

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on April 9, 1997, at
7:07 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 398, 4/2/97; HB 567,
4/2/97; HB 576, 4/2/97; HB
578, 4/2/97

Executive Action: HB 398, BCAA; HB 567, BCC; HB
576, BCC; HB 578, Failed

HEARING ON HB 567

Sponsor: REP. CAROLYN SQUIRES, HD 68, MISSOULA

Proponents: Mark Cress, Department of Administration
Brian McCullough, Department of Labor and Industry
Tom Schneider, Montana Public Employees Association
Terry Minow, Montana Federation of State Employees
Michael Bentley, American Federation of State,
County and Municipal Employees
Dan Anderson, Department of Public Health and Human
Services

Opponents: None

Opening Statement by Sponsor:

REP. CAROLYN SQUIRES, HD 68, MISSOULA This is an update of HB 490. This bill started about 4 sessions ago as a result of downsizing state government and the necessity of trying to help those workers who were displaced through no fault of their own. This bill is important in making the State of Montana a responsible employer. The future will bring dramatic changes in the staffing of our state agencies due to federal funding cuts, privatization of state agency functions and the downsizing of state agencies. This bill clarifies a few technicalities that will improve this process for the future. **REP. SQUIRES** explains the bill. There is the possibility of 250-300 employees being laid off due to downsizing.

{Tape: 1; Side: A; Approx. Time Count: 7:13; Comments: None.}

Proponents' Testimony:

Mark Cress, Department of Administration (DOA) It is extremely important to have effective severance procedures when laying off employees, particularly longer term employees. Access to job training, temporary contributions to health insurance and inclusion in the job registry has been important protection for our laid off employees in the past. HB 567 makes important administrative changes to these programs, we support limiting participation in the job registry to two years and allowing funds to be used for previous years to pay for this protection. Section 3 extends the program to purchase service retirement by eligible employees who are laid off, this was established by the legislature in 1995. We feel this program has been instrumental over the last biennium in providing protection and assisting agencies who went through significant reorganization and downsizing. We'd like to see this program continue for the next two years. This program impacts a fairly small number of employees those longer term employees who are otherwise eligible to retire. We urge your support for HB 567

Brian McCullough, Department of Labor and Industry (DLI) We support HB 567. It has been an effective management tool in dealing with downsizing, the training function that is provided through DLI has been instrumental in helping the transition of employees who have been rified. The either/or option in terms of

either receiving the retraining benefit and being on the registry or the other option of retiring, they cannot exercise both options. This has been an effective tool in dealing with downsizing.

Tom Schneider, Montana Public Employees Association We support HB 567. There is a change in the retirement section of the bill in which we are not providing that the cost will be based on actuarial cost and the employee will have to pick up the difference between the employee and employer contribution. The actuarial cost will probably be around 28-29%, the employer contribution is 13.4%, with the employee picking up between 14-16% of the cost of this retirement service. Please remember these people are being laid off and will be without income. I think the employer should pick up the full actuarial cost to provide the retirement benefit if the person is retirement eligible.

Terry Minow, Montana Federation of State Employees We support HB 567, which deals with an issue most employees don't like to think about, the issue of layoffs or reductions in force. This bill gives state government the tools to mitigate the real impacts of layoffs. The tools contained in HB 567 have been available to the state for a number of years. Through the employee protection act laid off state employees have been successful in moving into other jobs or if eligible, retiring from state service. Among our members the most immediate and largest number of layoffs anticipated will occur at Montana State Hospital. When the hospital is rebuilt it will be a smaller and more efficient facility that will require approximately 100 fewer employees. Employees are very fearful because they don't know what the future holds. We have started negotiations that we hope will take care of some of those concerns and questions. There is also potential layoffs at the prison due to a proposal for privatization of the infirmary. The passage of HB 567 will send a strong message to those state employees who are facing layoffs, the message that the state will do what it can to help them in a time of crisis. We urge your support of HB 567.

Michael Bentley, American Federation of State, County and Municipal Employees We support HB 567.

Dan Anderson, Department of Public Health and Human Services (DPHHS) We support HB 567. We went through a layoff of over 100 employees at Galen in 1993 and the employee protection provision that were in effect then were very helpful in assisting employees who were going through a difficult time. We anticipate layoffs at Montana State Hospital during the next several years. These are the kinds of assistance we should provide to employees who are going to be looking for other state employment or to retire.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: REP. SQUIRES I encourage you to look favorably on this bill. We are the employer and as so we have some responsibilities to our employees.

{Tape: 1; Side: 1; Approx. Time Count: 7:22; Comments: None.}

HEARING ON HB 576

Sponsor: REP. JOHN COBB, HD 50, AUGUSTA

Proponents: Judy Garrity, Montana Children's Trust Fund
Shirley Brown, Department of Public Health and Human
Services
SEN. J.D. LYNCH, SD 19, BUTTE

Opponents: None

Opening Statement by Sponsor:

REP. JOHN COBB, HD 50, AUGUSTA HB 576 revises the Children's Trust Fund program which is a program for prevention of child abuse in local communities. They are attached to DPHHS for administrative purposes and have a volunteer board. This bill addresses language changes requested by the federal government and also establishes an endowment to fund these programs.

Proponents' Testimony:

Judy Garrity, Montana Children's Trust Fund The trust fund board includes members from child welfare, education and other areas that represent communities in Montana. I am the DPHHS representative to the board and am speaking in support of HB 576. The purpose of this bill is to put federal language in the bill so we can continue to receive federal funds and to establish an endowment so that if federal funds should dry up we will have a stable base of funding to continue to support child abuse prevention around the state. This past year we funded 13 child abuse prevention projects throughout the state. (EXHIBIT #1) handed in.

Shirley Brown, DPHHS The department and the Child and Family Services Division support HB 576.

SEN. J.D. LYNCH, SD 19, BUTTE I introduced the legislation that created the Children's Trust Fund and am a proponent for this bill.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 7:26; Comments: None.}

Questions From Committee Members and Responses:

SEN. TOM KEATING What are the source of funds? REP. COBB
\$200,000 in federal funds, \$20,000 from divorce filing fees,
\$20,000 from the income tax check off.

CHAIRMAN SWYSGOOD What happens to the money in the endowment
when it is over \$5 million. REP. COBB This was the figure
chosen as a cap for the endowment.

CHAIRMAN SWYSGOOD You are not expending any of the interest
money until this reaches \$5 million, is that correct? REP. COBB
The interest generated by the endowment can be spent.

CHAIRMAN SWYSGOOD Are you putting federal funds in the
endowment? REP. COBB No.

Closing by Sponsor:

REP. COBB closes.

{Tape: 1; Side: A; Approx. Time Count: 7:29; Comments: None.}

HEARING ON HB 398

Sponsor: REP. ROYAL JOHNSON, HD 10, BILLINGS

Proponents: Debra Fulton, Department of Administration
Kathy Fabiano, Office of Public Instruction

Opponents: None

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 10, BILLINGS HB 398 originally provided
for the lease/purchase of three buildings which requires
legislature approval. This bill allows the Department of
Administration to make the lease and have an option to buy the
building after a period of time. The only building in the
current bill is for the Office of Public Instruction (OPI). The
building will be leased by the state and the owner is interested
in selling it. (EXHIBIT #2) handed out and explained. A
Department of Justice (DOJ) building in Billings was removed from
the bill. The state would lease this building for 25 years and
then buy it for \$1,000. I believe you should allow DOA to have
the option to look at these deals and bring them back to the
legislature for a decision. (EXHIBIT #3) handed out.

Proponents' Testimony:

Debra Fulton, Department of Administration A number of difficult
space acquisition issues have arisen in the past biennium. The
proposals we've made do not have anything to do with growth in
government, they have to do with finding adequate space for
employees that currently are employed by the State of Montana.
The OPI building is the only one currently in HB 398. General

Services has been struggling with an increasingly difficult space leasing market. In the past the state would lease space for satellite operations at little cost and without significant leasing problems. In the past 5-6 years the requests have been increasing larger, complex and costly. We have large infrastructure costs because of the voice and data needs of state agencies. We seldom lease space that doesn't require significant leasehold improvement and an investment in wiring telecommunications and computer infrastructures. In 3 recent space searches we've been limited to options which require 15-20 year leases with the requirement that we pay the full cost of leasehold improvements at commercial interest rates. Here is a brief fact sheet. **(EXHIBIT #4)** This bill proposes that in cases where the states programmatic needs have resulted in unusually high investments in privately owned space, that the state should consider recovering those cost with the eventual purchase of the property. We believe it is time to start seeing the state's infrastructure in a strategic way.

Kathy Fabiano, Office of Public Instruction (OPI) OPI supports this bill.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 7:40; Comments: None.}

Questions From Committee Members and Responses:

SEN. LYNCH Why was the Billings building removed? **REP. JOHNSON** The opportunity to exercise the option was cut out of the bill in House Appropriations. They don't want to build more buildings.

SEN. LYNCH Would you object if we put that language back into the bill? **REP. JOHNSON** No, I like the bill the way it was originally. Section 1 states DOA may do this but must have a vote of two-thirds in each house of the legislature.

SEN. TOM BECK Isn't it much cheaper to bond and buy the building than go through the lease/purchase? What is the interest rate on a lease/purchase? **REP. JOHNSON** The OPI lease is with 10% interest. It would be about half that to bond but the state only wants to carry so much in the way of bonded debt.

SEN. CHRIS CHRISTIAENS Can you tell me if the Missoula Highway Patrol came into your discussions on this? Our subcommittee looked at high rental cost in the Missoula area. **Ms. Fulton** I know the Highway Patrol is looking at doing something similar to the Billings building in Missoula. They haven't come forward with a request to DOA so it is not included in this bill.

SEN. LOREN JENKINS Does the state bond in any other place for an individual? **Ms. Fulton** I don't believe it has been done before. We know we have to pay for the cost of the improvements on the building and we want to do that for the least amount possible.

It would be a commercial interest rate of 10% under the lease agreement rather than the tax free interest rates the state can get if they bond.

SEN. JENKINS What happens if at the end of 10 years the legislature says they don't want to buy this building? **Ms. Fulton** The landlord then owns the building.

SEN. MIKE TAYLOR I'd like a cost breakdown on lease to buy and buy to rent on the OPI building. **Nan LeFebvre, Legislative Fiscal Division** There are two pieces to this, the existing structure which the owner is willing to sell to the state over 14 years with a balloon payment at the end of 15 years. This would be \$32,000 per year for 14 years with a \$150,000 balloon payment at the end, based on a cost of \$600,000. Negotiations and appraisals on the existing building are continuing so this is an estimate at this point. The second piece is the second floor addition which is estimated to cost approximately \$900,000. The owner is willing to take a lump sum up front for that amount which is proposed by bonding for 4.7-5%. If we do not buy the second floor the owner will charge it out to the state over 10 years at 10% interest. If you add the two together based on the 10% for 10 years combined with the first floor it is about \$178,000 per year in rental cost. That is the most expensive scenario and is currently in OPI's budget in HB 2. If you decide to accept this amendment and bond for the purchase of the second floor it will result in the cost savings you see in **(EXHIBIT #4)**. Whether we end up owning the building at the end of 15 years or not we're still going to have to pay for the cost of the addition.

SEN. JENKINS Are we setting a precedent with this? Why weren't prisons included in this bill? **Ms. LeFebvre** This proposal came about through discussions between LFD, the budget office, OPI and DOA to find the most cost effective way to do this. It is unusual but can save the state money.

Closing by Sponsor:

REP. JOHNSON Amendment #hb039802.agp **(EXHIBIT #3)** states if the lease contract provides for a purchase option. That is important because we don't want to bond this and walk away in 10 years. We may be setting a precedent but it may be one that should be set. Remember, a two-thirds vote of the legislature is required because doing this. You need to consider this type of option and let some flexibility be built into how this is handled. Hopefully, we will not have government growing as fast as it has in the past but we are making these leases right now.

{Tape: 1; Side: B; Approx. Time Count: 7:54; Comments: None.}

HEARING ON HB 578

Sponsor: **REP. ROYAL JOHNSON, HD 10, BILLINGS**

Proponents: Andy Poole, Department of Commerce

Opponents: Rebecca Mahurin, Montana Science and Technology Alliance

Loren Smith, Montana Science and Technology Alliance
Steve Huntington, Northern Rockies Venture Fund
Jon Marchi, Montana Private Capital Network
Alan Nicholson, Montana Ambassadors
SEN. KEN MESAROS, SD 25, CASCADE
Doug Coffin, McLaughlin Research Institute
REP. BILL WISEMAN, HD 41, GREAT FALLS
Richard Crofts, Commissioner of Higher Education

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 10, BILLINGS The legislature set up the Montana Science and Technology Alliance (MSTA) as a part of the Department of Commerce (DOC) years ago. This alliance has been operated as a quasi-independent agency with a board of directors. There are two sections to this program, research and development and the seed capital program. The seed capital program is to help small businesses get started in the State of Montana. We cut the program back in 1991 and changed the seed capital program to mezzanine financing in 1995. HB 578 dissolves the program with the Board of Investments taking this on. The board will no longer make investments. We will forgive the research and development loans to the university system. Other research and development loans are to Deaconess Institute in Billings and McLaughlin Institute in Great Falls, these loans have not been written off because they have a requirement for repayment which is 2½ times the amount of money that was loaned to them. If we are going to make grants to research in the state we should do it honestly and say we're taking it out of the coal trust. The government is not a good lender of money for seed capital. The companies that have seed capital loans have a payment schedule to follow so we will end up with some return on these loans. The Board of Investments will use the MSTa as an advisory council on how best to get out of these things.

{Tape: 1; Side: B; Approx. Time Count: 8:04; Comments: None.}

Proponents' Testimony:

Andy Poole, Department of Commerce I'm here in reluctant support of this bill because existing statute sunsets MSTa on June 30, 1997. Without MSTa some other entity needs to manage the portfolio, HB 578 transfers the portfolio to the Board of Investments which we feel is a prudent move.

Opponents' Testimony:

Rebecca Mahurin, Montana Science and Technology Alliance REP. JOHNSON showed you that there have been successes in this program. He also pointed out that this is the only program in

the state that uses Coal Tax Trust money to affect the economy of Montana. Testimony (**EXHIBIT #5**), MSTA 1997 biennial report (**EXHIBIT #6**) and letters to the Governor from private companies (**EXHIBIT #7**) handed in.

Loren Smith, Montana Science and Technology Alliance MSTA is one of the few programs in the state that has done some good. The MSTA board never wanted the mezzanine loan program. The three mezzanine loans we approved could have been funded by a bank, you don't need this program. The MSTA program has taken money from the coal tax trust fund and invested it in the state to create jobs for Montanan's. The board members are not interested in being on an advisory council and feel that this shouldn't be handed over to the Board of Investments. We think MSTA should sit in place for another 2-4 years and then the private companies can take over. The citizens of Montana will not be well served by ending the MSTA and having a committee consisting of government employees reviewing the JIL loan program. Research and development has made the universities responsible for finding some degree of commercial application for their R&D efforts and is working well.

{Tape: 1; Side: B; Approx. Time Count: 8:23; Comments: None.}

Steve Huntington, Northern Rockies Venture Fund We are a Montana based venture capital fund with over \$2 million of capital available to invest in early stages of business in the state. We plan to invest over 75% of that money in Montana. \$1 million in our fund was invested by MSTA and \$1 million invested by private investors. We have made four commitments since the fund has been open and we expect to have the funds fully invested by mid-1999. MSTA has been a success and has done a better job than any publicly sponsored fund in the country. The program is not without its problems, most of them having to do with doing a private sector activity from a public funded agency. The requirements a public agency has to go through make it difficult to be a private styled venture capitalist. A great deal has been accomplished with a great deal more to do. The notion of encouraging the university system and other research institutes to get involved in commercial types of research is important. I hope you try to maintain this program into the future.

Jon Marchi, Montana Private Capital Network Testimony handed in. (**EXHIBIT #8**)

Alan Nicholson, Montana Ambassadors The Montana Ambassadors is a group of approximately 150 statewide business people interested in economic development in Montana. We urge the legislature to not pass this bill and continue MSTA existence. This is a fully functioning venture capital program in the state and I feel it is premature to end it. The Board of Investments is not the appropriate place to put these investments, they are not tuned into risk investments. I urge you to defeat this bill.

{Tape: 2; Side: A; Approx. Time Count: 8:35; Comments: first 5 minutes of side A accidentally recorded over.}

SEN. KEN MESAROS, SD 25, CASCADE I am opposed to HB 578, especially in regards to the medical research facilities. I encourage the committee to consider an amendment to write off the medical facility research and development loans. (EXHIBIT #9, 10, & 11) handed out.

Doug Coffin, McLaughlin Research Institute I am supporting **SEN. MESAROS'** amendment. We are a private non-profit research institute dedicated to biomedical research with the ultimate goal of improving the overall quality of life for people. The loans made to McLaughlin Research Institute were characterized as seed capital loans, when in fact our loans are medical facility research and development project loans. We ask that we be included in legislation that would forgive repayment of these loans. The original intent was that we pay back the loans with royalties, that agreement was modified through negotiations when the loan was awarded so we ended up with a repayment schedule. We think we should be included in the legislation along with the universities and we hope these loans can be rescheduled to be paid out of royalties or forgiven altogether.

{Tape: 2; Side: A; Approx. Time Count: 8:47; Comments: None.}

REP. BILL WISEMAN, HD 41, GREAT FALLS I believe McLaughlin and Deaconess have to be treated exactly the same way as MSU and U of M. If you put through legislation that discriminates between these, I believe you are setting the state up for legal action. I looked at the loan documents and they are all the same. I strongly suggest you put in **SEN. MESAROS'** amendment so that everyone that has R&D loans is treated the same. I disagree on moving science and technology to the Board of Investments because the two companies making money, if transferred to the Board of Investments will be transferred in their present form which is convertible preferred or convertible bonds. A state agency can only hold bonds or preferred. Should either of these two firms force conversion from preferred stock or bonds to common stock the Board of Investment will have to get rid of them as they are not allowed to hold common stock. They will transfer the assets, common stock, to TRS or PERS which can hold common stock. The people in the Department of Commerce are members in PERS and are not exactly disinterested. I ask you to consider this situation.

Richard Crofts, Commissioner of Higher Education The university system has not had a hand in generating legislation to establish forgiveness of these loans. Our intention has always been to pay off the loans, they are agreements we have entered into. I'd like to remind you what has been done with this money. On the average these funds have leveraged about 6-7 fold in matching funds. The State of Montana has an annual research and development business in the university system of about \$65 million. We've presented testimony to this and previous

legislatures about the size of that business and what it means in terms of jobs. That is what the MSTA program has done for the State of Montana. We've had a beneficial, working relationship with MSTA. To access these loans through MSTA we have had to demonstrate the commercial applicability of the projects and partnerships with private enterprise. We stand before the State of Montana with desperate needs in terms of continuing this research and development program. We have two major grants up for renewal, from the National Science Foundation and the Department of Energy, both in the EPSCORE program requiring matching dollars, about \$1 million for each in the upcoming biennium. There is no funding currently available to carry forward the state commitment to those projects. The EPSCORE program requires a partnership between the university system, state government and the private sector. At this point the state government commitment for the next two years is not in place, it was a part of the Today and Tomorrow program which may be put to the vote in 1998 but that does not help us with our desperate needs for this biennium. I hope you will find a way to keep HB 578 alive as we continue to work with the Governor's office in a way to secure funding for research and development projects.

{Tape: 2; Side: A; Approx. Time Count: 8:55; Comments: None.}

Questions From Committee Members and Responses:

SEN. LYNCH MSTA would sunset this year, do you have a bill to carry on? **Dr. Mahurin** We did have a bill introduced, HB 578, which asked that the sunset date be amended for 2 years to June 30, 1999. **REP. JOHNSON** amended the bill which is the bill you now have before you.

SEN. EVE FRANKLIN If the Today and Tomorrow program proceeds, what is the structure for handling research and development investment. **Linda Reed, Governor's Office** The research and development funds would be handled similarly to how they are handed now. Currently the university system prioritizes research and development projects that they recommend for matching state funds. This list then goes to another group comprised of researchers, the Governor's office and the Department of Commerce (DOC) where they are evaluated and recommendations for funding are made. It would then go to an advisory council within DOC for the final decision to provide match funding.

SEN. FRANKLIN Would private research institutes be funded under the Today and Tomorrow program? **Ms. Reed** Private non-profit research institutions could have access to that funding by working through the university system.

SEN. CHRISTIAENS We are hearing a lot of difference between private non-profit R&D versus university R&D regarding repayment with royalties. How do you see these being handled for the next 2 years? **Dr. Mahurin** The contracts require the university system pay a ratcheting amount annually to repay their loan. The

contract with the private non-profits requires them to pay a percentage of the royalties on products they license or sell. This is a loan and we must require repayment.

SEN. CHRISTIAENS We've been hearing that non-profits have no royalties that don't go back for research and development. Do you ever see the ability for them to repay and what kind of provision do you have for that? **Dr. Mahurin** We have contractual provisions. I believe McLaughlin Institute is doing work that will transpire into some licensable products in the future. They are selling mice for transgenic purposes. I believe there is considerable potential for repayment of those loans.

SEN. KEATING The funds you loan come from the coal trust, how much of the coal trust money have you loaned out? **Dr. Mahurin** We have approximately \$24 million under authority, \$12.5 million in the seed capital side and \$11.1 million has been accessed for R&D. We currently have \$2.3 million that is not loaned and still available.

SEN. KEATING Are there royalties from university R&D and do they come close to the loans? **Dr. Mahurin** There are royalties being paid currently from university R&D. At this point they do not come close to the loan.

SEN. KEATING Of the seed, \$11.5 million has been loaned. Are the debentures salable now? **Dr. Mahurin** Some are not yet salable but will be shortly. We have a potential for another \$3 million.

SEN. KEATING Where does the money go when it come back? **Dr. Mahurin** We are required to return principle to the coal tax trust fund, we return principle plus 5% in good faith efforts to repay the trust. The remaining money is used for administration and put into a revolving fund that we can reinvest. This year we will have about \$700,000 to reinvest.

SEN. KEATING How much of the \$1.2 million seen capital money has gone back into the trust? **Dr. Mahurin** We are getting money back from several companies, I'm not sure of the exact figures. Approximately \$100,000 was put back last year and this year it will be in the neighborhood of \$500,000 - \$700,000.

{Tape: 2; Side: A; Approx. Time Count: 9:09; Comments: None.}

SEN. JENKINS How much money does Glacier Venture Fund have to invest and how much is invested? **Mr. Marchi** We have \$2 million. None of it is invested because we are in the licensing process.

SEN. JENKINS How much money does the Northern Rockies Venture Fund have to invest and how much is invested? **Mr. Huntington** We have \$2.1 million in total capital. We have made 4 commitments totaling about \$400,000. We are a pure seed capital investment company.

SEN. TAYLOR You are self funding? **Dr. Mahurin** We are self funding from returns on our investments.

SEN. GREG JERGESON Did I understand you to say that you are concerned that your responsibilities are going to be turned over to an advisory board made up of state employees? **Mr. Smith** I was referring to the mezzanine financing, in this bill the loan review will be done by a loan review committee composed of state employees within DOC.

SEN. JERGESON You're not characterizing the Board of Investments as an advisory committee? **Mr. Smith** No. The loan review committee has the authority to disperse the money.

SEN. FRANKLIN If this bill passes and MSTA does not exist, what would be the best way to fund R&D? **Dr. Coffin** I believe the state should follow the same model as the organizations that fund basic research in the United States, they use a peer review system. The grant applications are sent to other scientists for review and ranking with a separate committee allocating the money.

SEN. FRANKLIN In regard to the money being returned, where is McLaughlin right now? **Dr. Coffin** We are doing cash repayments. We don't sell anything, any money we get back is in the form of royalties from licensing fees or reimbursement of expenses. We don't sell mice, we only recover expenses. By law we cannot make a profit.

CHAIRMAN SWYSGOOD Why are we doing away with MSTA? **REP. JOHNSON** The program is flawed. We have taken money from the coal trust with a simple majority vote, loaned it out and said pay it back to us anyway you can. The money generated by the university system goes back to the university system, it doesn't come back to the coal trust. In addition, we have 3 or 4 companies that might make it for us in the venture capital business. They haven't had any seed capital in the last two years because we turned that into mezzanine financing in the last session.

CHAIRMAN SWYSGOOD If this is flawed, why didn't you address the flaws instead of doing away with the program? **REP. JOHNSON** Here is a letter from **Mr. Marchi**, who testified as an opponent today. **(EXHIBIT #12)** These are not fixable flaws, you need to decide whether state government should be in this kind of business. You can offer research and development by some of the ways we've suggested. Page 11, section 16 requires a three-quarters vote to write off the \$9.35 million, we did not get that vote on the House floor.

SEN. FRANKLIN What would be the best way to effect change within the structure of MSTA? **Mr. Poole** As I testified earlier, DOC is in reluctant support of this bill. With MSTA sunsetting on June 30, 1997 there would not be anyone managing the portfolio, therefore someone needs to do it. An easy way to fix the bill is

to change the sunset date to 1999. Venture capital investing is a risky business and I'm not sure there is anything structurally wrong with MSTA. You need to make the decision to change the sunset for MSTA or move the portfolio to the Board of Investments for management purposes. **SEN. FRANKLIN** I think there are some functional issues that could be worked on and I would hope DOC or the board would be open to working out the kinks that do exist.

SEN. TAYLOR Are the universities going to pay back the loans?
Dr. Crofts We have been paying back the loans and that is our commitment.

{Tape: 2; Side: B; Approx. Time Count: 9:25; Comments: None.}

Closing by Sponsor:

REP. JOHNSON I did not know this bill was written by anyone else, that this was an MSTA bill and I refer you to the date on the bill. They asked me to change the sunset to 1999 and it didn't make sense to do this. I think MSTA is technically flawed. They don't want to be an advisory board, they want to make loans. They don't have any money to make loans, there is no reason why they shouldn't work with DOC if they are truly interested in what happens to these loans. The two venture capital companies have invested only \$400,000, there doesn't seem to be a big demand for venture capital. I think we should get ourselves out of this business or into it. I agree that a research and development program is needed and voted for those bills. You need to consider carefully what you are doing here, don't keep the mistake going.

{Tape: 2; Side: B; Approx. Time Count: 10:11; Comments: None.}

EXECUTIVE ACTION ON HB 567

Motion: **SEN. BECK MOVES HB 567 BE CONCURRED IN.**

Discussion: **SEN. DARYL TOEWS** I can live with the health insurance and training in this bill. I don't think we have the obligation to put retirement money in for people who have been laid off.

SEN. CHRISTIAENS How many people have been involved through the RIF program over the last two years and what have the costs been?
Mr. McCullough There were 71 people involved with the retirement portion of the program. The agencies have to plan for all portions of this in their downsizing and it is in their existing budgets.

SEN. CHRISTIAENS Is there a way to find out the impact this has had on the General Fund over the last biennium? **Mr. McCullough** We'd have to research that information and get it back to you, I don't see a quick way to get that to you. **CHAIRMAN SWYSGOOD** I would assume with 71 people taking advantage of the retirement

portion that it would amount to a fairly significant amount of money.

SEN. ARNIE MOHL Doesn't DLI have the money to retrain employees when they are laid off? **Mr. McCullough** There are dislocated worker funds for the private sector, federal funds are not eligible for state employees coming back to state jobs. **SEN. MOHL** Page 2, Number 3 states each state agency shall pay DLI, where does this money come from? **Mr. McCullough** The agencies don't know what cuts will occur, they have to anticipate this as part of the cost of downsizing and it would come out of their existing budget. It is beneficial to have all this before the agencies at the beginning so they can plan for this when they are downsizing. **SEN. MOHL** What happens to the money if they anticipate this and it doesn't happen? **Mr. McCullough** If it doesn't happen, the people are still working so the agencies use their current budgets to pay the employees.

SEN. DALE MAHLUM Does an employee have to meet certain criteria to retire when riffed? **Mr. McCullough** An employee has to have 25 years of service or be over 50 years of age. **SEN. MAHLUM** If a person meets the criteria and retires, can they get another state job? **Mr. McCullough** They are limited on the amount of time they can work, I believe they can work 600 hours for another state agency.

SEN. JENKINS It looks like this is for involuntary loss of a job, so the 20-25 years doesn't apply, does it? **Mr. McCullough** The people have two options, they may take the retirement option if they qualify or they may pursue getting rehired somewhere else in state government. This is not an automatic retirement. **SEN. JENKINS** Those positions probably are funded in HB 2, so even though they have been laid off the money is still in HB 2, correct? **Mr. McCullough** Maybe, the spending authority may not have cash with it.

SEN. BECK We have 100 people downsized at Warm Springs, we did the same thing at Galen. Many of the Galen people went back to work for the state, only the older people in the system can take advantage of the retirement option. We are trying to give these people a little help and protection.

SEN. KEATING What will the retirement option cost? **REP. SQUIRES** It depends on the individual's salary, so we don't have a concrete number. **SEN. KEATING** The money comes out of the normal operating appropriations of the various agencies. **REP. SQUIRES** That is correct, it depends on how the agency operating expenses are funded.

Vote: THE MOTION THAT HB 567 BE CONCURRED IN CARRIED 14-3 ON ROLL CALL VOTE. **SEN. BECK** will carry HB 567.

{Tape: 2; Side: A; Approx. Time Count: 10:32; Comments: None.}

EXECUTIVE ACTION ON HB 576

Motion/Vote: SEN. LYNCH MOVES HB 576 BE CONCURRED IN. THE MOTION CARRIED 13-4 ON ROLL CALL VOTE. SEN. LYNCH will carry HB 576.

EXECUTIVE ACTION ON HB 398

Motion: SEN. LYNCH MOVES HB 398 BE CONCURRED IN.

Amendments: Amendment #hb039802.a12. (EXHIBIT #13)

Motion: SEN. LYNCH MOVES AMENDMENT #HB039802.A12.

Discussion: SEN. LYNCH This amendment includes the DOJ building in Billings. I can't understand why we would give up a \$300,000 building when we have the opportunity to buy it for \$1,000 at the end of 25 years.

SEN. KEATING I don't know what is going on here, is this a new building being built by state government? JanDee May, DOJ This is a build to suit building that DOJ requested bids for. We have 4 divisions operating out of the Billings office, Highway Patrol, Motor Vehicle, Gambling Control and Law Enforcement Services. Each division is housed in separate facilities, the Highway Patrol has been told to vacate their facilities and we find we move the other divisions frequently because of rent increases or other problems. We now have the possibility of bringing all our people together in one building across from the women's prison.

SEN. KEATING Did the state buy the land? I've had correspondence from Billings stating the rental occupancy rate is quite low. Can you comment on that? REP. JOHNSON The city currently owns the land and it will be sold to the developer. I believe this is the proper place for DOJ, it is immediately north of the women's prison. It is about 4 blocks from the highway so access and egress for Highway Patrol will be convenient. This is a special purpose building that fits DOJ's security needs.

SEN. TAYLOR I support this amendment. Lease/option/purchase is not as effective as bonding or buying the building because the interest rate will be higher. This is a better option than renting but not the best option.

SEN. BECK What will this cost versus renting? REP. JOHNSON This building is available on a 15 year lease. The developer said he'd take the lease out to 25 years and give the state the option to buy the building for \$1,000.

SEN. JENKINS Is the owner responsible for the maintenance of the building? REP. JOHNSON My understanding is that the owner wants to maintain the building.

CHAIRMAN SWYSGOOD If this amendment goes on the bill, what will it do to revenue? **Ms. LeFebvre** This amendment gives the state the option to buy the building for \$1,000.

Vote: THE MOTION TO AMEND HB 398 WITH AMENDMENT #HB039802.A12 CARRIED UNANIMOUSLY.

Motion: SEN. LYNCH MOVES HB 398 BE CONCURRED IN AS AMENDED.

Amendment: Amendment #hb039802.agp. (EXHIBIT #3)

Discussion: **Ms. LeFebvre** This amendment puts contingency language in the bill stating the state can bond if they sign a lease/purchase agreement for the OPI building. If they stay with the regular lease agreement, there is no bonding.

Motion/Vote: SEN. LYNCH MOVES HB 398 BE AMENDED WITH AMENDMENT #HB039802.AGP. THE MOTION CARRIED WITH SEN. JENKINS VOTING NO.

Discussion: **SEN. TAYLOR** Please explain how we build an addition on a building we don't own and have no agreement on. Do we have a good faith agreement or something in writing? **Ms. Fulton** We negotiated a lease with the owner of this building, he offered us several options one of which is to let us buy down the \$900,000 addition on a lease. We agreed to the lease but knowing it is a better deal to buy the building we decided to see if the legislature would like to buy. We currently lease the building, we are not going to pay rent for the upper floor. If we don't agree to the lease/purchase agreement the current owner will own the entire building, 1st & 2nd floors. If we go into the lease/purchase agreement the state will own the whole building.

SEN. JENKINS Why is OPI moving from the capitol? **Ms. Fulton** The office space in the capitol is being reallocated to improve legislative space.

Vote: THE MOTION THAT HB 398 BE CONCURRED IN AS AMENDED CARRIED 15-1 ON ROLL CALL VOTE. SEN. TAYLOR will carry HB 398.

{Tape: 3; Side: A; Approx. Time Count: 10:57; Comments: None.}

EXECUTIVE ACTION ON HB 578

Motion: SEN. TAYLOR MOVES HB 578 BE CONCURRED IN.

Amendments: Amendment #hb057802.a05. (EXHIBIT #14)

Motion: SEN. TAYLOR MOVES TO AMEND HB 578 WITH AMENDMENT #HB057802.A05.

Discussion: **SEN. TAYLOR** This amendment moves the sunset date for MSTA to 1999. It also requires them to perform a self audit. This is one of the few vehicles we have to get a return on the millions of dollars spent on education. This is a way to create

jobs in Montana for the kids we are educating. The mezzanine loan program, which they were forced to handle, has 3 solid loans that are making payments. The sunset and self audit allows them to come back to the legislature for review. Then we can make the decision. Hopefully, they will come back with a greater return.

SEN. KEATING The argument **SEN. TAYLOR** makes is a good business argument, in this case we are taking tax money to finance risk capital. The \$23 million used from the General Fund would have earned 10% annually through the Board of Investments. In 7 years at 10% the capital would be doubled. I agree that MSTTA has done an excellent job, I have a problem with the whole principle. I do not believe government should use tax money from one party to finance risk capital for any other party.

SEN. JENKINS #4 of the amendment will not sunset MSTTA as intended. **SEN. TAYLOR** My intent is to extend the sunset by 2 years.

SEN. JERGSON Would you consider an amendment to the performance audit, "through the competitive bid process managed by the legislative audit division"? **SEN. TAYLOR** I don't have a problem with that.

SEN. MOHL Who will pay for the audit? **CHAIRMAN SWYSGOOD** It will have to come from their operating budget.

{Tape: 3; Side: A; Approx. Time Count: 11:04; Comments: None.}

Vote: THE MOTION TO AMEND HB 578 WITH AMENDMENT #HB057802.A05 CARRIED 11-5 ON ROLL CALL VOTE.

Motion: SEN. LYNCH MOVES HB 578 BE CONCURRED IN AS AMENDED.

Motion: SEN. FRANKLIN MOVES TO AMEND HB 578 WITH SEN. MESAROS' CONCEPTUAL AMENDMENT TO INCLUDE BIOMEDICAL RESEARCH FACILITIES FOR POTENTIAL FOR FORGIVENESS.

Discussion: **CHAIRMAN SWYSGOOD** I need some clarification on what this amendment has done on the bill as it relates to other areas addressed in its original form. Is **SEN. MESAROS'** amendment necessary?

SEN. FRANKLIN This will be coming back to us in a couple of years. I believe it is important to put the private non-profits in for loan repayment so they are in the mix when we consider this issue again. I support **SEN. MESAROS'** amendment to put it in the title and a new section 12. Should we consider loan repayment, biomedical research facilities must be included in that consideration.

SEN. TAYLOR I concur with these concerns but I resist this amendment. I would like to see this bill passed out and if it gets too complicated we'll have a problem.

SEN. LYNCH I think this amendment will muddy the water, I oppose the motion.

SEN. MIGNON WATERMAN We have not done anything to delay the loan repayment in this bill, have we? **SEN. TAYLOR** No. **SEN. WATERMAN** Then **SEN. FRANKLIN'S** amendment is important because it would bring those folks in to repay their loan just as the university is. **CHAIRMAN SWYSGOOD** The way I understand it, section 12 must garner a three-quarters vote of the legislature, if not that section is null and void and the rest of the bill takes affect. **SEN. WATERMAN** That is correct, but if it garners the vote what happens? **CHAIRMAN SWYSGOOD** Then we have authorized the repayment of the loan.

SEN. FRANKLIN Since there is still a potential for that to happen, for parity sake we have to put in private non-profits.

SEN. JENKINS Will the House be voting just on the Senate amendments or is it on the whole bill? **CHAIRMAN SWYSGOOD** The first vote they make is on the Senate amendments, the second vote will be on the bill as amended.

SEN. TOEWS I'm having a hard time understanding this. A company signs a note to repay a loan with no intention of repaying it and now we are going to forgive it. **SEN. FRANKLIN** They are obligated to cash repayment which they have begun. They have the same contract as a research and development loan, with a signed loan payment agreement.

Motion: **SEN. JENKINS MAKES A SUBSTITUTE MOTION TO STRIKE SECTIONS 12 & 16 FROM HB 398.**

SEN. WATERMAN We need a delayed effective date to HB 398 which addresses the loan repayment problem. We also need to move the sunset to 1999. Is that correct? **Ms. Purdy** The conceptual amendment would have significantly changed what was in the bill. The other way around it is to delay the effective date of the bill. **SEN. WATERMAN** What did our conceptual amendment do? **CHAIRMAN SWYSGOOD** We're taking \$500,000 out of the General Fund. We do need to move the effective date of the bill for 2 years.

{Tape: 3; Side: B; Approx. Time Count: 11:16; Comments: None.}

Motion/Vote: **SEN. LYNCH MAKES A SUBSTITUTE MOTION TO DELAY THE EFFECTIVE DATE OF HB 578 TWO YEARS TO 1999. THE MOTION CARRIED 9-7 ON ROLL CALL VOTE.**

Motion: **SEN. JERGESON MOVES TO AMEND HB 578 BY STRIKING SECTIONS 12 & 16.**

Discussion: **Dr. Mahurin** I don't understand how the effective date of this bill can be delayed until 1999 and still keep the MSTa board alive. **CHAIRMAN SWYSGOOD** Everything moves when the effective date is moved.

SEN. TAYLOR I have no intention of forgiving the loans and want to make sure we are not doing that. We are going to carry on for two years with business as usual and make a decision after the self-audit.

Vote: THE MOTION TO AMEND HB 578 BY STRIKING SECTIONS 12 & 16 CARRIED ON ROLL CALL VOTE.

Motion/Vote: SEN. LYNCH MOVES TO AMEND HB 578 FOR AN IMMEDIATE EFFECTIVE DATE ON THE EXTENSION OF THE BOARD. THE MOTION CARRIED WITH SEN. BURNETT, KEATING, SWYSGOOD, MOHL AND MILLER VOTING NO.

Discussion: CHAIRMAN SWYSGOOD If you pass this bill you will be costing the General Fund \$500,000.

SEN. WATERMAN That is \$500,000 that went in because we were eliminating this program, it is not an increase.

SEN. BECK If we kill the bill we are obligated to \$500,000 also, correct? CHAIRMAN SWYSGOOD No.

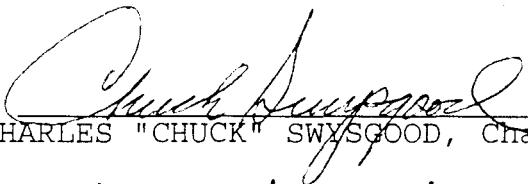
Vote: THE MOTION THAT HB 578 BE CONCURRED IN AS AMENDED FAILED 7-10 ON ROLL CALL VOTE.

SEN. LYNCH Is there anything we can do that doesn't cost all your money and save a program that has been very successful? It seems to me we are burying our heads in the sand if we turn everything over to the Board of Investments when these people have done a good job of creating jobs. CHAIRMAN SWYSGOOD I don't believe you can do anything now. The option now is to go back to the bill as it was presented and pass or not pass.

SEN. TAYLOR If we come back and resurrect this bill as it was originally it eliminates the board. CHAIRMAN SWYSGOOD You now have a board that will sunset on June 30, 1997 with no decision made on the portfolio.

ADJOURNMENT

Adjournment: 11:30 a.m.


SEN. CHARLES "CHUCK" SWYSGOOD, Chairman


SHARON CUMMINGS, Secretary

CS/SC