

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on March 20, 1997, at 8:05 a.m., in Room 108.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Larry Baer (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. James H. "Jim" Burnett (R)
Sen. B.F. "Chris" Christiaens (D)
Sen. Eve Franklin (D)
Sen. Loren Jenkins (R)
Sen. Greg Jergeson (D)
Sen. John "J.D." Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Miller (R)
Sen. Arnie A. Mohl (R)
Sen. Linda J. Nelson (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: None

Members Absent: None

Staff Present: Taryn Purdy, Legislative Fiscal Division
Sharon Cummings, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 114, 3/14/97; HB 136,
3/14/97

Executive Action: HB 125, BCCAA; HB 102, BCCAA;
HB 405, Tabled; SB 374, Failed

HEARING ON HB 114

Sponsor: REP. LINDA MCCULLOCH, HD 70, MISSOULA

Proponents: Mary Alice Cook, Children and Family Lobby

Opponents: None

Opening Statement by Sponsor:

REP. LINDA MCCULLOCH, HD 70, MISSOULA HB 114 is a product of the interim committee on juvenile justice. This bill reorganizes, restructures, updates and recodified existing law. It makes the Youth Court Act more readable, understandable and useable. REP. MCCULLOCH explains the bill.

Proponents' Testimony:

Mary Alice Cook, Children and Family Lobby I strongly support this bill.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. MCCULLOCH Thank you.

{Tape: 1; Side: A; Approx. Time Count: 8:12; Comments: None.}

HEARING ON HB 136

Sponsor: REP. BILL WISEMAN, HD 41, GREAT FALLS

Proponents: Mike Ferriter, Department of Corrections

Opponents: None

Opening Statement by Sponsor:

REP. BILL WISEMAN, HD 41, GREAT FALLS HB 136 is to finance additional pre-release centers. REP. WISEMAN gives a brief description and history of pre-release centers in Montana. In 1983 the Department of Corrections (DOC) came to Great Falls to ask them to build a pre-release center. The people of Great Falls organized a non-profit organization that renovated a building and created a pre-release center. This facility was expanded approximately 5 years ago. A couple of years ago a women's pre-release center was built in Great Falls. Billings needs to expand their pre-release center and they cannot get the lending institutions to talk to them. Missoula is running into the same problem. This bill proposes to go through the Board of Investments to organize a new lending authority so non-profits could borrow money with tax free municipal bonds. The select committee on corrections changed this bill to have these non-profits under the Montana Health Authority instead of creating a new lending authority. REP. WISEMAN gave a brief description of the Montana Health Authority. We want to borrow the money as cheaply as we can to loan it to the non-profit pre-release

centers. The State of Montana could then save \$10 per day on each prisoner housed in the pre-release center.

Proponents' Testimony:

Mike Ferriter, Department of Corrections I am here to speak in support of HB 136. This bill is the key to expanding the community based pre-release centers. Presently the department is supervising over 290 felony offenders daily in 4 community pre-release centers. Pre-release is a successful and productive method of transitioning offenders back into the community. The 1995 legislature appropriated funds to establish 163 additional pre-release beds. The department has been successful in siting about 30% of these new beds with over 100 beds yet to be sited. DOC has contracted with private non-profit pre-release centers for over 20 years. Your support of HB 136 will put private providers in a position to build facilities that may be more acceptable to the community at large. Additional pre-release beds are crucial to the department's overall population management plan and the beds are critical to the successful transition of the offenders back into the community. Here is a handout to better familiarize you with pre-release. (EXHIBIT #1) Thank you for your support of HB 136.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 8:24; Comments: None.}

Questions From Committee Members and Responses:

SEN. TOM BECK I know there is a screening board for people going into pre-release centers, now judges are sending offenders directly to pre-release centers. Does that still go through the screening board? **Mr. Ferriter** Yes, pre-release screening committees screen all cases and judges understand that they need the approval of the screening committee before finalizing the sentence.

SEN. ARNIE MOHL When you look at a community for a pre-release center, do you also look to see if there are jobs available? **Mr. Ferriter** Yes, that is part of the siting criteria. We look at communities that highly impacts the prison population, such as larger cities in the state. The siting criteria requires support from local businesses, educational programs, medical services, etc. It would not be feasible to place a pre-release center in a small community.

SEN. MOHL If you had pre-release rooms available right now, how many prisoners do you have that could fill them immediately to reduce the population at Montana State Prison (MSP)? **Mr. Ferriter** Two weeks ago we had 33 offenders at MSP on a waiting list to go to pre-release. I'm not sure how many offenders in the county jails would be pre-release candidates but I'm sure some of them would be.

SEN. MOHL What is the difference between pre-release and MSP in regards to random testing? We were told in subcommittee that random testing cannot be done on the prison population. **Mr. Ferriter** Community corrections does a lot of urinalysis, we require a minimum of 2 per month. We do breatholizer when an offender returns after a pass. We also do these tests during probation and parole. I'm not aware of a legal issue with MSP doing these tests.

SEN. MIGNON WATERMAN Would this authorize funding for nursing home facilities for older inmates? **Mr. Ferriter** I'm not the authority on the health board but I don't know why it wouldn't if the department identified this as a need.

SEN. WATERMAN If it was structured right those inmates would be medicaid eligible. **Mr. Ferriter** It is my understanding that they need to be on parole status to be medicaid eligible.

SEN. LINDA NELSON I'm looking at item 10 in (EXHIBIT #1) that talks about walkaways, how many of these were apprehended, did they commit another crime, were they returned to the prison or pre-release? **Mr. Ferriter** As I recall there is only one escapee from a pre-release center that is currently at large. That is a felony escape offense that we prosecute with up to a 10 year sentence. We take this very seriously.

SEN. LOREN JENKINS On page 11, line 21-22 it says that "public interest is determined by the Department of Corrections, not the authority." If I am reading this right that says even though you have a public meeting the DOC makes the decision on this and the decision is final. Is that correct? **Mr. Ferriter** It is my understanding from working with the Board of Investments that they weren't interested in holding public hearings, we need to convince them that the community is comfortable. We need to present the idea to the community and convince the Health Board Authority that the community wants this facility. **SEN. JENKINS** If I'm reading this correct, you can override the community's wishes. **Mr. Ferriter** I'd have to read through this, the department is not going to site a pre-release center without the public's acceptance. We did not site a pre-release center in Helena because the public said no.

{Tape: 1; Side: A; Approx. Time Count: 8:33; Comments: None.}

SEN. JENKINS Is the Health Care Authority under the Board of Investments? What are the limits to your bonding privileges? **Jerry Hoover, Montana Health Facility Authority** The Health Facility Authority is a board appointed by the Governor and confirmed by the Senate. There are 7 board members from throughout the state. It is separate from the Board of Investments. Our bonding authority is limited to \$150 million each biennium.

SEN. DALE MAHLUM Have you had any bad accounts? **Mr. Hoover** No. We have been in existence since 1985, have issued over \$560 million in bonds and we have approximately \$360 million outstanding. We have never had a default. We've issued bonds for over 25 community providers of developmental disabilities or mental illness services.

SEN. BECK With mental health facilities you are getting most of the payments through medicare and medicaid to make the unit solvent. Pre-release centers might be a different, how will you approach that? **Mr. Hoover** The key issue to structuring this type of financing so they are credit worthy and a good security for bond investors is contract payments from the state. We attach all the payments and they are sent directly to the trustee who withdraws the monthly loan repayment and wires it to the bank of the community provider.

SEN. BECK You will be looking at General Fund money from the State of Montana to make sure these bonds are paid off. **Mr. Hoover** That is correct.

SEN. LARRY BAER I'm still concerned with siting decisions and I want to be sure siting will be subject to community approval and not the open discretion of the department should that community decide to disapprove the siting proposal. **Mr. Ferriter** As we discussed yesterday on HB 125, the department will have administrative rules for siting. Our proposed rules require public hearings, surveys, etc. for siting. We are very aware that the public needs to be in agreement before we build a pre-release center.

SEN. MIKE TAYLOR How many pre-release centers do we have right now? Do we fund these per day? **Mr. Ferriter** 4. Yes, we have a contract with each of the 4 pre-release centers. The rate is just under \$37 and the offenders contribute up to \$10 per day toward their room and board. We have funding to expand pre-release, we would need to enter into a new contract if a community decided to have a pre-release center.

SEN. TAYLOR Was this funding approved in our committee? **Mr. Ferriter** It was approved by the 1995 legislature, we moved the money to 1999 because you felt that these beds wouldn't be available until FY99.

CHAIRMAN SWYSGOOD Will the Health Authority have the expertise to judge whether this is a solid financial loan? **Mr. Hoover** The expertise is there. We look on this as very similar to other community providers who contract with the state. Financial statements, where the revenues are primarily from state contracts, are very similar. We will also be using the Board of Investments and an independent financial advisor to make that determination.

CHAIRMAN SWYSGOOD Since the contract is the tool that solidifies the loan, what happens when they don't fill the beds? **Mr. Hoover** That is a risk we have to undertake. We have the same kind of risk with hospitals, nursing homes and other community providers.

SEN. JENKINS Would you be taking public opinion of a pre-release center under consideration? **Mr. Hoover** Yes, we are required by tax law to conduct a public hearing. There will be two opportunities for people to comment during this process.

SEN. CHRIS CHRISTIAENS Pre-release centers are a little different in their contracting than other types of facilities. Most of those have 30 year contracts, pre-releases have 10 year contracts. How does that work for you? **Mr. Hoover** 10 years sounds good to me, the contracts for other community providers are for 2 years. We are able to sell those bonds.

SEN. MAHLUM If you bond the operation in Missoula, what security will you have on that building? **Mr. Hoover** We like to take a mortgage. The other security is the revenues that the facility receives. This bond will also be enhanced by the Board of Investments which gives it an A rating in the municipal market and allows us to sell the bonds at a low interest rate.

SEN. TAYLOR The financing problem must be that the department cannot guarantee to fill the beds and that is why the banks are not willing to finance these? **Mr. Hoover** I can't speak for the banks, but I think you've put your finger on it. Our credit criteria is a little different from a bank.

SEN. NELSON How many pre-release beds do we have right now? **Mr. Ferriter** We have 291 beds in 4 pre-release centers. The average stay in a pre-release center is about 7 months.

Closing by Sponsor:

REP. WISEMAN Community acceptance is vital, the department is not going to put a facility in a community that won't accept one. This is a cheaper way for us to handle prisoners and helps them be responsible for themselves. As I understand the problem in Billings, the lending institutions are reluctant to put money into it primarily because it is a specialized kind of building and if the bank acquires the building, what will they use it for?

{Tape: 1; Side: B; Approx. Time Count: 8:49; Comments: None.}

CONSIDERATION OF HOUSE AMENDMENTS ON SB 2

Sponsor: SEN. RIC HOLDEN, SD 1, GLENDIVE

Discussion:

SEN. RIC HOLDEN, SD 1, GLENDIVE SB 2 moves inmate labor to the Department of Corrections. Revised fiscal note handed out and

explained. (EXHIBIT #2) The House amendments narrowed the broad program of repair and maintenance to removing litter.

SEN. J.D. LYNCH Are you going to accept the amendment to this bill? SEN. HOLDEN Yes.

SEN. CHRISTIAENS It is still the intent that this program will target parole violators, pre-release and boot camp returns? SEN. HOLDEN Yes, this is in the updated fiscal note.

SEN. TAYLOR We funded FTE's in HB 2 for DOC, this bill adds another 16 FTE's, is this amount to be added to the FTE's already added? Lois Adams, DOC The Governor's executive budget requested 6.75 and 9 FTE's. That is in HB 2 and is not a part of this bill. The department did not request this bill, it came from SEN. HOLDEN. We attached the items in #5 of the fiscal note. (EXHIBIT #2)

SEN. TAYLOR How many FTE's are we adding? Ms. Adams This bill adds 3 FTE's. The Governor's budget adds 6.75 in FY98 and 9 in FY99.

CHAIRMAN SWYSGOOD Was that funded through the appropriations process? Dave Ohler, DOC I believe the subcommittee funded most of these positions. Taryn Purdy, Legislative Fiscal Division I believe that was a new proposal that was not funded.

CHAIRMAN SWYSGOOD This bill, if passed, will require an adjustment to HB 2.

SEN. BECK Has any of this been put into HB 2? CHAIRMAN SWYSGOOD No.

SEN. LYNCH Thirty-eight prison guards were cut, I think they are needed inside the prison to maintain order. This bill has 3 coming out to watch graffiti being cleaned and this causes some concern for me.

CHAIRMAN SWYSGOOD We will forward this bill on to the Senate floor.

{Tape: 1; Side: B; Approx. Time Count: 9:04; Comments: None.}

CONSIDERATION OF HOUSE AMENDMENTS ON SB 109

Sponsor: SEN. RIC HOLDEN, SD 1, GLENDIVE

Discussion: SEN. HOLDEN There were some things the Senate forgot to do on SB 109. We brought these corrections to the House Select Committee on Corrections.

Lois Adams, DOC Two items were left out of the original bill, the name change of Pine Hills School to Pine Hills Youth Correctional Facility. Page 9, line 3-5, changed to say "the

court shall order a pre-sentence report unless the court makes the finding that a report is unnecessary." This is information the judge takes regarding the offender and uses to impose the sentence. Page 23, line 9 is a technical change.

SEN. JENKINS Do we have a girls detention facility now? **Mike Ferriter, DOC** Presently there is no correction facility for girls. However, we are proposing to reestablish a girls school at Boulder on the same campus as the Montana Youth Alternative program. Presently, our girls go to correction facilities out of state.

SEN. HOLDEN I recommend accepting these amendments.

{Tape: 1; Side: B; Approx. Time Count: 9:36; Comments: None.}

EXECUTIVE ACTION ON SB 2 & SB 109

Motion/Vote: **SEN. JENKINS MOVES TO ACCEPT THE HOUSE AMENDMENTS ON SB 2 AND SB 109. THE MOTION CARRIED WITH CHAIRMAN SWYSGOOD VOTING NO ON BOTH BILLS.**

{Tape: 1; Side: B; Approx. Time Count: 9:39; Comments: None.}

EXECUTIVE ACTION ON HB 125

Amendments: Amendment #hb012502.asf. (EXHIBIT #3)

Motion: **SEN. BAER MOVES TO AMEND HB 125 WITH AMENDMENT #HB012502.ASF.**

Discussion: **SEN. BAER** I appreciate the expression of the department to cooperate with siting in communities and respecting the will of the communities that will be impacted. I felt we should have something statutory to secure that protection for the communities. Therefore, I offer this amendment.

SEN. CHRISTIAENS How broad or narrow an area do you have in mind with this amendment? **SEN. BAER** It is not my intention to over-reach. The department will be writing administrative rules that will answer that question.

SEN. CHRISTIAENS I would hope **SEN. BAER** might give some direction as to what he would like to see in the rules. I believe the legislature should give some direction on this. **SEN. BAER** Would you like an opinion or to amend this amendment?

CHAIRMAN SWYSGOOD We can ask the department how they would interpret this amendment. **Mike Ferriter, DOC** The draft rules I gave you yesterday talks about siting, public meetings and a survey over a 5 mile radius of the proposed site.

Vote: THE MOTION TO AMEND HB 125 WITH AMENDMENT #HB012502.ASF
CARRIED UNANIMOUSLY.

Motion: SEN. TAYLOR MOVES HB 125 BE CONCURRED IN AS AMENDED.

Discussion: SEN. JENKINS Why was page 11, line 12-14 crossed out of the bill? Mr. Ferriter This removes the department from being involved in the rule making of the Board of Pardons.

SEN. LYNCH The State Board of Pardons has rules of their own on when people will be paroled. They can't come up with different rules nor should they be able to.

SEN. EVE FRANKLIN My understanding is that the legislature can alter the rules of the Board of Pardons but not the department.

SEN. BECK I think SEN. JENKINS is right and I have some concerns on this.

CHAIRMAN SWYSGOOD This crossed out language is current law.

Dave Ohler, DOC I believe that is crossed out because it goes without saying that the department cannot amend or alter the statutory powers of the Board of Pardons. It is for clean-up .

SEN. BECK If you strike this, where in the law does it say that you cannot alter the rules set by the Board of Pardons? Mr. Ohler I guess the reverse is the appropriate question. Where does it say that we can alter and amend the rules and statutes of the Board of Pardons? There is no place we can do it. As far as the department is concerned it was just a language clean-up and we don't have a position on this.

Motion: SEN. LYNCH MOVES TO REINSERT THE STRUCK LANGUAGE ON LINE 12-14 ON PAGE 11 IN HB 125.

Discussion: SEN. LYNCH There was a time when there was great friction between the Board of Pardons and a member of the department that didn't think they were letting enough people go. I'd like to restore it.

Vote: THE MOTION CARRIED UNANIMOUSLY.

SEN. KEN MILLER On the survey you did in Helena, was the site in the middle of that radius? Mr. Ferriter We hired a private consulting firm to do the survey, the site was in the middle of the radius. SEN. MILLER Please provide a copy of that to the committee.

SEN. WATERMAN The criteria looks like 1 person can stop a pre-release siting. Mr. Ferriter The concept of siting pre-release as laid out in this policy is that we need to convince local authorities first. If we don't have that, we probably are not interested in going to the general public.

Susan Fox, Legislative Services Division There is a conflict between HB 125 and SB 109, one word was changed in both bills differently, please verify which word you prefer.

Motion/Vote: SEN. WATERMAN MOVES TO ACCEPT THE COORDINATING LANGUAGE IN HB 125. THE MOTION CARRIED UNANIMOUSLY.

{Tape: 2; Side: A; Approx. Time Count: 9:55; Comments: None.}

Vote: THE MOTION THAT HB 125 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY. SEN. BARTLETT will carry HB 125.

EXECUTIVE ACTION ON HB 102

Amendments: Amendment #hb010204.asf. (EXHIBIT #4)

Motion: SEN. LYNCH MOVES TO AMEND HB 102 WITH AMENDMENT #HB010204.ASF.

Discussion: SEN. LYNCH I believe we should have as little verbiage as possible in statute.

SEN. TAYLOR Why do they want to get rid of all of this? SEN. LYNCH Instead of getting a litany of things they are going to do, all of them could come under the umbrella of encourage the offenders self-improvement.

SEN. WATERMAN There is a difference, we can encourage them but we need to give them the opportunity.

SEN. LYNCH What if they don't agree that we have given them everything and we have more lawsuits?

SEN. TOM KEATING By being specific you actually limit what they can do. This is better language for a policy statement.

Vote: THE MOTION TO AMEND HB 102 WITH AMENDMENT #HB010204.ASF CARRIED 10-6 ON ROLL CALL VOTE.

Amendment: Amendment #hb010203.asf. (EXHIBIT #5)

Motion: SEN. CHRISTIAENS MOVES TO AMEND HB 102 WITH AMENDMENT #HB010203.ASF.

Discussion:

SEN. CHRISTIAENS This amendment adds several words that give direction to the department to offer job training education or other kinds of programs. I think it strengthens the bill.

Vote: THE MOTION TO AMEND HB 102 WITH AMENDMENT #HB010203.ASF CARRIED WITH SEN. BAER, TOEWS AND SWYSGOOD VOTING NO.

SEN. LYNCH I received a letter from someone in Seeley Lake asking me to consider changing the word from "should" to "must" on page 2, line 26. Why was this change made in the first place?
Mr. Ohler This amendment was proposed by **REP. VICK** in subcommittee. I believe he didn't want to give such a firm blanket statement. He was also concerned that "must" meant they couldn't be punished by the death penalty.

CHAIRMAN SWYSGOOD What would be the alternative to incarceration? **Mr. Ohler** Intensive supervision or probation.

Motion/Vote: **SEN. JENKINS MOVES TO REINSERT MUST ON PAGE 2, LINE 26. THE MOTION CARRIED WITH SEN. MILLER, SWYSGOOD, AND KEATING VOTING NO.**

Amendment: Amendment #hb010201.asf. (EXHIBIT #6)

Motion: **SEN. CHRISTIAENS MOVES TO AMEND HB 102 WITH AMENDMENT #HB010201.ASF.**

Discussion: **SEN. CHRISTIAENS** Reformation is in the constitution and does a better job of explaining what we want done. Rehabilitation means you return someone to the condition they were, I'm not sure that should be the direction we use in corrections.

SEN. BECK Please explain the difference between rehabilitation and reformation. **Mr. Ohler** I don't know that I can answer this question.

SEN. LYNCH I speak against the motion as, I think, it is covered in #4 especially in lieu of the amendment previously added.

SEN. TAYLOR I speak in favor of the motion. I don't want to lose that line as a reminder of the policy that we don't just lock them up continuously.

Vote: **THE MOTION TO AMEND HB 102 WITH AMENDMENT #HB010201.ASF FAILED 7-10 ON ROLL CALL VOTE.**

Motion/Vote: **SEN. JENKINS MOVES HB 102 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED 9-8 ON ROLL CALL VOTE. SEN. ESTRADA will carry HB 102.**

{Tape: 2; Side: A; Approx. Time Count: 10:19; Comments: None.}

EXECUTIVE ACTION ON HB 405

Motion: **SEN. CHRISTIAENS MOVES HB 405 BE CONCURRED IN.**

Amendment: **SEN. LYNCH MOVES TO AMEND HB 405 BY REINSERTING THE LANGUAGE "NON-VIOLENT" IN ALL THE PLACES IT WAS ORIGINALLY IN.**

Discussion: SEN. LYNCH It seems to me that if this is truly a pilot program you'd better not start with the worst of the worst. If something goes wrong, we will all be in trouble. I don't think the program is necessary.

CHAIRMAN SWYSGOOD We need to clarify the motion, do we also want to strike felony.

SEN. CHRISTIAENS You would want to leave felony as only felony offenders go to prison. I would like to see this broadened to include misdemeanor offenses.

SEN. LYNCH I'm going back to the original bill as it was introduced by REP. WYATT, which said non-violent offenders.

SEN. WATERMAN Page 1, line 14-15 talks about felony offenses.

SEN. TAYLOR What is the language on a pre-release center? Rick Day, DOC The discretion is left up to the local screening committee, they may chose to reject the non-violent or violent offender depending on the nature of the offense or the prognosis for success.

SEN. TAYLOR Have you read this bill as it is written? Mr. Day This is not the department's bill, we have been assisting in refining it. I have not read through it.

SEN. TAYLOR Is this amendment coordinating this bill with pre-release center language? Mr. Ohler I don't think it makes a difference, the purpose of the bill is to deal with felony offenders. Mr. Ferriter This is a probation and parole program. Probation and parole serve both violent and non-violent offenders. The programming would look like pre-release but these people would be on probation or parole status.

Motion/Vote: SEN. BECK MAKES A SUBSTITUTE MOTION TO TABLE HB 405. THE MOTION CARRIED 9-8 ON ROLL CALL VOTE.

{Tape: 2; Side: A; Approx. Time Count: 10:27; Comments: None.}

RECONSIDER SB 267

Motion: SEN. MOHL MOVES TO RECONSIDER ACTION ON SB 267.

Discussion: CHAIRMAN SWYSGOOD There are amendments on SB 267 which will stay on that bill. The amendment that is not on the bill allows the funds to operate state lands to come out before the money gets into the permanent school trust thereby closing the \$6.4 million General Fund impact this bill contains without the amendment.

SEN. BECK Are there different amendments being drafted for today? Ms. Purdy No.

Vote: THE MOTION TO RECONSIDER SB 267 FAILED ON 8-9 ON ROLL CALL VOTE.

{Tape: 2; Side: A; Approx. Time Count: 10:30; Comments: None.}

CHAIRMAN SWYSGOOD We have 2 Senate bills that have to meet the 67th day transmittal deadline and have to be out of this committee tomorrow. You understand the ramifications of SB 374 and the concern that \$48-52 million federal funds will be hung up.

RECONSIDER SB 374

Motion/Vote: SEN. BECK MOVES TO RECONSIDER ACTION ON SB 374. THE MOTION CARRIED 9-8 ON ROLL CALL VOTE.

EXECUTIVE ACTION ON SB 374

Motion: SEN. BECK MOVES SB 374 DO PASS AS AMENDED.

Discussion: SEN. BECK I hope the Department of Public Health and Human Services is here and someone can tell me where we will make the shortfall of approximately \$52 million. I'm not overly enhanced by this bill and what it will require but I don't know what we will do with the kids out there.

CHAIRMAN SWYSGOOD As I stated in subcommittee, this is the most intrusive piece of legislation that I have ever seen on the rights of individuals, employers and everyone else concerned. When do we say to the feds that we are not going to tolerate this? I don't believe they will withhold all the funds associated with this and am willing to risk that in my stance against this bill.

SEN. LYNCH **SEN. WATERMAN**, are you comfortable that they won't withhold the money? **SEN. WATERMAN** I think they will withhold the money. This is TANF, welfare reform, dollars you are talking about here, not child support dollars. We have to implement these rules to access federal welfare money. If we were a California, Texas or New York spitting in the face of the giant, it might have more effect. We are just a blip on the radar screen.

SEN. BAER Watch that you don't get sucked in on this because the money they claim they'll take away from us, as far as I can see, is money that would come if you pass the bill. They can't take away money from any other program that isn't directly conditioned in the contractual language of this bill. This is a misconception. The case we talked about ruled in the 4th circuit that they cannot take away money they have already granted for other programs. The money you would lose by not voting for the bill is only additional money that would come because of the bill.

SEN. CHRISTIAENS We're talking about millions of dollars in welfare reform with TANF. Yesterday, on the floor of the Senate, we bent to the federal will for \$1 million in highway construction funds and mandated that kids will lose their drivers license for 1 beer because we wanted those dollars. If we are really interested in kids in this state, this bill has a lot more impact, that is why I voted yes.

SEN. MILLER The reason we voted for that bill is not necessarily because of the federal money, it might be because we do or don't like the bill.

SEN. DARYL TOEWS We need to remember Goals 2000, we turned that money back and they redid that bill and most of that money came back to the state.

SEN. LYNCH I hate the bill but my problem is that we are not taking away from ourselves, we are taking away from the very neediest of the needy. I can't, in good conscience, say I stood up to the feds, by the way you don't eat as much, but I stood up to them.

SEN. JENKINS We shouldn't lose sight of the fact that this is money that could possibly come in if we pass the bill, it isn't what has been promised to us right now and they'll take it away. When they balance their budget in Washington, you know who will take the bite on that budget. There is no saying that much will get to the state if we pass it, we might not receive a penny of it.

SEN. WATERMAN I think there is a misunderstanding here. We have moved from getting funds as a right under welfare as it existed before to a federal block grant. They give us X number of dollars, this is a new program. We used to get an entitlement for welfare, it was replaced by congress by a block grant that will continue for the next 5 years. It is that block grant that we are talking about here. One of the conditions of getting the block grant is to do this. This isn't additional money, this is the money that replaces what most of us knew as welfare.

CHAIRMAN SWYSGOOD The child support enforcement division comes under Title IV-D money, if they withhold any money from the TANF block grant, that would be the only money they could withhold because that comes with this legislation. I do not believe they can withhold the other funds, I may be wrong.

SEN. GREG JERGESON I believe there is another area of money that we should consider in our deliberations. If an obligated parent moves to another state leaving the custodial parent in Montana and our law is not synonymous with theirs, we may have a problem collecting from the obligated parent. I believe we would have an added welfare cost with this.

SEN. MAHLUM My concern is the final end result, how will this impact the children?

SEN. BAER The sovereignty of the State of Montana is for sale here. We talked with Sen. Burns, he was not aware of much of the intrusive inclusions in this bill. He has told us he is willing to address these intrusions. Rather than sell out the state for umpteen million dollars, Sen. Burns is willing to revisit this and, I'm sure congress will be willing to revisit it too. We will not have sold our souls for a few pieces of silver.

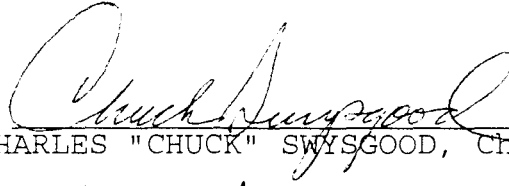
SEN. BECK My concern is that we don't shoot ourselves in the foot. We have a moral obligation to the children of this state. This bill should go to the Senate floor for debate and maybe some of the questions will be answered. I think this bill deserves consideration by the full Senate.

{Tape: 2; Side: B; Approx. Time Count: 10:45; Comments: None.}

Vote: THE MOTION THAT SB 374 DO PASS AS AMENDED FAILED 7-10 ON ROLL CALL VOTE.

ADJOURNMENT

Adjournment: 10:50 a.m.



SEN. CHARLES "CHUCK" SWYSGOOD, Chairman



SHARON CUMMINGS, Secretary

CS/SC