

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By REP. TOM ZOOK, CHAIRMAN, on March 18, 1993, at 9:00 A.M.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Ed Grady, Vice Chairman (R)
Rep. Francis Bardanouve (D)
Rep. Ernest Bergsagel (R)
Rep. John Cobb (R)
Rep. Roger DeBruycker (R)
Rep. Marj Fisher (R)
Rep. John Johnson (D)
Rep. Royal Johnson (R)
Rep. Mike Kadas (D)
Rep. Betty Lou Kasten (R)
Rep. Red Menahan (D)
Rep. Linda Nelson (D)
Rep. Ray Peck (D)
Rep. Mary Lou Peterson (R)
Rep. Joe Quillici (D)
Rep. Dave Wanzenried (D)
Rep. Bill Wiseman (R)

Members Excused: None

Members Absent: None

Staff Present: Terry Cohea, Legislative Fiscal Analyst
Mary Lou Schmitz, Committee Secretary

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

Committee Business Summary:

Hearing: HB 685; HB 682
Executive Action: None

HEARING ON HB 685

An act generally revising corrections and human services laws to implement budget reductions.

Opening Statement by Sponsor: REP. ED GRADY, House District 47, Canyon Creek, described HB 685 as the statute changes necessary to comply with HB 2 with regard to the veterans' programs, women's correctional center, Swan River Forest Camp, mental health division, alcohol and drug abuse services, and other special services.

Proponents' Testimony: Rick Day, Director, Department of Corrections and Human Services (DCHS), distributed a summary of the bill and its impact on corrections, the mental health division, the alcohol and drug abuse division, and special services. **EXHIBIT 1**

He reviewed proposed amendments to the bill which coordinate HB 685 with other legislation and HB 2. **EXHIBIT 2**

He distributed proposed amendments which would retain statutes regarding the establishment of the eastern Montana veteran's home in anticipation that the next legislature may wish to construct the home. **EXHIBIT 3**

He distributed amendments which would amend, rather than repeal, Section 46-23-204, MCA, which requires the Board of Pardons to hear from all persons desiring to be heard. **EXHIBIT 4**

Beth Baker, Department of Justice, supported the amendments regarding the Board of Pardons. She said the department feels strongly that the section should not be repealed because it provides the only mechanism for victims to appear before the parole board to express their concerns about parole decisions. She said the statute also gives prosecutors the same opportunity.

Opponents' Testimony: REP. VIVIAN BROOKE, House District 56, Missoula, strongly opposed lines 15-18, page 21, which allows DCHS to continue operating the women's correctional center in a temporary location during the 1994-95 biennium. She read testimony from many individuals including current and past inmates, staff from the University of Montana, and others. The testimony objected to the inequitable treatment of female inmates, inadequate, deteriorating facilities, and the lack of adequate programming and treatment for women inmates. The current facility was described as "not fit for human habitation." REP. BROOKE opposed maintaining the current, temporary facility.

Harley Warner, Montana Association of Churches, declared that describing the women's correctional center as a temporary facility was ludicrous because the women had been at Warm Springs for over ten years. He asserted it was time to build a new facility for the women and provide them with appropriate programs.

Sharon Hoff, Montana Catholic Conference, objected to the continuation of the women's correctional center at Warm Springs. She suggested women inmates did not want a facility equal to the

men's but wanted to be treated with respect and dignity. She stated her opposition was not to down-sizing the prison but to maintaining the status quo. She declared it was wrong to keep women inmates in the facility for two more years.

Kevin McRae, Montana Federation of State Employees, stated the federation represented 900 employees in DCHS. He addressed three areas of concern in the bill: (1) relocation of the chemical dependency treatment center; (2) deletion of "comprehensive" on line 21, page 18, in the description of mental health care services provided at the Montana State Hospital; and (3) the release of prison inmates when the prison population exceeds the capacity of the institution. He stated employees were concerned that relocating the chemical dependency treatment center to a non-state facility would lead to increased costs and the subsequent closure of the program. He also asked that the relocation site of the center be specified in the bill. He noted reductions at Montana State Hospital had already occurred and expressed the concern of employees about more reductions if the scope of services was decreased. Finally, he asked the committee to consider carefully the effect of reducing the prison population on both public and prison staff safety. He suggested paroling 350 low-risk inmates would heighten the risk to staff from remaining inmates.

Willie Day objected to using the cigarette tax for home health care rather than the veterans' nursing home. He stated HB 46 had been passed without input from veterans. He also objected that the hearing on HB 685 had not been posted, and he had heard about the meeting through word-of-mouth. **CHAIRMAN ZOOK** stated the hearing for HB 685 had been posted 48 hours in advance.

Informational Testimony: None

Questions From Committee Members and Responses: **REP. FISHER** asked **Mr. Day** to describe the type of crimes committed by people who would be paroled in down-sizing the Montana State Prison. **Mr. Day** reminded **REP. FISHER** that the down-sizing would be a 14-month process in which the department would focus more on people coming into the prison than on current inmates. He said the department estimated that 50 percent of inmates sentenced to prison could be diverted to other programs; thus, the effort would be to reduce the number of new inmates and to continue the normal parole process. He reported 500-600 inmates were released per year in the normal process. He stated if the safety valve procedure were used, it would involve over 200 inmates who have a minimum security classification. He suggested 42 percent of inmates are sentenced to less than five years and are ready for parole before entering prison.

REP. ROYAL JOHNSON asked **Mr. Day** whether amendments such as those proposed for eastern Montana's veterans' home should be drafted for the women's correctional center. **Mr. Day** stated no statutes related to the center had been changed. **REP. ROYAL JOHNSON** asked

whether an amendment was needed to ensure the site for the center. **Mr. Day** stated the department only needed a provision for the temporary location. **REP. ROYAL JOHNSON** asked **Mr. Day** to study the statutes and determine whether an amendment was needed; **Mr. Day** agreed to do so.

REP. ROYAL JOHNSON referred to statements made about problems and costs of moving employees and asked **Mr. McRae** whether he would consider the concerns of employees or the concerns of patients as most important in making decisions, if he were a member of the appropriations committee. **Mr. McRae** responded that he had been talking specifically about the closure of the chemical dependency program at Galen. He stated the cost of maintaining the program at Galen was the same as moving it; he reported the move had been justified by the closure of the nursing home and acute care hospital. He said neither the facility nor the treatment of clients in the chemical dependency program had been criticized.

CHAIRMAN ZOOK said his understanding was that the support costs for the chemical dependency program would be the same, but other savings were effected by moving the program. He asked **Mr. Day** to address the issue. **Mr. Day** reported the subcommittee had identified \$1 million in savings by moving the program to the St. James facility. He said the rental at St. James would be \$275,000.

CHAIRMAN ZOOK noted **REP. GRADY** needed to leave and asked him for his concluding remarks. **REP. GRADY** emphasized that construction of the women's correctional center was being delayed and not eliminated. He maintained the state could not afford to build the center at this time and contended a delay would allow further assessment of the size of facility needed. He reported he had visited the center at Warm Springs and had not observed all the problems which had been described by opponents. He noted \$260,000 would be used to address some of the problems. He said he had met with women inmates and that they were happy to be in the facility. **REP. GRADY** addressed the chemical dependency program and resisted specifying a location for the program. He said St. James was a very viable option but the department should have flexibility in placing the program. He acknowledged that HB 685 was a major bill with many significant changes.

REP. QUILICI expressed his concern about the possibility that the level of supervision of parolees would be reduced when the caseload reached certain levels. He suggested to **Mr. Day** that the department would need more parole officers to ensure sufficient supervision. **Mr. Day** stated the bill's language did not accurately describe the department's plan. He said the parole and probation area was being increased by 16 additional parole officers which would allow the supervision of an additional 480 inmates. He said the bill's language addressed the need to cap the entire corrections system. He said once capacity had exceeded resources, then the need for supervision would need to be assessed. **REP. QUILICI** declared the bill's

language "jumped out" and implied that caseload, rather than the type of crime or the individual's behavior, would determine the level of supervision of parolees. He asserted supervision should not be determined by caseload. **Mr. Day** agreed.

REP. KADAS asked **Mr. Day** whether the rationale for the amendment on the board of pardons was that allowing people to testify orally was too great a burden to the board. **Mr. Day** stated that current statutes required the board to accept testimony from anyone who wanted to make a statement and were burdensome. He said the change would give the board control over the process and allow them to have discretion over accepting oral testimony. He said the section was not critical to the bill. **REP. KADAS** suggested the amendment put the board in the position of deciding who they heard orally or with written testimony. **Mr. Day** said the board would be required to receive all written testimony; they would have the authority to regulate oral testimony. **REP. KADAS** suggested the board could decide not to take oral testimony in which case victims would have no access to the board. **Mr. Day** stated that he understood the concern and the intent was not to eliminate the victim's access to the board of pardons. He stated oral testimony could still be given.

REP. WANZENRIED asked **Mr. Day** to explain why the language pertaining to continuing the operation of the women's correction center in a temporary location (lines 16-18, page 21) was in the bill. **Mr. Day** said he was unsure why the department considered the language necessary. He said the language clarified the department's procedure and described the temporary solution. **REP. WANZENRIED** asked the reason for putting the temporary solution in statute when the department already had the discretion for the action. **Mr. Day** stated the action was considered a substantive change which needed to be in statute and was supported by HB 2. **REP. WANZENRIED** recalled that HB 5 clearly indicated the women's correctional center would be built in Billings. He asked **Mr. Day** why the department needed permission to operate at Warm Springs if the plan was to move the center. **Mr. Day** said he would leave the language to the discretion of the committee.

REP. WANZENRIED recalled that **REP. GRADY** had stated the population at the women's correctional center would be reduced from 50 to 25 and asked **Mr. Day** if he agreed. **Mr. Day** said the population was now 54; he said a study had shown that the length of stay had increased from 16.7 to 20 months. **REP. WANZENRIED** asked **Mr. Day** how quickly the population could be reduced. **Mr. Day** responded the women's correctional system was not currently at full capacity; he said the capacity was 76 inmates, including pre-release centers and the women's correctional center. He said the department was moving away from the institutional concept toward a community-based system. **REP. WANZENRIED** asked **Mr. Day** how quickly the department could move to the community-based system and whether it would be in place by the end of the year. **Mr. Day** responded that reductions would be made over a period of

time. He said the Butte pre-release center was currently in operation with 16 inmates and the system would be in place by the next biennium.

REP. BARDANOUE expressed his concern that some sections of HB 685 should be heard in judiciary rather than appropriations. He suggested the committee might not have the expertise to judge the wisdom of changing the process of the board of pardons or abolishing the Swan River Camp.

REP. MENAHAN asked **Mr. Day** how many of the ladies at the women's correctional center had been granted parole but were staying in order to complete programs. **Mr. Day** said he did not know.

REP. MENAHAN stated he found it ironic that there was no discussion of issues which might lead to a strike at the Montana State Prison or problems at Mountain View School and Pine Hills. He stated no successful prison had ever been built and supported a new orientation in the correctional system.

REP. JOHN JOHNSON expressed his discomfort with the deletion of the site selection process for the eastern Montana's veterans' home while a similar process was retained in statute for the women's correctional center. He asked **Mr. Day** the reason for deleting the site selection process. **Mr. Day** stated statutes were deleted because the selection process had been completed; he noted the site for the veterans' home remained in statute. He said he would examine statutes to determine if the selection process for the women's correctional center should also be deleted. He emphasized that the deletion would have no impact on the completed process. **REP. JOHN JOHNSON** agreed the process had been completed, but suggested the process could be reopened because no site had been specified. He asked **Mr. Day** how he planned to involve veterans in developing a program for aging veterans. **Mr. Day** stated the rule-making process would ensure their involvement. He said initially informal sessions with concerned parties would be held to draft rules, and veterans would be involved throughout the process. **REP. JOHN JOHNSON** stated that people were sometimes suspicious of the rule-making process. He suggested the committee might be better than the department in acquiring input from people in military and veterans affairs and would ensure that veterans were represented. **Mr. Day** stated he had no objection to the committee handling the program development, but he suggested the administrative rule-making process allowed more time for participation and consideration.

REP. PETERSON asked **Mr. Day** to describe the department's plan for people who violated parole. **Mr. Day** said the plan did not change the court or probation system. **REP. PETERSON** suggested that the department send notices to legislators when meetings were scheduled for the veterans' program development. **Mr. Day** responded he would not object to direction by the committee to

include veterans in the rule-making process, although he considered it unnecessary.

REP. PETERSON thanked **REP. BROOKE** for presenting testimony from the women inmates at the women's correctional center in Warm Springs. She asked **REP. BROOKE** whether she had plans to involve volunteers in the new facility when it was built. **REP. BROOKE** thanked **REP. PETERSON** for her compliment and reported that she planned to meet with faculty from the university who had contacted colleagues at Eastern Montana College (EMC). She said faculty were interested in facilitating the development of programs in the new facility.

CHAIRMAN ZOOK noted that **REP. BROOKE** had mentioned a promise of a hearing for the inmates of the women's prison. He asked her when the promise had been made and by whom. **REP. BROOKE** responded she had not meant to imply a promise had been broken. She said when **REPS. NELSON** and **GRADY** had visited the women's correctional center, the women thought they had been promised a hearing. **REP. BROOKE** said she had talked to the warden and to **Mr. Day**, both of whom had concerns; and they had decided letters would be more appropriate. She said the women wanted a voice at the legislature, and she had agreed to represent them. **CHAIRMAN ZOOK** responded that he had not known of any promise and did not want to leave an impression that a promise of a hearing had been broken. **REP. BROOKE** agreed no promise had been broken. She said she had made a commitment to keep the women informed of actions by the legislature. She clarified a statement by **REP. GRADY** that the women were happy in Warm Springs. She said the women had been told of a plan to move them to Wyoming, and they did not want to move.

REP. MENAHAN reported his visit to the women's correctional center. He said the women wanted a new facility, but they were most concerned about keeping the programs in which they were involved.

REP. WISEMAN asked **REP. MENAHAN** why anyone would voluntarily stay at the center, if the facility was so bad. **REP. MENAHAN** explained some of the women stayed because of the counseling they were receiving and the programs which were helping them to turn around their lives.

REP. NELSON commented on her visit to the women's correctional center. She said she had expected criticism because of the delay in constructing the new facility. She said the women had indicated they were satisfied and willing to stay where they were. She said she had not seen the dire circumstances described by others. **REP. NELSON** reported that the possibility of a hearing was discussed but no promises had been made.

REP. BARDANOUVE asked **Mr. Day** whether the cigarette tax revenue to be used to support the operation and maintenance of the Montana veterans' homes program was the money set aside for

constructing the veterans' home in Glendive. Mr. Day responded it was not the money set aside for construction of the home.

John Johnson, Public Policy Coordinator, Mental Health Association of Montana, addressed two issues of concern in HB 685. First, he asked that, regardless of the location of the women's correctional facility, adequate mental health services be provided. Secondly, he expressed strong support for Section 8 of the bill which directs the Department of Corrections and Human Services to coordinate services for severely emotionally disturbed children in Montana. He said the section was the result of months of negotiation among agencies and urged the committee to keep the section intact.

HEARING ON HB 682

An act eliminating the Montana Board of Science and Technology Development.

Opening Statement by Sponsor: **REP. FRANCIS BARDANOUVE**, House District 16, Harlem, introduced HB 682 by request of the House appropriations committee. He stated the effectiveness of the Montana Science and Technology Alliance (MSTA) program had been controversial. He reported the state had invested a great deal of money into the program and its continuation would entail increasing amounts of money. He described MSTTA as a speculative program which had been promoted as a panacea for Montana's economic problems. He suggested the program had not been successful.

Proponents' Testimony: None

Opponents' Testimony: **REP. STEVE BENEDICT**, House District 64, Hamilton, expressed his admiration for **REP. BARDANOUVE** and his opposition to HB 682. He described MSTTA as Montana's only hope to break free of its reliance on a resource-based economy. He stated Montana's children were not preparing for jobs in basic industry but for careers in technology. He asserted the bill would kill a program which had created over 300 jobs in Montana with thousands more on the way. He declared the bill would send a message to industry that Montana was not interested and would deny Montana's children jobs in Montana.

Richard Potter, President, Nurture, Inc., Missoula, expressed his disbelief that the legislature was considering eliminating MSTTA. He stated that although he understood the concern about the lack of return on investment to date, the legislature was not viewing the program as a long-term investment which requires 5-7 years for a return. He said Nurture, Inc., was the first company to be funded by MSTTA three years ago. He reported that in the last two years, Nurture, Inc., had brought in several million dollars from outside Montana and created 23 jobs with a \$1 million annual payroll. He said the company was building a \$2 million

production facility in Missoula and would be building a \$1-1.5 million lab facility. He explained the company used agricultural products and was currently contract-growing 1700 acres of oats; he predicted contract-growing would expand to thousands of acres over the years. He described the job creation and facility construction as peripheral benefits of the program. He explained the state's return on its investment would occur when the company's portfolio went public, probably sometime in the next two years. He stated MSTA has 600,000 shares of Nurture stock; if the company were to go public with a share price of \$10-12, the state could hypothetically make \$6-7 million from this one investment. **Mr. Potter** stated that it was small business which created new jobs and was the driving force in the economy, particularly in Montana. He argued MSTA was working; the state needed to give the program the time required to receive a return on a long-term investment.

Robyn Young, Chief Executive Officer, Development Corporation of Montana, presented written testimony in opposition to HB 682. She argued if MSTA was eliminated, there would be no other sources of venture capital in Montana. She also argued the Board of Investments could not effectively manage the existing portfolio because of differences between managing venture capital investments and the more conservative investments managed by the board. She stated that the state's return on investment was attractive when compared to other venture capital investments. She supported HB 394 as an alternative to HB 682. **EXHIBIT 1**

Bob Kearns, President, Mycotech Corp., Butte, explained that Mycotech is a biotech firm which makes products for national and international remediation projects. He said that two years ago he and three others were looking for seed capital and discovered that their choice was to find a local venture capital investor or to relocate. He said MSTA became their investor. He reported that now, two years later, Mycotech had brought in \$3.5 million, had 27 employees, who were mostly professionals with college degrees, and a \$1 million annual payroll. He stated the company was moving into new facilities and would begin building a new production facility next year. He reported that another company had offered to purchase Mycotech, but the sale would have resulted in the company moving out of state. He stated the company planned to go public in the next two years. **Mr. Kearns** argued that the advantage of MSTA was that it allowed companies to develop in the state. He argued the taxes paid by the company and its employees exceeded the state's interest on its initial \$650,000 investment.

Zachary Wochok, Chairman and Chief Executive Officer, Nurture, Inc., stated he was new to Montana but had been involved with venture capital businesses since 1978. He said he knew how the system worked in other states and reported he had most recently been the CEO of a biotech company in California. He declared that it was important to view venture capital investments as long-term investments which typically require 5-10 years for

companies to establish an investment network and to build value. He argued the state had made an investment but had only waited three years. He stated eliminating MSTA would send a terrible message to entrepreneurs and businesses contemplating investing in Montana. He said the impact would be not only on companies in which investments had already been made, but also on future companies. He maintained the state needed to generate new business and new jobs and needed technology companies to provide jobs to Montana youth. He urged the committee to reconsider the bill.

John Hutchinson, Commissioner of Higher Education, stated MSTA provided funding for the centers for excellence in the Montana university system. He reported the centers had brought \$14 million per year into the university system. He urged the committee to vote against HB 682.

Jim Tutwiler, Montana Chamber of Commerce, reported that the unwritten lobbyist book recommended not opposing bills introduced by **REP. BARDANOUVE**. He contended, however, that Montana's economy was not robust, with per capita income only 82 percent of the national average and economic growth only 2 percent per year. He questioned whether this was a propitious time to eliminate a mechanism which had demonstrated an ability to help develop jobs in the state. He suggested that the direction for Montana was to develop good, high-paying jobs without an impact on the environment, i.e., high technology jobs. He contended eliminating MSTA would send the wrong message to the national and international community. He stated that developing technology required all resources--state and national--to be competitive.

Carl Russell, Executive Director, Montana Science and Technology Alliance, Department of Commerce, opposed HB 682 and offered to answer questions.

Sam Hubbard, Deaconess Research Institute (DRI), Billings, explained that DRI was a biomedical research institute which had received investment capital from MSTA last year. He said it had enabled DRI to begin developing its research infrastructure and to leverage funding from other sources, including two drug companies and the National Institutes of Health. He declared MSTA had been extremely valuable in helping DRI get started and urged the committee to vote against the bill.

Gary Willis, Montana Power Company, stated that Montana Power had an economic development section. He suggested MSTA could be used as a partnership between public and private sectors. He said he was aware of the need for budget cuts, but argued the program could work to create jobs. He encouraged the committee to keep MSTA.

Chris Dallas, Montana Technologies Co., Butte, opposed HB 682.

Informational Testimony: None

Questions From Committee Members and Responses: **REP. WANZENRIED** asked **Mr. Wochok** when an investment capital program should be evaluated. **Mr. Wochok** responded that a program would have about a ten-year life cycle and should show returns on investment by the seventh year. **REP. WANZENRIED** asked **Mr. Wochok** whether there was anyway to make an evaluation during the cycle. **Mr. Wochok** stated that by 5-7 years, some of the companies in the investment portfolio should have gone public or been sold or merged. He stated the state had already made money on its investment; he explained the main goal was to gain liquidity. He explained that financial markets dictated when the program could achieve liquidity and therefore latitude to move with financial markets was needed. **REP. WANZENRIED** noted the state could not spend the portfolio and declared the issue was when the state would receive revenue from its investment. **Mr. Wochok** responded that when companies went public, the state would see a return. He said there were indications that some of the companies will go public in the next two years. **Mr. Russell** reported one company in the portfolio was going public this summer.

REP. WISEMAN asked **Mr. Russell** to explain the ramifications of HB 394 on the general fund. **Mr. Russell** stated that if HB 394 passes, the program would be removed from the general fund and operating expenses would be covered by using scheduled paybacks and interest earned from coal trust monies. He estimated that, if none of the companies go public by the end of the biennium, there would no impact on the general fund. **REP. WISEMAN** asked **Mr. Russell** to describe how much the paybacks and interest income would be. **Mr. Russell** said the program expected \$500,000 from the university system and \$200,000 from other scheduled paybacks. He said the loss of interest income would impact the general fund by \$300,000 and the school equalization fund by \$90,000.

REP. FISHER asked **Mr. Russell** to describe how much the state might make if a company went public in the next biennium. **Mr. Russell** explained he could not discuss particular companies. He gave an example of one company in which the state had invested \$700,000 for shares priced at \$2 per share, and he said discussions had suggested the company may go public at \$6.50 per share. He cautioned the committee this particular company was not typical because it was showing a very rapid return on investment.

REP. COBB asked what the P/E ratio would be if the shares sold at \$6.50. **Mr. Russell** said it was difficult to know the P/E ratio because the state would negotiate with the company or a third party to sell its shares and may not receive \$6.50.

REP. WANZENRIED asked **Mr. Russell** whether, under HB 394, the general fund would subsidize MSTa if there was inadequate money in the funding sources. **Mr. Russell** agreed.

REP. ROYAL JOHNSON asked **Mr. Russell** what a typical return on investment would be. **Mr. Russell** said that the entire portfolio

needed to be considered because some companies would fail, others would have a minimal return, and some would do well. He said their goal was to have a return of 10 times the investment at the end of 7-10 years. He said more mature companies might provide a return of 30-40 times the investment. **REP. ROYAL JOHNSON** asked what the return average would be. **Mr. Russell** responded the average would be at least the market rate return of 10-12 percent. **REP. ROYAL JOHNSON** suggested that if the same amount of money had been placed in regular instruments during the last eight years, the state would have received that rate and had it in cash. **Mr. Russell** responded the program had only been in existence for three years. **REP. ROYAL JOHNSON** responded the program was set up prior to three years ago. **Mr. Russell** stated that the program was set up in 1985 but that it had not been run as a venture capital investment program until 1989. He reported the return on venture capital funds in the 1980-1990's has been 19 percent or higher.

REP. ROYAL JOHNSON asked **Mr. Russell** how the debt was structured so that they had 700,000 shares of stock when MSTA was not allowed to invest in equities. **Mr. Russell** reported the Supreme Court had ruled in 1988 that MSTA could not hold equity; therefore, they used a convertible debt structure which could be converted to shares of the company when it was sold. He said the company had the first right to buy its debt; the value of the share determined the state's value. **REP. ROYAL JOHNSON** asked whether the state was taken out of the company when the company became public. **Mr. Russell** responded not necessarily; the MSTA board decided whether to take the state out of the company. He said in some cases, an underwriter will pay debt investors a premium to "clean up" the balance sheet; he said MSTA was approaching that situation in the next 18 months and would need to negotiate the return for the state. **REP. ROYAL JOHNSON** responded that the news was very exciting because if MSTA negotiated a return then it would not need the \$8 million it was requesting for the biennium. **Mr. Russell** maintained they would still need the \$8 million. **REP. ROYAL JOHNSON** asked **Mr. Russell** to describe the effect on current investments of not funding MSTA. **Mr. Russell** said the question was very good because the bill proposed to have the Board of Investments manage current investments. He opposed the transfer of investments to the Board of Investments because he said they did not have a risk-oriented mind set. He contended the staff at the Board of Investments was trained very differently than the staff at MSTA.

REP. ROYAL JOHNSON asked whether \$2 million had been invested in out-of-state venture capital firms with the intention that they would invest in Montana companies. **Mr. Russell** stated MSTA was in the process of making the \$2 million investment. He reported two venture capital companies had approached MSTA and both were from out-of-state. He said that statutes required the investment money to be resident in Montana.

REP. ROYAL JOHNSON asked Mr. Tutwiler how the average income in Montana was related to the average income of companies funded by MSTA. Mr. Tutwiler said he did not know. He said his point had been that Montana did not have a robust economy and its per capita income was on the lower end. He contended the state needed to seek opportunities to improve its competitiveness and attractiveness. REP. ROYAL JOHNSON reported that testimony on HB 394 had indicated that high technology businesses could not be financed in normal ways, but by using assistance from the state they could create high-paying jobs. He said he was hesitant to use taxpayer money for this kind of risky investment.

REP. DeBRUYCKER asked whether businesses stayed in Montana once they became public or were sold or merged. Mr. Russell reported companies would probably stay because they had developed an infrastructure in the state which would be too expensive to move. REP. DeBRUYCKER asked about the state's liability if a product created by one of these companies became the object of a class-action suit. Mr. Russell responded that liability was a serious concern to MSTA, and the staff was trained to avoid problems. He said in the development stage, liability exposure was limited because products were not out. He said staff encouraged companies to purchase product liability insurance.

REP. KADAS asked that someone from the Board of Investments respond to the bill before the committee took executive action.

Closing by Sponsor: REP. BARDANOUVE said he had enjoyed the hearing and listening to his "high class opponents." He described the difficult time the legislature had in trying to balance the state's budget and reported that the question of priorities had to be addressed. He asked whether being a banker or a financier of investment companies should be a priority of the state. He reported he had become quite conservative in using taxpayer money and described himself as a prudent investor. He said he had been concerned in the past on the return on investments in MSTA; he noted that policies may have been improved. He expressed his sorrow in voting against education, welfare, and social services programs, and repeated his support for HB 682.

ADJOURNMENT

Adjournment: 12:08 P.M.



REP. TOM ZOOK, Chairman



MARY LOU SCHMITZ, Secretary

TZ/MLS

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

COMMITTEE

ROLL CALL

DATE

3/18/93

NAME	PRESENT	ABSENT	EXCUSED
REP. ED GRADY, V. CHAIR	✓		
REP. FRANCIS BARDANOUVE	✓		
REP. ERNEST BERGSAGEL	✓		
REP. JOHN COBB	✓		
REP. ROGER DEBRUYKER	✓		
REP. MARJ. FISHER	✓		
REP. JOHN JOHNSON	✓		
REP. ROYAL JOHNSON	✓		
REP. MIKE KADAS	✓		
REP. BETTY LOU KASTEN	✓		
REP. WM. "RED" MENEHAN	✓		
REP. LINDA NELSON	✓		
REP. RAY PECK	✓		
REP. MARY LOU PETERSON	✓		
REP. JOE QUILICI	✓		
REP. DAVE WANZENREID	✓		
REP. BILL WISEMAN	✓		
REP. TOM ZOOK, CHAIR	✓		

**OMNIBUS REVISION BILL TO IMPLEMENT SPENDING REDUCTIONS
SUMMARY OF IMPACT
DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES**

EXHIBIT 1
DATE 3/18/93
HB 685

This legislation is necessary in order to implement the spending reductions applicable to the Department of Corrections and Human Services contained in House Bill 2.

CORRECTIONS: This bill would change the focus from the prison to the community, by downsizing the prisons and authorizing the Department to grant good time to the end of sentences to render inmates eligible for parole or discharge. The good time grant allows the Department to control the prison population while working toward the 850 cap included in HB2. In turn, the cap ensures a manageable population in relation to resources.

The Department would have authority to charge inmates per diem rates for room, board, health care, and other ancillary services.

Swan River Forest Camp would be discontinued. Personal appearances and hearings before the Parole Board would conform with the requirements of due process. Finally, the Women's Correctional Center would temporarily remain at the present location at Warm Springs while an effective community system is developed and implemented allowing for a more accurate identification of the population which would need to be served through a prison facility.

MENTAL HEALTH DIVISION: Services on the Galen campus of Montana State Hospital will be discontinued. When maximum population is reached, Montana State Hospital admissions will be deferred until discharges make space available.

To include within the Department's mental health duties the responsibility to coordinate delivery of services to emotionally disturbed children and create an advisory council.

ALCOHOL AND DRUG ABUSE DIVISION: The Montana Chemical Dependency Center is provided with a clear identity and purpose. The statutory location of the center would be deleted allowing the program to relocate to a less costly facility off the Galen campus.

SPECIAL SERVICES: Establish a special revenue account in the Department of Corrections and Human Service (DCHS) and appropriate 2 cent cigarette tax to that account to operate and maintain the Montana Veterans Homes and administer the veterans insurance program.

**OMNIBUS REVISION BILL TO IMPLEMENT SPENDING REDUCTIONS
(Index)**

EXHIBIT 1
DATE 3/18/93
HB 685

SECTION

1. Continuing the two cents cigarette tax imposed on each package and depositing into a special revenue fund to the credit of Department of Corrections and Human Services for the operation and maintenance of the state veteran's nursing home and in-home health and nursing care benefit for veterans.
- 2,6,7 Discontinuing Swan River Forest Camp as an institution and repealing statutes specifically applicable to Swan River Forest Camp.
3. Inmate granted good time pursuant to (5) below will be considered for parole within two months of eligibility.
4. When the Department certifies to the court the optimal workload for the district probation and parole office was exceeded for the preceding 60 days, the court may not place an offender under the supervision of the office unless it grants a conditional discharge to a probationer supervised by the office.
5. When the optimal workload of a district probation & parole office has been exceeded for 60 days, the Department may certify to the Board of Pardons this has occurred; the Board may not parole a prisoner to that district office unless it also grants a conditional discharge to a parolee supervised by the district office.
8. Deleted by amendment.
9. Permitting the Department to charge a surcharge for health care services requested by an inmate, granting rulemaking authority and permitting the Department to charge inmates in prisons for their care and services in the event inmate wages are impacted by pending court cases.
10. To include within the Department's mental health duties the responsibility to coordinate delivery of services to emotionally disturbed children, appoint an advisory council and report to the legislature.
11. Deleted by amendment.
- 12,13. Discontinue services on the Galen Campus of the Montana State Hospital; clarifying the mission of the State Hospital in Warm Springs is care of persons with mental illness; allowing the Department to establish a maximum state hospital population; and providing the Montana Chemical Dependency Center its own identity, and clarifying its purpose.

EXHIBIT- 1
DATE 3/18/93
HB 685

14. Permit the Women's Correctional Center to temporarily be located during the 94-95 biennium.
15. Rulemaking authority to Department to grant good time in an amount necessary to permit inmates to become eligible for parole or discharge (to manage the population).
16. Retain unused funds from first year of biennium to be used in second year, and expenditure of personal services appropriations in any expenditure category.
17. Conform the parole board's duty to grant personal appearances and hearings to the minimum required by due process to eliminate additional expenses associated with hearings before the Board.

Amendments to House Bill No. 685
First Reading Copy

Requested by Representative Grady
For the Committee on Appropriations

Prepared by Greg Petesch
March 18, 1993

EXHIBIT 2
DATE 3/18/93
HB 685

1. Title, lines 21 and 22.
Strike: "AUTHORIZING" on line 21 through "SERVICES;" on line 22
2. Title, line 25.
Strike: "53-1-203,"
Strike: "53-21-206,"
3. Page 14, line 14 through page 16, line 7.
Strike: section 8 in its entirety
Renumber: subsequent sections
4. Page 18, lines 9 through 18.
Strike: section 11 in its entirety
Renumber: subsequent sections
5. Page 18, line 21.
Strike: "agency"
Insert: "facility"
6. Page 23, line 20.
Following: "must"
Insert: "generally"
7. Page 24, lines 11 and 14.
Strike: "9"
Insert: "8"
8. Page 24, line 15.
Following: line 14
Insert: "NEW SECTION. Section 17. Coordination instruction.
(1) If [this act] is passed and approved, then Senate Bill No. 39 and Senate Bill No. 40 are void.
(2) If House Bill No. 46 is passed and approved and if it includes a section providing that the cigarette tax collected under 16-11-111 may be used for the operation and maintenance of state veterans' homes and for in-home health care, then [section 1 of this act] is void.
(3) If House Bill No. 2 is passed and approved and if it includes a provision that the department of corrections and human services may spend funds appropriated for personal services in other categories, then [section 14 of this act] is void."
Renumber: subsequent section

AMENDMENTS TO HOUSE BILL NO. 685
REVISING CORRECTIONS AND HUMAN SERVICES TO
IMPLEMENT BUDGET REDUCTIONS

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EXHIBIT 3
DATE 3/18/93
HB 685

The enclosed amendment to House Bill No. 685 would retain certain statutes regarding the establishment of the eastern montana veteran's home, anticipating that the next legislature may wish to proceed with the construction of the eastern montana veteran's home.

PROPOSED AMENDMENT

1. Page 2, line 2.
delete: "10-2-411"
2. Page 2, line 2.
delete: "10-2-414, 10-2-415, 10-2-416"
3. Page 24, line 3.
delete: "10-2-411"
4. Page 24, line 4.
delete: "10-2-414, 10-2-415, 10-2-416"

AMENDMENTS TO HOUSE BILL NO. 685
REVISING CORRECTIONS AND HUMAN SERVICES TO
IMPLEMENT BUDGET REDUCTIONS

EXHIBIT 4
DATE 3/18/93
HB 685

The enclosed amendment to House Bill No. 685 would amend, rather than repeal, Section 46-23-204, MCA. The amendment would retain that portion of 46-23-204 which requires the Board of Pardons to hear from all person desiring to be heard, but limit the means by which persons are required to be heard by the Board of Pardons to written testimony, rather than oral testimony.

PROPOSED AMENDMENT

1. Page 2, line 3.
delete: "46-23-204"
2. Page 24, line 4.
delete: "46-23-204"
3. Page 8, line 8.
insert: "Section 4. Section 46-23-204, MCA, is amended to
read:

"46-23-204. All persons to be heard - ^{Kadue} counsel. The board shall be required to ~~hear oral~~ ^{written} receive written statements from all persons desiring to be heard before the board, and any person may be represented by counsel, ~~provided that the~~ ^{with motion} The board shall have the power to regulate procedure at all hearings."

renumber: subsequent sections.

HOUSE APPROPRIATIONS COMMITTEE

Testimony in Opposition to
HOUSE BILL 682

ELIMINATING THE MONTANA BOARD OF
SCIENCE AND TECHNOLOGY DEVELOPMENT

March 18, 1993

EXHIBIT
DATE 3/18/93
HB 682

Mr. Chairman, Members of the Committee, for the record my name is Robyn Young.

I am employed full time as the Chief Executive Officer of Development Corporation of Montana, the President of Montana Community Finance Corporation, and the Secretary/Treasurer of the Montana Small Business Investment Capital Company.

The Development Corporation of Montana is a "for-profit" privately owned venture capital company. DCM was the first Montana Capital Company to be Certified and Qualified and the first to make all of its required investments. DCM has been involved in efforts to meet the needs of Montana's businesses for longer than the Montana Science and Technology Board, the Department of Commerce, the Coal tax loan program, and most other state programs. DCM is proud of its past and present efforts to serve the financing needs of Montana's businesses.

DCM's most successful effort to date is the management of the state-wide SBA 504 loan program through its non-profit affiliate, Montana Community Finance Corporation. Through its venture capital investments and 504 loan financing packages, DCM has created or retained more than 600 jobs. The attached summary highlights the success of the 504 program in Montana. In many states the 504 program is funded by state dollars and is associated with a state agency such as the Montana Department of Commerce. We are proud of the fact that MCFC does not require any state or federal dollars to operate.

DCM is also providing administrative support to the Montana Small Business Investment Capital Company (MSBIC) Board of Directors during their efforts to organize and capitalize a \$5-7 million dollar Small Business Investment Company to provide capital for Montana businesses. This venture capital program will not replace the need for the MSTC. However, it will provide an additional source of venture capital for Montana businesses and it will not require state general funds to operate.

I am testifying in opposition to HB 682 for the following reasons:

1. The MSTA is the most successful economic development program in Montana. One of the many accomplishments of the MSTA is the construction of a venture capital portfolio which proves not only that there is a demand for investment capital, but that Montana also offers the kind of "deal-flow" that can provide an attractive return on investment. The success achieved by MSTA will make it easier for us to attract the private capital needed for the Montana Small Business Investment Company. The passage of HB 682 will send a negative message to these potential sources of private capital.

2. MSTA has been criticized by many legislators and citizens because of a perceived lack of return on investment. This is simply an inaccurate perception. When evaluating the return on a venture capital investment, an investor has to consider the growth in the value of the investments, rather than the more traditional "return on investment" that you would expect from a income producing investment. The MSTA portfolio cannot be compared to the portfolio managed by the Montana Board of Investments. When MSTA's portfolio is more appropriately compared to other seed capital funds, the internal rate of return of 18.57% (post 1989 legislation) which has been achieved to date by MSTA on its portfolio is excellent. (See attached summary of MSTA Seed Capital Portfolio IRR).

3. Several of the MSTA portfolio companies are ready to commence the production phase of their operations. As is typically the case with high technology seed capital investments, the research and development stage can take several years. I have had the opportunity to work with two MSTA portfolio companies in their efforts to secure 504 loans to finance their production facilities. When these two companies commence production later this year, they will offer tremendous job opportunities. These two companies have the potential to create over 100 jobs within the next two years. These jobs will be the rare kind of high paying, skilled, basic industry employment opportunities that we rarely see in our state. In comparison, the majority of the 600 jobs created by MCFC are minimum wage jobs in service businesses.

4. The high quality due diligence performed on potential investments by the MSTA provides other investors with the level of confidence that they could not otherwise afford. This expertise and experience did not magically appear in our state. The commitment from past legislatures to fund MSTA during its formative years allowed MSTA to develop a quality program. DCM relied heavily upon the recommendation and due diligence of MSTA in making a recent investment of \$178,000 into one of the MSTA portfolio companies. The MSTA portfolio companies have attracted additional equity from private individuals and firms because of the investors'

respect for the expertise of MSTA. For example, one portfolio company has raised one million dollars each from two Fortune 500 companies. The elimination of MSTA will kill all of our related efforts to create private sources of equity capital. These related efforts include the MSBIC, the Montana Private Capital Network, and the Montana Entrepreneurship Centers.

5. This committee and the legislature are facing an extreme financial crisis. However, there is an alternative to HB 682. House Bill 394 passed the House and has been transmitted to the Senate. If House Bill 394 becomes law, MSTA does not have to continue to depend on appropriations from the General Fund. This bill includes a provision that the MSTA will be funded from the payback on its investments. It is common practice in the venture capital industry for the administrative expenses to be paid from the return earned on the portfolio investments. Several of the portfolio companies funded by MSTA are apt to return substantial returns to MSTA within the next few years. This method of funding MSTA is a much better idea than cutting the program entirely.

6. Transferring the duties of managing the existing portfolio to the Montana Board of Investments will jeopardize the return to the state from the existing investments. The Board of Investments takes their responsibility as "fiduciaries" very seriously. They invest very conservatively under the "prudent expert" principal. As a result, the staff of the MBOI are not trained to take risks. It would be totally inappropriate for an employee of the MBOI to assume responsibility for managing a program that is so diametrically opposed to their other duties.

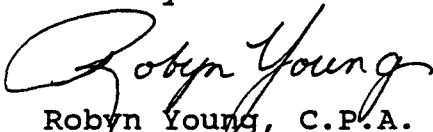
There is a great deal more involved in managing the existing MSTA investments than just collecting interest and principal payments when they are due. MSTA is actively involved in the management of their portfolio companies through their responsibilities as corporate directors. The MSTA also assists the companies in their efforts to secure additional rounds of financing. One of the most critical duties performed by an investment manager of venture capital investments is insuring that there are "exit" plans in the works. The MSTA staff has spent years cultivating contacts outside of our state in the investment banking industry to develop sources of capital to provide the cash needed to repay the MSTA for its investment. The success of MSTA's portfolio companies and therefore the ultimate return on the state's investment will be adversely affected if HB 682 passes.

7. The seed capital, startup capital, and expansion capital programs offered through the Montana Science and Technology Alliance are currently the only source of institutional venture capital available for Montana businesses. Although DCM and others are involved in an effort to create a private venture capital fund,

we do not anticipate that this fund will be fully operational until mid 1994.

The investments made by MSTA have only begun to mature, and the staff and program have grown in expertise and efficiency. Montana cannot renege on its commitment to provide this much needed risk capital to our business community. MSTA is just now at the threshold of success. Now is not the time to retreat. Montana must continue its commitment to the goals and purposes that spawned the Montana Science and Technology Alliance. I urge you to vote no on HB 682.

Thank you.

A handwritten signature in cursive script that reads "Robyn Young".

Robyn Young, C.P.A.
Chief Executive Officer
Development Corporation of Montana
121 North Last Chance Gulch, Suite D
Helena, Montana
(406) 442-3850

**MONTANA COMMUNITY
FINANCE CORPORATION**

EXHIBIT 1
DATE 3/18/93
HB 682

503/504 Program Highlights

19 small business projects funded

\$7.6 million 503/504 funds lent

Over \$20 million in project costs

Over \$13 million in private funds invested

677 jobs created or retained for Montana

\$11,300 503/504 dollars invested per job created

under 1/2 of 1% average national loan loss rate

0% delinquencies or loan losses in MCFC portfolio

Projects funded in:

Missoula

Great Falls

Butte

Kalispell

Gallatin County

Bozeman

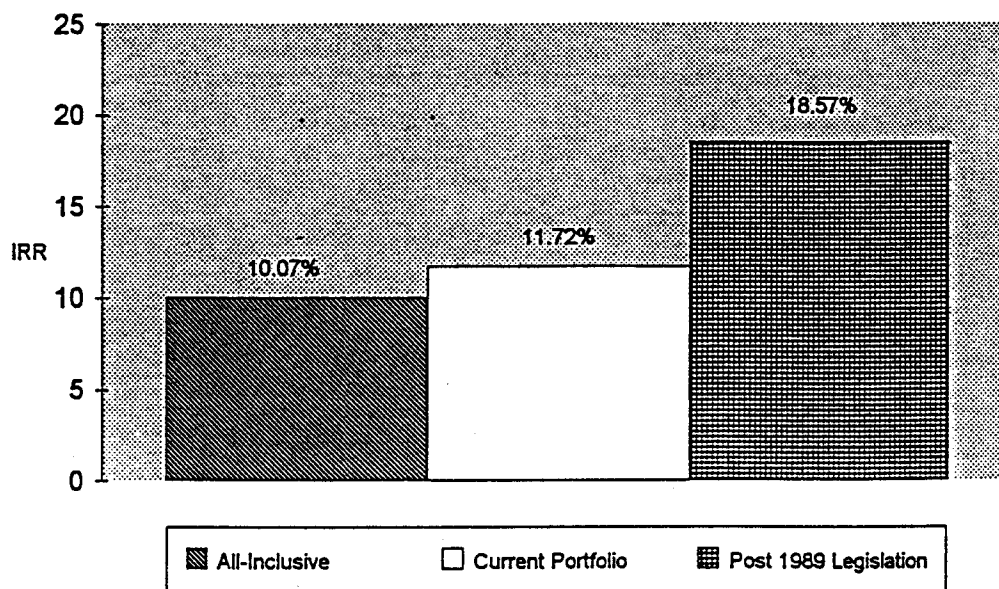
Lake County

Helena

Billings

Laurel

MSTA Seed Capital Portfolio IRR Through 1/31/93



IRR = the effective compounded internal rate of return.

The internal rate of return is the current standard for performance measurement in the venture capital industry. It indicates a compounded annual return resulting from the increase or decrease in portfolio value and any cash flow received from the portfolio.

"All-Inclusive" represents all seed capital investments made by the Alliance beginning with the initial investment on June 5, 1986. The All-Inclusive IRR represents the effective compounded internal rate of return on those investments made from June 5, 1986 to January 31, 1993.

"Current Portfolio" represents all seed capital investments currently held in the portfolio. The Current Portfolio IRR represents the effective compounded internal rate of return on those investments made from June 30, 1986 to January 31, 1993.

"Post 1989 Legislation" represents all seed capital investments since the 1989 Legislation, which allowed the Alliance to use Coal Tax Trust funds as a source of investment capital. The Post 1989 Legislation IRR represents the effective compounded internal rate of return on those investments from August 17, 1989 to January 31, 1993. August 17, 1989 is the date of the initial investment following the 1989 Legislation.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

COMMITTEE

BILL NO. HB 682

DATE 3/18 SPONSOR(S)

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Carl Russell	MSTA - Dept of Commerce		✓
Bob KEMMIS	MycoTech - Butte		✓
Jim Entwistle	MT Chamber		✓
JOHN GASS BILLINGS	INTER MOUNTAIN COMMUNICATIONS		
Sam Hubbard	Discoress Research Institute of Billings		✓
Robyn Young	D.C.M & M&BIC		✓
Mary Willis	Montana Power Co.		✓
Joe Figueroa	Montana Tech		✓
DANIEL TOPPER	U System		✓
RICHARD C. POTTER	NURTURE, Inc.		✓
ZACHARY S WACHOK	NURTURE, Inc.		✓
John Hutchinson	CHE		✓
KEN HEIKES	MT. TRADEPORT AUTHORITY		✓
R.A. Solberg	U. Mont. - Retired		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

ANDY POOLE

DEPT OF COMMERCE

✓