

MINUTES

**MONTANA SENATE
57th LEGISLATURE - SPECIAL SESSION
COMMITTEE ON FINANCE**

Call to Order: By **CHAIR BOB KEENAN**, on August 6, 2002 at 1:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Sen. Bob Keenan, Chair (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. William Crismore (R)
Sen. Greg Jergeson (D)
Sen. Royal Johnson (R)
Sen. Bea McCarthy (D)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Bill Tash (R)
Sen. Jon Tester (D)
Sen. Mignon Waterman (D)
Sen. Jack Wells, Vice Chair (R)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: Sen. Ken Miller (R)

Staff Present: Prudence Gildroy, Committee Secretary
Jon Moe, Legislative Branch

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

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: SB 14; SB 15

{Tape : 1; Side : A}

EXECUTIVE ACTION ON SB 14

Motion: SEN. LINDA NELSON moved that SB 14 DO PASS.

Discussion:

SEN. GREG JERGESON asked that since the bill would implement a funds transfer that was included in the Governor's statutory rounds of budget cuts and adjustments, then where did the fiscal note show up on the ending fund balance sheet in order to balance the budget--whether it was in the beginning balance at the top of the page or after legislative action at the bottom of the page.

SEN. TOM ZOOK thought that was a good point and also wondered if that had been counted. He said the Legislative Finance Committee assured the governor's office that they would address the situation and he didn't know if the transfers had already been counted in the \$30 million dollars that the executive was able to do on their own.

SEN. MIGNON WATERMAN wondered if the \$3.5 cuts were all included in the ending fund balance projection because the reductions don't show up in HB 2. The appropriation was still there in HB 2, so she wondered how it was accounted for in the Revenue Estimating Committee whether there would be \$38 million or \$35 million more in ending fund balance. She reiterated that HB 2 did not show those cuts.

CHAIRMAN BOB KEENAN affirmed that.

SEN. WATERMAN asked if it was accounted for because otherwise there would be an \$80 million deficit.

SEN. BEA MCCARTHY requested that the issue be itemized on a brief cue sheet.

SEN. JERGESON asked Jon Moe, **Legislative Fiscal Division**, where SB 14 would show up on the general fund status sheet.

Jon Moe, Legislative Fiscal Division, explained that there was an item listed as part of the ending fund balance without legislative action that included the \$23.265 million that was from the actions taken by the governor through the authority of 17-7-140.

SEN. JERGESON agreed those were the cuts but wondered about the fund transfers that were part of the entire package.

SEN. WATERMAN said that estimated transfers were listed about 3 lines above (\$15.8 million).

Mr. Moe said that line would be correct and would be the sum of that and the \$23.4 million would be the \$38 million that was part of that whole package.

SEN. JERGESON said that if the committee killed the bill it would make the funds transfer number smaller which would make the gap at the bottom larger. **Mr. Moe** said that was correct.

SEN. McCARTHY contended there was an error in that \$15,000 if the information they were given was correct because the information they were given was that the finance committee agreed to just 10% and they had taken out more than that.

SEN. KEENAN clarified that was in HB 5.

Mr. Moe further clarified that SB 5 would do the same thing in regards to the \$485,000 transfer. If both bills did not pass the gap at the bottom would be larger.

SEN. ZOOK stated that was a concern and that SB 14 reflected what the LFC assured the Budget Director that they would do in regular session. At that time, they thought they were addressing a smaller deficit. Since the deficit had become larger, the committee would have to decide if the \$485,000 was enough or if more was needed as represented in HB 5. He suggested taking no action or laying the bill on the table until hearing HB 5. He felt that the committee might have a better idea of the gap by then.

CHAIRMAN KEENAN noted that HB 5 had passed Third Reading on the House floor that morning.

SEN. TOM BECK suggested holding SB 14 until HB 5 was assigned to the committee before making that decision.

SEN. JON TESTER asked about passing the bill out and holding it to be ready to go on the floor.

SEN. BECK thought it easier to hold the bill in committee. HB 5 could be amended into the bill and thought it better to have both tools to work with.

SEN. NELSON withdrew her motion.

EXECUTIVE ACTION ON SB 15**Discussion:**

CHAIRMAN KEENAN asked about SB 15.

Mr. Moe indicated the fiscal note was not yet available.

SEN. COREY STAPLETON asked about a ballpark figure and **SEN. JOHN COBB** said that would be \$2.3 million. **SEN. COBB** said that would be for the whole year this year and then \$2.3 after that. He advised the amendment ought to make the bill effective upon passage and approval and have a new fiscal note. If there would be no savings this year, then the bill would not be within the call of the special session. He thought there would be some savings.

SEN. WATERMAN asked if the committee could move to amend SB 15.

SEN. BECK maintained that the rules committee adopted the rule that there would be a fiscal note before the committee would start working on a bill.

SEN. WATERMAN said they wanted an accurate fiscal note and could only do that if the bill was amended. An amended fiscal note was needed to actually do what **SEN. COBB** wanted to do with the bill.

SEN. BECK thought there might be some constitutionality problems with the bill.

SEN. COBB thought they had fixed that.

Larry Finch, Tax Policy and Research Office, Department of Revenue, informed the committee of the fiscal impact if the effective date were moved from being retroactive to being September 1, 2002. It would not change the fiscal note in FY 2004 and FY 2005 but would change it slightly in FY 2003 because if the effective date were moved to September 1 there would be financial activity prior to that date. The department guessed, after consulting with accounting firms in Helena, that the vast bulk of the charitable contributions credit occurs in November and December of every year. If virtually all of the giving occurred at that time there would be no change in the fiscal note. The department assumed that 80% would occur after the September 1 date with 20% occurring beforehand. That would reduce the increase in revenue in FY 2003 to \$1.9 million.

SEN. BEA MCCARTHY asked if the bill was passed with the effective date of September 1, and the charitable organizations asked for

contributions prior to that date, if those contributing would get the credit.

Mr. Finch said that as far as he knew that anyone who made a gift prior to September 1 would qualify for that credit and there were no taxpayer behavioral impacts built into their fiscal notes.

SEN. COBB indicated that **Greg Petesch, Legislative Services**, said anything could be made retroactive but that the **Department of Revenue** said that was not the case. But if it was made upon passage and approval, it would be a smaller window than September 1.

SEN. ROYAL JOHNSON spoke against the bill saying that some fine endowments had been created and those efforts should be continued. He thought the estimates of what kind of deposits that might be made this year would be substantially lower, citing the stock market sliding "slightly" downward. He felt the program was a really good one but was not sure if they could continue to keep it. He did not want to penalize the people who had already made contributions this year by making the bill retroactive and wanted to see the bill tabled and taken up in 2003-2005.

SEN. BECK stated the problem with retroactivity was getting the money back after the contribution had been made. He recommended making it on passage and approval or from January 1st on.

SEN. COBB thought if it was made on the calendar year, it would not be in within the call. In that case, they could kill the bill and take it up again in the next session.

Motion: **SEN. ZOOK** moved that **SB 15 BE TABLED**.

SEN. COBB asked if a **DO PASS** motion was made first.

SEN. ZOOK withdrew his motion.

SEN. WATERMAN suggested just not acting on the bill.

SEN. COBB asked for an amendment to make the bill effective on passage and approval.

Valencia Lane, Legislative Attorney, had prepared an amendment to make the bill effective on September 1. It would already be effective upon passage and approval, so the language on page 5 should not be changed but the retroactive applicability date would be changed.

SEN. COBB said the committee could just make the motion.

SEN. WATERMAN suggested acting on the amendment in order to get a corrected fiscal note.

SEN. JOHNSON noted that financial planning was being encouraged in the state as well as help with inheritance issues. He did not support the September 1 date.

SEN. COBB reiterated that he brought it up because it would be \$2 million each year.

SEN. JERGESON declared that he would not say how he would vote on the bill or any subsequent motion, and since he worked for a foundation that used the instrument he declared a potential conflict of interest on any and all votes that he might cast on the bill from hereon.

SEN. NELSON asked for clarification regarding the sunset (on the bill) and the fiscal impact for the state. She said the bill had been redone and the sunset had been taken off.

SEN. JOHNSON indicated that the legislature decided that the program was successful but made the necessary adjustments to reduce the amount. He would not mind cutting the whole program out if that was needed to balance the budget at some future date, but felt it was an unfair situation for this year.

SEN. NELSON made the point that it had been a successful program, but that they hadn't known the fiscal impact to the state. She said she saw both sides.

CHAIRMAN KEENAN stated there was a **DO PASS** motion with a motion to amend with an immediate effective date upon passage and approval.

SEN. COBB said to put the amendment on, and then either table the bill or just hold it and get a correct fiscal note. He suggested doing nothing else today but just letting the bill sit.

Ms. Lane clarified how the bill would read with the amendment.

{Tape : 1; Side : B}

Vote: Motion that **SB 15 BE AMENDED** carried 16-2 with Johnson and Mohl voting no.

The committee then discussed scheduling issues.

SEN. STAPLETON expressed a concern that SB 14 was beyond the call of the special session because it had no impact in the current fiscal year.

SEN. ZOOK declared that the state's fiscal year was not until the end of next June.

SEN. STAPLETON reasoned that the cuts had already been made and the bill was then reaching out in the future.

SEN. WATERMAN replied that the cuts could only be done by the legislature even though the governor listed them--legislative action was required.

ADJOURNMENT

Adjournment: 2:20 P.M.

SEN. BOB KEENAN, Chair

PRUDENCE GILDROY, Secretary

BK/PG

EXHIBIT(fcs02bad)