

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By CHAIRMAN CHUCK SWYSGOOD, on April 11, 1997, at
8:04 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 615, 4/8/97
Executive Action: HB 615, BCC; HB 584, BCCAA;
HB 578, BCCAA; HB 169, BCCAA;
HB 17, BCC; HB 166, BCCAA;
HB 610, BCCAA; HB 405 Tabled

HEARING ON HB 615

Sponsor: REP. JOHN COBB, HD 50, AUGUSTA

Proponents: Rich Miller, Gaming Industry Association
 Mark Staples, Montana Tavern Association
 Ellen Engstedt, Don't Gamble With The Future
 Betty Waddell, Montana Association of Churches
 Sharon Hoff, Montana Catholic Conference
 Dave Brown, Montana Independent Machine Operators Association
 REP. LORENTS GROSFIELD, SD 13, BIG TIMBER
 Andrea Merrill, Mental Health Association of Montana

Opponents: None

Opening Statement by Sponsor:

REP. JOHN COBB, HD 50, AUGUSTA This bill creates an interim commission to study the impact of gambling in Montana to report back by September 1, 1998. We see a lot of gambling bills and no one knows if the facts presented are true or not. This would be a way of finding that out. Funding for this study would come from unclaimed lottery prize money. (EXHIBIT #1) handed out.

{Tape: 1; Side: A; Approx. Time Count: 8:08; Comments: None.}

Proponents' Testimony:

Rich Miller, Gaming Industry Association Testimony handed out. (EXHIBIT #2)

Mark Staples, Montana Tavern Association We support HB 615. The legislature sees a lot of issues on this subject, some people think it is worse than it is and some people think it is better than it is. The truth is probably somewhere in the middle and the truth won't hurt anybody.

Ellen Engstedt, Don't Gamble With The Future Testimony handed out. (EXHIBIT #3)

Betty Waddell, Montana Association of Churches Because of our deep concern for family life and social values we urge the Montana legislature to pass HB 615 to study the social costs associated with gambling. We are concerned with the expansion of gambling in Montana. The state has the obligation to consider the results of its policies, determine the social costs, put them up to public scrutiny and take action to prevent or mitigate the effects of those policies.

Sharon Hoff, Montana Catholic Conference We support this study and hope you will give it due consideration.

Dave Brown, Montana Independent Machine Operators Association We support HB 615. There has always been concern about people adversely affected by gambling. If the industry does the study no one will believe it and if someone opposed to gambling does the study I won't believe it. We need this type of effort to

determine the impacts of gambling in Montana. I urge you to seriously consider this issue and not let this study die over budgetary reasons.

REP. LORENTS GROSFIELD, SD 13, BIG TIMBER We tried hard to put an unbiased study format together in this bill. Everyone wants this information and I hope you pass this study.

Andrea Merrill, Mental Health Association of Montana Testimony handed out. (EXHIBIT #4)

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 8:22; Comments: None.}

Questions From Committee Members and Responses:

SEN. TOM KEATING Is the qualification in the bill too tight for mental health professionals? **Ms. Merrill** It is rather limiting but there are many good people who have the experience to do this. We have many in our association who would probably be good candidates.

SEN. J.D. LYNCH The House killed the bill that tried to help people who are addicted to gambling. Why wouldn't we take the money that we didn't spend on that rather than hit the lottery prize? The study is going to say some people are addicted to gambling and we should help them. Instead of helping them now, we are going to study it and then help them in 2 years. **Mr. Brown** The House is not in favor of the study, we've tried to deal with this issue every way we can think of and nothing has worked. The lottery funds are unclaimed prizes that drops into the General Fund when they are not claimed.

Closing by Sponsor:

REP. COBB closes.

{Tape: 1; Side: A; Approx. Time Count: 8:26; Comments: None.}

EXECUTIVE ACTION ON HB 615

Motion: **SEN. KEATING MOVES HB 615 BE CONCURRED IN.**

Discussion: **SEN. LYNCH** I think this bill is dumb.

SEN. ARNIE MOHL I understand this does not affect HB 2 whatever.
CHAIRMAN SWYSGOOD It could and could not be counted.

SEN. MIKE TAYLOR Do you know if the Governor has this in his revenue estimates. **CHAIRMAN SWYSGOOD** I don't know.

SEN. KEATING There isn't a dollar that goes through this process that doesn't impact the General Fund. I think this bill is

extremely important for the State of Montana. We fight over a lot of things that are going on, we know there is damage done by gambling in this state but we don't know how much or from where. We need to look at the importance of the measure rather than the money being spent and where it comes from. This bill should have priority over half the bills that have gone through here that spend a lot more money. It is worth \$100,000 to know what is going on because we spend millions of dollars in medicaid and other areas because of pathologies that impact our society.

Vote: THE MOTION THAT HB 615 BE CONCURRED IN CARRIED 11-6 ON ROLL CALL VOTE. SEN. GROSFIELD will carry HB 615.

{Tape: 1; Side: A; Approx. Time Count: 8:32; Comments: None.}

EXECUTIVE ACTION ON HB 17

Motion: SEN. LYNCH MOVES HB 17 BE CONCURRED IN.

Amendments: Amendment #hb001702.a35. (EXHIBIT #5)

Motion: SEN. DARYL TOEWS MOVES TO AMEND HB 17 WITH AMENDMENT #HB001702.A35.

Discussion: SEN. TOEWS This amendment restores HB 17 back to its original form giving funding for scholarships to the Department of Military Affairs. It isn't right to make the universities give waivers and not give them the money for this.

SEN. EVE FRANKLIN Is it appropriate for us to do this, should this be done in the House? CHAIRMAN SWYSGOOD The bill originated in the House and we can do anything we want with it.

SEN. LYNCH I am against the motion. This bill will not survive with this appropriation in it. The Board of Regents should be able to figure out if they can afford to give waivers.

SEN. TOM BECK How did you come up with this figure? SEN. TOEWS I went back to the original bill.

SEN. GREG JERGESON I support this motion. If we believe this is a good program we should be willing to fund it upfront rather than putting the Board of Regents in the position of raising student tuition to fund this. That doesn't make a great deal of sense to me.

Vote: THE MOTION TO AMEND HB 17 WITH AMENDMENT #HB001702.A35 CARRIED 9-8 ON ROLL CALL VOTE.

Discussion: SEN. LYNCH This bill is in jeopardy because of that amendment. I've seen classes that aren't full, what difference does it make if they put a few extra students in.

Motion: SEN. FRANKLIN MOVES TO RECONSIDER OUR ACTION ON AMENDMENT #HB001702.A35 IN HB 17.

Discussion: SEN. FRANKLIN I think the action of allowing the Board of Regents to make decisions is still before us. I support the concept of having the National Guard have access to scholarships but the budget can't afford this.

Motion/Vote: SEN. MIGNON WATERMAN MOVES TO TABLE HB 17. THE MOTION FAILED 5-12 ON ROLL CALL VOTE.

Vote: THE MOTION TO RECONSIDER OUR ACTION CARRIED 10-7 ON ROLL CALL VOTE.

Motion: SEN. LYNCH MOVES TO ELIMINATE AMENDMENT #HB001702.A35.

Discussion: SEN. TOEWS You can build a strong argument on the number of kids in a class but you cannot build a strong argument on how you implement that kind of thing or set a policy on this.

SEN. LYNCH With the autonomy given to the Board of Regents in the constitution, it gets old hearing they can't do anything. They should have the capabilities to come up with a program to say when possible waive credits when classes are not full. This gives them some discretion. If they can't be a little creative they'll have these initiatives to do away with the Board of Regents every election.

SEN. WATERMAN I supported the amendment because we're not really talking about waivers here, we're talking about a recruiting tool. If this is a recruiting tool, I think it is appropriate that the funding go to the department for recruiting. The reason we're considering stripping this amendment is because of the hit to the General Fund. If we don't want to pay for these people to go to college then why are we throwing this at the regents. We support the waiver, the regents will have to tell them we don't have room for them to go and next session we'll have someone saying "we told those regents to let the National Guard students in and look at how arrogant they are, they told us they won't do it because they didn't have the room." Let's develop a little backbone.

SEN. BECK Currently, we have over \$2 million in out-of-state fee waivers and less than that for in-state fee waivers. I can't believe these additional fee waivers will break the system. This is a good bill and a good recruiting tool for the National Guard. I hope we strip this amendment off and pass this bill.

SEN. JERGESON I understand what SEN. LYNCH has said about poorly subscribed classrooms in the university system but these students are going to want to go into the fully subscribed classrooms like every other student. That will create additional costs for the university system and their only way to pay for that is out of tuition student. I think the whole list of tuition waivers

should be examined, I don't think it is appropriate to add another waiver to the list.

Vote: THE MOTION TO ELIMINATE AMENDMENT #HB001702.A35 CARRIED 10-7 ON ROLL CALL VOTE.

Vote: THE MOTION THAT HB 17 BE CONCURRED IN CARRIED 9-8 ON ROLL CALL VOTE. SEN. HARGROVE will carry HB 17.

{Tape: 1; Side: B; Approx. Time Count: 8:48; Comments: None.}

RECONSIDER ACTION ON HB 166

Motion/Vote: SEN. LYNCH MOVES TO RECONSIDER ACTION ON CONCURRING IN HB 166. THE MOTION CARRIED UNANIMOUSLY

EXECUTIVE ACTION ON HB 166

Motion: SEN. LYNCH MOVES HB 166 BE CONCURRED IN.

Amendment: Amendment #hb016608.agp. (EXHIBIT #6)

Motion/Vote: SEN. LYNCH MOVES TO AMEND HB 166 WITH AMENDMENT #HB016608.AGP. THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. LYNCH MOVES HB 166 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

{Tape: 1; Side: B; Approx. Time Count: 8:50; Comments: None.}

EXECUTIVE ACTION ON HB 578

Amendment: Amendment #hb057805.agp. (EXHIBIT #7)

Motion: SEN. TAYLOR MOVES TO AMEND HB 578 WITH AMENDMENT #HB057805.AGP.

Discussion: CHAIRMAN SWYSGOOD The motion to pass HB 578 failed so the bill is in the form it was presented by REP. JOHNSON.

SEN. TAYLOR Something has to be done with this portfolio. This amendment allows the Montana Science and Technology Board (MSTA) to take some action on the \$4.2 million until we make a decision. It extends the program 2 years so they are not a lame duck.

CHAIRMAN SWYSGOOD We have an important policy decision to make with this. We need to try and recoup as much of the money loaned through the MSTTA as possible. This amendment allows the MSTTA to move the portfolio to an appropriate place. I hope the committee will support this amendment.

SEN. KEATING I agree with the amendment as I don't think the portfolio should go to the Board of Investments because of what might happen to the income. I got the impression there is some

unexpended loan authorization, \$2-3 million. I would like to have some prohibition from making new loans during this period of time.

SEN. TAYLOR If we hamstring them we're setting them up for failure and we're sending a message that they are a lame duck. I don't think we can prohibit this. They haven't made a lot of loans.

SEN. KEATING I don't know that rescinding loan authorization is hamstringing them. They still have a lot of work to do with the collection and management of the loans they've already made.

SEN. TOEWS What is the fiscal impact on this? **CHAIRMAN SWYSGOOD** \$500,000.

SEN. KEN MILLER My concern is that we may be cutting off the loan possibility for a business that has put a lot of work into this. I think we need to phase this out, tell them they can't take anymore applications but we shouldn't say no more new loans.

CHAIRMAN SWYSGOOD The purpose is to let this phase out in a prudent manner.

Vote: THE MOTION TO AMEND HB 578 WITH AMENDMENT #HB057805.AGP CARRIED UNANIMOUSLY ON ROLL CALL VOTE.

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

Amendment: Amendment #hb057806.agp. (EXHIBIT #8)

Motion: SEN. FRANKLIN MOVES TO AMEND HB 578 WITH AMENDMENT #HB057806.AGP.

Discussion: **SEN. FRANKLIN** They wanted to have a clearer peer review process in place for R&D. They currently use NIH ranking for peer review. If there is not enough time to deal with this today I hope that this will be discussed in 1999.

CHAIRMAN SWYSGOOD The amendment asks for them to get input from outside their internal structure for R&D loan review, is that right? **SEN. FRANKLIN** That is my belief.

SEN. KEATING Doesn't the language of this amendment presuppose new applications and loan authorizations? **SEN. FRANKLIN** Yes.

SEN. KEATING That flies in the face of what we discussed on the previous motion.

SEN. FRANKLIN WITHDRAWS THE MOTION TO AMEND HB 578 WITH AMENDMENT #HB057806.AGP.

Discussion: **SEN. FRANKLIN** I'd like it to be on record that, as we go further with research and development, we develop another entity for peer review.

SEN. LYNCH Are we eliminating the board with this amendment?
CHAIRMAN SWYSGOOD No, we are extending their sunset for 2 years. We're hoping they figure a way to get out of this and save the state the money we've invested.

Vote: THE MOTION THAT HB 578 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY. **SEN. TAYLOR** will carry HB 578.

{Tape: 1; Side: B; Approx. Time Count: 9:29; Comments: None.}

EXECUTIVE ACTION ON HB 169

Amendments: Amendment #hb016901.a35. (EXHIBIT #9)

Motion: SEN. BECK MOVES TO AMEND HB 169 WITH AMENDMENT #HB016901.A35.

Discussion: Taryn Purdy, Legislative Fiscal Division (LFD) This bill defines which funds come out of the state treasury. The primary impetus for the bill was to make statute conform to the constitution on this. This amendment takes enterprise funds and debt service fund type off the budget. (EXHIBIT #10) handed out.

SEN. KEATING Sometimes there is confusion between enterprise and proprietary funds and confusion between proprietary and state special funds. I have concern about that and am trying to think this amendment through to see what we are doing. **Ms. Purdy** I think your point about proprietary funds and state special is a good one as it relates to internal service type funds wherein an agency charges another agency to perform a service and gets paid for that. Enterprise funds are generally a little cleaner and have to do with those time when someone voluntarily participates in whatever the state agency is doing. Lottery and hail insurance are examples of enterprise funds.

SEN. JENKINS Would you give me an answer to this question?
Connie Griffith, Department of Administration Proprietary funds consist of two types of funds: internal service; and enterprise. These types of funds essentially act like a business unlike state special where you may be receiving fees from other places and people but you are not trying to cover all your cost like a business covers their costs. Proprietary funds cover all operating costs including depreciation. Internal service funds are for services between agencies and within the government. The enterprise fund is when you are providing services and/or products that you are selling to outsiders, an example of this is the prison industry.

Vote: THE MOTION TO AMEND HB 169 WITH AMENDMENT #JB016901.A35 CARRIED UNANIMOUSLY.

{Tape: 1; Side: B; Approx. Time Count: 9:37; Comments: None.}

Amendment: Amendment #hb016904.a05. (EXHIBIT #11)

Motion: SEN. FRANKLIN MOVES TO AMEND HB 169 WITH AMENDMENT #HB016904.A05.

Discussion: Ms. Purdy Water court judges and game wardens need to be transferred into the pension fund. This amendment puts the appropriate language into this bill.

Vote: THE MOTION TO AMEND HB 169 WITH AMENDMENT #HB016904.A05 CARRIED UNANIMOUSLY.

Motion: SEN. MOHL MOVES TO AMEND HB 169 WITH (EXHIBIT #12).

Discussion: Ms. Purdy This amendment makes the 30% carry forward of unexpended appropriations permanent. The amount of money requested for carry over in FY94-95 appropriations was \$5.3 million. The agencies have criteria to meet and the budget office needs to approve it.

SEN. KEATING Is this a carry over within the biennium or between bienniums? **Ms. Purdy** Between bienniums.

SEN. BECK Does this extend the base budget? **Ms. Purdy** No, it comes out of the base.

SEN. FRANKLIN Is there a stipulation that the 30% show on the accounting? **Ms. Purdy** It shows on the accounting records but the base budget you see will not show this.

CHAIRMAN SWYSGOOD If they transferred this from FY98 to FY99 and we worked off the FY98 base, then that would be a reduction of 30% of unexpended funds in the base so we would have less base to work from. **Ms. Purdy** You use the FY98 base to budget from, if they had \$100 left over from FY97 and carried over 30% or \$30 and spent it in FY98, when you look at the FY98 expenditures that \$30 will not be there. This give the agency more spending authority in the next year than they would have had. It does not impact their spending in the year from which they moved the money.

SEN. KEATING Does it ever show up in the base? **Ms. Purdy** It shows up in total expenditures but we pull it out for base purposes.

SEN. DALE MAHLUM This gives agencies the chance to hold the money and make wise decisions for the future. I think it is a good business position for them.

SEN. TAYLOR I agree. I would like to know if this has done what it was supposed to do. **Ms. Purdy** It depends on the criteria you are using. There is evidence that the agencies have a little more confidence in their ending fund balance and therefore are not going to spend more of it at the end in the anticipation of carrying it forward.

SEN. JERGESON They may ask for that money as a present law base adjustment or a new proposal in the next session but it would be explained in the budget.

SEN. LARRY BAER Is this carry over subtracted from the base or is it just money they spend that doesn't show up anywhere? **Ms. Purdy** They spend it but it doesn't show up in the base.

SEN. KEATING This would reduce anticipated reversions, do you have any idea how much anticipated reversions would be reduced by this action? **Steve Bender, Office of Budget and Program Planning (OBPP)** This will affect reversions but the amount of General Fund has been fairly trivial. We require a plan to use this money, they have to certify that they will use this money to improve the productivity of their operation. This is not automatic.

Vote: THE MOTION TO AMEND HB 169 WITH (EXHIBIT #12) CARRIED WITH SEN. BAER VOTING NO.

Amendment: Amendment #hb016902.a35. (EXHIBIT #13)

Motion: SEN. BECK MOVES TO AMEND HB 169 WITH AMENDMENT #HB016902.A35.

Discussion: Ms. Purdy explains amendment.

CHAIRMAN SWYSGOOD This amendment says agencies can only transfer 30% of one fund, not all.

Vote: THE MOTION TO AMEND HB 169 WITH (EXHIBIT #13) CARRIED UNANIMOUSLY.

{Tape: 2; Side: A; Approx. Time Count: 9:53; Comments: None.}

Motion: SEN. MAHLUM MOVES TO AMEND HB 169 WITH (EXHIBIT #14).

Discussion: **Ms. Purdy** You set the maximum rate for internal services funds that an agency can charge during the next biennium, those funds are off budget. This amendment allows the approving authority to adjust those rates during the interim.

CHAIRMAN SWYSGOOD For example, the Department of Administration, Information Services Division (ISD) charges a fee for the use of the computer system. That fee is set by the legislature and we appropriate money to the agencies based on those rates. This amendment would allow adjustment of these rates by the OBPP during the interim.

Ms. Griffith Should an increase in mail costs occur during the interim they cannot increase their fees to cover that increase. We've never had to increase our rates in the past.

SEN. TAYLOR Could the Department of Justice increase their fees because their lawyer costs more or something like that? **Ms. Griffith** This amendment is very specific, they would have to have substantial cost increases.

Motion: SEN. LYNCH MOVES TO AMEND (EXHIBIT #14) BY STRIKING "PROVIDED COMMENTS ON" AND INSERTING "APPROVED".

Discussion: CHAIRMAN SWYSGOOD We might have a problem because the authority granted to the Legislative Finance Committee doesn't carry any weight.

SEN. LYNCH WITHDRAWS THE MOTION TO AMEND (EXHIBIT #14).

SEN. WATERMAN Please explain item #2 of (EXHIBIT #14) **Ms. Purdy** That is an enterprise fund that is allowed in the budget amendment process now but is really not necessary. **Mr. Bender** The Historical Society is the only one that pass through their entries cost under the budget amendment law. I propose striking the Historical Society so any enterprise fund can pass through their entries cost for sales to the public.

SEN. JENKINS Where will the agencies come up with the money to cover the cost increase if it is made? CHAIRMAN SWYSGOOD They eat it.

SEN. JERGESON Does this include fees charged to Secretary of State, for example? **Ms. Purdy** These refer to the enterprise service fund that must be approved by the legislature in the general appropriations act. Many of the enterprise funds in the Secretary of State are not reviewed by the legislature. This would be things like ISD's computer charges, motor pool, etc.

Vote: THE MOTION TO AMEND HB 169 WITH (EXHIBIT #14) FAILED 1-16 ON ROLL CALL VOTE.

Amendment: Amendment #hb016901.ash. (EXHIBIT #15)

Motion/Vote: SEN. LYNCH MOVES TO AMEND HB 169 WITH AMENDMENT #HB016901.ASH. THE MOTION CARRIED UNANIMOUSLY.

Motion: SEN. BECK MOVES TO AMEND HB 169 WITH (EXHIBIT #16).

Discussion: **Ms. Purdy** This amendment removes the retirement system's authority to hire and fire staff.

SEN. LYNCH I want them to have that right, do I want to pass the amendment? **Ms. Purdy** No.

CHAIRMAN SWYSGOOD We heard the presentation by the board attorney, we need the corresponding view presented to us.

Judy Browning, Governor's Office This is not a huge item in the grand scheme of things, however it is important to the Governor

because it is a precedent. The notion that having a fiduciary duty means you cut lose the hiring and firing of employees from the traditional three branches of government is a notion the Governor doesn't agree with. He thinks this is creating a bad precedent.

SEN. LYNCH Micromanaging is crazy, they should be able to hire their own people. This amendment doesn't make sense.

Vote: THE MOTION TO AMEND HB 169 WITH (EXHIBIT #16) FAILED 6-11 ON ROLL CALL VOTE.

Motion: SEN. BECK MOVES HB 169 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY. SEN. VAN VALKENBURG will carry HB 169.

{Tape: 2; Side: A; Approx. Time Count: 10:08; Comments: None.}

EXECUTIVE ACTION ON HB 584

Motion: SEN. BECK MOVES HB 584 BE CONCURRED IN.

Amendment: Amendment #hb058401.agp. (EXHIBIT #17)

Motion: SEN. BECK MOVES TO AMEND HB 584 WITH AMENDMENT #HB058401.AGP.

Discussion: **CHAIRMAN SWYSGOOD** This bill creates the orphan share account for cleanup. This amendment takes \$150,000 out of each fiscal year from the orphan shares and gives it to the funding mechanism on the total maximum daily load (TMDL) bill that deals with the streams the EPA is requiring the state to address.

SEN. TAYLOR This is an important amendment as it is important that we do this. The TMDL is a start in the right direction to identify and cleanup the environment. It is a critical piece of legislation that we need to fund.

SEN. KEATING I need to know the revenue flow through the orphan share account, environmental rehab and prevention account and the TMDL's. It seems to me HB 284 passed for a particular purpose and now we're using HB 284 funding for the TMDL. **Mark Simonich, Department of Environmental Quality (DEQ)** We have been looking for ways to insure there is adequate funding for TMDL's, this amendment in HB 584 amends HB 284 so that instead of putting \$250,000 of fines and penalty money into HB 284 annually, only \$100,000 would go into the rehabilitation (ERPA) account through HB 284 and the other \$150,000 per year would be available for funding TMDL's.

SEN. KEATING What is the source of the money in HB 284? **Mr. Simonich** The funding for HB 284 was to be generally fines and penalties, forfeited bonds for mine reclamation are also a small

part of the funding. Currently those penalties go into the General Fund, so the revenue sheets you have show a reduction of revenue to the General Fund because that money is being redirected to the ERPA account.

SEN. KEATING We're taking money that is being diverted from the General Fund and putting it into an emergency environmental account and then taking over half of that money and putting it into a non-point source environment research program to determine the quality of water in the rivers of Montana. **Mr. Simonich** This is essentially correct, I'm not sure I would characterize it as a research program.

SEN. KEATING I have a hard time using fines and penalties for non-point source solution research. **Mr. Simonich** We've had the same concerns about fines and penalizes. I believe the idea is that this is General Fund money that has been taken off the General Fund table. Therefore you are allocating General Fund into the TMDL program.

SEN. KEATING I didn't support HB 284 because I didn't think the program was necessary, so diverting the money from that program to the TMDL may not be such a bad idea.

SEN. JENKINS Where is HB 284 now. **Mr. Simonich** HB 284 cleared the House, was amended in the Senate and is in the House awaiting concurrence with Senate amendments.

SEN. JENKINS Isn't there a way to amend HB 284 instead of dealing with this bill. **CHAIRMAN SWYSGOOD** This is the only vehicle available at this time to make these adjustments.

CHAIRMAN SWYSGOOD This will be incorporated in HB 284 if it goes to conference committee.

Vote: THE MOTION TO AMEND HB 584 WITH AMENDMENT #HB058401.AGP CARRIED 11-6 ON ROLL CALL VOTE.

Motion/Vote: SEN. BECK MOVES HB 584 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED 13-4 ON ROLL CALL VOTE. SEN. GROSFIELD will carry HB 584.

{Tape: 2; Side: A; Approx. Time Count: 10:23; Comments: None.}

RECONSIDER ACTION ON HB 580

Motion: SEN. KEATING MOVES TO RECONSIDER OUR ACTION ON HB 580.

Discussion: **CHAIRMAN SWYSGOOD** HB 580 deals has the agencies prioritize 15% of their programs, we amended it to 100%. This is a broader issue than zero based budget, the cost associated with staff will increase with this. I'd like to bring the bill back to restore it to the way it was introduced.

SEN. JENKINS I agree with you, the finance committee would have more work with this.

SEN. LYNCH If you fall into this argument, you're buying a bag of smoke. We had zero based budgeting and we didn't double staff. It didn't work because the people didn't want it to work. It could have worked. I oppose the motion to reconsider because the original bill makes 85% of the budget sacred. If there is too much growth in government, you need to look at it all.

SEN. TAYLOR How much more staff and money will this cost? **Ms. Purdy** Our staff puts in 3,500 hours of overtime prior to the start of session. This is to examine the base and determine if there are any major issues with it. We then analyze the Governor's new proposals and present law requests and explore other issues the staff has identified throughout the interim. To examine the entire base for prioritization would add to that.

SEN. TAYLOR I think we need to go to zero based budgeting, it might cost us more but I believe it would hold the agencies more accountable. States that have done zero based budgeting show agency revenues can drop.

SEN. BAER I think requesting a 15% reduction encourages the departments to come up with 15% of trash that they are ready to delete. This will make the rest of their budget a sacred cow. We won't get anywhere unless we put zero based budgeting in.

SEN. MOHL I'm for reconsidering the bill, but I'm not for the bill. Don't we have the authority now to set the base where we want to? Why do we need the 15%?

Vote: THE MOTION TO RECONSIDER ACTION TAKEN ON HB 580 FAILED 7-10 ON ROLL CALL VOTE.

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

RECONSIDER ACTION ON HB 405

Motion: SEN. CHRIS CHRISTIAENS MOVES TO RECONSIDER OUR ACTION ON HB 405.

Discussion: SEN. CHRISTIAENS I make this motion as this bill needs to be kept open. This is 100 beds that would not have to be built for prisons. I have been told that my amendment in HB 2 establishing a corrections oversight committee is not legal. I believe that has been taken care of in HJR 19 but, if not, that could also go into HB 405. By keeping this bill alive we can amend it to assist with the prison problem.

SEN. MOHL I agree. A lot of things have happened and we need this bill as a vehicle to come up with a final determination on corrections.

SEN. BECK There are a lot of things in this bill I don't care for, I believe this bill can come up anytime. You can bring it off the table, on the floor, anyplace we need it. I prefer to let it stay on the table now.

SEN. LYNCH This bill needs to be cleaned up, it makes no sense whatsoever in its present form. We don't need to pass this bill to keep it alive, it's alive right here.

SEN. JENKINS This bill needs to meet a deadline, I'd like to put a two word amendment on 3, line 14 insert "non-violent" if it comes to the table. That will leave it alive and we can meet deadlines.

SEN. KEATING If we keep it alive, it may have a chance of passing. It is a duplication of pre-release centers and I don't see the benefit of starting another program.

SEN. TAYLOR We need some options when we go into negotiations with **Mr. Day** on bed numbers.

SEN. LYNCH Don't worry about deadlines, the majority can suspend the rules. If you have the votes, you can do just about anything you want around here.

SEN. BECK I know you want all the options you can get for the finance committee but we need to be careful about some things. One of those things is going to all pre-release. By doing this you'll be dropping the percentage of hard core criminals coming out of MSP. You want to be real careful in determining this.

SEN. CHRISTIAENS There are a lot of things that aren't good with this bill, I'm saying it is an option for 100 beds that do not have to be built. It is a lot cheaper to pay for 4 intensive supervision officers at \$32,000 per year than it is to build 100 beds at the price of a prison bed.

Vote: THE MOTION TO RECONSIDER ACTION TAKEN ON HB 405 CARRIED 11-6 ON ROLL CALL VOTE.

EXECUTIVE ACTION ON HB 405

Motion/Vote: SEN. JENKINS MOVES TO AMEND HB 405 BY INSERTING "NON-VIOLENT" BEFORE FELONY OFFENSE THROUGHOUT THE BILL. THE MOTION CARRIED UNANIMOUSLY.

Motion: SEN. CHRISTIAENS MOVES HB 405 BE CONCURRED IN AS AMENDED.

Discussion: SEN. LYNCH I'd like to tell the committee why you should not pass this bill to keep it alive and play with later on. The House has already passed this bill and if it passes through the Senate the House will accept it. This is a lousy bill and not good for the public and their safety.

SEN. TAYLOR Will this go to conference committee? CHAIRMAN
SWYSGOOD There is no guarantee that it will.

Vote: THE MOTION THAT HB 405 BE CONCURRED IN AS AMENDED FAILED
6-11 ON ROLL CALL VOTE.

Motion/Vote: SEN. KEATING MOVES TO TABLE HB 405. THE MOTION
CARRIED 11-6 ON ROLL CALL VOTE.

{Tape: 2; Side: B; Approx. Time Count: 10:40; Comments: None.}

RECONSIDER ACTION ON HB 610

Motion: SEN. BECK MOVES TO RECONSIDER OUR ACTION ON HB 610.

Discussion: CHAIRMAN SWYSGOOD This bill had the funding removed
from it figuring it would become an interim committee selection
bill. That won't happen.

Ms. Purdy This needs to be a resolution and I have been told the
bill cannot be turned into a resolution.

Vote: THE MOTION TO RECONSIDER HB 610 CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 610

Discussion: CHAIRMAN SWYSGOOD We need to leave the bill as it
was for a committee funded by the Department of Transportation.
Currently the money is not in the bill.

Motion: SEN. BECK MOVES TO STRIKE SEN. LYNCH'S AMENDMENT FROM HB
610.

Motion: SEN. WATERMAN MOVES TO TABLE HB 610. THE MOTION FAILED
7-10 ON ROLL CALL VOTE.

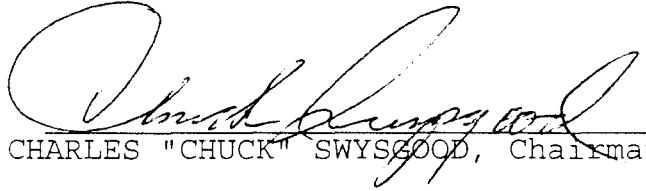
Vote: THE MOTION TO STRIKE SEN. LYNCH'S AMENDMENT FROM HB 610
CARRIED UNANIMOUSLY.

Motion/Vote: SEN. LYNCH MOVES TO AMEND HB 610 BY INSERTING
"\$25,000" TO FUND THIS STUDY. THE MOTION CARRIED WITH SEN.
BURNETT, MILLER AND WATERMAN VOTING NO.

Motion/Vote: SEN. MOHL MOVES HB 610 BE CONCURRED IN AS AMENDED.
THE MOTION CARRIED 12-5 ON ROLL CALL VOTE. SEN. FRANKLIN will
carry HB 610.

ADJOURNMENT

Adjournment: 11:10 a.m.

A large, stylized handwritten signature in cursive script, appearing to read "Chuck Swysgood".

SEN. CHARLES "CHUCK" SWYSGOOD, Chairman

A handwritten signature in cursive script, appearing to read "Sharon Cummings".

SHARON CUMMINGS, Secretary

CS/SC