focus are agriculture and natural resources, 4-H and youth development, etc. The main interest in Meagher County is in agriculture and 4-H youth development.

{Tape: 1; Side: B}

SEN. LAIBLE stated this is $70,000. Citing the last motion, he said they are taking money and resources from rural communities. Here, they are taking $70,000 from a community that would pass a mill levy. If it does not pass, the money goes back to the general fund. This is money for communities, children, 4-H, FFA, etc. He pleaded for opposition to the amendment.

SEN. RYAN inquired whether all counties run mill levies to support their county extension agents. **Mr. Steels** replied they operate under yearly agreements regarding the match that takes place. They work with the Montana Association of Counties (MACo) to make those consistent across the state. In most cases that is how these offices are funded, but some are not funded through levies specific to extension. **Mr. Ryan** asked if these mill levies are voted every year, or if this is a permissive property tax that goes on year after year to support this. **Mr. Steele** did not have enough information to answer. When he became director a year ago, the Meagher County agent proposal was not part of the initiatives for the Shared Leadership program. He told Meagher County he supported having an agent in Meagher County, but since it had not gone through the MSU process, they would have to take the lead. Most counties are four-year. **SEN. RYAN** asked, if this mill levy passes, if this is an ongoing permissive levy or one-time-only and if the state will fund this for $50,000 a year. **Mr. Steele** advised he did not have enough information to answer that question.

SEN. BOB HAWKS said the 4-H and FFA are organized on a statewide basis. He inquired how dependent they are on the county agents. **Mr. Steele** noted 4-H and FFA are two different and distinct organizations. FFA is run through the public school system, and 4-H is run through MSU. There was public testimony that having an agent would strengthen opportunities for the children and for the sustainability of the program.

SEN. BARKUS wondered if part of the function of the extension agent was to recruit students for MSU. **Mr. Steele** advised that **President Geoffrey Gamble, MSU,** has a clear vision that the fifty-four county extension offices are a portal for the university. They like to see children achieve beyond the

secondary level and get a post-secondary education no matter where that is.

SEN. TESTER stressed this position has not been filled since 1960.

Vote: Motion carried 11-8 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. COBB, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.

Motion: SEN. LARSON moved that HB000228.AAG BE ADOPTED.

EXHIBIT(fcs69a04)

Discussion:

SEN. KEENAN asked if this was reducing the lump, or if this is outside the lump sum funding to the University. **Sheila Stearns, Commissioner of Higher Education,** advised this is not in the lump and is contingent upon passage of HB 435.

CHAIRMAN COONEY invited someone from the budget office to comment. **Mark Bruno, Office of Budget and Program Planning (OBPP),** responded **Ms. Stearns** was correct. There was language in HB 2 that the Best and Brightest Scholarship program was contingent on passage and approval of HB 435.

SEN. ESP asked about the allocation of funds between four year and two year institutions in the current bill. **Mr. Bruno** said he did not have a fiscal note in front of him.

SEN. JOHN BRUEGGEMAN advised, as a University of Montanan student and with all due respect to **SEN. LARSON,** he did not think this was the best or brightest amendment he had ever seen.

CHAIRMAN COONEY maintained, if this amendment passes, it would leave $1 million in the Best and Brightest program each year.

SEN. LAIBLE thought this was part of the Governor's program to put money into the four-year, two-year, and tribal colleges and past of the platform under which he was elected. **CHAIRMAN COONEY** replied, that is correct. As they were looking for items to reduce, the Governor's office came forward with this. They did not like this, but would allow this to be considered. **SEN. LAIBLE** remarked those promises made during the election were now falling off to the side. **CHAIRMAN COONEY** indicated there was still money in this program. This process is about the reality of the budget and priorities. **SEN. LAIBLE** declared he takes

promises seriously, and **CHAIRMAN COONEY** countered that the Governor is living up to his promise to fund a program.

SEN. GALLUS advised **SEN. LAIBLE** and he have had this philosophical debate about the role of the Governor and the role of this Legislature for most of this session, and **SEN. LAIBLE** thought they should approve every single appointment that the Governor made. **SEN. GALLUS** contended on the Senate floor that they are the Legislative Branch--one of three branches of government--and it is their job to build the best budget for the taxpayers of this state that they possibly can. They are driving this bus, and this amendment, in particular, is a hard pill to swallow for many of them. He believes in the program and that the Governor had foresight and leadership in wanting to take care of the best and the brightest. He also believed they do not have the money. It was the leadership in this body and this branch of government that approached the Governor and solicited agreement. He did not think the Governor is going back on his campaign promises, but also did not think they should be talking about that in this committee. That is politics, and right now they are talking about policy. He wanted to keep the debate on policy and not be making these somewhat outrageous political statements because the press is present in the room.

SEN. ESP asked how the $1 million that would be left in the program would be allocated. **CHAIRMAN COONEY** clarified the amendment will leave $500,000 in year one and $1 million in year two of the biennium. **Mr. Peura** advised the structure of the scholarship program is set up in HB 435, but HB 435 contains no funding. The funding is all contingent upon what happens in HB 2. He referred to page E-61 of the narrative. There are two components to the Governor's scholarship program. The two-year programs need-based aid is contained in HB 2 in decision package 101 on page E-61. The best and the brightest program is decision package 102, which is funding for a combination of two-year and four-year programs. The amendment would eliminate decision package 102, what is called the best and the brightest program in HB 2 and what would remain, should this amendment pass, would be decision package 101 for need-based student aid for two-year programs. That is $500,000 in FY 2006 and $1 million in FY 2007. HB 435 has a specific formula for how these funds are allocated. **SEN. ESP** inquired if the $0.5 million and the $1 million are still in HB 2, but after this amendment it will still be allocated. **Mr. Peura** indicated all the amendment does is eliminates decision package 102 on page E-61 and maintains decision package 101.

SEN. RYAN noted the pop tax would have put between $6 million and $9 million into scholarships for students, but the bill did not have student support.

REP. FRANKLIN added that in subcommittee they put in one-time money that was in the Governor's request for increased impact aid. This amendment would not affect that.

SEN. LAIBLE said he felt obligated to respond to **SEN. GALLUS.** He did not want to make this a political debate. He had asked the Chairman if this was part of the platform and thought this was an important component. He apologized if he offended **SEN. GALLUS.** He thought their priorities were wrong, and did not think the priorities that were sold to the citizens of this state were being followed through on.

SEN. TESTER maintained the Best and Brightest program does exist. They went to the Governor and asked him if he would be willing to give up any money, and he begrudgingly did that. **SEN. TESTER** declared the roll reversal over the last four sessions has been absolutely amazing. This is a new program that has never existed before, and there is still money in this new program. He encouraged a yes vote on the amendment.

SEN. LARSON stressed they were not killing the scholarship program. They were trying to help the budget issues. This is a very dark committee, and this is one of the best and brighter amendments to come out of it.

Vote: Motion carried 15-4 by roll call vote with SEN. BALES, SEN. BRUEGGEMAN, SEN. COBB, and SEN. LAIBLE voting no.

Motion: SEN. COONEY moved that HB000231.AAG BE ADOPTED.

EXHIBIT(fcs69a05)

Discussion:

CHAIRMAN COONEY advised he asked the Commissioner and her office if they could come up with some money that would not be devastating to them. They came up with this suggestion as a way to save $139,000, plus there is some indication they may be able to find some additional revenues to backfill this. These dollars are allocated on an RFP basis, so the money goes out as the need is identified by the institutions. This is not something they relish, but is something they are willing to do.

Rod Sundsted, Associated Commissioner of Fiscal Affairs, advised there is currently $5 million in the bill for two-year program

development and equipment purchases, plus whatever they can raise in matching funds. Reducing that by $539,000 will still give them an opportunity to do some good, test this program, and hopefully come back next session to prove the program was successful in improving access in two-year program productivity.

SEN. GALLUS asked for an example of some of the more expensive purchases or types of equipment. **Mr. Sundsted** replied this could be for any of their trade programs at the community colleges, the colleges of technology, and also at Western and Northern in their two-year programs. It could be related to auto body, petroleum, or numerically-controlled equipment for machining. They are planning an RFP process that would include how much money could be raised in match and the benefit of the equipment. A committee will evaluate those proposals and select those that will have the best impact in the state of Montana.

SEN. BARKUS asked if there was specific equipment that was itemized. **Mr. Sundsted** replied there was $2.5 million per year in HB 2, and it was for program development and equipment purchases. In the narrative of the bill, it says $1.4 million is for program development at the two-year schools, and $3.6 million is for equipment. For FY 2006 there was $2.5 million general fund, and in FY 2007 there was $2.5 million general fund.

SEN. CAROL WILLIAMS asked if there was a potential for backfilling some of this money with some federal grants. **Mr. Sundsted** responded that is a possibility. He thought another possibility might be putting a greater emphasis on getting match money to leverage the money further. They will do everything they can to leverage it as far as they can go.

SEN. ESP asked if the community colleges are eligible for this pot of money, and **Mr. Sundsted** replied, initially they were not, but the bill was changed so they are. **SEN. ESP** thought there might be a better way to do this.

SEN. BRUEGGEMAN pointed out this is one of the worst places they could cut. The possibility exists for a place like Summit Engineering to almost triple their capacity. This is they type of equipment needed in those schools to provide training for good-paying jobs. They have to make tough cuts every session, but he thought this was where the rubber meets the road from the point of view of expanding the economy. He cautioned members on voting for this amendment. He thought this hurts Montana from a workforce development point of view.

SEN. ESP said this is a one-time-only source of funds. He asked **CHAIRMAN COONEY** if it was his intention to redirect this to a

one-time-only type of program. **CHAIRMAN COONEY** advised it was not his intention to redirect this money anywhere; he was just making a cut. **SEN. ESP** said potentially it could be taken out of this one-time-only spot and used in a way that would not be one-time-only someplace else in the budget.

{Tape: 2; Side: A}

SEN. ESP thought this was an appropriate place to cut money, but did not think it should be placed in a program somewhere that they will need to fund next time and will not have the money for.

SEN. TESTER agreed that **SEN. ESP** made a good point. Some monies need to go into the ending fund balance to get it where they need it to be. He addressed **SEN. BRUEGGEMAN'S** comments saying it is important to note this is not a cut; they are not increasing the budget to $2.5 million but only increasing to almost $2 million.

CHAIRMAN COONEY said this is a tough issue. He appreciated the Commissioner's office coming forward with potential savings after serious discussion. This is not an amendment he enjoyed bringing. He believed it was necessary to move forward, and appreciated the concerns expressed. He said **SEN. BRUEGGEMAN** is absolutely correct, but he hoped the committee would vote favorably on this motion.

Vote: Motion carried 15-4 by roll call vote with SEN. BARKUS, SEN. BRUEGGEMAN and SEN. STAPLETON voting no. SEN. KEENAN voted no by proxy.

Motion: SEN. COONEY moved that HB000232.AAG BE ADOPTED.

EXHIBIT(fcs69a06)

CHAIRMAN COONEY advised this is a technical amendment. **Mr. Peura** explained this became necessary because of the issue in Section C relating to the RIT fund and how the accounting system requires that money be appropriated. He noted a different way of seeing things between legal and accounting. The amendment moves the money so HB 2 appropriates it from a state special revenue account. There is no fiscal impact.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. COONEY moved that HB000297.AAG BE ADOPTED.

EXHIBIT(fcs69a07)

Discussion:

Mr. Peura advised **Greg Petesch, Code Commissioner,** pointed out that now that they break out a line item that appropriates how much the Commissioner of Higher Education's office needs to pay for audit, there is no longer the need for the language that also appears in the bill. This technical amendment eliminates the duplication of the line item to make HB 2 cleaner.

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

Motion: **SEN. ESP moved that HB000240.AMD BE ADOPTED.**

EXHIBIT(fcs69a08)

Discussion:

SEN. ESP advised this amendment deals with a bill that **CHAIRMAN COONEY** carried on behalf of the Historical Society in relationship to the state records they are required to maintain, sort, and provide to the public. There was a mechanism in the bill that assessed agencies on an FTE basis to fund two positions to sort and file records in a way that they can be accessed. Because they have not had adequate personnel in the past, those records are stacking up and are not getting sorted in a timely fashion. **CHAIRMAN COONEY'S** bill would fund those two positions. The Legislative Auditor ruled the mechanism in the bill was not allowed under federal rules because of the federal money, and they came up with another mechanism to fund this. It requires a general fund appropriation, and part of it will be backfilled through an allocation formula that is done in a different way. It is a cost allocation plan that agencies have to pay for their part of indirect costs. He urged support for the amendment. It gives the Historical Society spending authority, and some of it will be paid through the cost allocation plan.

SEN. DAN WEINBERG asked **SEN. ESP** to clarify some of the numbers and the number of FTEs. **SEN. ESP** advised the correct number to be inserted in the second year was $743,513. The amendment adds about $100,000 a year in spending authority, about $88,000 for the position, and about $11,000 for the supplies and operating costs. **SEN. WEINBERG** asked if the number of FTEs would increase to 16. **SEN. ESP** said, that is correct. In the Historical Society as a whole, there are 14.09 FTE.

REP. FRANKLIN advised it might be worth having the Historical Society describe the statewide cost allocation plan. This is a slow process of reimbursement, and is a different vehicle than other agencies use.

Joan Brandt, Montana Historical Society, advised the statewide cost allocation plan was put together by the Department of Administration. It is a mechanism to get other funding to help pay for the costs the general fund would pay for. There is a one-year delay, but eventually 50-60 percent of that could be recovered from other funds to help pay for this.

CHAIRMAN COONEY thanked **SEN. ESP** for bringing this amendment forward. This is an unfunded mandate for the Historical Society; they have to take these records. When he left office as the Secretary of State, he sent over several boxes filled with records. When Governor Racicot left office, he sent 300 boxes. The Historical Society receives material from all the agencies. He thought they have at least 60 years of records that they cannot manage, and these records are there for public review. It will still be several years before they have a handle on this.

SEN. HANSEN asked if this will affect the cap. **SEN. TESTER** replied, yes. **SEN. ESP** did not think it would any more than the other way they were going to do it.

Vote: Motion carried 13-6 by roll call vote with SEN. BARKUS, SEN. HANSEN, SEN. RYAN, SEN. TESTER, SEN. WEINBERG, and SEN. WILLIAMS voting no.

Motion: SEN. WILLIAMS moved that HB000250.AMD BE ADOPTED.

EXHIBIT(fcs69a09)

Discussion:

SEN. WILLIAMS indicated this is an amendment to do what their subcommittee should have done when they met in January, and would restore some of the money to the Arts Council that was taken during the last legislative session. Over the years the Arts Council has been the place where, when there was no state money, the Legislature found some money. During the last session, the agency lost over $150,000. In addition, they have the need for salary increases for some of their staff. The total amendment asks for $240,000 to be restored to the Arts Council. She described this program as one that touches every aspect of the state. Every county benefits from it, and the schools benefit from it. This is a small agency that leverages opportunities for the arts for many Montanans. It is important to the Montanan economy as well.

Substitute Motion: SEN. WEINBERG made a substitute motion TO MAKE THE APPROPRIATION $150,000.

Discussion:

SEN. COBB asked if they still want the state special revenue in there. **SEN. WILLIAMS** wanted the state special revenue included. In addition, she indicated she would not support **SEN. WEINBERG'S** amendment because they need some additional money for salary increases. They have a different situation than some state employees. They have to advertise nationally to get qualified people to serve in these positions. There is staff that has been there for over twenty years, so salaries are a little higher.

CHAIRMAN COONEY asked **Taryn Purdy, Legislative Fiscal Division,** to explain. **Ms. Purdy** asked for clarification about whether **SEN. WEINBERG** wanted to adjust his amendment to include the state special or not. **SEN. WEINBERG** indicated his intention was not to include the state special, but to keep it in the general fund.

SEN. TESTER assumed the $150,000 would be split $75,000 for each year of the biennium, and **SEN. WEINBERG** said, yes.

SEN. ESP did not remember the details in subcommittee, but apparently they chose not to fund additional monies.

REP. FRANKLIN responded she saw these as two separate issues, and she recommended voting on them separately. The committee was unconvinced that the salary increases were critical at this time. She asked the committee to continue to support that. Regarding the program restorations, she thought they probably closed their eyes and moved on for the purposes of the general fund. **CHAIRMAN COONEY** advised that what she described was reflected in **SEN. WEINBERG'S** motion.

SEN. RYAN asked **Ms. Fishbaugh** where the state special revenue comes from. **Ms. Fishbaugh** indicated the state special revenue comes from the ending fund balance in the trust, and there is ending fund balance available to cover the $50,000. **SEN. RYAN** said if they did not include that as part of this amendment, then the money would stay in the trust fund. **Ms. Fishbaugh** advised in reality, they would use that to restore the operations cuts that have been taken on their agency. The salary increases are done, and the operations budgets were cut to compensate for those increases. This would restore the operations cut. **SEN. RYAN** said **SEN. WEINBERG'S** motion was for $75,000 each year and to take out the salary increase. **SEN. ESP** asked what the $75,000 would be used for. **Ms. Fishbaugh** advised that money would be used to restore programs that were originally cut such as the arts education programs in rural communities. She referred to the economic impact study she handed out the previous evening. Part

of that study included that 70 percent of artists need marketing assistance. There is a lot of potential for increased sales. *(Note: The audio tape was defective at this point.)*

SEN. BARKUS advised he was in support.

Vote: Motion carried 17-2 by roll call vote with SEN. BALES and SEN. GALLUS voting no.

Motion: SEN. BRUEGGEMAN moved that HB000230.AAG BE ADOPTED.

EXHIBIT(fcs69a10)

Discussion:

SEN. BRUEGGEMAN advised this comes before them every session as a line item. This is an issue of water quality in the state.

{Tape: 2; Side: B}

SEN. BRUEGGEMAN stressed the importance of the amount of money the Yellow Bay Biological Station brings in the form of grants from the appropriation they are given every session. It is a huge impact to the local economy, the University System, and the state of Montana.

SEN. LIND asked if this is additional funding or base funding. He wondered if this facility would cease to exist if this was not enacted. **SEN. BRUEGGEMAN** replied, no. This is money for operations. This is typically money they would use to continue their water quality monitoring efforts on Flathead Lake in addition to other research.

SEN. TRUDY SCHMIDT inquired whether this is already budgeted. **SEN. BRUEGGEMAN** advised they are provided operational funds through the University System. These are dollars they would use for research, particularly with respect to water quality monitoring efforts in the Flathead area. The mission of their organization has typically been Flathead Lake, but they are starting to expand their scope to Swan Lake, Whitefish Lake, etc., that are in need of water quality monitoring. **SEN. SCHMIDT** said they already have money in their budget for research, and this is in addition. **Mr. Peura** replied that is the case, but he suggested someone from the University could best answer that question. **Mr. Sundsted** advised last session there was a one-time-only appropriation of $85,000 per year for Yellow Bay that will go away. This would be to replace and augment that appropriation.

SEN. KEENAN advised this has been a late session add-on to HB 2 for 12 years. Former House Speaker John Mercer put this into the budget in free conference committee. For the last three sessions, **SEN. KEENAN** had done it. It is for the non-point source pollution water quality monitoring study, which is a 22-year baseline study of water quality in Flathead Lake. From 2001 to 2003, there was a two-year gap in this information. This is a biennial restricted appropriation, but this one would go into the base and is not one-time-only. They have done one-time-only in the past. It was always done late in the session and has always had someone in a position to do it. That is not the case this time.

Phil Johnston, University of Montana, commented Yellow Bay is different than other agencies, and is funded through the University of Montana budgeting process. To extend what they do at Yellow Bay they had line item appropriations from the Legislature over the years. The intent of the amendment is to give them more money for the world renowned work that they do that is also very important to the state of Montana. **SEN. SCHMIDT** wondered if there is a write-up in this section for Yellow Bay. **Mr. Johnston** replied the funding for Yellow Bay comes through the University of Montana budgeting process, so it is not shown in the narrative. It shows up in the University of Montana funding, but traditionally needs additional help for water quality research and monitoring.

REP. FRANKLIN advised Yellow Bay is funded in the funding formula in the lump and through whatever other sources they bring in such as grants. This request did not go through the University System process of funding. They would be granting a line item outside the lump, and that is a policy decision they will have to make.

SEN. WEINBERG spoke against the amendment. He pointed out that a lot of the people who collect the water samples do it voluntarily. In addition to that, they do fund raising for this center. It was his sense that they have other ways to accomplish their mission.

SEN. LIND advised he would oppose the amendment, but spoke in favor of the facility. This is a world class facility, and Chile has modeled their facility after the Yellow Bay facility.

SEN. ESP inquired when they gather this research that is in the baseline study, if public policy-making bodies in the Flathead Valley use that data to alter what they may or may not do. **SEN. BRUEGGEMAN** advised the biological station has done work in the past discussing what is happening with the lake. To some extent the policy of discharging into the lake in the Polson area from

the sewer system was changed because of discoveries made by the biological station. He thought when it comes to the quality of the lake, this is important. It changes the outlook of the Flathead Basin. In the future, they will be dealing more closely with the Flathead Basin Commission in making decisions. They do a lot of work with respect to the river systems in the Flathead. It does affect local policy. **SEN. ESP** asked if the research from this particular funding stream was used by local governments and other policy makers use the data in developing policy. **SEN. BRUEGGEMAN** advised everyone has access to the available data.

SEN. RYAN wondered why this was not presented to the subcommittee as a decision package. **Ms. Stearns** responded that is a good question, and they have asked that at the University of Montana. One of the reasons was there was some tradition for Yellow Bay water quality monitoring to be funded in a separate class. She thought it may have been overlooked, or they may have assumed that the practice of getting special one-time-only funding would work. She did not think it was deliberate; it may have been an oversight. **SEN. RYAN** thought in the future this should be one of the decision packages so that they make their case like all the rest. He was not in favor of this at this time.

SEN. KEENAN did not want this amendment to reflect negatively on the Yellow Bay Biological Station in any way. The Flathead Basin Commission fingerprints were more on this amendment than anybody else. The Flathead Lakers were another organization. It is unfortunate, and **SEN. RYAN** was right this needs to come forth in a straightforward manner. Having received the emails, phone calls, and the pressure to do this every time, he has gone to the Flathead Basin Commission and the Flathead Lakers and said this has got to stop. They have go to stop thinking that the Speaker of the House or the President of the Senate will take care of this in free conference committee every year. The Flathead Basis Commission has been successful in finding grants and outside funding. This particular piece, this voluntary non-point source pollution information, is the money for the technical analysis of the water quality. This is outside of the Yellow Bay Biological Station; it is a service they perform which matches up well with their mission.

SEN. BRUEGGEMAN acknowledged this is out of the ordinary with respect to how amendments are proposed. It has been a kind of an appendage to the budgeting process for the last number of years. He was hoping to see a decision package this time, and that is why he brought the amendment. This money is for research and the water quality monitoring effort on Flathead Lake. This also enhances educational programs. He thought it was critical to

look at water quality for the greater Flathead area, which means a lot to the state from an economic point of view.

Vote: Motion failed 7-12 by roll call vote with SEN. BARKUS, SEN. BRUEGGEMAN, SEN. COBB, SEN. ESP, SEN. GALLUS, SEN. KEENAN, and SEN. STAPLETON voting aye.

Motion: SEN. COONEY moved that HB000252.AMD BE ADOPTED.

EXHIBIT(fcs69a11)

Discussion:

CHAIRMAN COONEY advised the commission agreed that its function would terminate and ongoing funding was not necessary.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. RYAN moved that HB000240.AJS BE ADOPTED.

EXHIBIT(fcs69a12)

Discussion:

SEN. RYAN advised this amendment implements SB 333 in HB 2.

Vote: Motion carried 17-2 by roll call vote with SEN. BALES and SEN. STAPLETON voting no.

Motion: SEN. RYAN moved that HB000241.AJS BE ADOPTED.

EXHIBIT(fcs69a13)

Discussion:

SEN. RYAN explained this incorporates SB 359 into Base Aid for school districts, and disallows students who spend less than half the day in school to be counted in ANB. It shows a reduction overall in the budget. **Jim Standaert, Legislative Fiscal Division,** noted the amendment should be corrected to read SB 359.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. TESTER moved that HB000239.AJS BE ADOPTED.

EXHIBIT(fcs69a14)

Discussion:

SEN. TESTER advised the amendment would save general fund in FY 2006 and FY 2007.

Linda McCulloch, Office of Public Instruction (OPI), advised they requested four curriculum specialists, and the subcommittee approved two. The top two areas of importance are reading and math. There is an increase in accountability from schools and an expectation and requirement that students achieve at a higher level. Teachers have nowhere to go in the state of Montanan for expertise in subject areas. These curriculum specialists existed for years at OPI. As a teacher, she worked with the curriculum specialists the most. Those specialists were lost in the early to mid-1990s through legislative action. Those specialists would help with best practices in the schools. If a child cannot read at the third grade level by the time they finish their grade, it is almost impossible and extremely expensive to ever catch that child up. That is one of the big reasons for dropping out of school. The fact that teachers have nowhere to go in the state in unfortunate.

SEN. RYAN inquired if these positions and any positions dealing with curriculum were taken out in the 1990s before **Ms. McCulloch** was Superintendent. **Ms. McCulloch** indicated it was when she was a teacher. **SEN. RYAN** advised many larger districts have curriculum specialists. He wondered how rural schools were handling keeping up with curriculum at this point in time. **Ms. McCulloch** said that is the problem; there is no math, reading, science, or social studies specialist that teachers can go to. **SEN. RYAN** asked if there are regional cooperatives to deal with curriculum in the rural areas. **Ms. McCulloch** replied there are six curriculum divisions within the state of Montana, but they are not funded at the state level. They are funded by whatever they can obtain through grants, etc. It is a help, but is not the same as a math, reading, science, or library specialist that a teacher can go to. Those regions will provide professional development training, but there is no person on the staff that is a professional in math or reading. **SEN. RYAN** asked if a rural cooperative cannot find federal money, if they take local dollars to get this job done. **Ms. McCulloch** clarified these regions pool their dollars and try to bring in some professional development for a group of teachers, which is not the same as having someone at the state or local level that is a math or reading specialist.

{Tape: 3; Side: A}

SEN. ESP inquired what they did with Indian Education for All for a curriculum specialist at OPI. **Ms. McCulloch** indicated the $2 million that was in the Governor's budget for OPI to develop curriculum and professional development for schools is still in

the budget. There is an additional $1.1 million in the budget for grants, a conference, and some professional development directly to the schools, with an additional $300,000 for a grants administrator within OPI. That adds up to about $1.4 million.

SEN. HAWKS referred to the void in the Department that existed for those years. It has been his experience that local teaching professionals had to go to national sources for guidance. Given the task at hand, he wondered if there was any way to facilitate access to web sites or sources in the national government that would assist in these areas as a possible substitute. **Ms. McCulloch** advised they pass along information to schools and school districts through a variety of communications all the time. Going to a national source, where they do not have the money to pay into a national source, is not going to help rural Montana.

Vote: Motion carried 14-5 by roll call vote with SEN. BARKUS, SEN. COBB, SEN. RYAN, and SEN. WILLIAMS voting no. SEN. BRUEGGEMAN voted no by proxy.

Motion: SEN. COBB moved TO RECONSIDER ACTION ON HB000239.ajs to fund this, contingent on passage and approval of SB 513.

Discussion:

SEN. COBB indicated that SB 513 is **SEN. JIM ELLIOTT'S** bill that would eliminate income tax loopholes. It has a fiscal note of approximately $18 million.

SEN. TESTER did not know if this was the way to go procedurally. It seemed to him a better motion would be to have this amendment drafted to include the language "upon passage and approval". **SEN. COBB** said he made the motion now in order to wrap up this section.

Vote: Motion failed 7-12 by roll call vote with SEN. BARKUS, SEN. COBB, SEN. ESP, SEN. LIND, SEN. RYAN, and SEN. WILLIAMS voting aye. SEN. BRUEGGEMAN voted aye by proxy.

Section R

Ms. Purdy advised the wrong rate for helicopters in Fish, Wildlife, and Parks (FWP) got put into the bill. The amounts of money associated with that rate are correct in HB 2, and this is strictly a technical amendment.

Motion/Vote: SEN. GALLUS moved that HB000284.ABS BE ADOPTED. Motion carried unanimously by voice vote.

EXHIBIT(fcs69a15)

Recess - 10:42 a.m.
Reconvene - 11:10 a.m.

CHAIRMAN COONEY advised there were some amendments pertaining to both Section A and B.

Motion/Vote: SEN. RYAN moved TO OPEN SECTIONS A AND B FOR RECONSIDERATION. Motion carried unanimously by voice vote.

Section A

Motion: SEN. LAIBLE moved that HB000238.AFD BE ADOPTED.

EXHIBIT(fcs69a16)

Discussion:

SEN. LAIBLE said the amendment increases funding by $120,000 for the Montana State Lottery for permanent signage identifying retail locations. In the six months ending December 31, 2003, total revenue was $19.469 million. In the six months as of December 31, 2004, sales were down about $2.5 million. There is a need for new signage to replace old signage. This does not affect the general fund. The projections are that the return on investment would be more than enough to pay for the initial cost.

SEN. ESP indicated he would oppose the amendment. He thought the $1.5 million would be better spent on groceries, diapers, etc. He was not so sure it was a bad thing that revenue was down in that area.

CHAIRMAN COONEY advised this came up in the subcommittee, and **SEN. LAIBLE** explained it well. He said he voted for this originally. That was a different day than today.

SEN. LAIBLE said he talked to somebody out in the hall who said this process is like a Russian novel in the fact that it goes on and on and in the end everybody dies.

Vote: Motion failed 5-14 by voice vote with SEN. BARKUS, SEN. BRUEGGEMAN, SEN. GALLUS, SEN. LAIBLE and SEN. STAPLETON voting aye.

Motion: **SEN. LARSON moved that HB000246.AMD BE ADOPTED.**

EXHIBIT(fcs69a17)

Discussion:

SEN. LARSON said this amendment restores $37,500 each year for a total increase of $75,000 for the Air Transportation program of the Governor's office. The Governor needs that airplane to do the things he needs for the state. It also removes the $75,000 general fund to purchase four parachutes. **CHAIRMAN COONEY** said that would be a golden parachute. The correct amount for parachutes was $3,200.

SEN. LAIBLE wondered if there was additional money put into the airplane already. **SEN. LARSON** thought it was taken out in the House. **Amy Sassano, (OBPP),** confirmed it was cut on the House floor.

CHAIRMAN COONEY said the amendment would add a little more money to the Governor's transportation for the plane, but basically it takes into account the rising cost of fuel. It will allow him to use the airplane as much as a Governor typically uses it. That was confirmed by **Ms. Sassano.**

SEN. BRUEGGEMAN thought parachutes were a contingency. He was tempted to offer a substitute amendment to approve the $75,000 but without the reduction of the parachutes.

SEN. RYAN agreed. The $3,200 for parachutes was because they were not going to replace the engine.

CHAIRMAN COONEY reminded the committee they had a lot of work to do, and he would make the jokes on this committee.

SEN. LARSON said he spoke with some folks who were familiar with this plane, and due to the fact that you have to jump into the prop anyway, he did not think a parachute would be much good.

Vote: **Motion passed 13-5 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN voting aye. SEN. STAPLETON voted no by proxy.**

Motion: **SEN. LARSON moved that HB000247.AMD BE ADOPTED.**

EXHIBIT(fcs69a18)

Discussion:

SEN. LARSON advised the Governor intends to live full-time in the mansion. Due to the fact that he has three children and will be spending a lot of time there, and the former Governor did not have the same circumstances, he thought the increase was needed.

Vote: Motion carried 11-8 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. COBB, SEN. ESP, SEN. HANSEN, SEN. KEENAN voting no. SEN. STAPLETON voted no by proxy.

Motion: SEN. LARSON moved that HB000236.AFD BE ADOPTED.

EXHIBIT(fcs69a19)

Discussion:

SEN. LARSON advised the amendment addressed a pay variance between the clerks and court reporters. **Jim Oppedahl, Administrator, Montana Supreme Court,** advised the equity issues were related to the assumption of district courts. The state took on about 275 county employees and 56 different pay plans. In that process, they ended up with a pay classification plan and some additional money to bring people who were not at the minimum up to the minimum judicial pay plan. This proposal was to address the inequities in judicial assistance, entry level law clerks, senior level law clerks, and juvenile probation officers across the state that have different pay depending on where they were at the county level. A judicial assistant in one county makes $4.00 an hour less for doing the same job than another judicial assistant sixty miles down the road.

SEN. ESP inquired why this is a problem. **Mr. Oppedahl** advised the problem is pay equity within the classifications. A judicial assistant who is classified at one level is making a different salary than someone else who is doing exactly the same job, and that is the equity problem they are trying to address. **SEN. ESP** asked if they could be dropped down a grade so their grade matches their pay. **Mr. Oppedahl** indicated, in the state assumption of district courts, they were required to bring folks on at the level they were in the county. They did a classification plan so it would be like all other state employees. The solution to the equity issue would not be to reduce everyone's salary and decrease the classification system.

SEN. RYAN advised the district clerks were not assumed under state assumption and stayed at the county level. These were people who work directly for the judges, their secretaries and law clerks. That was confirmed by **Mr. Oppedahl.**

{Tape: 3; Side: B}

SEN. LAIBLE recalled criticism about the fact that when the counties turned over all these employees, their salaries were bumped up because they were going to the state payroll. That is one of the reasons the estimates for district court assumption and what it actually turned out to be were significantly different. His concern was whether they were bumping people up twice. **Mr. Oppedahl** did not believe they were. He said he was not here in 2003. This has been a process of providing a uniform classification system for all the judicial employees, which was something they did not have before. There may have been some things that happened prior to assumption that the state could not control, but this is an effort to have a uniform, across-the-board judicial pay classification system. These are the last vestiges of assumption. **SEN. LAIBLE** asked if these costs were also included in the supplemental that was brought forward for the district courts. **Mr. Oppedahl** indicated the supplemental is only for variable costs, which do not include any salaries.

SEN. BALES said the current funding that they were given last time brought everyone up to the minimum wage level at which they were working. **Mr. Oppedahl** advised, yes. **SEN. BALES** said that was built into the budget with the normal increase that goes with those. **Mr. Oppedahl** said, that was correct. It does not address the issue of equity with a number of these employees. **SEN. BALES** asked if this proposes to address the equity by bringing everybody up to the highest one that came on. **Mr. Oppedahl** replied that was not what they were proposing. This was taking about seven employees in the branch and making sure that for their time, service, and experience that they have equity with other employees that have similar time and service in that grade. **SEN. BALES** saw a problem because there was evidence that some salaries were pumped up. If they are trying to bring everybody up and make them comparable on grade, they are trying to take everybody up to an inflated position. **Mr. Oppedahl** did not believe that was what they were attempting to do. They were simply trying to have equity across the classifications and recognize within the salary the equity that is necessary for time, service, and the number of years that the employees are there. That is the issue that did not get addressed last time or the time before. They are not taking people up to the top of the pay classification system, simply to where they are within that classification system for their years of service. **SEN. BALES** inquired if there were people being paid more than what they should be at this point. **Mr. Oppedahl** did not believe they so. There are folks in counties that are not being paid what a similar position employee is for their class and their years of service. **SEN. BALES** said he realized that, but wondered if there was anybody over the amount that they would normally get for time and grade based upon the salaries they were given coming into the

system. **Mr. Oppedahl** did not think he could answer that question; he did not think that happens. They have some employees that have maxed out at their grade level. About 30 employees did not receive the $.25 per hour increase that state employees got in January.

SEN. LARSON advised when a large chunk of government changes hands from one division to another, there are some people that get hurt in the process. This amendment is their chance to right that.

Vote: Motion failed 6-13 by roll call vote with SEN. BRUEGGEMAN, SEN. COBB, SEN. GALLUS, SEN. LARSON, and SEN. SCHMIDT. SEN. WILLIAMS voted aye by proxy.

Motion: SEN. LARSON moved that HB000241.AGD BE ADOPTED.

EXHIBIT(fcs69a20)

Discussion:

SEN. LARSON explained the amendment corrects an error in the cost of FTE associated with Integrated Financials decision package. **Jim Curry, Department of Transportation,** advised when they went through subcommittee there was a decision package worth about $1.2 million for Integrated Financials. They offered some of that increase up and gave up the contracted service portion of that particular decision package, but wanted to keep the FTE portion to move forward with this project even though it would beat a slower pace. When the budget office calculated the cost of the personal services they left in the budget to fund the FTE, there was a problem in the system and FY 2007 got dropped off for one FTE. This is simply correcting that mathematical error.

Vote: Motion carried 14-5 with SEN. HANSEN, SEN. HAWKS, SEN. LIND, SEN. RYAN, and SEN. WEINBERG voting no.

EXHIBIT(fcs69a21)

Motion: SEN. COONEY moved that HB000237.AFD BE ADOPTED.

CHAIRMAN COONEY advised this is one-time-only funding, and increases general fund in the Property Assessment Division for FY 2007 by $570,663 over the biennium. This amendment is for the agriculture/forest land reappraisal program. He asked **Dan Bucks, Director, Department of Revenue,** to comment. **Mr. Bucks** stated the original proposal in the subcommittee was the second proposal that was made in this regard. It was for a one-time-only $2.8 million request to try to accomplish agricultural land

reappraisal and reclassification in the 2007 biennium. That proposal would have involved taking data from two agencies within the U.S. Department of Agriculture, processing that data, generating initial classifications, and then going out with field staff to contact agriculture producers and refine the classification of the lands. A part of the process was to update the yield and production data and do some other steps involved in classification. There would be a an agricultural land advisory council helping to guide this as provided by law. The new proposal makes some significant changes. The starting work was done in the same way with the processing of the data from the U.S. Department of Agriculture, preparing an initial mapping and general classifications that need to be refined. In the 2009 biennium, a process of dialogue with individuals producers would begin. There may be some field work involved that would continue for a year and a half. By January 1, 2009, the agricultural land classification process and revaluation and productivity yields process would be done. That is when the new values are supposed to come on with the appraisal cycle. The appraisal cycle says the values are actually supposed to be done a year earlier with a year lag. They are proposing to move the completion of the appraisal process for agricultural land, residential and commercial property, and forest land to January 1, 2009 when those values would be scheduled to go on board. They would request a committee bill from the Senate Finance and Claims Committee to accomplish this in this new method. There will be another one-time appropriation required in the next biennium to finish the process. This process involves more dialogue with the agricultural community using fewer staff members within the Department. **CHAIRMAN COONEY** asked **Mr. Bucks** to address the concern about not having done this. **Mr. Bucks** advised they are required under the law to reappraise, in this appraisal cycle, Class 3 agricultural land, Class 4 residential and commercial property, and Class 10 forest land. Those three classes are supposed to be reappraised together. That is the mandate of state law. Agricultural classifications are about 40, in terms of litigation about the validity of the appraisal process if they do not do agricultural land valuation this appraisal cycle. The complaint could come from residential or commercial property owners who would contend that the reappraisal process was invalid because they had not revalued all these classes of property together in accordance with the law. They think it is wise and prudent to get the valuations up to date and in proper order and do it in accordance with the law so that all three classes are done together and on the same time schedule.

SEN. ESP asked if it was still his intention to value agricultural land based on productive value. **Mr. Bucks** advised that is what the law requires, and it will be done on

productivity values. They have to classify the lands and update yield data and other matters that go into the productivity formula.

Vote: Motion carried 13-6 by roll call vote with SEN. BARKUS, SEN. BRUEGGEMAN, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.

CHAIRMAN COONEY said he would entertain a motion for a committee bill to change the law to 2009.

Motion/Vote: SEN. GALLUS moved FOR A COMMITTEE BILL. Motion carried 16-3 by roll call vote with SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.

Motion: SEN. COONEY moved that HB000253.AMD BE ADOPTED.

EXHIBIT(fcs69a22)

Discussion:

CHAIRMAN COONEY advised the amendment is the result of discussions with the Legislative Division following the four percent vacancy savings on the Legislative Branch. The Legislative Division indicated that four percent vacancy savings would be difficult to live within, and he asked them to come up with some other potential cuts. He expressed to them that there was some interest among members that if they were going to make cuts to do it in a way that would have greater impact on legislators. This amendment is their recommendation. He said when he moved forward with the cuts on CSG travel, he was asked if he had designs on cutting other membership dollars in the budget at that time. That was not his intent, and he did not encourage these proposals to come forward. It was not with a happy heart that these proposals came forward. If a cut is to be made, this is where the Legislative Branch would prefer to see the cuts.

SEN. BARKUS said yesterday they eliminated CSG, and wondered if the proposal is to eliminate the membership in NCSL and if they were retaining the travel for those. **SEN. ESP** thought DP6 was for the travel to NCSL. **CHAIRMAN COONEY** thought that was correct; it was the additional travel that was in the budget. The amendment impacts PNWER and River Governance. The Department said they would rather do it this way than with a four percent vacancy savings.

SEN. RYAN said he would support the amendment, but would call it the revenge of Legislative Services.

{Tape: 4; Side: A}

Lois Menzies, Legislative Services Division, advised they were given permission to come forward with some alternative reductions to meet roughly $400,000 in general fund plus $112,000 in state special revenue. She said she would not characterize this as revenge in any respect, and would not characterize it as a proposal of the Legislative Services Division. Instead, what they are offering are the new proposals, so they can continue to provide the services they provided during the last interim. Typically, when agencies are requested to reduce funding, they look at the areas of innovation or expansion and offer those up first so they can continue to provide services as they did in the past. The dues for NCSL are included in the budget. What is being removed is the travel associated with participation in NCSL. She pointed out there is some intent language in this amendment as well that says if they can find other means of financing these new proposals, they are directed to work with their committees to do that. If there is carry forward money that might be available for this purpose, they would recommend to their committees that money be expended that way. Depending on how the interim turns out, they may be able to fund some of these new proposals, but the thought was they would remain whole and not step out into new areas.

SEN. ESP inquired if there was a way to take donations for the travel. **Ms. Menzies** said she was familiar with some of these organizations accepting money from associate memberships, such as corporate affiliates. They donate to the organizations and the organizations make scholarships available. PNWER is a public/private partnership that allows that to happen. She assumed these other organizations were open to that sort of donation. **SEN. ESP** asked if there was a mechanism in state law that would allow donations to come directly to the Legislative Services Division for that purpose. **Ms. Menzies** said she was not aware of any statutory language. **SEN. KEENAN** advised there is a statute that allows for that. It was amended in last session, and is through the Department of Administration. Donations can be accepted for any area of government from anybody. **SEN. ESP** advised he would investigate whether they could spend the money if they get it. **SEN. KEENAN** advised that private funds do not require an appropriation. **Ms. Menzies** confirmed they have the authority to accept those, and they do not need to be appropriated.

SEN. GALLUS asked if the new programs were being separated from the travel. **Ms. Menzies** replied the travel money in this budget is new. The dues paid to NCSL are not, and that is part of the base. They have traditionally paid both years of dues to NCSL

and one year to CSG. Under this proposal, they were also looking at travel for both NCSL and CSG. The money associated with CSG was taken out a couple days before. What remained was NCSL travel. That would be payment of salary, room and board, transportation, and registration. **SEN. GALLUS** said in 2004 there was $10,000 for Legislative Finance Committee members to attend the River Governance Committee. He asked **Ms. Menzies** if she considers that $10,000 a new proposal. **Ms. Menzies** replied it was correct that money was made available for participation in River Governance. Members of that group came before the Legislative Council and requested that they allocate the amount to participate within their budget. It was not appropriated for that purpose, but the Legislative Council agreed to pay a portion of that amount. At one time, River Governance had a one-time-only appropriation. That went away the next year, and then this last biennium it was given through the Legislative Council. She maintained it truly is a new proposal, because it was not budgeted for last time around. **SEN. GALLUS** said they could agree to disagree. He stated he was involved in the River Governance Committee for five years, and it has been an awesome source of information. **SEN. BILL TASH** and he have voluntarily not submitted pay forms, and they traveled to Boise, Portland, and Seattle. These are metropolitan areas with significant hotel and restaurant costs associated with them. They do not send in their salary forms, because they know there is not much money to work with. This $10,000 keeps Montana involved in a four-state coalition of Washington, Idaho, Oregon, and Montana to participate in national issues associated with the Columbia River, its dams, its salmon, its resources, and its businesses. They advocate on behalf of cost-based power, which is of great economic benefit to the Pacific Northwest. He stressed the importance of Montana's continued participation in protecting the resources of the Columbia River Basin, of which Montana is a part.

Motion/Vote: SEN. GALLUS moved that HB000253.AMD BE TABLED. Motion failed 2-17 by roll call vote with SEN. GALLUS and SEN. STAPLETON voting aye.

SEN. COREY STAPLETON asked about the audio recording of minutes. **Ms. Menzies** responded that the amount of money associated with that reduction if for the expansion of a pilot project they are doing this session. It involves six committees in the Senate and six committees in the House. They create an audio recording of certain committees and then create minutes that are essentially a log that tie in to those audio minutes. They create an audio clip and put it on the website so members of the public can access that using the log. It replaces the summary minutes such as those created for this committee. By eliminating the

$158,000, the expansion of that project will be slowed. In 2007, they will continue to have twelve audio committees. She mentioned she did her homework when they went about proposing these reductions. She did not want to give the impression that the directors were loose cannons trying to identify things that would prohibit legislators from doing their business. She checked with Marilyn Miller, Chief Clerk of the House, who agreed this was something that could be put on hold. She checked with members of the Legislative Council before bringing any of these forward to seek their approval. This was not driven by the directors without the support of their committees. **SEN. STAPLETON** advised he did not support the amendment and did not support the $400,000 reduction. There is an historically high surplus, and there is potentially close to $100 million in property tax increases. When they took out the $400,000, they immediately put it into one of the other branches of government. They have every right to keep a bare bones infrastructure in the Legislature. It is politically in vogue to go after their own services, but he thought, whether here or in the free conference committee, that this amendment ought to be resisted and the $400,000 should be put back. There are historic high increases in Section B. It is a drop in the bucket to have some fiscal restraint in some of these other sections and leave the Legislature alone.

SEN. KEENAN agreed with **SEN. STAPLETON**, but he had to support this amendment because it is one way of trying to fix this. As a member of the Legislative Council, he talked to **Ms. Menzies** about this proposal. He was reminded of being at home during the interim when the Sherlock decision was made. A number of legislators called **Clayton Schenck**, **Legislative Fiscal Analyst**, for answers, and **Mr. Schenck** was agonizing over the fact that they did not have the staff, money, or time to do what legislators demand.

CHAIRMAN COONEY said this is not an amendment he was happy to bring forward, but it is necessary in the situation. He thanked the Legislative Branch for coming up with these proposals. If there is some way some of this can be undone, he would be willing to look at that.

Vote: Motion passed 16-3 by roll call vote with SEN. ESP, SEN. GALLUS, and SEN. STAPLETON voting no.

Recess 12:20 p.m.
Reconvene 3:36

Section E

Motion/Vote: SEN. BRUEGGEMAN moved that HB000234.AAG be adopted. Motion carried unanimously by voice vote.

EXHIBIT(fcs69a23)

Section C

Ms. Purdy explained amendment HB000287.abs was a technical amendment with contingency language regarding HB 235.

EXHIBIT(fcs69a24)

Motion/Vote: SEN. HANSEN moved that HB000287.ABS BE ADOPTED. Motion carried unanimously by voice vote.

Section A

Motion: SEN. COONEY moved that HB000246.AGD BE ADOPTED.

EXHIBIT(fcs69a25)

Discussion:

CHAIRMAN COONEY explained this is a contingency amendment. The bill is on the Governor's desk awaiting his signature. **SEN. JOE TROPILA** introduced SB 98 dealing with the Montana Land Information Act. There was a $1 per page increase in land transaction recording fees collected by Clerk and Recorders. This language needs to be put into HB 2.

Jeff Brandt, Acting Chief Information Officer (CIO), advised they were part of the staff that worked with the Governor's Executive Council on Geographic Information Systems that crafted this bill. The bill passed the Legislature and was signed by the Governor. At this point, it is a matter of getting the state special revenue portion in the budget for HB 2.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. SCHMIDT moved that HB000214.AFD BE ADOPTED.

EXHIBIT(fcs69a26)

Discussion:

SEN. SCHMIDT asked **Ms. Sassano** to comment. **Ms. Sassano** explained the amendment moves $1.5 million a year in general fund from the Juvenile Corrections Program to the Secure Facilities Program.

It leaves the 2 percent/2percent per diem rate increase intact. In addition, it adds about $140,000 over the biennium that was previously in the Appellate Defender budget for HB 392, which was tabled by the House Appropriations Committee and subsequently missed transmittal.

SEN. SCHMIDT stated this is restoring the 2 percent/2 percent raise for provider rates for the pre-releases, the private prison, and the regional prison that had not had a raise for a number of years.

Harry Freebourn, Legislative Fiscal Division, advised that the subcommittee had taken $1.5 million each fiscal year out of secure care and put it in the JDIP funds. This amendment reverses that transaction. Because HB 392 did not pass, this amendment moves $73,181 that was earmarked for that bill in FY 2006 and $67,229 in FY 2007 to secure care. This amendment does not touch the per diem increases that were approved by the subcommittee. Those are still intact.

SEN. GALLUS asked about the effect on the JDIP funds. **Mr. Freebourn** indicated the Governor brought in a budget of about $6.5 million for that program, which includes JDIP funds. The subcommittee increased the program over and above what the Governor recommended. This amendment takes it back to what the Governor proposed. It was not clear what the funds would be used for. It was to bolster the program. **SEN. GALLUS** advised he wanted that question answered because there had been a problem the past couple of days with whether they were cutting something or just trimming it back to where it started from. That is what this amendment does, and he thought it was a good amendment.

Vote: Motion carried unanimously by voice vote.

Section A

Motion: SEN. HAWKS moved that HB000244.AGD BE ADOPTED.

EXHIBIT(fcs69a27)

Discussion:

SEN. HAWKS said the amendment increases the general fund by about $1.4 million over the biennium for the Department of Revenue to restore the general fund backfill for the reductions from the federal special revenue resulting from the transfer of the Unemployment Insurance tax collection function to the Department of Labor and Industry. He asked **Mr. Bucks** to explain.

{Tape: 4; Side: B}

Mr. Bucks said these were not the variable costs. This deals with the fixed costs in the Department that existed before Unemployment Insurance was brought over. During the period of time Unemployment Insurance was there, the general fund got a big break. They basically billed every pre-existing fixed cost that they could legitimately justify at a rate of 17.6 percent to the U.S. Department of Labor. These were functions that did not change. He showed a photo of their check processing machine and the staff that goes with it in the Department. When they received a check from the employer before UI, it was a check for income tax withholding. During the time that UI was there, it had both income tax withholding and unemployment insurance. There was no difference in the cost except the state was able to bill 17.6 percent of that processing cost to the U.S. Department of Labor. Now that the unemployment insurance function is back at the Department of Labor, the Department of Revenue cannot bill a share of these fixed costs to the U.S. Department of Labor. This was recognized in the 2003 session, and the replacement actually began in FY 2005. This is back here only because the base year for this biennium is 2004. This was recognized in the fiscal note on SB 271 in the 2003 session. The policy was adopted in 2003, and this amendment implements the policy. If it is not passed, they will have to reduce positions in the Department significantly. There are positions that are difficult to cut, and the activity will fall disproportionately on the direct revenue-raising functions in the Department. It will cost considerably more in terms of lost general fund dollars, estimated to be $6 million to $9 million, than what it is to replace this funding.

SEN. ESP inquired whether the Department of Labor has this windfall coming to them that used to come to the Department of Revenue. **CHAIRMAN COONEY** thought it went to the Department of Labor when it went back, and that they were taking advantage of the billing to the federal program. **Roy Mulvaney, Department of Labor and Industry**, said, with HB 271, 43 FTE were transferred back to the Department along with the funding to collect the Unemployment Insurance Tax. **SEN. ESP** asked if the Department is able to utilize this same 17 percent scheme. **Mr. Mulvaney** advised they bill for their overhead to the U.S. Department of Labor. He did not know the percentage.

SEN. LAIBLE said this is a policy decision. When the Department of Revenue got this program, they got the overhead that went to manage this program. Now that the program is no longer there, they still want to keep the overhead. His concern was that every

time they delete a program, a department will want to replace the overhead. He favored rejecting the amendment.

CHAIRMAN COONEY said that was a legitimate concern. Before POINTS and consolidation occurred, the Department of Revenue had these people and those functions and they were being paid for out of the general fund. **Mr. Bucks** replied, yes. **CHAIRMAN COONEY** said when consolidation occurred, they were able to pay for those positions using the unemployment billings. **Mr. Bucks** answered, yes. **CHAIRMAN COONEY** asked what the Department of Labor did prior, and if they were billing the U.S. Department of Labor prior to it moving over the Department of Revenue. When it was split up, the Department of Revenue was not given the money to make itself whole. **Mr. Bucks** clarified there was no buildup of overhead that occurred. This was a billing practice. They found every general function in the Department that they could possibly justify, and because they had UI in the Department, they could justify billing a part of this to the U.S. Department of Labor. It was a savings mechanism for the general fund. They send forms annually to employers to fill out for withholding. There was a one-page form that was used for income tax withholding before UI was there. During the time UI was there, it was still a one-page form with a few extra lines on it. The cost of printing, mailing, and processing that form was the same. The only difference was they billed 17.6 percent of the cost of that process to the U.S. Department of Labor. Now, there is a one-page form for income tax withholding with the same cost. If this is not backfilled, it means they have 83 percent of the money to do the same function they did before. Last session, the Legislature actually started this backfill. It was recognized in SB 271 and in the general appropriations bill. It was done in 2005. There was no buildup; it was just a billing practice that was a good deal for the general fund at the time.

Vote: Motion carried 13-6 by roll call vote with SEN. BALES, SEN. BRUEGGEMAN, SEN. ESP, SEN. KEENAN, and SEN. LAIBLE voting no. SEN. BARKUS voted no by proxy.

Motion: SEN. LARSON moved that HB000243.AGD BE ADOPTED.

EXHIBIT(fcs69a28)

Discussion:

SEN. LARSON stated the $2.7 million was removed from the Department of Justice and needs to be moved to the Department of Transportation. **Jim Currie, Department of Transportation (DOT),** advised the bill moved the Motor Carrier Safety Assistance Program (MCSAP) from the Highway Patrol to the Department of

Transportation. The MCSAP program does safety inspections on commercial trucks. This is also done at DOT with Motor Carrier Service (MCS) officers, so the decision was made to provide that service under one department. The budget for the program was already removed from the Department of Justice budget, but was not yet put into the DOT. This amendment puts the necessary budget authority into the DOT to continue to operated the MCSAP program from the DOT.

SEN. ESP inquired why this is not contingent. **Ms. Purdy** explained the appropriation in the amendment is not contingent on the bill. That was reference to the fact that another bill is what caused this transfer to take place.

Vote: Motion carried 18-1 by voice vote with SEN. ESP voting no.

Section B

Motion: SEN. COBB moved that HB000258.ALS BE ADOPTED.

EXHIBIT(fcs69a29)

Discussion:

SEN. COBB moved the amendment at the request of **SEN. LIND.** This is not a cut or a transfer. This would make the Meals on Wheels appropriation that was put in HB 2 by the subcommittee one-time-only, and it would not be part of the base next session. This also removes the biennial appropriation designation.

SEN. ESP wondered why remove the biennial appropriation. **SEN. COBB** wanted it divided so it was not all spent the first year. It is more sustainable for two years, but then it is still one-time-only.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. COBB moved that HB000231.APG BE ADOPTED.

EXHIBIT(fcs69a30)

Discussion:

SEN. COBB indicated this would reduce general fund support for childcare by $100,000 for the biennium and increase the state special revenue support from the Prevention Stabilization account. This is a funding switch. Staff said it looked like there is an extra $100,000 in the state special account to fund childcare. It frees up $100,000 general fund for the biennium.

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

Motion: **SEN. COBB moved that HB000233.APG BE ADOPTED.**

EXHIBIT(fcs69a31)

Discussion:

SEN. COBB advised this is another funding switch. In subcommittee give money to food banks every year for the TANF account. The subcommittee used general fund this time. This amendment takes the general fund out each year and replaces it with TANF money. TANF money is going broke in the future, but general fund does not have the money this time. They were trying to do a long-term fix, but cannot do it this time.

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

Motion: **SEN. COBB moved that HB000229.APG BE ADOPTED.**

EXHIBIT(fcs69a32)

Discussion:

SEN. COBB stated this reduces the Low Income Energy Assistance Program (LIEAP) funds by an additional $500,000 per year. He hoped they would find money later to put some money back into this part. There would still be a $500,000 per year general fund increase in LIEAP. **CHAIRMAN COONEY** advised they already took $1 million each year from LIEAP in an earlier amendment. **Pat Gervais, Legislative Fiscal Division**, clarified this would take an additional $500,000 per year. This would leave $500,000 for LIEAP. The Governor's request was for $8.4 million for the biennium. If this motion passes, it would be down to $1 million for the biennium.

Vote: **Motion carried by voice vote with SEN. BRUEGGEMAN and SEN. STAPLETON voting no.**

Motion: **SEN. COBB moved that HB000259.ALS BE ADOPTED.**

EXHIBIT(fcs69a33)

Discussion:

SEN. COBB noted a correction to the amendment. The amendment reduces $500,000 in general fund in FY07 rather than $300,000. This does not cut anyone specifically. He thought the Department

could find some savings. Staff will make the change to the amendment.

Vote: Motion carried unanimously by voice vote.

{Tape: 5; Side: A}

SEN. COBB advised they previously passed amendment **HB000238.als** that divided up the I-149 money. He asked that they reconsider that amendment. HB000276.als would put the I-149 money back to where it was supposed to go, but the Governor's office is worried about the reserve account and does not want to spend any I-149 money in the first six months of the biennium. They will use existing general fund to pay providers and direct care employees on July 1. Some programs will not start until next January 1, 2006. On January 1, they can start using I-149 money if it is there. The old amendment had I-149 money being spent in the first six months of the year. The idea was to build up a reserve and have enough money for prescription drugs. **CHAIRMAN COONEY** suggested a motion to strike that amendment and insert HB000276.als.

Section A & B

Motion: SEN. COBB moved TO STRIKE HB000238.ALS AND PASS HB000276.ALS.

EXHIBIT(fcs69a34)

HB000276.ALS will reallocate I-149 money and the Department will implement certain rate increases on July 1, 2005. Some programs will not get anything until January 1, 2006. Children's Mental Health will not get their rates until October 1. There is no change to the general fund. This will use general fund to fund these programs from July 1 to January 1. At that point, they will be funded by I-149. This frees up almost $4 million of I-149 money that was appropriated to be spent in this next fiscal year so that it can go to the reserve to help the reserve build up faster. If I-149 money runs out in the future, these programs will have a better chance of staying funded for awhile. **David Ewer, Budget Director,** wanted some assurance for the future. The amendment uses general fund to fund provider rates. After this amendment goes on, **SEN. TESTER** has another amendment to make sure everything is protected.

SEN. KEENAN said, when **REP. CHRISTINE KAUFMANN** gave her overview of Section B, one of the situations mentioned was the need to correct the inappropriate uses of I-149 funds. He wondered if this amendment does that, or if it just moves money around and it

is still inappropriate. **SEN. COBB** advised this does not fix the mental health services yet; that is still being worked on. There may be a committee bill to do that. **REP. KAUFMANN** is trying to take care of that problem in the House. This amendment funds some existing programs, providers, and direct care employees with general fund on July 1, 2005. I-149 takes over on January 1, 2006, which allows the reserve to build up. **SEN. KEENAN** asked if the $900,000 of general fund that is currently going to the home and community-based waiver services will be switched to I-149 and is an additional violation of I-149 language. **SEN. COBB** relied I-149 can be used for expansions, and this is an expansion. He was not doing anything that was in violation. This simply puts I-149 in the future to be used for these things. If I-149 starts crashing, maybe they should not be doing a lot of expansions. They can take care of existing providers and existing services, but maybe they should not be doing certain things. **SEN. KEENAN** said, he concurred. He asked **John Chappuis, Department of Health and Human Services (DPHHS)**, and **Bob Anderson, OBPP**, to comment.

Mr. Anderson commented in general the concept of moving the dates so they do not expend I-149 money ahead of getting a reserve amount of $25 million built up is a common goal. What **SEN. COBB** is proposing is to delay this expenditure of I-149 in some of these programs. That is consistent with the desire of the budget office to build up a certain amount before they begin the full expenditure of it.

SEN. KEENAN asked **Lois Steinbeck, Legislative Fiscal Division**, if there is any prioritization for what gets funded once the $25 million level is reached. **Ms. Steinbeck** referred to the provider rates on page 3, item #15. There was legal review on this, because it was not standard practice in the appropriations world. The appropriations subcommittee and **SEN. COBB**, in particular, wanted to insure that certain provider rate increases were made. Unless provider increases are mandated in statute for how much the agency will spend, they are optional to be implemented. This language makes the main appropriations for three divisions, which would be over half of the general fund appropriated to DPHHS, contingent on those following rate increases being implemented and on the books by July 15. Some of these are funded with I-149. This first half of this coming fiscal year, they are funded out of the general fund. The executive budget funded the mental health services plan out of I-149. Unless they opt to delay prescription drugs for six months until the reserve builds up, that would not have priority in the bill as it is currently written. All the rate increases would have a priority. The ones that are delayed have lesser priority. It was her understanding there would be an amendment in SB 324 and HB 667 to allow the budget director to reduce expenditures to live within the

projected reserve accounts. That would delegate to the executive the ability to prioritize where some of these expenditures are made. **SEN. KEENAN** asked if SB 324 and HB 667 are second in priority from the provider rates. **Ms. Steinbeck** explained there are proposed amendments to SB 324 to allow the startup appropriation to occur, and there is language in SB 324 and will be language offered for HB 2 to say that either a $25 million reserve must be met or December 1, whichever is sooner. She believed the money is not needed for SB 324 until December 31, other than the $1 million in startup. It would have priority in that aspect. HB 667 was amended in House Appropriations to say that it could not be expended until the $25 million reserve was met. The Legislature has already established its own priority for HB 667 in substantive law. **SEN. KEENAN** asked if both of those bills are capped with enrollment or cost. **Ms. Steinbeck** believed the language was the levels of expenditure must be scaled back to live within the balance projected by the budget director. She added the committee already voted on a number of these, in terms of reviewing them, in amendment 238. It does not do much different, except for where the state match comes from.

SEN. STAPLETON asked **SEN. COBB** if there was any obligation in the initiative passed in 2004 that they do not spend any of that money until 2006. He asked if that was the legal intent. **SEN. COBB** thought it was legal for them to not spend it right away. The administration wanted to get to the $25 million reserve before they spend anything. It can be appropriated, but they can tell the departments not to spend the money until the reserve is built up. **SEN. STAPLETON** advised the law is no more or no less than an initiative, but the point is the voters passed something in 2004, and there was an intervening legislative session right after that. Yet they still do not appropriate or spend that money until 2006. He wondered if they had gone away from voter intent. **SEN. COBB** said he was not the one to discuss I-149 in terms of violating voter intent. The Governor wants to have the reserve to have stability until 2011. They are against spending I-149 money right away, except for the mental health part. He wanted to fund existing services and start other services in January. **SEN. STAPLETON** referred to the narrative of amendment 238 and amendment 276. In 276 it says federal matching funds are increased by about $27 million and in 238 the amendment adds $26 million in federal Medicaid funds. He asked if this is the same chunk of change and where the money is going. **Ms. Steinbeck** advised this amendment does slightly different things than amendment 238. It does not exactly replace it, and there is a difference in federal funds that is negligible at the margin. They are almost all federal Medicaid funds. The reason there is an increase is that, when the executive originally proposed using I-149 as match rate, it did not also add the federal funds in the

budget and this adds the federal money to match the state special. **SEN. STAPLETON** asked if the budget office missed the $26 million. **Ms. Steinbeck** said she did not mean to imply that at all. Given the workload of the committee and the concentration on how the funds were going to be allocated, that was a much simpler thing to add in after the money was allocated. It was not an oversight at all. It was a workload impact issue. **SEN. STAPLETON** wondered if anyone was going to mention this if he did not ask. **Ms. Steinbeck** believed the Legislative Fiscal Division in its original narrative said the Legislature, when it finally allocates the I-149 money, will need to add the appropriate matching federal funds. Staff was aware of it and decided to bring it at a point when they could discuss it thoroughly. **SEN. STAPLETON** observed if an amendment would bring in $27 million of federal funds, that would be a major reason to do it regardless of the merits of the other four pages of amendments. He wondered about the disposition of those federal dollars. **SEN. COBB** advised in the human services subcommittee when they are doing Medicaid, they just worry about the general fund and then it is automatically matched. By starting on July 1 with these programs, they get the federal match to get things up and going with the federal government paying for quite a bit of it. Some programs cannot start up right away, because they do not have the I-149 money. Part of I-149 is prescription drugs and part is pooling. They cannot match the prescription drug part, so that is a dollar for dollar increase. He apologized he did not bring up the $26 million, but is automatically a match. **SEN. STAPLETON** said he did not have to apologize, but this is a large amount of money. He wondered where that money will go. After January 1, 2006, they begin using I-149 and not general fund, so he wondered if there would be a reduction in federal funds at some later point. **SEN. COBB** replied it would be general fund first, I-149 next. Both those monies are state monies, so they automatically match with the federal. If there is only so much general fund, the federal money cannot be spent. It is like spending authority, but they cannot use it without the dollars in the general fund to put up. If everything worked fine, the $26 million would fund everything for the biennium. Without the general fund or the I-149 money, they cannot spend the federal money because they would have nothing to match with it. Certain things could not be funded. **SEN. STAPLETON** said this may be a good idea, but he could not support it. He did not understand how the federal money plays into this. He understood the delay and the part on removing 238 and adding 276. He could not reconcile the appearance of $26 million, where that goes, and how that would be different without the amendments. **SEN. COBB** explained, without the amendment, and if I-149 money was used first, there would still be a match with general fund. If there was a provider rate increase of one percent, the state would put

up $.30 and the federal government would put of $.70. They would spend about $7.5 million general fund, and that would bring in federal dollars. The federal match would be used to pay the provider increase. The state would pay about 30 percent of the cost, and the federal government would pay the other 70 percent. Without the general fund, the federal government would not give the state the money. **SEN. STAPLETON** said there are still changes that need to be made before the end of the session regarding this, and the budget director is not necessarily signed on. He asked how **SEN. COBB** would get the committee to vote on four pages of amendments to do this. **SEN. COBB** said they passed amendment 238 the other day; amendment 276 is basically the same amendment, except it uses general fund the first six months instead of any I-149 money. Amendment 238 divided all the money like it was supposed to be to the State Auditor's office for the health care pool and to the prescription drugs program. From his viewpoint, the administration said they could decide how to divide the money up and wait until January 1. If the money does not come in, they will prorate who gets it. The Legislature can have some say if they want to start some programs up. If I-149 money does not happen, those programs might have a better chance of staying in. They wanted the reserve to build up. They wanted no spending of I-149 money, except for the mental health part. If the Legislature does not give clear language, the budget office would divide it up themselves.

SEN. ESP referred to page four of amendment 276. He thought the $26 million and the $27 million were the same dollars. **Ms. Purdy** replied, that was the case.

SEN. KEENAN said the MHSP pharmacy program was originally general fund. Two years ago, SB 485 made that $6.5 million. He wondered if this amendment was now that same amount, and how the MHSP pharmacy program would be handled in the 2007 biennium when SB 485 goes away. That was I-146 money, and he wondered if it would now be I-149 money. **SEN. COBB** said, that is correct and was recommended by the budget office. He tried to do a committee bill to change that, but it failed 2-5. That takes a super majority in committee. This amendment is not fixing a problem that is there, and everyone is aware of the problem. As **REP. KAUFMANN** said, the state does not have $5 million or $6 million to backfill MHSP. This amendment does not fix a problem that he cannot fix right now. **SEN. KEENAN** said the $6.5 million level is still there in what would be the MHSP pharmacy. **SEN. COBB** said that was correct; there would be about $3.2 million each year.

{Tape: 5; Side: B}

Vote: Motion carried 17-2 by roll call vote with SEN. BARKUS and SEN. STAPLETON voting no.

Motion: SEN. TESTER moved that HB000256.ALS BE ADOPTED.

EXHIBIT(fcs69a35)

Discussion:

SEN. TESTER thanked the staff for their work on this. The amendment addresses a reserve account in I-149 for sustainability. The amendment delays expenditures from all appropriations of I-149 until it reaches $25 million or December 1. If the projections for tobacco revenue come in as projected, they should reach the $25 million before December 1 quite easily. This amendment gives some support in that regard in case it does not.

SEN. COBB clarified the Mental Health Services Plan is still funded, so it is exempt from this amendment. They are not spending any I-149 money, except for the Mental Health Services Plan. It keeps that funding for the next six months and beyond.

SEN. KEENAN said some of the provider rates were going to be half or three-quarters of what they were originally. They will not go into effect until the $25 million mark is hit. **SEN. COBB** said this target is $25 million or December 1, 2005. In the last amendment, they took all the I-149 money out for the next six months, from July 1, 2005 to January 1, 2006. They will use general fund to fund all these provider rates for the next six months. On January 1, 2006 the I-149 money takes effect. **SEN. TESTER's** amendment makes clear, no matter what happens to amendment 276, that nobody will touch I-149 money until December 1, 2005 or until $25 million is reached, except for the mental health services plan which still needs to be funded. **SEN. KEENAN** said the first day of the session there was a joint House Appropriations and Senate Finance and Claims meeting and a presentation by **Mr. Ewer**, who talked about sustainability. He asked for **SEN. COBB'S** assessment of when I-149 will crash and when there will be a problem with sustainability with SB 324 and HB 667. **SEN. COBB** replied the budget office's numbers are sustainable until about 2011. They do not know what prevention will do, and they will not know where I-149 will be until after the Legislature is gone. If prevention really works, there will be a problem with I-149 sooner. He thinks it will crash sooner. Sometime in the future, these programs may not be sustainable with I-149. They will have to use general fund, cut the programs back, or restrict them.

Vote: Motion carried 18-1 by roll call vote with SEN. STAPLETON voting no.

Section A

Discussion:

SEN. RYAN remarked, as the Joint Subcommittee works on the school funding formula, if the product is not finished at the end of the session, they want to make sure they can continue the work and get the expertise necessary. They will be asking the finance committee to draft a committee bill to set up an interim joint committee or task force to continue the work of the subcommittee to meet the deadline of October or December. This amendment would put an appropriation into HB 2 and they will ask for legislation to enact that appropriation. There will be $20,000 going to Legislative Services, and the other $180,000 will go into the budget office to hire people to do the cost analysis.

Motion: SEN. RYAN moved that HB000208.AFD BE ADOPTED.

EXHIBIT(fcs69a36)

Discussion:

SEN. KEENAN asked about the $400,000 legal cost for the school lawsuit was something they would have to do in HB 2, and he wondered if they talked about that in the Senate Education Committee. **SEN. RYAN** replied they do not know what that number will be. If there is a special session, that can be taken care of.

SEN. BALES inquired about the rationale for putting the money for the analysis into the budget office, rather than in Legislative Services. **SEN. RYAN** said the rationale was they did not want to put the burden on Legislative Services to determine who to contract with. The budget office will make sure that gets done. It that becomes a problem, they will make sure Legislative Services and the budget office talk about it to make sure it gets done right. If it has to be addressed on the floor, they can do that. **SEN. BALES** thought the committee should have a big role in who they contract with to get the study done. **SEN. RYAN** assured him that the budget office would work very closely with the legislative committee.

SEN. ESP asked if it is possible that the Legislative Branch could administer any contract that the committee proposed. **Mr. Schenck** replied, they could. In a typical legislative study, the funding rests with the legislature. There would be no problem

with staff doing that work. **SEN. ESP** asked if all the funding was put in the Legislative Division, if they have the ability to contract with outside staff. **Mr. Schenck** said yes, definitely. That is the typical way that legislative studies are done. **SEN. ESP** asked if **SEN. RYAN** had any objections to doing it that way. **SEN. RYAN** said at this time, he would like to do it this particular way. This legislative committee does not want to be here for six months making sure that if something needs to be addressed they have to authorize who does it. They do not believe it should be the burden of Legislative Services to make those decisions. If the budget office and the Governor's office want a second opinion, they can contract for that and not wait for the committee to come back and do that. This will be a process that will need the most efficient use of time to get things done. That is what they are trying to allow, and the budget office would like to have the authority to do that. The $20,000 was put into Legislative Services for drafting the bill and getting information to the committee.

SEN. LAIBLE asked if it is typical for OBPP to contract studies. It seemed to him that Legislative Services with their expertise and personnel would be appropriate. **SEN. RYAN** believed if this amendment passes, there will be a discussion between Legislative Services and the budget office about the ability to move effectively, efficiently, and where the best use of that money is. What is unusual, is the Court wants this done by October. The budget office thinks they might be better able to contract for services than Legislative Services. **SEN. LAIBLE** said this money will be used to complete the process of doing the formula. **SEN. RYAN** said, yes. They will have to keep the public informed, take public comment, etc. They will talk about details when they get to the bill drafting stage. **SEN. LAIBLE** inquired how far along they are on the funding formula. **SEN. RYAN** said they have not costed anything out or put any specific numbers on anything. That is something that has to be done with understanding of the state budget and also understanding the needs of schools. They are far enough along in the process that if they wanted to they could do a formula. It might not work the way they want it to work. **SEN. LAIBLE** asked if they had negotiated any contracts to do any studies to this point, or started the process for RFP procedures. **SEN. RYAN** said, no.

SEN. BALES did not remember any study committee where the budget office was the contracting agency. **SEN. RYAN** asked who administered the money for the interim tax study committee. **SEN. BALES** advised that went through the Department of Revenue. **SEN. RYAN** replied that the Department of Revenue was another agency within the Department of Administration. **SEN. BALES** commented

the Legislature has a very good staff. They cut $400,000 from them. He questioned the need for any money before there is a committee bill. **SEN. RYAN** advised they have to make sure there is money in HB 2 if they are going to do a study bill. It does not hurt to vote on the amendment; they can make changes on the floor.

CHAIRMAN COONEY indicated he was informed by staff that in order to have a committee bill, there has to be a proposal to implement the provision of HB 2. This amendment, as proposed, would be a provision in HB 2 and then the committee bill would be requested.

SEN. STAPLETON asked **SEN. TESTER** if he had seen this before, and if this was something he was aware of. **SEN. TESTER** said he was made aware of it about a half hour ago. It came out of the joint select committee. **SEN. STAPLETON** referred to the credibility gap on the education issue. The minority would like to know what is being done before showing up and being forced to vote on things. **SEN. TESTER** said this involves a joint select committee, which includes a member of **SEN. STAPLETON'S** caucus. The communication needs to be there all the way around the circle. **SEN. STAPLETON** said this small amendment is an indication of not completing a task during the legislative session. Until they are told otherwise, this money is not needed if school funding is solved in this session. There is no testimony from the Governor's office regarding putting this money in the budget office or about who would do the studies. This is more than just communication; it is a continuation of education policy. **SEN. TESTER** advised any unused funds will revert back to the general fund. This is contingency language on what happens this session. It would be his hope they could get the study done. There is some trepidation on the joint select committee as to whether that can be done by the end of the session and have public input and analysis so they do not end up in court with an unconstitutional funding formula. He had respect for all the people on that joint committee and valued what they had to say. Whether there is $200,000 into Legislative Services, OPI, or the Governor's budget office, did not make much difference to him.

{Tape: 6; Side: A}

SEN. TESTER continued he hoped to get this done before the end of the session, but if they do not it behooves them to have the language needed. He feared they would get wrapped around the axle procedurally on some bill in this process, and it would keep them here a day or two extra. He would rather be prudent and pass the amendment. If they do not use the funding, it would go back to the general fund.

Substitute Motion: SEN. BALES made a substitute motion TO INSERT $200,000 INTO #1 INSTEAD OF $20,000 FOR LEGISLATIVE SERVICES, MAKE THAT RESTRICTED, AND DELETE #2.

SEN. RYAN advised #2 is contingent upon passage and approval of a bill that directs an interim study of school funding. This $200,000 is contingent on passing a bill for an interim study of school funding. **SEN. BALES** said item A would be contingent upon passage and approval of a committee bill, because he deleted #2.

SEN. ESP said he would resist the substitute motion. He said considerable thought had gone into the original motion with input from both sides of the aisle.

SEN. TESTER inquired if the funding for this proposal was discussed in committee. **SEN. RYAN** indicated they discussed the funding level in committee with the budget office. The budget office talked about this particular split. The committee talked about giving $200,000 and have it be administered through the legislative office but not Legislative Services. This language was more agreeable to the budget office. He said he was getting tired of these turf wars. This is a complex issue; it is something that has to be handled. That is one of the problems with everything they have done. They get wrapped around the axle and wordsmith everything to death. That is one of the reasons they do not have it done.

Vote: Motion carried 13-6 by roll call vote with SEN. BARKUS, SEN. ESP, SEN. LAIBLE, SEN. LARSON, SEN. LIND, and SEN. WEINBERG voting no.

SEN. RYAN said, with **SEN. BALES** motion there is $200,000 to be administered by Legislative Services for an interim study if an interim study bill passes. **CHAIRMAN COONEY** said, that is correct. It is also restricted.

SEN. STAPLETON said the money would be available immediately after the session. **Ms. Purdy** advised HB 2 does not become effective until July 1. **SEN. STAPLETON** thought the money ought to be available immediately after the session.

Motion: SEN. KEENAN moved THAT THE COMMITTEE REQUEST A COMMITTEE BILL TO DRAFT A BILL TO DIRECT AN INTERIM STUDY OF SCHOOL FUNDING.

SEN. BALES asked if there is any way in that bill to get the money earlier. **Ms. Purdy** advised if the study bill makes it to

the House, the House could add an appropriation on it and the bill could be made effective on passage and approval.

Vote: Motion carried unanimously by voice vote.

Recess 5:30 p.m.
Reconvene 5:45 p.m.

CHAIRMAN COONEY declared that all sections were still open.

(There was a short gap in the taping after the meeting reconvened.)

SEN. DON RYAN addressed amendment HB000253.als.

EXHIBIT(fcs69a37)

SEN. RYAN said the amendment dealt with the fact that the hospital bed tax dollars count against the expenditure cap. He asked **Mr. Chappuis** to explain why the state is taxing hospitals. **John Chappuis, DPHHS,** advised SB 120 was a continuation of a bill brought by the hospitals in the last session to tax themselves; that bill had a sunset. There was an increase in this year's bill. **SEN. RYAN** advised he would not offer the amendment. He wanted to point out that the hospital bed tax was a way for the hospitals to tax themselves and had nothing to do with excessive state spending. He referred to the I-149 issue, and thought the citizens should know about the effect of that on the cap. He questioned whether state spending at the request of the public and the hospitals should apply towards the spending cap.

Section E

Motion: SEN. COONEY moved that HB000229.AAG BE ADOPTED.

EXHIBIT(fcs69a38)

Mr. Peura explained there were three parts to the amendment. Parts #1 and #2 were simply technical. HB 435, the Governor's scholarship program, creates the scholarship program in statute. Funds are being appropriated through HB 2. The first two parts of the amendment simply align the name change that was implemented on HB 435 so the appropriate line item in HB 2 matches the new name in HB 425. Part #3 offers a policy decision. Currently, HB 2, as per the will of the subcommittee, made their appropriation for the scholarship program contingent upon the approval of HB 435, but it was also the will of the subcommittee that should HB 435 not be approved, that the funding would remain in HB 2 and left with the Commissioner of Higher

Education to reallocate to other student financial aid programs. Item #3 would remove that language that allows the funding to stay in HB 2 should HB 435 fail. Section 3 would make it 100 percent contingent in HB 2 that if 435 fails, the money goes away as opposed to leaving it there for other financial aid programs that would not be the Governor's scholarship program.

CHAIRMAN COONEY advised that the action they took earlier that reduced the Best and the Brightest Scholarship proposal is why this amendment was needed.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. BRUEGGEMAN moved that HB000243.AJS BE ADOPTED.

EXHIBIT(fcs69a39)

Discussion:

SEN. BRUEGGEMAN indicated those involved with Adult Basic Education requested additional funds. There were increases for Special Education, the Gifted and Talented program, etc., and Adult Basic Education was left off the list. He thought it was a critical service to give people basic skills. This would raise the appropriation from $275,000 for the biennium to $500,000.

SEN. LIND thought they put money for Adult Basic Education in Section B. **Mr. Anderson** explained that was done on the House floor. They designated a certain amount of the federal TANF money for Adult Basic Education. The amount was $125,000.

SEN. BRUEGGEMAN withdrew his motion.

CHAIRMAN COONEY advised he had been told they were done with Section R, and there were no boilerplate amendments. A sheet was passed out of amendments contingent on other bills.

EXHIBIT(fcs69a40)

SEN. COBB favored one motion and then voting up or down. There were a few others to take individually. **Ms. Purdy** said there were three amendments that were not on the list and two of them were just passed out. There was an additional amendment that does not impact any dollar amount. There were three amendments on the list that were not needed. The first was in Section A in the Montana Department of Transportation (MDT). The committee already took action on that amendment. The money for HB 361 in the Department of Environmental Quality (DEQ) was already in HB

2. SB 376, the Gallatin EIS bill, was already added in an amendment by **SEN. HAWKS.**

Motion: SEN. COBB moved THE ENTIRE LIST EXCEPT FOR SB 459, HB 361, and SB 376 be adopted.

CHAIRMAN COONEY asked **Ms. Purdy** to explain why these are contingency. **Ms. Purdy** explained when a bill has a fiscal note it is a choice of the Legislature whether or not that fiscal note would be funded. The vehicle for funding those fiscal notes is HB 2. Each of these bills is somewhere in the process, has a fiscal note, and the amendment is asking them to include funds in HB 2 to fund these bills at the fiscal note level. The sheet showed the general fund and state funds that are being requested. All of these amendments were initially requested by the budget office for that purpose.

SEN. COONEY advised if they pass this motion, even though these are contingent, they will be recorded as part of the budget.

SEN. TESTER assumed traditionally this contingency language is put on in free conference committee. **Mr. Schenck** indicated that typically, it is. The amendment that passed on the second day of the session in the Joint House Appropriations and Senate Finance Committee was to hold off on funds contingent on other bills until the end of the session. Typically, they go on in conference committee. **SEN. TESTER** said, typically, some of those bills that do pass do not get funded in HB 2. **Mr. Schenck** advised that is a common practice. **SE. TESTER** said he would support **SEN. COBB'S** global amendment knowing full well that, when this bill goes to conference committee, there is a fair chance that this list will be altered, maybe significantly.

SEN. COBB pointed out that **SEN. ESP** was going to make a motion for SB 385, the Mental Health Ombudsman, and that is already in the global amendment.

Vote: Motion carried 18-1 by voice vote with SEN. KEENAN voting no.

Section D

Motion: SEN. COBB moved that HB000217.AFD AND HB000217.AFD BE INCLUDED IN HB 2 AS CONTINGENT. Motion carried 18-1 by voice vote with SEN. KEENAN voting no.

EXHIBIT(fcs69a41)
EXHIBIT(fcs69a42)

Section A

Motion: SEN. COBB moved that HB000249.AGD BE placed in HB 2.

EXHIBIT(fcs69a43)

Discussion:

CHAIRMAN COONEY stated this was a cleanup from previous motions. **SEN. ESP** indicated he was thinking of moving a conceptual amendment to take the money they save here and buy those four parachutes.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. COBB moved TO CLOSE ALL SECTIONS OF HB 2. Motion carried unanimously by voice vote.

Motion/Vote: SEN. COBB moved that HB 2 DO PASS AS AMENDED. Motion carried 17-2 by voice vote with SEN. KEENAN and SEN. STAPLETON voting no.

ADJOURNMENT

Adjournment: 6:08 P.M.

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SEN. MIKE COONEY, Chairman

_____
PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT(fcs69aad0.TIF)