

**MINUTES**

**MONTANA SENATE  
59th LEGISLATURE - REGULAR SESSION**

**FREE CONFERENCE COMMITTEE ON HOUSE BILL 2**

**Reconvene:** By **CHAIRMAN MIKE COONEY**, on April 15, 2005 at 6:00 P.M., in Room 317 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Mike Cooney, Chairman (D)  
Rep. Rosalie (Rosie) Buzzas, Chairman (D)  
Sen. John Cobb (R)  
Rep. Eve Franklin (D)  
Sen. Jon Tester (D)

**Members Excused:** None.

**Members Absent:** Rep. John Sinrud (R)  
Rep. Jack Wells (R)

**Staff Present:** Prudence Gildroy, Committee Secretary  
Taryn Purdy, Legislative Branch

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

**Committee Business Summary:**

Hearing & Date Posted: HB 2, 4/15/2005  
Executive Action:

**SEN. JOHN COBB** said his understanding was they would do technical amendments throughout the bill, all of Section A, and any contingent language amendments. **CHAIRMAN MIKE COONEY** advised that was the agreement.

**Section A:**

**Motion/Vote:** **SEN. COBB** moved that HB000270.AMD BE ADOPTED.  
**Motion carried 5-0 by voice vote.**

**EXHIBIT**(frs81hb0002a01)

**Taryn Purdy, Legislative Fiscal Division**, reminded the committee that because this amendment did not get a majority of the House members, it will go forward in the committee report but it will be without recommendation by the House.

**SEN. COBB** asked if they just have to make clear for the record how the House votes each time. **CHAIRMAN COONEY** asked that the secretary make that clear.

**Motion/Vote:** **SEN. COBB** moved that HB000259.AGD BE ADOPTED.  
**Motion carried 5-0 by voice vote.**

**EXHIBIT**(frs81hb0002a02)

**Motion/Vote:** **SEN. COBB** moved that HB000228.ATP BE ADOPTED.  
**Motion carried 5-0 by voice vote.**

**EXHIBIT**(frs81hb0002a03)

**Motion:** **SEN. COBB** moved that HB000271.AMD BE ADOPTED.

**EXHIBIT**(frs81hb0002a04)

**SEN. JON TESTER** said the amendment talks about three FTE but he wondered where the money comes from. **Ms. Purdy** explained the money is already in the bill. **Lois Steinbeck, Legislative Fiscal Division**, clarified when the appropriations for both SB 324 and HB 667 were originally included in HB 2, none of them had any operating costs or FTE associated with them. It wasn't a matter of amending the bill to add money and skipping the FTE; they were never requested in HB 2 and HB 2 had no FTE. **SEN. TESTER** inquired how much money this obligates them to. **John Booth, State Auditor's Office**, advised they requested \$110,305 each year for the three FTE to implement the program; it is the Eligibility Requirement Specialist.

SEN. COBB withdrew his amendment because he said the President would like to wait on that and think about it tonight.

Motion/Vote: SEN. COBB moved that HB000257.AGD BE ADOPTED.  
Motion carried 5-0 by voice vote.

EXHIBIT(frs81hb0002a05)

Section B:

Motion/Vote: SEN. COBB moved that HB000267.ALS BE ADOPTED.  
Motion carried 5-0 by voice vote.

EXHIBIT(frs81hb0002a06)

Motion/Vote: SEN. COBB moved that HB000274.ALS BE ADOPTED.  
Motion carried 5-0 by voice vote.

EXHIBIT(frs81hb0002a07)

Motion: SEN. COBB moved that HB000268.ALS BE ADOPTED.

EXHIBIT(frs81hb0002a08)

SEN. COBB withdrew his motion.

Motion/Vote: SEN. COBB moved that HB000245.APG BE ADOPTED.  
Motion carried 5-0 by voice vote.

EXHIBIT(frs81hb0002a09)

Motion/Vote: SEN. COBB moved HB000251.APG . Motion carried 5-0  
by voice vote.

EXHIBIT(frs81hb0002a10)

Motion/Vote: SEN. COBB moved that HB000271.ALS BE ADOPTED.  
Motion carried 5-0 by voice vote.

EXHIBIT(frs81hb0002a11)

Motion/Vote: SEN. COBB moved that HB000272.ALS BE ADOPTED.  
Motion carried 5-0 by voice vote.

EXHIBIT(frs81hb0002a12)

Motion/Vote: SEN. COBB moved that HB000252.APG BE ADOPTED.  
Motion carried 5-0 by voice vote.

**EXHIBIT**(frs81hb0002a13)

**Motion:** SEN. COBB moved that HB000248.APG BE ADOPTED.

**EXHIBIT**(frs81hb0002a14)

**SEN. COBB** said this relates to the bed tax for the Montana Developmental Center. **Pat Gervais, Legislative Fiscal Division**, clarified this has to do with the continuation and increase of the bed tax at the Montana Developmental Center. The money is matched with federal funds, the general fund is made whole, and the balance goes to the prevention and stabilization fund.

**Vote:** Motion carried 5-0 by voice vote.

**Motion:** SEN. COBB moved that HB000273.ALS BE ADOPTED.

**EXHIBIT**(frs81hb0002a15)

**SEN. TESTER** asked what state special revenue this comes from and whether there is money in SB 137 that is being collected. **Ms. Steinbeck** advised there are two fees that are established by the bill. One is a licensing fee and the other is an educational seminar fee. These are passed through to the local governments so the county sanitarian can review the establishments.

**Vote:** Motion carried 5-0 by voice vote.

**CHAIRMAN COONEY** advised they could defer amendment 281.als because it will be handled in a larger amendment.

**Motion/Vote:** SEN. COBB moved that HB000246.APG BE ADOPTED.  
Motion carried 5-0 by voice vote.

**EXHIBIT**(frs81hb0002a16)

**Section B**

**SEN. COBB** advised there are no technical amendments in Section C, but there are two bills that are contingent that apply to Section C.

**Section C**

**Motion/Vote:** SEN. COBB moved that HB000210.ABJ BE ADOPTED.  
Motion carried 5-0 by voice vote.

**EXHIBIT**(frs81hb0002a17)

**Motion: SEN. COBB moved that HB000271.ASS BE ADOPTED.**

**EXHIBIT(frs81hb0002a18)**

**SEN. TESTER** said this money goes to the Department of Commerce. He wondered if this is all general fund revenue or is there some state special. **Shane Sierer, Legislative Fiscal Division**, stated that for 2006 there is general fund of \$132,000 and \$65,000 in 2007. There is an additional \$65,359 of state special in 2007.

**SEN. TESTER** asked where the state special comes from. **Mr. Sierer** deferred the question to **Andy Poole, Department of Commerce**. **Mr. Poole** advised the state special revenue kicks in when the state starts issuing tax credits and charging fees to operate the program. There is a board attached to this bill. **SEN. TESTER** asked if there will be tax credits in 2007. **Mr. Poole** thought they will get organized and get the board operating in 2006, get everything in order with staff, and be up and operating in the last six months of 2007.

**Vote: Motion carried with SEN. TESTER voting no.**

**Section D**

**Motion/Vote: SEN. COBB moved that HB000285.AHF BE ADOPTED.**  
**Motion carried 5-0 by voice vote.**

**EXHIBIT(frs81hb0002a19)**

**Section R**

**Motion/Vote: SEN. COBB moved that HB000230.ATP BE ADOPTED.**  
**Motion carried 5-0 by voice vote.**

**EXHIBIT(frs81hb0002a20)**

**Section A**

**Motion: SEN. TESTER moved that HB000271.AMD BE ADOPTED.**

**EXHIBIT(frs81hb0002a21)**

**SEN. COBB** asked if this is the authorized FTE with the funds already appropriated for HB 667 and **SEN. TESTER** replied, it is.

**Vote: Motion carried 5-0 by voice vote.**

**REP. EVE FRANKLIN** referred to HB000271.als. It was passed in Section B. She recalled in the House they only passed the bill

by removing the funding for it and indicated to the Department that they need to absorb that cost. **Ms. Steinbeck** said there was an amendment made to the bill and there is a section saying there is no appropriation for this purpose. This amendment was written at the request of the Office of Budget and Program Planning. She put in language saying that this appropriation in HB 2 is contingent upon HB 704 being passed in a form that allows an appropriation to be made. She believes that bill is on third reading. She had not asked for a legal analysis of the amendment that was put in HB 704 to see if it would conflict with this language. **REP. FRANKLIN** thought they should reconsider.

**Motion/Vote:** **SEN. TESTER** moved **TO RECONSIDER ACTION ON AMENDMENT HB000271.ALS**. Motion carried 5-0 by voice vote. (Exhibit 11)

**CHAIRMAN COONEY** said that amendment would be put off until later. **SEN. COBB** observed that takes care of Section A, the technical amendments, and the contingent amendments.

#### Section A

**Motion:** **SEN. TESTER** moved that **HB000296.APG BE ADOPTED**.

[EXHIBIT\(frs81hb0002a22\)](#)

*{Tape: 1; Side: B}*

**SEN. TESTER** explained the amendment transfers some money around within I-149. There is a slight decrease in HB 667 and the bill's sponsor said he could live with that. It makes I-149 structurally balanced.

**Vote:** Motion carried 5-0 by voice vote.

#### Section B

**Motion:** **SEN. COBB** moved that **HB000296.ALS BE ADOPTED**.

[EXHIBIT\(frs81hb0002a23\)](#)

**SEN. COBB** said this amendment is at the request of the Department and asked **Ms. Steinbeck** to explain the amendment. **Ms. Steinbeck** clarified there are two parts to the amendment. The first is a transparency in government amendment. The children's mental health rate increase that appears as a line item in the bill is to be used solely for direct care worker wage increases for children's mental health. That was passed by the subcommittee. The Department had also requested a six percent provider rate

increase for children's mental health that is rolled into another line. The amendment puts direct worker wage increases behind the line item so it is more straightforward. The other part of it is technical. When she prepared two of the amendments for **SEN. COBB** that were passed in Senate Finance and Claims and one for **SEN. TESTER**, it delayed implementation of the I-149 appropriations. Originally, they were going to use general fund as part of the matching for the worker wage increase. Between the first and second version of the amendments, that changed and she failed to amend out the delayed start. Now there is a conflict in HB 2 saying that the children's direct care worker wage increase must be implemented October 1, and this amendment takes them out of the requirement; they can't spend money until December 1. **SEN. COBB** said the Department wanted clarification on the language. It does not change the money around; they just wanted to correct it.

**Vote: Motion carried 5-0 by voice vote.**

**SEN. COBB** indicated he had no other technical or contingency amendments at this time. **CHAIRMAN COONEY** said he appreciated the work on the housekeeping material and they will now proceed through Section A. There are amendments that are not technical in nature.

#### **Section A**

**Motion: REP. BUZZAS moved that HB000283.AHF BE ADOPTED.**

#### **EXHIBIT(frs81hb0002a24)**

**REP. ROSIE BUZZAS** said this is a one-time-only appropriation of \$75,000 for a workload assessment study of district courts by the Supreme Court. She said there is an opportunity for about \$200,000 in match money from a national organization to do a study. She agreed to bring this forward because, with state assumption, she thinks it is prudent to do this sort of study as they look down the road to fill new district court judge positions.

**Vote: Motion failed with SEN. TESTER and REP. BUZZAS voting aye.**

**Motion/Vote: SEN. TESTER moved that HB0020291.ALS BE ADOPTED.  
Motion failed 1-4 with SEN. COONEY voting aye.**

#### **EXHIBIT(frs81hb0002a25)**

**Motion: SEN. COONEY moved that HB000273.AGD BE ADOPTED.**

**EXHIBIT** (frs81hb0002a26)

**CHAIRMAN COONEY** advised this was brought to the subcommittee and was rejected. He told the Governor's Office he would bring this forward.

**Vote:** Motion failed with **REP. BUZZAS** voting aye.

**Motion:** **REP. BUZZAS** moved that **HB000284.AHF** BE ADOPTED.

**EXHIBIT** (frs81hb0002a27)

**REP. BUZZAS** said this was also rejected by the subcommittee. She said this would be helpful statewide in terms of jury selection and operation. **CHAIRMAN COONEY** said he has an issue with the amendment and would rather hold it and see how the conference committee continues down the road. This is a lot of money. He had several conversations with the Judiciary about this and he thinks it may have merit. He wanted to make sure they have the resources to do it. He indicated he would vote against it. **SEN. TESTER** wanted to vote on the amendment; he thought it would go down. He thought they could reconsider it at the end of the process. He said there is a stack of stuff people want and it is going to be very difficult to make decisions. Even though all these things have merit, he didn't want to spend \$224,000 in general fund right now.

**Vote:** Motion failed with **REP. BUZZAS** voting aye.

**CHAIRMAN COONEY** advised there are no more amendments in Section A. **SEN. COBB** said there was a quorum last night; since there was a recess last night they could continue voting. If the chairman had adjourned and **REP. WELLS** and **REP. SINRUD** had not shown up today, there would not have been a quorum from the House. Since the chairman simply recessed, the committee could vote since the quorum continued. **CHAIRMAN COONEY** said that is his understanding. He did, in fact, recess last night when they had a quorum. It has been his experience that, when in recess, the committee can come back without an actual quorum present and continue business. That is the way they will continue to operate throughout this conference committee.

**SEN. TESTER** asked when the chairman intends to reconvene. **CHAIRMAN COONEY** said it is his intention to reconvene this committee tomorrow upon adjournment of both the House and the Senate. If they get out earlier in the Senate, they will certainly wait. **SEN. COBB** asked if they would be in recess and **CHAIRMAN COONEY** clarified, yes. It is his hope they will

continue their work and wrap up all the sections tomorrow. **SEN. COBB** wondered about asking the House Republicans if they have a different way of interpreting this recess. **CHAIRMAN COONEY** indicated **Greg Petesch, Legislative Counsel**, has confirmed the rule; if they are in recess, they do not need an actual quorum present to continue. They had a quorum to begin with and they recessed. It is his understanding of the rules that recess allows them to continue their business upon the call of the chair. **SEN. TESTER** clarified they have a quorum tonight, because this is a continuation of a meeting that was called yesterday. **CHAIRMAN COONEY** repeated they have a quorum because they recessed. He said **SEN. TESTER** is right; they are continuing because they had a quorum when they started this meeting. **CHAIRMAN COONEY** said they will stand in recess until tomorrow upon the call of the chair, upon adjournment.

**RECESS**

Recess: 6:50 P.M.

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SEN. MIKE COONEY, Chairman

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Prudence Gildroy , Secretary

MC/pg