**MINUTES**

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

**Call to Order:** By **CHAIR BOB KEENAN**, on August 7, 2002 at 9:00 A.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: SB 19, 8/5/2002; HB 1, 8/5/2002; HB 5, 8/5/2002; HB 7, 8/5/2002; HB 8, 8/5/2002; HB 12, 8/5/2002; HB 6,

Executive Action: 8/5/2002; HB 9, 8/5/2002; HB 10, 8/5/2002; HB 1, 8/5/2002; HB 9, 8/5/2002; HB 7, 8/5/2002; HB 12, 8/5/2002; HB 6, 8/5/2002;

## HEARING ON SB 19

**Sponsor**: **SEN. STEVE DOHERTY, SD 24, Great Falls**

**Proponents**:
**Jerry Driscoll, MT AFL-CIO**
**Linda McCullough, State Superintendent of Public Instruction**
**Darrell Rude, Executive Director of the School Administrators of Montana**
**SEN. VICKI COCCIARELLA, SD 32, Missoula**
**SEN. SAM KITZENBERG, SD 48, Glasgow**
**Steve Gettel, Superintendent of the School for the Deaf and Blind**
**Bruce Messinger, Superintendent of Schools, Helena**
**SEN. EVE FRANKLIN SD 21, Great Falls**
**Dave Tweeter, Montana Rural Schools Association**
**Eric Feaver, MEA-MFT**
**Bob Vogel, Montana School Board Association**
**Jack Copps, Executive Director for the Montana Quality Education Coalition**

**Opponents**:
**Carl Swanson, President, Montana State Fund**
**Roger McGlenn, Executive Director of the Independent Insurance Agents Association of MT**
**Jacqueline Lenmark, American Insurance Association**
**Riley Johnson, National Federation of Independent Businesses**

**Opening Statement by Sponsor**:

**SEN. STEVE DOHERTY, SD 24, Great Falls**, presented his bill as a part of the solution to budget woes. When the issue of the special session came up, he said, someone "offered up" some excess funds in the State Worker's Comp Old Fund. He noted that "offering up" something denotes that one has ownership. He felt the money in the worker's comp fund was mainly there because of employees and employers, taxpayers in Montana, who paid to take care of the Old Fund Liability. He felt it right that, as policymakers, the legislature should determine how the money would be spent. He described the June 14 Economic Affairs meeting in Helena when the President of the State Fund, **Mr. Swanson,** said that the agency might be willing to forgo

approximately $17 million in lost interest payments to the state of Montana. In return they wanted quid pro quo. The state budget director was there and supported the proposed legislation. He said that during the 1989 session,$20 million was loaned to the State Fund for the Old Fund Liability and on which no interest was paid. In light of the looming budget cuts and trying to keep the percentage of reductions as low as possible he approached Mr. Swanson and the State Fund Board to ask if they would be receptive to paying back some of the interest on the $20 million. As a result, the State Fund suggested taking the excess money that currently flows from the Old Fund into the new fund after the actuary determines the liability rate and have that excess above the contingency flow into the general fund. He noted that the State Fund sent out press releases and quoted that "the Montana State Fund legislation has the primary objective of revising existing law so that excess funds above the amount needed for adequate funding of Old Fund claims would be reverted to the general fund. The proposed legislation provides that excess funds over adequate funding of Old Fund claims will transfer annually to the general fund instead of the Montana State Fund as provided in current law estimated at $8.5 million in FY 2003 and additional amounts into the future." **SEN. DOHERTY** explained how the legislation fit into the call for the session--the legislation had the primary objective of revising existing law so that excess funds above the amount needed for adequate funding of old fund claims would be reverted to the general fund. He asserted that care would be taken so workers comp rates would not increase because of the changes. He further quoted State Funds proposed legislation--"Currently all other insurance companies operating in Montana pay the premium tax. Our proposal would make state fund similar to other carriers in this regard. We estimate that the cost to businesses insured would increase by 2.75%." (It would increase if they paid the premium tax into the general fund.) "Nothing else in the proposal should result in increased rates." **SEN. DOHERTY** declared that the money was paid for by taxpayers (workers). An extraordinary tax that was hotly debated and passed through a democratically controlled Senate put a tax on workers for the first time. He felt that Montana taxpayers, workers, and small businesses looked to the legislature on how that would be spent. He contended it was the appropriate thing to do and that there were no deals (quid pro quo). He said they took a look at the money and found it to be excess and would decide how it would be part of the solution.

**Proponents' Testimony**:

**Jerry Driscoll, MT AFL-CIO**, testified that the old payroll tax started in 1987 and assessed only against employers (as 3/10 of 1% of total payroll) was to subsidize rates. On the last night

of the 1987 special session, $20 million of general fund was put it into the workers comp system. He said it wasn't very popular but had to happen or else the rates were going to go up drastically. When the fund was separated into old and new fund, the Old Fund gave the New Fund $12 million to start up. It wasn't near what they needed, but it was all they had. No interest was ever paid on the $20 million. They did pay back $160 million of premium to the Old Fund but over the time the tax went down to 2/8 of 1% and they bonded it. In the bill it said the tax would never be raised without a 3/5 vote in the legislature. In 1993 when the tax was raised, that section was repealed. The tax was raised to 1/2% on employers and 2/10 on employees. $350 million in taxpayers money has gone into the system over that time. In the bill that passed in 1995, they could not remove the payroll tax until the old fund had enough money to pay off all claims plus 10%. The 10% was put in there because Worker's Comp had a poor history of estimating how much claims were going to cost. In 1985, when the issue was first studied by a group of 18 people appointed by then **Gov. Schwinden**. The actuary said there was a $29 million problem. One month later, there was a $130 million problem. They were $400 million in the hole. He declared the fund was now stable and contended it was tax money, not premium dollars. He advised the State Fund would say they put $160 million of premium dollars into the system. But$350 million of tax dollars since 1987 have gone into the system. After the actuary says there is enough money to pay all claims plus 10%, the excess should go to the general fund or education, he held.

**Linda McCullough, State Superintendent of Public Instruction**, voiced her support for SB 19. She indicated that as a former legislator, she was well aware of the constitutional mandate to balance the budget and that it was the overriding purpose of the special session. She said it had been her practice to work with the legislature to identify funding sources for education budgets that she strongly supported. On July 25th she testified before the House Appropriations Committee in opposition to the then proposed $10.7 million in cuts to K-12 schools. She reported to the committee that schools, before the proposed cuts, were already receiving nearly $14 million less in state support than they did in the previous biennium because of declining enrollments. She also pointed out that OPI working in cooperation with the Governor's office had identified $7.2 million in school budgeted fund reversions and reductions in the first round of cuts. She felt it was her responsibility to identify a funding source to offset the cuts she was proposing. She suggested the committee look in surplus funds currently existing in the Worker's Compensation account. Last session at least $18 million was identified in these accounts. The new fund was started with a $20 million interest free loan. SB 19 would

accomplish her goal. She advised not limiting options to one solution. She also supported the transfer of surplus funds in the last legislature. When Worker's Comp was in crisis, they received an interest free loan from the state general fund to begin the new fund. Now that the state budget was in crisis the surplus funds should be used as part of the solution. She recalled that at the last session the proposal was met with heavy opposition from the Worker's Comp Division who claimed the funds didn't exist and that the proposal would cause serious damage to the fund. She noted that several months ago **Mr. Swanson** offered those very funds to the budget office in return for privatizing his agency. Apparently the funds do exist, she declared. Privatizing the agency is a separate issue and not related to the existence of the surplus funds. The 2003 legislature can thoughtfully consider the privatization issue. In the meantime, the funds are available to help the special session avoid further damaging cuts to Montana schools. **EXHIBIT(fcs03a01)**

**Darrell Rude, Executive Director of the School Administrators of Montana**, noted his career as an educator and administrator and urged support for SB 19 on behalf of educators and children. Budgets and plans were set for the school year. Children and teachers need modern technology. He cited testing, standards and accountability issues and he asked for support for the bill.

**SEN. VICKI COCCIARELLA, SD 32, Missoula**, related the history of the night when then **SEN. LYNCH** and **SEN. PIPINICH** threatened to throw then **REP. DRISCOLL** out the window for the proposal and the passage of the Old Fund Liability Tax on employees. She said she witnessed those members of the House try so hard to find a solution to save the State Fund from the disastrous political history it had and protect businesses from high rates. She recalled it was an emotional time and a tough time for everyone involved. They worked hard to find a solution. She said it was time now for State Fund to help. She stressed that it was taxpayers dollars. She said the bill that was withdrawn from the special session needs serious consideration in the regular session, but that the money should be used now in time of crisis.

**SEN. SAM KITZENBERG, SD 48, Glasgow**, declared that there were still "goldmines in Montana" and that one was being talked about today. He recalled a meeting the previous fall, when it was suggested to him that if you want to raise a large amount of money in the State of Montana for a health pool or whatever, think about the Worker's Comp fund. That was why he had introduced SB 5. He had hoped to raise $80 million to restore the money that the Governor had already cut and the cuts that were being looked at. He said there was no need to make any cuts during the special session and that there were solutions and

funds out there. He expressed support for **SB 19** and called attention to the fiscal note on HB 5.

**Steve Gettel, Superintendent of the School for the Deaf and Blind**, Great Falls stood in support of SB 19. He said the legislation was critical to maintain an education program and avoid layoffs. $110,000 was cut from their budget for the next school year. He noted they were a 24 hour residential school and that most of their money went into personal services. The school serves deaf and blind children who cannot be educated in the regular school system and 270 children receive services through their outreach program. The $57,000 earmarked in the bill was critical to be able to get through the next school year. He encouraged support for the bill.
***{Tape : 1; Side : B}***
**CHAIRMAN BOB KEENAN**, stated there was $874,000 in the Telecommunications Handicapped account that could be used to "make them whole". He felt that would be entirely consistent with the school's mission and what the tax was for.

**Bruce Messinger, Superintendent of Schools, Helena**, stood in support of SB 19. Trustees found because of declining enrollment, that even with the 1.8% increase in state funding for Helena Public Schools, there would need to be a $1.1 million reduction in expenditures in order to satisfy a cost of living adjustment they made for their employees, he testified. In order to make that reduction they needed to have their flex funds whole and the local option to support that, as well as the timber funds. If some or all of those funds were lost, the board of trustees would need to go back and make reductions of $1.5 to $1.6 million in overall expenditures. Staff had already been reduced and there would be additional reduction of staff and expenditures. The use of flex funds and timber funds were used to pay teachers, buy textbooks, clean schools, buy computers, connect to the internet, he said. If those funds were lost those services would be either delayed or taken away. If the funds were lost for good, even further reductions would have to be made.

**SEN. EVE FRANKLIN SD 21, Great Falls**, recalled 1993. She remembered that her caucus held tenuous control over its members at that time and remembered then majority leader **SEN. GREG JERGESON** convincing enough members of the caucus to impose the tax on workers which was not something supported in the caucus at that time, but the need was there to bail out Worker's Comp. The majority party had to make some decisions and do some things it didn't want to do along with Republican caucus members. She said this might be one of those times of crisis and she urged the measure be passed.

**Dave Tweeter, Montana Rural Schools Association**, declared 70 to 80% of rural schools budgets were being used for salaries and teachers were leaving by the droves. He cited a report that showed 800 to 1200 teachers leaving and the cumulative effect was of concern. Many districts would gladly make up for the shortfall locally, he asserted, but can't do that because of the current budget system. He said that schools have an incredible responsibility to children and that not many businesses have the caps and restrictions that schools have. He urged consideration of SB 19 as a means of salvaging the Montana school system and the children they serve.

**Eric Feaver, MEA-MFT**, rose in support of the bill. He supported the fix for the School for the Deaf and Blind and warned there would be a cost even if those kids had to go somewhere else for their education. The Board of Public Education had a constitutional obligation to generally supervise the schools and were responsible for school accreditation, teacher certification and teacher preparation and writing the rules of operation, he informed the committee and that they can barely afford to meet to do what they are constitutionally obligated to do. They are the system of accountability appointed by the Governor that serve the schools. He warned that HB 4, which would divert funds from the timber cut that was meant for school technology to the general fund, was unconstitutional. He contended that the flex fund was a new idea that the 2001 legislature said was a promise about how schools were going to be funded. It was to give them lots of opportunity to develop new programs and levy against it. About 17 mostly small school districts did levy against it by huge majorities of voters in their districts. SB 19 would restore those monies. He said there was a failsafe in the bill and there was an opportunity to appropriate our own taxpayer money in a time of great need.

**Bob Vogel, Montana School Board Association**, strongly supported SB 19 and saw it as a great way to ease the pain of budget cutting and help balance the state budget.

**Jack Copps, Executive Director for the Montana Quality Education Coalition**, said the coalition represented a large number of school districts across the state that enroll the majority of students in the state. Their purpose was to ensure that there was adequate funding for public education as guaranteed by Article X of the Constitution. The cuts are seen as further reduction in adequacy levels of funding in the state. Historically, the share of money that is being put into education in the state is at a very low level--maybe at the lowest level in the history of the state, he held. He was positive it was at the lowest level in the last fifty years. He contended that the

surplus was a logical source of revenue and urged the committee to look at it as a solution to avoid reducing the funding to education in the state.

**Opponents' Testimony**:

**Carl Swanson, President, Montana State Fund**, asserted that the State Fund insures over 25,000 businesses in the State of Montana. He opposed the bill due to what he believed was an ownership interest of those businesses that have been insured with the Montana State Fund. He acknowledged the challenging budgeting decisions to be made. He did not oppose the merits of funding education and other important needs but the way of going about it and the timing. He said they have a bill that would provide for similar funding in the regular session that would also have impact on FY 03. He recalled the Worker's Comp crisis in the 1980s was brought about by the Old Fund not being structured to run efficiently and effectively as an insurance company and also because of political rate suppression. Montana State Fund at various times tried to get adequate rates. An unfunded liability was built up over a decade. In 1987 a payroll tax was placed on employers and was extended to employees in 1993. In the May 1990 special session, the old State Fund was dissolved, and the unfunded liability was taken over as a state debt. The funding for the Old Fund, the claims prior to July 1 or 1990, was coming from the Old Fund liability tax. A new State Fund was created to be funded entirely by premiums paid by businesses. By law, the new Montana State Fund could not declare any dividends so long as there was an old State Fund liability. So any dividends that the Board declared had to go to the Old Fund. The Board declared several dividends that went to the Old Fund totaling approximately $166 million. He believed that there was an ownership interest because of the $166 million and because Montana State Fund policy holders were paying the Old Fund Liability Tax. The $166 million ended the Old Fund Liability Tax many years earlier than it would have ended. In the 1997 legislative session SB 67 passed. The bill provided that if there was an excess in any year above what was needed to fund the liability and the costs of managing the claims plus a contingency of 10%, the excess would come back to the new fund which would likely be released in the form of dividends to customers. He claimed employers paid approximately 51% of the Old Fund liability and additionally they paid the $166 million He felt there should be a return on investment for policy holders. He said the bill they would have in the regular session would provide for any excess dollars to be transferred back to the general fund instead of the provision that currently exists in SB 67. He believed their customers return on investment would be a strengthened Montana State Fund and language that protects much more strongly the financial standing of the new State Fund. It

would allow it to operate more efficiently and effectively much like other state funds. Regarding the bill that would be proposed in the regular session, he said they withdrew the bill because they were informed that it would unnecessarily extend the special session. They felt they needed time to give the bill full consideration it deserved. He concluded that their opposition to the bill was based not on its being equitable to their policy holders in consideration for their $166 million. They believed it was not the proper time to be discussing the issue and that their bill in the regular session would provide a similar diversion in excess funds to the general fund while strengthening the Montana State Fund for the long-term benefit of Montana businesses.

**Roger McGlenn, Executive Director of the Independent Insurance Agents Association of Montana**, felt the bill set a dangerous precedent and a return to the politicalization of the process. There was a fear that these funds would be raided every time there was a problem. He felt that as long as there were open claims, the funds should not be raided.

***{Tape : 2; Side : A}***

**Jacqueline Lenmark, American Insurance Association** opposed the bill. She noted the association might not oppose the concept in the regular session. She had represented the association in every regular and special session since 1987 and had been involved in the problem of Worker's Compensation since that time. She said it was the AIA's position that the legislature should not make a decision of this import relying solely upon the representations of the State Fund. There should be an independent verification. The AIA also opposed earmarking the funds. The association would support a measure in the regular session if there were an independent examination of State Fund. They would have to know what sort of business form the State Fund might take and how the Commissioner of Insurance might evaluate the business form. She said there must be an assurance of continued, adequate and equal regulation if it is to change its form of business and assurance regarding the excess. The fund has operated in the past under a different set of financial considerations and requirements. An independent decision needs to be made that it would be solvent under a new regulatory scheme. The protection of the consumer is critical. The AIA, along with the State Fund and the Self-Insurers Association worked hard since 1991 to stabilize the State Fund. The State Fund is a critical component to the stability of the three way Worker's Compensation system in Montana. Under its current leadership, the State Fund has become a reliable, stable source

of insurance that fulfills a very important insurance function for the state. She urged a do not pass recommendation.

**Riley Johnson, National Federation of Independent Businesses,** conveyed his opposition to the bill. He noted that the average members of the federation were small employers, insured by the State Fund, and would be hurt if anything happened to the fund. The issue was grave to policy holders, he held, and the decision should not be made in a special session. He felt the issue had not had sufficient study and should be passed on to the regular session.

**Questions from Committee Members and Responses**:

**SEN. LINDA NELSON** asked **Mr. Swanson** about his belief that the money belonged to the businesses that paid into it (the fund. She pointed out the bill, that would have been considered in the special session and will be considered in the regular session, would give up this money. She wondered why the money didn't belong to the businesses that paid into it then.

**Mr. Swanson** replied that all businesses in Montana, as well as employees at one time, were all paying the Old Fund Liability tax. In addition, only those policy holders that were insured with the Montana State Fund gave $166 million to the Old Fund (about 30% of what the Old Fund liability was). In 1997 the legislature recognized that was unique and ended the OFT tax many years earlier. SB 67 provided that at the end of any year the excess beyond what the actuary decided plus a 10% contingency would come back to the New Fund. This would likely be, in part, in the form of dividends going back to customers. He believed that was unique and an additional ownership interest. He felt policy holders should be given something in return for giving up any future excess. His position was to protect the financial stability and service going forward. A non-state agency State Fund would operate more efficiently and effectively, he held. It would be structured similarly to a number of other State Funds in other states. He felt that would be a return on investment for their customers and protect the long term viability of the State Fund.

**SEN. NELSON** remarked they were willing to give it up but wanted something back.

**Mr. Swanson** replied that policy holders should get something in return and they already were from the provisions of SB 67. They would propose giving that up in return for a return on investment for their customers, long term viability, and further removal from the political process.

**SEN. NELSON** inquired about the number of open claims. **Mr. Swanson** replied there were approximately 1500 in the Old Fund (claims prior to July of 1990) which would likely go on for perhaps 30 to 35 years.

**SEN. ROYAL JOHNSON**, inquired about the total amount of dollars those claims were actuarially.

**Mr. Swanson** contended that in June the outside actuary estimated approximately $105 million for the claim benefit liability and the costs of managing those claims.

**SEN. JOHNSON** asked if the cost of managing those claims currently was about $1.2 million.

**Mr. Swanson** believed the amount to be approximately $1.25 maximum per any one year.

**SEN. JOHNSON** asked about the current total reserve funds of the Old Fund.

**Mr. Swanson** stated that assets were approximately $126 million.

**SEN. CHRIS CHRISTIAENS** wondered if the bill that would be proposed in the next session has merit, why he thought it was the money that made what they were proposing in the 2003 session doable.

**Mr. Swanson** answered that it may be doable on its own, but it certainly would provide some consideration as part of a package including the transfer. He noted there were other provisions in the bill for a premium tax, an additional annual revenue to the state. He thought the bill might stand on its own and pass but the prospects of passing would be greater with the tranfer. As part of their bill, they could explain to policy holders that they gave the money up because it would strengthen the State Fund long term. It would make them more efficient and effective as an organization. He could justify their bill to the policy holders. He mentioned that the liability was on a discounted basis of approximately 5.5%.

**SEN. CHRISTIAENS** was interested in what the Old Fund reserves were--$126 million with administration of about $1.2 on an annual basis. His opinion was that those in businesses were also families who had children in the school systems. He had a problem with the disconnect that businesses aren't people and don't have employees who would benefit in this money going out to local schools and school kids across the state.

**Mr. Swanson** did not dispute that point but declared the bill that they were proposing in the regular session would divert any excess funds to the general fund where those needs could be served. He believed his policy holders, who paid $166 million dollars, should have something in return--a more efficient and effective State Fund that would hold rates down and operate much like state funds in other states.

**SEN. BEA McCARTHY** advised that insurance companies that had opposed the bill were worried about both the solvency and the continuancy of the fund. She noted that in the materials provided to legislators by the agency in the interim, there were listings of the bonuses that had been provided in the last few years. The Board of Directors had very generously given bonuses in the last few years to quite a few employees. She asked about the total yearly employee bonuses in the current year.

**Mr. Swanson** explained he didn't have the figure as the year was not concluded yet. **SEN. McCARTHY** asked about last year and **Mr. Swanson** said he would prefer giving the information in writing but ventured that approximately 5% of salaries were paid out. There was a gain sharing program for all employees similar to programs in the industry and for this year they paid out approximately 5% of salaries for all employees as an incentive, not a bonus.

**SEN. McCARTHY** said she understood that and knew how their bonus program worked, but advised that in the reports which the agency had provided legislators in the last few years, they had itemized bonuses the Board of Directors had authorized. She requested a figure on that. **Mr. Swanson** agreed to have staff provide that.

**SEN. JOHN COBB** asked about the bill passing on its own if the money was taken now.

**Mr. Swanson** admitted it could pass on its own but thought the prospects would be reduced.

**SEN. COBB** noted **Mr. Swanson** was looking at his policy holders and the committee was looking at the ending fund balance and a $200 to $300 million cut next session. He said he understood what **Mr. Swanson** was doing but questioned why policy holders would be upset now and not in three or four months. He asked if the amount would be about $8 million the first year.

**Mr. Swanson** speculated it could be more or less as determined by the outside actuary. He felt it could be more.

**SEN. COBB** said it was terrible to take the money now but it would be taken next time anyway if State Fund's bill passed and if the Governor wanted the bill passed it would pass. He said he was just trying to fund ending fund balance. He informed **SEN. DOHERTY** that since there would be a $300 million shortfall in the next session, he thought the Senate should start filling the ending fund balance now. Maybe fix a few little cuts, fix some of what the House did on some of the weird things from the day before and then simply just fill up the ending fund balance up. There would be no way next session to raise or cut that much money. He advised that very little ought to go to education but that the bills should just start putting the money in the ending fund balance and build it up for the wreck next session. He did not want to wait until next session. He felt the Senate had the responsibility to start fixing the problem now. He warned he would be making that motion.

**SEN. TOM BECK** pointed out that one of the things decided in the rules committee was that a fiscal note would be required for bills and asked if one had been requested.

**SEN. DOHERTY** advised he had not requested one but would be happy to do so. He advised he had worked from information provided by the Office of Budget and Program Planning.

**SEN. BECK** said he would like to have the fiscal note. He pointed out the House restored a lot of the cuts in K-12 and that would make a major difference in the bill.

**SEN. DOHERTY** said it was his understanding the restorations were contingent on the passage of SB 19. The House wanted to restore the education funding cuts with this particular pot of money. He said he understood **SEN. COBB's** point and, regarding earmarking, he imagined **SEN. LORENTS GROSFIELD** would get his dander up. He believed with the education funding cuts, that there would be a reduction of money in the flex fund. With reduction of money from the technology account, his constituents were worried about having to raise local property taxes. One way to avoid that was to find a way to fix the education funding cuts. That was why he did it in the bill. He thought it should be dedicated to education to avoid increased property taxes. He understood DPHHS and would have another bill to help out there.

***{Tape : 2; Side : B}***

**SEN. TOM ZOOK** asked if **SEN. DOHERTY** was there in 1993 and if he remembered when 72% of the state budget was earmarked and statutorily appropriated. The legislature was limited as to where to make the reductions. He said he would oppose the bill

just on account of the earmarking. He diputed the remarks made about the lowest level of funding ever. He asked what was appropriated out of the general fund for education in the last session.

**SEN. DOHERTY** said he couldn't remember but had a feeling **SEN. ZOOK** was about to tell him.

**SEN. ZOOK** pointed out that in the summary book it said that because of declining enrollments that "if the legislature would have done nothing to increase state aid to schools that the state would have saved $21.5 million but instead they appropriated $36.8 million increase for schools." He felt the legislature had done their part in that regard. When those kinds of statements were made and never challenged he hated to let them go by, he said. Since 1995 the funding level for schools was $901 million and today it is $2.3 billion, he stated. He felt they had increased state funding for schools but said he wasn't saying it was enough. Over the years, he felt the legislature had been abused by saying they hadn't done their part. He contended that using percentages was misleading.

**SEN. GREG JERGESON** noted that every bill introduced had to coincide with the call for the session and the bill was clearly within the Governor's call to reduce the general fund deficit and that it was clearly a money bill with a clear need for a fiscal note. He wondered why the fiscal notes weren't automatically generated in that case and why it was suggested that somehow the sponsor two days later had to generate the fiscal note. He wondered why that was not done in the first place.

**SEN. BECK** agreed but thought a fiscal note was needed. He said he would talk to the budget director. He assumed that the Work Comp Division would have to come up with a fiscal note. He wanted a fiscal note before any action was taken on the bill.

**SEN. JERGESON** noted part of the difference in the funding level of schools occurred from the fact that the school equalization was de-earmarked. In many respects it was all the same pot of money, he said.

**SEN. ZOOK** advised he had meant $1.3 billion, not $2.3 billion. The total increase over those times was $98.6 million of general fund increase.

**SEN. MIGNON WATERMAN** requested that before taking action on the bill, she would like to have a listing of the current reductions to the school funds as they now stood in HB 2. She said some had been restored.

**SEN. JON TESTER** said he remembered that the Old Fund Liability tax was a surcharge on income tax earmarked towards making the Old Fund Liability whole.

**SEN. DOHERTY** affirmed that it was a surcharge on every paycheck.

**SEN. TESTER** said for people like him who paid those taxes yearly, there was a tax liability at the end of the year on his income tax. In fact what occurred in the 1993 session was an income tax increase that was earmarked to take care of the Old Fund Liability.

**SEN. DOHERTY** agreed.

**SEN. TESTER** reasoned that there was an income tax increase to take care of the $500 million liability. He asked **Mr. Swanson** if he agreed that there was excess money of around $20 million. He stated that every state agency, and he believed Work Comp was one, had stepped up to the plate and made 10% cuts and some even larger. He asked what justification they had in saying no.

**Mr. Swanson** advised that was the type of thinking that created the Old Fund in the first place--politics. He said they were running an insurance company. Good business decisions were being made. He acknowledged that taxpayers paid the Old Fund Liability tax and that it was a deduction on every single paycheck. He pointed out that on top of that businesses in this state that were insured with the State Fund paid an extra, unique $166 million.

**SEN. TESTER** said he appreciated that and agreed and appreciated **Mr. Swanson's** ability as the CEO of State Fund to maintain the solvency because that was critical. He said he was not looking to come back and "raid" any more, and the fact was that Work Comp was not an independent insurance agency. He argued that we weren't going back to 1993. He felt that if the idea was good in the general session it should pass whether the money was there or not.

**Closing by Sponsor**:

**SEN. DOHERTY** closed on the bill. He reasoned that if was okay to take the money in January but not in August, he failed to see the logic. He pointed out that if **Mr. Swanson** did not want to go back to the politicalization of the State Fund, that "You give me privatization and I give you $8 million bucks" was a proposed deal. They wanted something in return. He maintained they would get something in return--an investment in education. There would be a workforce that would be able to add numbers together and get

two and two equals four. They will have folks able to read instructions and act on them. He professed SB 19 was not an irresponsible bill. If it was, the State Fund folks would not have brought forward offering up the excess funds. The language of the bill was taken directly from the operative parts of their bill such as having an actuary determine the amount of money that would pay the 1554 claims. Once the actuary determined that liability, the determination would be made if there was excess. The bill was not a cooked up in the middle of the night scheme to go raid the Workers Comp Fund. He reported there would be no danger of an unfunded liability. He pointed out that if the world falls in with the Old Fund claims that the state would be obligated to come back in under their bill. He understood that the State Fund wanted to get a return on their investment. The return is the investment made in education. He felt that was where the money needed to go and part of the solution in the special session.

## HEARING ON HB 1

**Sponsor**: **REP. DAVE LEWIS, HD 55, Helena**

**Proponents**: **None.**

**Opponents**: **None.**

**Opening Statement by Sponsor**:

**REP. DAVE LEWIS, HD 55, Helena**, advised that HB 1 would pay the expenses for the session. The cost estimates were based on what it costs to run a 12 day session, including salaries for 12 days for legislators, per diem for 14 days, and printing and duplicating costs for the legislative branch. If the session finished earlier, the leftover funds would revert to the general fund.

**Proponents' Testimony**: None.

**Opponents' Testimony**: None.

**Questions from Committee Members and Responses**:

**SEN. CHRISTIAENS** asked if it covered just the per diem and the 12 days of the session, how were the pre-session costs being paid.

**REP. LEWIS** noted it did cover the pre-session costs of committees that met, sponsors of bills that came into committees and majority and minority staff as well.

**SEN. McCARTHY** inquired if the bill covered the pre-session costs of the Legislative staff.

**REP. LEWIS** affirmed that it covered all the additional staff costs for the pre-session and the session as well.

**SEN. JOHNSON** suggested taking executive action.

**Closing by Sponsor**:

**REP. LEWIS** closed on the bill.

## EXECUTIVE ACTION ON HB 1

**Motion/Vote**: **SEN. JOHNSON** moved that **HB 1 BE CONCURRED IN**. **Motion carried 18-0**.

## HEARING ON HB 5

**Sponsor**: **REP. DAVE LEWIS, HD 55, Helena**

**Proponents**: **None**

**Opponents**: **None**

**Opening Statement by Sponsor**:

**REP. DAVE LEWIS, HD 55, Helena**, explained that HB 5 was one of the pieces of the Governor's budget balancing package that was submitted through the House Appropriations Committee. The objective was to recover from the Department of Transportation the general fund that was set up to be transferred into the department in this biennium to offset what was thought to be a revenue loss in HB 24. It turned out that the Department of Transportation did not have an appreciable revenue loss and in fact their fund balance was much larger than had been anticipated. The bill would recover the general fund transfer for a total in 2003 of $2.8 million and struck the $2.8 general fund transfer in 2002. There was also a reduction of $1.2 million in research and commercialization grants from the Department of Commerce. He recalled that was about $4.8 million per year which would be reduced in 2003 by an additional $1.2 million. He noted the Governor had already taken $485,000 out.

**Proponents' Testimony**: None.

**Opponents' Testimony**: None.

**Questions from Committee Members and Responses**:

**SEN. COBB** asked about the fiscal note language that the DOT would receive a general fund transfer in FY 2004 of $2.9 million and whether that was original law.

**REP. LEWIS** advised that was in the original law. The new biennium would not be affected at this point. As part of the Governor's budget there was also an additional fund transfer of $8.2 million from the fuel tax account to pay for driver's licenses. That was included in HB 22 which was tabled in committee. The only effect on the Highway Transportation account included in this bill would be in the recovery of the general fund that was included in HB 124 originally.

**SEN. COBB** asked if that was $7 million.

**REP. LEWIS** said the totals were $2.8 for FY 2003 and the 2002 transfer was about the same amount--so a little over $5.6 million.

**SEN. COBB** asked if it was correct they could not use that money this year.

**REP. LEWIS** replied they were fully matched this year with the federal transportation department.

**SEN. COBB** asked if it would cause a gas tax price increase 2 or 3 years from now.

**REP. LEWIS** maintained that was why the additional transfer of $8.2 million was tabled because of concern of moving closer to a gas tax increase. He felt a gas tax increase would not be due in the foreseeable future; not until 2007 would there be an issue. That would depend on the size of the next federal highway program.

**SEN. COBB** asked if HB 22 was part of the Governor's package and if they were short that money now too.

**REP. LEWIS** answered yes.

**Closing by Sponsor**:

**REP. LEWIS** closed on the bill.

## HEARING ON HB 7

**Sponsor**: **REP. DAVE LEWIS, HD 55, Helena**

**Proponents**: **None**

**Opponents**: **None**

**Informational Testimony:**

**Kathy Fabiano, Office of Public Instruction**

**Opening Statement by Sponsor**:

**REP. DAVE LEWIS, HD 55, Helena**, explained that HB 7 was a lot more complex. There were no dollars involved in HB 7 but the fiscal note contained a potential liability that would be avoided. It showed on the fiscal note that if the bill was not passed there would be a $46 million liability booked to the general fund. He advised that part of SB 495 involved a loan from the coal trust fund to a sub-fund of the general fund so the money could be used for the support of public schools. The legislative fiscal analyst and the auditor's office recommendation was to set up a new dedicated revenue fund for school revenues and book the loan to that fund. He advised there were some technical amendments to the bill.

***{Tape : 3; Side : A}***

**Curt Nichols, Office of Budget and Program Planning**, informed the committee that when the bill was put together they rolled together the 40 mils and the 55 mils that were dedicated to schools and the guarantee account which was the old school interest and income account and the changes made by SB 495. In subsequent discussions with the **Legislative Fiscal Division** and the **Office of Public Instruction**, it was found that in order to accomplish getting the $46 million charge to the general fund off, all they needed to do was to move the guarantee account to state special and out of the sub fund to the general fund. When the 55 and 40 mil levies were rolled in a problem was created. In order to keep track of funding for schools during a legislative session, appropriations and revenue estimates would have to be adjusted every time a property tax bill was passed and so the 55 and 40 mils would be taken out of the dedicated school revenue account. That was what the proposed amendments would do. The name of the fund would be changed to guarantee fund.

**Proponents' Testimony**:

**Mr. Nichols** advised the budget office and the Governor's office supported the bill. It would clarify the guarantee account and avoids a $46 million charge to the general fund.

**CHAIRMAN KEENAN** advised that with amendments a new fiscal note would be needed.

**Opponents' Testimony**: None.

**Questions from Committee Members and Responses**:

**SEN. JOHNSON** asked if the payback for the situation would be the exact same payback as before. The understanding was that the payback was going to come from two different sources. Money flowed into the coal trust and was allocated to this and the second way was the hope that the stock market would take care of the $46 million.

**Mr. Nichols** noted the financial arrangements in the guarantee fund in SB 495 would be unchanged. All it would do would move the guarantee fund from a sub fund of the general fund to the state special revenue fund. All the fiscal effects related to that would stay the same.

**SEN. JOHNSON** held that the revenues from natural resources might be down a little bit as well as the stock market.

**Mr. Nichols** advised he had not "done the stock market thing yet".

**Informational Testimony:**

**Kathy Fabiano, Office of Public Instruction**, advised they had worked closely with the budget office on the bill and agreed with the proposed amendments. She noted the bill did complicate the accounting for payments to schools but said that those who work with school finance were used to complicated. They felt it was a good bill.

**Closing by Sponsor**:

**REP. LEWIS** closed on the bill. It would get part-way back to having earmarked accounts for public school support. He said the bill was a necessary fix.

## HEARING ON HB 8

**Sponsor**: **REP. DAVE LEWIS, HD 55, Helena**

**Proponents**: **Arnie Fishbaugh, Director, Montana Arts Council**
**Stewart Doggett, Montana Innkeepers Association**

**Opponents**: **None**

**Opening Statement by Sponsor**:

**REP. DAVE LEWIS, HD 55, Helena**, advised that HB 8 was a Budget and Program Planning bill and part of the original budget package. The bill would replace general fund with bed tax fund for the funding for cultural and aesthetic grants. He said many of the projects would generate tourism and were an appropriate use for tourism dollars.

**Proponents' Testimony**:

**Arnie Fishbaugh, Director, Montana Arts Council**, testified that the Arts Council administers the program and were a proponent of the bill.

**Stewart Doggett, Montana Innkeepers Association**, supported HB 8. They understood that bed tax reserve funds that had accumulated in the Department of Commerce would be used on a one-time basis to solve some of the budget problems in the state. He hoped it would be on a one-time basis as the industry was in flux right now.

**Opponents' Testimony**: None.

**Informational Testimony**: None.

**Questions from Committee Members and Responses**:

**SEN. WATERMAN** asked for clarification regarding funding that was removed on the House floor to some of the programs like the Historical Society.

**REP. LEWIS** said the amendment on the House floor that reduced the lodging tax funding for various programs was separate from that in the bill.

**Closing by Sponsor**:

**REP. LEWIS** closed on the bill. He was pleased that the industry stepped forward and agreed that this was an appropriate use of their funds.

**Motion/Vote**: **SEN. JOHNSON** moved that **HB 8 BE CONCURRED IN**. **Motion carried 18-0**.

**-recess-**
**-reconvene-**

## HEARING ON HB 12

**Sponsor**: **REP. DAVE KASTEN, HD 99, Brockway**

**Proponents**: **None**

**Opponents**: **Eric Feaver, MEA-MFT**

**Opening Statement by Sponsor**:

**REP. DAVE KASTEN, HD 99, Brockway**, advised HB 12 would generate approximately $1.4 million general fund through a state-wide hiring freeze with each approving authority determining critical exemptions. He stated that on August 1, **Governor Martz** issued an executive order implementing a hiring freeze on executive branch agencies that reported to her. On August 2, the **Office of Budget and Program Planning** issued procedures to implement the freeze. The procedure excluded the elected officials, the Montana University System, the State Fund, PRS and the Teacher's Retirement. Upon passage and approval of HB 12, these procedures would cover the offices of elected officials, **REP. KASTEN** advised. In addition, the Legislative and Judicial branches of government would be included through their own approving authorities. The University system would be exempt.

**Proponents' Testimony**: None.

**Opponents' Testimony**:

**Eric Feaver, MEA-MFT**, representing about 3000 state employees and all the organized faculty in the University system, rose to oppose the bill. He felt it was a real harmful bill. He didn't know how public employees could be expected to provide quality programs and services and how clients should expect to receive them should the employment freeze pass. He argued he didn't know the difference between essential and non-essential employees nor was he sure how approving authorities would either. The people providing the work would not be happy. He maintained there was another way to get out of the special session and it was called increased taxes and there were bills to do that as well as SB 19 which would help the education industry.

**Informational Testimony**: None.

**Questions from Committee Members and Responses**:

**SEN. JOHN COBB** asked about the $1.4 million in savings and which agency that would come out of. He wondered if it was an estimate. He questioned the validity of the number.

**Jane Hamman, Office of Budget and Program Planning**, recounted that they looked at the 485 currently vacant positions and exempted certain selected ones such as some of the nurses and

corrections officers and did a calculation using what they thought would be saved over the course of the year.

**SEN. COBB** inquired if that would include all agencies, including **DPHHS**. **Ms. Hamman** said that was correct. **SEN. COBB** noted they already had 6% vacancy savings and wondered if they were being double cut. There was already a hiring freeze on them. They had to cut their budget to fund shortfalls. He was curious about double counting.

**Ms. Hamman** advised they were looking at taking 25% of a vacant position on a monthly basis. That would be set aside and frozen in the same way as the Governor's reductions were frozen at the beginning of the year. Then they would do an application and if it were determined that position needed to be filled, then that amount would be returned to the agency and if not it would be left in personal services. Because HB 2 locks up personal services, it could not be used elsewhere and then would be a reversion.

**SEN. COBB** reasoned that **DPHHS** already had a hiring freeze so a hiring freeze was being put on top of that hiring freeze.

**Ms. Hamman** asserted that a few agencies had initiated a hiring freeze on their own earlier, but the purpose of the bill was to move the hiring freeze statewide, allowing looking at every position in the workforce, and to begin to prepare the budgets for the next biennium.

**SEN. COBB** asked if there were a list of vacancies in each agency so he could find out where the $1.4 million was because half of the vacant positions were in **DPHHS** which already had a hiring freeze. He felt the number was bogus.

**Ms. Hamman** explained the list would be changing from week to week and month to month as people transfer and positions become vacant. They were not saying that on any list today, they could count $1.4 million, but over the course of FY 2003 that would be saved.

**SEN. COBB** reasoned this was not a real bill or real fiscal amounts. With the hiring freeze already in place, the bill was not needed.

**Ms. Hamman** declared that none of the elected officials were covered by the Governor's executive order for the judicial and legislative branches. Without the bill, those folks would not have a hiring freeze.

**SEN. COBB** asked if they would approve their own hiring freeze and money would be taken out of their budgets.

**Ms. Hamman** stated they assumed that a proportion of the vacant positions would not be filled and the proportion of that not required for termination pay or other vacancy savings requirements already in place would revert. The fiscal note was counting a projection of the reversion for FY 2003 as a result of the vacant positions.

**SEN. COBB** asked if the House took out 1 or 2% vacancy savings in action the previous day.

**Ms. Hamman** reported the House took a 1% across-the-board general fund cut.

**SEN. COBB** maintained he was concerned about double counting and the impact to **DPHHS**. They already had a hiring freeze and were using the money to fund shortfalls in human services and other areas and with another hiring freeze on top of that, they would have to go find extra money.

**Ms. Hamman** did not believe that was the case. She felt there were other problems regarding **DPHHS** that still had to be addressed.

**SEN. COBB** inquired if the 485 current positions were non-critical or if they were all the current vacant positions.

**Ms. Hamman** stated those were all the vacant positions at the moment they did the snapshot. The plan would be to update that on a weekly basis and they would work with the agencies monthly on the amount.

**SEN. COBB** reiterated that they double counted human services.

**SEN. GREG JERGESON** inquired whether they were adjusting their reversion estimate downward because they were grabbing all the savings that otherwise would occur with the reversions.

**Ms. Hammon** noted she had not been in the committee that had been working on the revenue estimates so was not familiar with what they had been doing with the reversion estimate.

**SEN. JERGESON** asked if she agreed that reversions were reduced when those kinds of cuts were made in those budgets. There would be nothing there to revert. **Ms. Hammon** agreed. She noted that personal services were locked up by the provision in HB 2 so that it could not be spent for any other categories. If there were

vacant positions there still would be reversions in personal services.

**SEN. JERGESON** asked about the change in the ending fund balance of $5.6 million that suddenly came to light the day before and whether that was because reversions were lowered or where the difference came from. **Ms. Hammon** said she had not been in the meetings about that and could not answer.

**SEN. DEBBIE SHEA** wondered if state employees that were paid with federal funds were included as well. **Ms. Hammon** said it would include all employees because it was the easiest and most efficient way to implement the hiring freeze in the HR system. They could look at the requests under federal funds to approve the hiring of those folks if it was 100% federal funds. Many people in state government were split funded and the split-funding changes sometimes from week to week. The only way to be assured of being able to get ahold of the general fund was to do the freeze statewide. Then if someone were 100% federally funded or if the funding was federal fund and state special to be able to approve those positions. **SEN. SHEA** was concerned with job services throughout the state which were 100% federally funded. She reasoned that those positions were critical when more and more people were going to be out of work and to be handing back federal money at this stage was ridiculous. **Ms. Hammon** noted that firefighters and prison guards were immediately exempted. If there were jobs in job service that were 100% federal, they would be approved. There was no intent to not spend federal funds which were needed in our economy more than ever. **SEN. SHEA** asked about the procedure to get on the list. **Ms. Hammon** stated there was a form and that all the centralized services administrators had been informed as well as agency directors and all those involved in hiring in state personnel in all state agencies by e-mail and the form can be e-mailed back.

**CHAIRMAN BOB KEENAN** inquired about the six vacant auditor positions in **DOR** and wondered if they were part of the freeze. **Ms. Hammon** noted that they currently would be and they would be considering a request from the director of the agency for an exemption.

**SEN. COBB** asked if the bill passed and the legislature wanted to fund some auditors and collection people in HB 2, would the bill override that funding. **Ms. Hammon** clarified it would be an indication of legislative intent. **SEN. COBB** said that in HB 2, benefit money in **DPHHS** could be moved into personal services. He was concerned that with a double cut, that benefits would be cut. **Ms. Hammon** agreed that they didn't want that to happen. **SEN. COBB** asked if the legislature could revise the fiscal note down.

**Ms. Hammon** advised discussing the issue with **Amy Cissano**. **SEN. COBB** advised he would talk to staff about revising the amount.

***{Tape : 3; Side : B}***

**SEN. WATERMAN** expressed concern that **DPHHS** had already done a hiring freeze to meet the other budget cuts. If they were hit with an additional hiring freeze any positions left open would be used to meet the requirements of the bill and they would be forced to make deeper cuts in other areas. She suggested eliminating the non-critical services rather than eliminate the person who performed the non-critical services. She remarked that in **DPHHS**, caseloads were going up, there were less people but we were not asking them to do less work. If state government was doing non-critical services, it would be appropriate to tell the taxpayers of Montana that those services could no longer be provided rather than water down the services and provide them six weeks later.

**REP. KASTEN** asserted that couldn't be figured out in a special session and there needed to be flexibility for departments. He noted that in the last session an additional 488.73 FTEs were added. The district court transfer was 250 of those, but 238 other FTEs were added. He felt some of those were non-critical and the issue would come up in January.

**SEN. WATERMAN** stated that a special session was the time to do that and that other states had gone back and eliminated services, not just the staff. Other states that were meeting in special session were telling their taxpayers that they were not going to perform a service or only once a quarter or four days a week instead of five. She felt they needed to tell Montanan's they had made tough decisions, not just cut the budget--actually reduced services that Montana's had asked be provided. Otherwise it was a disservice to the employees.

**SEN. JERGESON** asked if the FTE's were strictly general fund FTEs or all the FTEs that came with the increase in federal funds.

**REP. KASTEN** declared that was all added by legislative action in 2001 in HB 2.

**SEN. JERGESON** asked if that was all FTEs no matter what the funding source.

**REP. KASTEN** answered yes and that approximately 250 were with the transfer of the district courts.

**SEN. McCARTHY** asked about postponing the district court assumption, begun the previous month, for two years and how much difference that would make with the bill.

**REP. KASTEN** referred the question to staff.

**Ms. Hamman** contended it would not affect the bill at all. The district court employees were not included in the initial vacancies. They did not make any assumptions about what the Supreme Court would decide was critical and non-critical.

**SEN. COBB** noted that it was the first time he had ever seen a bill regarding FTEs. The legislature usually just funded personal services and doesn't wipe out or add FTEs. He wondered about the legality of the bill in telling agencies to do hiring freezes in this way.

**Ms. Hamman** expressed the belief that the bill was legal and it was just a hiring freeze. They would not be eliminating FTEs that had been authorized previously but saying the position could not be filled at this point in time due to the fiscal circumstances of the state.

**SEN. COBB** suggested instead of doing a snapshot, to go further and say that would be the personal services for the next budget. **Ms. Hamman** advised that would take an amendment in Title 17 under the provisions of developing the budget. However, it was only fair to say given the revenue projections, that those positions held vacant would be the first ones on the list and would require a negative decision package in the Governor's budget as a recommendation to the next session of the legislature that they be removed. **SEN. COBB** reasoned that basically if they were vacant, they would get rid of the positions. **Ms. Hammon** advised they could be recommended for removal.

**Closing by Sponsor**:

**REP. KASTEN** closed on the bill. He advised the bill included the Secretary of State, the State Auditor's office, OPI, and the Attorney General that the Governor's freeze did not include.

-recess-

-reconvene 1:30 p.m.-

## HEARING ON HB 6

**Sponsor**: **REP. SYLVIA BOOKOUT-REINECKE, HD 71, Alberton**

**Proponents**: **None**

**Opponents**: **None**

**Opening Statement by Sponsor**:

**REP. SYLVIA BOOKOUT-REINECKE, HD 71, Alberton**, opened on HB 6, stating that the bill came about because she was on the Board of Crime Control. The last legislature transferred the juvenile probation system to the Department of Corrections and forgot to transfer $800,000. The bill would change the state vehicle mileage allowance to 18 cents per mile.

**Proponents' Testimony**: None.

**Opponents' Testimony**: None.

**Informational Testimony**: None.

**Questions from Committee Members and Responses**:

**SEN. CHRISTIAENS** asked about the number of vehicles in the state pool and how much was being spent for purchasing and/or leases in a fiscal year.

**David Galt, Director, Department of Transportation,** advised there were 800 vehicles in the state motor pool of which 600 were leased and 200 were on-call vehicles. He did not provide the budget amount but noted it was an internal fund subsidized by rates charged to those vehicles.

**SEN. CHRISTIAENS** asked that the figures be provided.

**SEN. JERGESON** inquired if a legislator would be required to take a motor pool car if there was a motor pool car halfway between their home and destination.

**REP. REINECKE** held that would be problematic and that if there was a motor pool car where the legislator lived, they would be reimbursed.

**SEN. JERGESON** asked about state employees living in a location where there was not a motor pool car available even though where they worked a motor pool car would be available. If they were going in the opposite direction from the place they worked and lived in the opposite direction and a motor pool car were available, would they have to backtrack to take the motor pool vehicle, he inquired.

**REP. REINECKE** explained that would be up to the supervisor. The motor pool car could be taken the night before. In fact, she stated, what was happening under the prior leadership in the Department of Correction employees were only asking supervisors for permission to drive a motor car and automatically drove their personal car.

**SEN. WATERMAN** asked if 100% of the 50% of employees in the fiscal note would use motor pool cars.

**Ms. Hamman** declared the figures were compiled by the Legislative Auditor's office. The budget office reviewed those and looked at the distribution of motor pool cars across the state and other state-owned vehicles and took half of the original estimate.

**SEN. WATERMAN** noted that there was a problem realizing projections and asked if there were enough motor pool cars in Helena for everyone who would be traveling or would mileage end up being paid anyway.

**Mr. Galt** believed there were. If demand was high, there was an overflow contract with the rental agency. They had yet to not provide cars when needed but he was not certain about the future.

**SEN. WATERMAN** asked if there were an additional charge not reflected in the fiscal note if additional rental cars were needed.

**Mr. Galt** replied that would be internalized in the internal fund and reflected in the rates in the next session.

**SEN. WATERMAN** asked if an increase in rates might be forced next session.

**Mr. Galt** acknowledged those rates would go up.

**SEN. JACK WELLS**, citing his 30 years experience in the Air Force, commented on the misuse of government vehicles and asked about requirements for proper use. He favored asking all state employees to be frugal and attentive to basic requirements.

**Mr. Galt** thought those rules came out of the Department of Administration. He said all complaints about the misuse of state vehicles were taken and registered.

**SEN. JERGESON** asked if the 25% travel reduction still existed in HB 2 and what portion of the savings in the bill were anticipated to be accomplished by that reduction and wondered if a savings was being double-counted.

**Jon Moe, Legislative Fiscal Division,** asserted they would be two separate amendments. The 25% reduction was reducing the amount of travel. Those that do travel would be subject to the change.

**SEN. JERGESON** held that in order to reduce expenditures to meet the 25% reduction, agencies would probably impose the restriction on employees and the same dollar would be counted as savings. There were two different strategies for getting to it. Rather than getting into "Arthur Anderson" accounting it should be clarified that the savings were real and not duplicated.

**Mr. Moe** asked if the costs that were used as the base were actual costs from 2002.

**Ms. Hammon** affirmed the costs used by the auditor's office were personal car mileage.

***{Tape : 4; Side : A}***

**SEN. JERGESON** wanted to be sure that the savings were accounted for properly because HB 2 contained a 25% reduction in dollars for travel and supplies. As a manager looks at meeting that reduction in their agency, it might be one of the strategies that they would employ. To count on the fiscal note on the general fund balance sheet would be a double counting of the savings.

**Ms. Hammon** advised the reductions in travel had certainly affected what was happening with the bill. Agencies would just have to manage their travel even more carefully than they were before. She felt there would be some adjustments.

**SEN. BECK** advised the fiscal note was signed on July 22 before the global amendment for the 25% travel was taken out. He felt the savings would be 25% less and that the figure would be difficult to get and might be overestimated.

**SEN. ZOOK** stated the budget office only used 50% to start with of what the auditor was offering so there would probably be a cushion. He felt the figures were probably about as good as they might get.

**SEN. JERGESON** held the figures could be accurate as to the savings that could be generated but they were probably savings that were generated by the 25% reduction. He felt the savings were already imbedded in the 25% reduction and should not be counted on the status sheet. People would be told to use a motor pool car when available or if the bill passed to only collect the reimbursement for a motor pool car when they used their personal car.

**SEN. TESTER** asked if the $400,000 included all state travel. **Ms. Hammon** answered yes. **SEN. TESTER** understood that a certain amount of travel was paid by state and federal special revenues so the $400,000 wasn't necessarily saving to the general fund. It would be savings to overall travel and the state special travel and federal special travel would have to be taken out to get the general fund savings.

**Ms. Hammon** indicated the fiscal note had $400,000 for the general fund and $800,000 for all.

**SEN. ZOOK** advised that 25% of the $830,000 general fund for FY 2001 would leave $621,000. The savings estimate was $400,000 so there would be some cushion.

**CHAIRMAN KEENAN** advised that the cut was made to reduce the budget but a department could take money from somewhere else if they had to travel. HB 6 would be motivational to lower the cost of travel.

**SEN. McCARTHY** expressed her concern about double counting.

**SEN. JOHNSON** agreed.

**REP. REINECKE** said it was only general fund money.

**SEN. JOHNSON** said his question was not just that it was general fund money but that it was also included in HB 2 Section A--the same type of bill that reduced travel. That bill was also for $1.3 million.

**REP. REINECKE** agreed that was true.

**SEN. JOHNSON** questioned whether the bill duplicated what was in HB 2.

**REP. REINECKE** disagreed saying HB 2 reduced the amount of travel and the dollar amount by 25%. HB 6 dealt with how they get paid for their travel. It would be up to the director and supervisor how to save the money. If he could save the 25% with HB 6, he would be ahead.

**SEN. JOHNSON** asked why use non-general fund revenues--why would this apply to state special and federal revenues.

**REP. REINECKE** did not believe it did--that it was only general fund money.

**Mr. Galt** explained that if someone from the Department of Transportation used their car and was paid travel it would be allocated out of special revenue. If that person was working on a project, it would be charged to the federal project, so there would be federal revenue involved. The total on the fiscal note represented all funds. It was broken out be general fund revenue and all other revenue. There was some impact to all funds because of the revenue source that the agency that was paying the employee was funded by.

**SEN. JOHNSON** asked if there was another section of HB 2 that might also be included.

**Mr. Galt** thought that perhaps there was a small amount of revenue overstated because of the 25% reduction. The 25% reduction was all travel which included meals, lodging, car mileage, air miles, per diem accounts and travel accounts. HB 6 was just talking about cars. If car mileage was broken out as a percent of all travel and reduced that it would not be even $100,000 as suggested by **SEN. BECK** and **REP. REINECKE**.

**SEN. JERGESON** advised he commuted 45 miles 5 days a week. He could calculate what that cost him on a weekly basis. If he decided for his own family budget to reduce the cost of his travel by 20% he might telecommute one day a week, or get a different vehicle with better gas mileage. Those would be strategies toward achieving his goal of reducing his travel costs in his family budget. He held the bill would provide a strategy to meet the goal to reduce travel expenditures by 25% in HB 2. To put both on the status sheet would be double counting.

**SEN. WATERMAN** asked if there was any increase in cost to the motor pool reflected in the budget for the increased gas and maintenance of the cars if more vehicles were in circulation.

**Ms. Hammon** replied the fiscal note reflected the anticipated savings as a result of this strategy being applied as a matter of substantive law. The motor pool is driven by the rates and folks would pay for the mileage that they drive. That would include the gas.

**SEN. WATERMAN** advised that taxpayer dollars would pay for that somewhere and that was not reflected in the fiscal note.

**Ms. Hammon** stated that the agencies would develop their travel budget based on the budget that they have coming out of this session and the number of miles they need to drive to do their jobs. The motor pool would be a part of that.

**Closing by Sponsor**:

**REP. REINECKE** closed on the bill. She said the fiscal note was based on figures from 2001 and the first three months of 2002. She still thought the bill was a good idea. When HB 2 was finalized the money would not be counted twice. It would still give managers a strategy to save the 25%.

## HEARING ON HB 9

**Sponsor**: **REP. STAN FISHER, HD 75, Bigfork**

**Proponents**: **None**

**Opponents**: **None**

**Opening Statement by Sponsor**:

**REP. STAN FISHER, HD 79, Bigfork,** advised HB 9 would address the general fund shortfall with the use of funds from the Resource Indemnity Trust Fund, the Reclamation Development Grant Program and the Orphan Share. The reductions in the RIT fund would be taken in part from the weed eradication program in the Department of Agriculture in the amount of $200,000. They had planned to take $500,000 but took $300,000 and reimbursed the Conservation District for the weed control. HB 9 with amendments would enable the transfer of $1 million from the RIT fund to the Reclamation and Development Grant Program. This $1 million would be used as a funding source to offset the general fund reduction in HB 2. Since the RIT is a trust fund, funds could not be appropriated from it, so the funds needed to be transferred to the Reclamation and Development Grant Program in order to achieve the proper funding. The bill would also reduce the oil and gas and mineral mine tax revenues to the Reclamation and Development Grant Program by $1.17 million. It would further reduce the RIT interest in the future fisheries program by $150,000 with reductions to continue through 2005. The Orphan Share Fund contained about $300 million of which $1 million would be deposited in the general fund. The bill was a shifting of funds within the budget in order to reclaim the funds into the general fund.

**Proponents' Testimony**: None.

**Opponents' Testimony**: None.

**Questions from Committee Members and Responses**:

**SEN. CHRISTIAENS** asked if some of the numbers on the fiscal note were different due to action in the House.

**REP. FISHER** said that was correct. Originally the bill would take $500,000 from funds designated to the Agriculture Department for weed control. That was reduced to $200,000 in Appropriations Committee and the $300,000 was given back to the Conservation Districts for weed control.

**SEN. CHRISTIAENS** asked if that was added to the Ag weed eradication area. **REP. FISHER** said it went to the Conservation Districts. **SEN. CHRISTIAENS** restated that instead of $300,000 it would now leave Ag $200,00 and **REP. FISHER** said that was correct and that was the only other change.

**SEN. BECK** asked if the bill originally eliminated $500,000 from the RIT to the weed program and was changed to leave $300,000 in that weed program.

**REP. FISHER** said that they took $200,000 that would have gone to the Department of Agriculture and then $300,000 was transferred to the Conservation Districts.

**SEN. BECK** stated there was $300,000 left in the Department of Agriculture for weed control **REP. FISHER** said that was correct. **SEN. BECK** said that $200,000 went to the Conservation Districts because there was another $250,000 pulled out someplace else. **REP. FISHER** said he understood that to be true.

**SEN. McCARTHY** asked **John Tubbs**, **Department of Natural Resources and Conservation**, to clarify where the money came from and where it ended up.

**Mr. Tubbs** indicated that the issue of the $500,000 and the changes to HB 2 and HB 10 would get interjected into this. The program was originally cut by $500,000 as recommended by the Executive. In appropriations they changed that with amendments and the cut that they took to the weed program was $200,000. They restored $300,000 to fund the weed program in the Department of Agriculture. The Conservation District issues were in HB 10.

**SEN. BECK** asked where the $200,000 went and **Mr. Tubbs** said it went into the general fund. The $200,000 goes to Reclamation and Development grants and there was an offset in the general fund. They transferred general fund appropriations to utilize those revenues.

**SEN. BECK** asked if they were utilizing the $200,000 in grants but offsetting general fund money by doing it. **Mr. Tubbs** said they

were using it to run operations in the Department. It was actually a two step process--move the money into the Reclamation and Development grant and take the appropriations out of HB 6 state special to get the savings.

**SEN. NELSON** asked about the hit to Eastern Montana because there was not much federal land.

**Ralph Peck, Director, Department of Agriculture,** advised they did receive some funding from the U.S. Forest Service for $800,000. There were requirements that there be 10% tree cover and proximity to some federal impacted land. To mitigate the impact, the $300,000 would be divided by 56 and allocated back to counties for the Conservation Districts.

**Closing by Sponsor**:

**SEN. FISHER** closed on the bill.

## EXECUTIVE ACTION ON HB 9

**Motion**: **SEN. JOHNSON** moved that **HB 9 BE CONCURRED IN**.

**Discussion:**

**SEN. BECK** advised that $200,000 would be going back to the general fund. The original request by the Governor's office was for $500,000 to go back to the general fund.

**Motion**: **SEN. BECK** moved that **HB 9 BE AMENDED TO RESTORE THE AMOUNT TO THE ORIGINAL AMOUNT OF $500,00**0.

**SEN. CRISMORE** asked for clarification. **SEN. BECK** said that money would come back out of the general fund in HB 10 to fund the Conservation Districts.

**Gary Hamel, Legislative Fiscal Division,** explained that there was going to be $500,000 from the excess RIT trust balance. HB 9 struck the language to transfer that funding out of the excess trust balance. The amendment to HB 9 put $300,000 back into the weed district. What remained was $700,000 that was going to be transferred from the excess funding in the RIT balance out of the trust and into the DNRC. A funding switch occurred in HB 2 to replenish the general fund in the amount of $700,000. $300,000 remained in the weed district.

**SEN. BECK** asked if he wanted to get the $1 million back there. Even though it would be done in HB 9, it would still have to be adjusted in HB 2, he stated.

**Mr. Hamel** said that was correct--HB 9 would have to be amended and then HB 2.

**SEN. COBB** asked where the amendment would go in the bill.

***{Tape : 4; Side : B}***

**Mr. Hamel** advised that on the last page of HB 9 there was some language struck and that would have to be changed from $300,000 to 0.

**SEN. CHRISTIAENS** declared that the money was allocated in the last session and came from the money that was going to be in excess once the RIT was capped at $100 million. It was on that basis that those other programs were funded in anticipation that the $500,000 was going to be available for weed eradication. Long Range Building would have prioritized which programs got funded first. He wondered where the weed district would have been in the priorities.

**Ms. Hammond** advised weeds was first on the priority list, but when the Department of Agriculture received the additional federal funding, the budget office consulted with them about making an adjustment.

They had planned to take $500,000 but took $300,000 and reimbursed the Conservation District for the weed control.

**SEN. McCARTHY** asked if any federal matching funds would be lost with the removal of the money.

**Ms. Hammond** answered no.

**SEN. WATERMAN** commented that she would support **SEN. BECK's** amendment. Although she thought weeds were a serious problem, it was a priority that would have to be reduced.

**Vote**: Motion **TO AMEND HB 9 carried unanimously**.

**Motion/Vote**: **SEN. JOHNSON** moved that **HB 9 BE CONCURRED IN AS AMENDED**. **Motion carried 16-2 with Jergeson and Nelson voting no**.

## EXECUTIVE ACTION ON HB 7

**Discussion:**

**SEN. CHRISTIAENS,** questioned the amendment, asked if the amount of money from timber sales was equal to what has been generated

in the past and in the previous full session or was it a new number.

**Valencia Lane, Legislative Services,** explained that Amendment #17 was an amendment to the coordination instruction found in HB 4. HB 4 contained a coordination instruction to HB 7. Whatever HB 4 did, it had a second section in it that said if HB 7 passes, the amendment made in the bill would change the name of the fund. The amendments change the name of the fund in HB 7. She advised the committee not to concern themselves right now with Amendment #17 as it was only a technical amendment to make the two bills work together.

**Motion/Vote**: **SEN. WELLS** moved that **HB 7 BE CONCURRED IN** and **AMENDMENTS TO HB 7 BE ADOPTED**.

**SEN. BECK** asked if HB 4 should be brought back from the Senate Taxation Committee and discussed before acting on HB 7. **Ms. Lane** advised they could move HB 7. She said they were tied through the coordination instruction but were separate concepts. It involved a name change of an account. She said HB 4 was very controversial.

**Vote**: Motion that **HB 7 BE CONCURRED IN and AMENDMENTS BE ADOPTED carried unanimously**.
**Motion/Vote**: **SEN. WELLS** moved that **HB 7 BE CONCURRED IN AS AMENDED**. **Motion carried unanimously**.

## EXECUTIVE ACTION ON HB 12

**Motion**: **SEN. ZOOK** moved that **HB 12 BE CONCURRED IN**.

**Discussion:**

**SEN. COBB** stated that HB 12 was a hiring freeze on agencies the Governor did not control budget-wise and they would now have to go through the Governor to get any FTEs they would have gotten before under their own hiring freeze. He asked if the Department of Justice would have to get permission to hire anybody.

**Mr. Moe** explained there was an approving authority for the different groups.

**SEN. COBB** noted the fiscal note could not be changed so he would just go into HB 2 and reduce the amount.

**SEN. NELSON** asked about the concern over the double hit on DPHHS and wondered if anybody got an answer on that.

**SEN. COBB** advised they had a hiring freeze that would go into effect August 15 and felt it was a double count. He would make a motion in HB 2 to reduce it. He said he would not vote for the bill anyway.

**SEN. ZOOK** felt that was not a real concern because the budget director would be the approving authority for DPHHS and if they had needs to hire more people it would be approved if they could convince the budget director of that. There was time to determine whether there was a double count, he held.

**SEN. COBB** warned against counting on extra money that was already counted.

**SEN. WATERMAN** stated that when the issue of the 25% travel was passed in Appropriations, she asked **Gail Gray, DPHHS**, about the effect and she indicated that they had already frozen positions and that they had already eliminated travel and supplies based on some of the other cuts to the agency. She anticipated that any vacant position would be counted against HB 12. The department would then have to go find their savings they thought they would have through vacancy savings in another area and would have to make deeper cuts in other areas because HB 12 would count the savings that they were going to count. She reiterated that it was disingenuous on the part of legislators to tell people they are going to provide more services to a greater caseload with less employees. She held that the legislature should be reducing services--drivers license and welfare offices could be open only 4 or 4 1/2 days a week--services should be reduced, especially if they were "non-critical" employees. That would mean the service was non-critical. Those "non-critical" services should be suspended for the rest of the biennium and she felt it wrong to not do that hand in hand with the bill.

**SEN. COBB** asked if vacant positions were already being used to fund existing positions (in DPHHS) and if double counting was involved.

**Gail Gray** advised that because there were vacancy savings from the last legislature and because they had 6 institutions, that they had to take a greater vacancy savings from non-institutional staff. They instituted a hiring freeze in January and took it off in July. It was reinstituted in October when Medicaid costs went up. Even before legislative action, they had put back on a hiring freeze effective August 15th. There were 200 vacancies in her department with the only exceptions being those federally required.

**SEN. COBB** asked if the vacancies were there to fund existing personnel and if they had already used the money or if it had been taken away.

**Ms. Gray** advised the vacancies were used for vacancy savings and also funding the Medicaid programs in Addictive Mental Disorders or Policies and Services. That was part of their mitigation plan and they had been taken.

**CHAIRMAN KEENAN** asked if there had been some stabilization in the caseload in Medicaid.

**Ms. Gray** indicated there had been stabilization in Medicaid for the last two months. It was not in all areas, but one that was particularly expensive was disability and the increase had gone down. It had also happened in TANF and nursing homes and institutional programs had continued to be reduced.

**SEN. WATERMAN** asked if the decrease was in the growth rate or an actual decline in caseload.

**Ms. Gray** advised that in July there was a reduction.

**Vote**: Motion that **HB 12 BE CONCURRED IN carried 10-8 with Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting aye**.

## EXECUTIVE ACTION ON HB 6

**Motion/Vote**: **SEN. WELLS** moved that **HB 6 BE CONCURRED IN**. **Motion carried unanimously**.

***{Tape : 5; Side : A}***

## HEARING ON HB 10

**Sponsor**: **JOE BALYEAT, HD 32, Gallatin Valley**

**Proponents**: **None**

**Opponents**: **Gene Vucovich, Executive Director Montana Rural Development Partners**
**Willy Duffield, President, Montana Association of Oil, Gas and Coal Counties**
**Bob Gilbert, Assistant Director, Montana Association of Oil, Gas and Coal Counties**
**Lois Fitzpatrick, Montana Library Association**
**Jeff Gamble, President, Montana State University**

**Brooks Daley, Executive Director, Montana Farmers Union**
**Jim Davidson, Montana Economic Development Association**
**Dick King, President, Missoula Area Economic Development Corporation**
**Richard Orm, Montana Graingrower's Association**
**Elisha Bradshaw, Executive Director of Gallatin Development Corporation**
**Evan Barrett, Executive Director Butte Economic Development**
**Mark Simonich, Director, Department of Commerce**
**Mel Dyvert, Manufacturing and Extension Center**

**Opening Statement by Sponsor**:

**JOE BALYEAT, HD 32, Gallatin Valley**, explained the bill would revise the allocation of the coal severance tax, oil and gas production taxes and metal mines tax increasing the portion allocated to the general fund and decreaseing the allocation to certain capitol projects. It would de-earmark several million dollars. In its original form the bill made no permanent eliminations of any allocations but some of the amendments in the House Appropriations Committee would make some permanent changes in statute. He cited the need to prioritize. The reallocations were estimates. The bill would not affect the allocation to the permanent coal trust fund. The bill would change the percentages going to other entities and projects including long range building projects that came in under budget or projects that wouldn't happen this biennium. He further detailed the other programs that would be affected. He wanted to focus on situations that would not affect the truly needy and explained the current budget constraints.

**SEN. COBB** requested copies of the list detailing the specific cuts.
**EXHIBIT(fcs03a02)**
**EXHIBIT(fcs03a03)**

**Proponents' Testimony**: None.

**Opponents' Testimony**: **Gene Vucovich, Executive Director Montana Rural Development Partners,** supported working on locally conceived ideas and opposed HB 10 because in previous legislative sessions a partnership was formed between the state of Montana and several entities working on economic development. It was understood and expected by everyone including the administration and the legislature that economic development was a long term

process. He felt economic development takes place on the local level and the majority of communities are small rural communities. He urged restoring the statutory appropriations to the Foreign Trade Assistance, the Manufacturing Extension Service, the Business Retention and Recruitment and most urgently, the Certified Communities. If that could not be done he urged rejecting HB 10 in its entirety.

**Willy Duffield, President, Montana Association of Oil, Gas and Coal Counties,** opposed the reduction on the Coal Board. Communities directly affected by the coal industry apply to the Board for grants that help build the infrastructure and help build the industry that pays the taxes. He noted HB 11 had been resurrected in the House and hoped the committee would consider that as a big enough contribution from the coal counties.

**Bob Gilbert, Assistant Director, Montana Association of Oil, Gas and Coal Counties,** was opposed to the section of the bill dealing with local impacts of $435,000--a 50% reduction that goes to those counties directly impacted by the industries. Citing the reductions to counties that had already been made, he thought it unfair to ask counties to balance the state budget. He asked the committee to find a way to reduce the reduction. He asked that more of the coal money from coal country where people live with the industry every day and export many tax dollars to Helena to pay for state government be given back to them.

**Lois Fitzpatrick, Montana Library Association,** advised that public libraries share in the interest of the coal severance tax funds. The reduction to libraries would be 50% or $140,000 a year. The money would be used for a variety of services. **EXHIBIT(fcs03a04)** She reviewed where some of the cuts would be made and stressed the impact to the Montana State Library. She asked the reduction be reduced.

**Jeff Gamble, President, Montana State University,** agreed that expenditures needed to be reduced but unintended consequences could occur such as the $200,000 reduction for the Montana Manufacturing Extension Center. The reduction would cause the forfeit of $500,000 in federal matching money.

**Brooks Daley, Executive Director, Montana Farmers Union,** addressed the impact on the Growth Through Agriculture Program of $500,000 in HB 10 and another $193,000 in coal severance tax money. Since its inception, there had been $6 million invested with a return of $27 million annually to the rural communities. He cited an example of a successful and profitable agricultural business that got their start through the program.

***{Tape : 5; Side : B}***

**Jim Davidson, Montana Economic Development Association,** opposed the portions of HB 10 that cut the funds for programs that grow the Montana economy. The programs leverage outside dollars and he asked for a no vote and the continued support of the programs.

**Informational Testimony:**

**Dick King, President, Missoula Area Economic Development Corporation,** had worked for 23 years in the economic development field. He described two economic success stories--the Grand Hotel in Fort Benton and Pyramid Lumber in Seeley Lake that utilized local development organizations. New jobs were created that generate income tax revenue. The Certified Communities Program assists local development organizations. The state provides some funding that is matched with local government funding and private sector funding.

**Opponents' Testimony**:

**Richard Orm, Montana Graingrower's Association,** expressed support of the Growth through Agriculture program and raised the issue of fairness since the program had already taken a $500,000 cut out of general fund transfers and with the additional cut it would amount to about 40% of the funding of the program. The program was important to producers and there were few sources by which producers could add value to what they were doing. This program was one of those sources. There were always more applicants to the program than dollars available.

**Elisha Bradshaw, Executive Director of Gallatin Development Corporation,** advised her organization was primarily funded by private sector dollars but utilized two state programs--Small Business Development Centers and Certified Communities. She opposed the amendment that took away the funding for those and various other programs. She underscored the importance of Certified Communities funding and noted that state dollars were matched one to one with local dollars. She provided examples of businesses that had been developed.

**Evan Barrett, Executive Director Butte Economic Development,** addressed some specifics in the bill. He asserted that the bill was more acceptable before being amended in the House. He stated that economic growth and development were not consumers of state revenue, they were generators of state revenue through income, property and corporate income tax. Support needed to be long term and consistent. He acknowledged the importance of education and social services and the need for economic development to

support them. He cited the Vision 2005, the Research and Commercialization effort, the Jobs and Income Program which put in place the small business development centers, the Montana Manufacturing Extension Centers support, the Small Business Innovation Research support, the Certified Communities Support, some foreign trade support, and business recruitment support at the state level to augment what was being done at the local level. In 1999 the Supreme Court said the funding mechanism for those programs was flawed and at the last special session in 2000 those programs were enacted again. In 2001, the Office of Economic Opportunity was created. He felt the purpose of the current special session was to make it through to the next regular session, not to make policy changes that adversely affected things. To make cuts in economic development doesn't pass the laugh test, he maintained. The original cuts from the Governor were some cuts in Growth Through Agriculture and cuts in Certified Communities. The House took away the statutory appropriation for the Small Business Innovation Program, the Small Business Development Centers, Foreign Trade, Business Recruitment, and the Manufacturing Extension Service in committee. On the floor of the House, they restored the Small Business Development Center and the Small Business Innovation Program with the statutory appropriation to go through three more years. He asked the committee to, at minimum, restore the original bill and eliminate those policy changes that were made. He encouraged restoring part of some of the other cuts that were made. He urged adding five years to the statutory appropriations in the next session.

**Informational Testimony:**

**Mark Simonich, Director, Department of Commerce,** testified that he appeared in the House as a proponent. Some of the proposed cuts in the original bill were his proposals, he informed the committee. Choices had to made to correct the budget deficit. He clarified the "KAUFMAN Amendment". The Department of Commerce offered up the Certified Communities program for one fiscal year. It would save $425,000 for FY 2003. It would have left the statutory appropriation in place for FY 2004 and 2005. The statutory appropriation was set to sunset in FY 2005. The department made the decision based on looking at all the programs in the department. The additional cuts made in the "KAUFMAN Amendment" struck the entire amount of money that had been made available for economic development through HB 2 through the regular session and took it out of the statutory appropriation entirely. It would strike $300,000 for the trade program and either the foreign office in Kumamoto or Taipai would close. A policy decision would have to be made there. The $350,000 for

the Governor's office was also stripped entirely. Certified Communities did not have matching dollars, so that was one he looked at to cut whereas other programs did have matching funds.

**Mel Dyvert, Manufacturing and Extension Center,** presented written information on manufacturing in the state. **EXHIBIT(fcs03a05)** He noted that there were about 30,000 manufacturing employees in the state of Montana each making approximately $30,000 a year (more than the average of $23,000). There were 2059 manufacturers producing $5 billion worth of goods every year. MEC played a key role in making some financial models for Pyramid Lumber to get the lending institutions to agree to the financing of equipment. About 80% of the companies have fewer than 20 employees and about 50% have fewer than four.

**Dave Gibson, State's Chief Business Office,** advised he was available for questions.

**Questions from Committee Members and Responses**:

***{Tape : 6; Side : A}***

**SEN. McCARTHY** requested clarification regarding the Montana Manufacturing Extension Center--asking if $500,000 was lost, might it be recouped in the future or was it a permanent loss of all funding on that program.

**Andy Poole, Department of Commerce,** answered that the $200,000 that the state provides to the Manufacturing Extension Center matches about $480,000 in federal funding. If the $200,000 was lost, he wasn't sure it could be replaced after FY 2003.

**SEN. McCARTHY** asked about an upcoming visit from one of the sister states.

**Mr. Poole** acknowledged that Governor Shiotani was to be here toward the end of the month.

**SEN. McCARTHY** expressed concern.

**Mr. Dyver** explained that if the $200,000 were lost, $100,000 would be lost immediately and services would be cut in half. The program would be gone in about 8 months and the federal match lost.

**SEN. TESTER** inquired about the $644,000 being taken out of the Long Range Building Cash program. He asked if the money was currently being used for anything other than deferred maintenance projects.

**Tom O'Connell, State Architect,** advised the money was basically used for deferred maintenance, life safety, hazardous material, and those kinds of projects. He had looked at yhe projects identified in the bill at the request of the budget office and identified those he thought the least likely projects to impact or projects under construction that had healthy contingencies.

**SEN. TESTER** asked about where the deferred maintenance stood currently as far as liabilities were overall for all state buildings.

**Mr. O'CONNELL** advised he expected to have somewhere around $150 to $200 million in requests from various state agencies. The cash available to take care of those agencies was going to be around $4 million.

**SEN. TESTER** asked what monies the Growth Through Ag program had to work with before the cuts were brought up.

**Mr. Peck** advised the program had about $1.25 million statutory appropriation coming into the special session. They had funding from the Coal Tax funds which were cut in half. In the total department for marketing there was about another $60,000.

**SEN. TESTER** asked how many Ag businesses applied for those funds in a biennium and how many were granted.

**Mr. Peck** stated that less than 50% of applicant's received funding. They denied funding to 56% and approved funding for 44%.

**SEN. NELSON** asked about the "**KAUFMAN Amendment**" and what transpired in the House.

**REP. BALYEAT** replied that the amendments proposed by **REP. KAUFMAN** were proposed during executive action. It was his position that whether or not he agreed with the amendments, the committee approved those amendments. On the floor of the House, with the deficit growing every day, the amendments that were offered on the floor of the House to restore some of the cuts were in some cases successful and restored the $125,000 for the Small Business Development Centers and the $50,000 for the Small Business Innovative Research Program. Some of the other things that were targeted in the "KAUFMAN Amendments" were proposed to be restored and failed in the process of trying to balance the budget. He was fairly certain that some no attempt was made to restore some of the amendments on the House floor and perhaps some on the House side trusted in the wisdom of the Senate to fix portions of the bill.

**SEN. CHRISTIAENS** asked about permanent reductions in distribution and where they were in the bill.

**REP. BALYEAT** clarified that in its amended form there were no permanent changes in the long term cash flow of the coal severance taxes and other taxes. The changes in percentages were only temporary. The only things that were permanent in HB 2 were statutory appropriations that were part of the **"KAUFMAN Amendment"** dealing with some of the economic development programs. He did not believe there would be any permanent changes in the allocation of the revenue stream.

**SEN. CHRISTIAENS** asked about library funding and also Fish, Wildlife and Parks. He had information that the interest earnings would be lost on a longer term basis.

**REP. BALYEAT** advised that was correct and was addressed in the fiscal note. Even though there were no permanent changes in the flow of the revenue stream, by reason of the fact that the money was diverted for a fiscal year from these trust funds means that they would have a lower balance and therefore earn lower interest. He added that lower interest would be earned in all funds due to the fact that they were being all drawn down to meet the budget shortfall. The consolation was that interest rates were down so low anyway it would not make much difference.

**SEN. JERGESON** asked how to restore money to Growth to Agriculture in the bill with the coal tax allocation.

**Todd Younkin, Legislative Fiscal Division,** advised that what would be done would be the same as when **REP. WITT** added some money back into the Conservation Districts. He said he would take a look at the original allocation and within HB 10 the 3rd paragraph second line would have to be altered with the goal of getting enough revenues into the state special revenue account to provide them with the revenue stream to spend it. Subsequently in HB 2, special revenue would have to be added to the Department of Agriculture to allow them to spend those revenues out of the coal severance tax shared state special revenue account.

**SEN. JERGESON** asked if the same number would have to be adjusted if they were interested in dealing with the issues about the coal counties local impacts and library services.

**Mr. Younkin** said that would be correct and that with any program that was receiving funding out of that coal severance tax shared state special revenue account, the percentage would have to be altered to get the revenues into that shared state special account and subsequently would have to give the program the

increased authority within HB 2. (page 1, line 26 where it says 5%.) Once a dollar amount to be restored was determined he could calculate a percentage to go in the final draft of the bill.

**SEN. JERGESON** asked when the 8.36% was reduced in the introduced bill to 4.18% and the reductions were calculated where did the reductions show up to any of these programs listed in the shared account.

**Mr. Younkin** said he did not calculate the original amounts, but as the Governor's proposal came through the reductions occurred in HB 2. There were state special revenue appropriations that were reduced. You can reduce the appropriations and not change the amount of the revenue going into the shared state special account. To get any benefit from those reduced appropriations back to the general fund the allocation going into that shared account would have to reduced.

**SEN. JERGESON** asked if they raised the 5% up to 7%, that would have to be specifically allocated in HB 2 in some manner. **Mr. Younkin** said that would be correct.

**Closing by Sponsor**:

**REP. BALYEAT** closed on the bill. Programs may have received spending increases previously and now were being cut back but in some cases the cuts went beyond just reducing the increases. He was glad the opponents were present for the hearing because he felt it unfair that they were not there when amendments were made in House Appropriations Committee. He expressed being somewhat conflicted regarding some of the cuts. He cited a study that showed a strong negative correlation between almost all government spending and economic growth. He pointed out that state government spending was growing at a phenomenal pace as witnessed by the 22% increase in the all funds budget in the last biennium. He quoted that there was "no scientifically done studies which showed any statistically significant relationship between government spending on economic development and economic growth." He addressed some of the objections to the cuts. He cited a study regarding the lack of success of economic development programs. He urged the committee to resist restoring pet programs and to decide which programs were less critical and affected the fewest citizens. Many government loan programs were unsuccessful due to defaulted loans. If loan programs were successful they would be self-sustainable and not require ongoing funding. He felt the private sector could do better at granting loans. State government had been allowed to get far too big to be supported by a stagnating private sector during the recession. ***{Tape : 6; Side : B}*** Based on 2001 figures, there were only

eight states that exceeded the state of Montana in the number of per capita state employees. The total reduction to the all funds biennium budget with all the cuts would be only $1.2% after a 22% increase. He believed the reason the cuts were so painful to the truly needy in the state was due to the "shirking phenomena." He believed HB 10 was an "anti-shirking device" to direct those cuts to those areas that are least hurtful to the truly needy and to the least number of citizens. With a major change in economic condition there needed to be a change in state government. He suggested getting beyond the point of trying to preserve pet projects while cutting others. He urged passage of the bill with as few changes as possible.

**SEN. BECK** felt it appropriate for an amendment to eliminate the "KAUFMAN Amendment".

**Ms. Lane** advised that would simply be reinstating on page 2 lines 22-29.

**SEN. BECK** also wanted to reinstate the cuts from **REP. WITT'S** amendment.

**SEN. TESTER** asked if that would reinstate the cut on Conservation Districts.

**SEN. BECK** felt everyone would have to take a little lick in the bill. He said the original cut was $330,000.

**SEN. TESTER** advised the amendment left $50,000 cut and put $280,000 back in.

**SEN. BECK** said he wanted to go back to the $330,000.

**SEN. TESTER** wanted an opportunity to get input from the conservation districts when that happened.

**SEN. WATERMAN** requested an amendment to restore 1/2 of the cut to the state library.

**SEN. JERGESON** requested an amendment to restore the Growth Through Agriculture allocation from the joint account and half of the cut to the Coal Board for the impacted coal counties.

**SEN. COBB** thought only amounts were necessary for the amendments to save staff time.

**SEN. TESTER** asked about the impact of the $330,000 cuts on Conservation Districts.

**Sarah Carlson, Executive Director of the Montana Association of Conservation Districts,** said she appreciated the problems with the budget and the likelihood that everyone would have to take a hit. She noted that conservation districts had been around for 60 years and were about as cheap as you could get. They understood the need to cut back in lean times. The $330,000 cut from the shared coal account was half of the money that they get and it went into activities like Montana Salinity Control, a grant program for producers to take care of erosion problems and more. She felt the $50,000 cut to be more appropriate and that $330,000 would be a serious problem for the districts.

**SEN. WATERMAN** asked what the percentage was of the money from the coal tax to the conservation districts of all the money they get from the state.

**Ms. Carlson** estimated that to be about 1/3 of what they get overall. Conservation Districts were statutorily required to engage in issuing 310 permits. She submitted that if that responsibility were taken back from them, the state would not be able to do it as cheaply anywhere else.

**SEN. TASH** asked if 319 money (water quality studies) would be affected.

**Ms. Carlson** said she could get that information, but that there were two sources of money going out to Conservation Districts. The 319 activity was partly paid for by general fund and partly by the shared coal account money.

**SEN. BECK** advised he was not doing his amendment lightly. He said he was an Ag man himself and had always supported Ag programs. He understood that the conservation districts had increased in their share of state funding almost 200% in the last four years. He said there were new federal programs coming down and wondered if there were any administrative costs being included with those programs and whether they could get any administrative money out of those programs.

**Ms. Carlson** answered that in the House Appropriations Committee there was some discussion about the amount of money districts had been getting from a certain point back in time. From 1996 until now there had been a doubling of funding. That had been with additional responsibilities requested of districts. The new Federal Farm Bill had a lot of money for conservation programs. It was unclear if the districts were going to get any assistance from the feds in helping that get out on the ground. She said she wouldn't count on it.

**SEN. BECK** asked if they would have to get rid of any FTEs if the cut were implemented.

**Ms. Carlson** didn't know, but knew that Conservation Districts mostly had only one person that worked for them. Their budgets were often less than $10,000 a year. To say the $50,000 cut would only be $1000 per district--for some $1000 would be quite a bit. The FY 2003 contracts had been halted as a result and there were administrators working for Conservation Districts who had to lessen their hours and decrease their activity because they depended on that administrative money. They probably would not eliminate anyone but would probably pull back on their hours. She added that Conservation Districts understood that there was a real problem and they were willing to step up but she implored the committee that $330,000 was excessive. They would be willing to work with **SEN. BECK** on a number that would be less excessive.

**Ms. Lane** advised that on HB 9, page 15, line 18 there was $1000 transferred to the general fund and an additional transfer of $999,000 if money was available. She said the committee had already acted on HB 9 and had adopted **SEN. BECK'S** amendment and had already acted on the bill. There was a technical amendment that was needed. The title on line 8 and 9 did not accurately reflect page 15. The title needed to be amended to reflect page 15. She explained the amendment. **EXHIBIT(fcs03a06)**

**Motion**: **SEN. KEENAN** moved **to reconsider HB 9 and the motion passed unanimously**.

**Motion/Vote**: **SEN. NELSON** moved that **AMENDMENT TO HB 19 BE ADOPTED**. **Motion carried unanimously**.

**Motion/Vote**: **SEN. NELSON** moved that **HB 9 BE CONCURRED IN AS AMENDED**. **Motion carried 16-2** with Jergeson and Nelson voting no.

Recess: 4:40 P.M.

Reconvene: 6:00 P.M.

***{Tape : 7; Side : A}***
**CHAIRMAN KEENAN** announced that the committee would get organized for HB 2 and possibly discuss some global amendments.

**Taryn Purdy, Legislative Fiscal Division,** explained the "HB 2 Narrative Special Session 2002" and answered questions from the committee. **EXHIBIT(fcs03a07)**

**CHAIRMAN KEENAN** asked about the current status of HB 11.

**Terry Johnson, Legislative Fiscal Division,** that HB 11 was taken off the table in House Taxation and amended. The impact was estimated at $1.197 gain to the general fund. It was passed out of House Taxation.

**CHAIRMAN KEENAN** said if the committee would agreed, that the best way would be to go section by section. They would not close sections but would try to stay within each section.

**SEN. COBB** asked that if, doing it section by section, when he moved money from A to B would he make the motion one time. **CHAIRMAN KEENAN** answered yes. He said they wouldn't have strict guardrails but they would try to stay organized.

**Mr. Johnson** explained the General Fund Status Sheet and answered questions by the committee. **EXHIBIT(fcs03a08)**

**SEN. BECK** discussed the supplementals of $5 million already included in the executive budget for forest fires. He advised they didn't usually didn't budget it that way especially on forest fires. He asked for their figure on forest fires.

**Mr. Johnson** answered that the LFD recommendations of $17.4 million included the $5.58 million but in addition they were building in an estimated 2003 fire season of $7.3 million. In addition to that there was a supplemental for DPHHS of $3.9 million.

**SEN. BECK** noted that it was hard for him to want to put the forest fire supplemental in the budget. Most generally, he stated, they made a determination of the fire supplemental during the regular session. He felt they had to be aware of that wiggle room in the budget.

**Clayton Schenck, Legislative Fiscal Analyst,** clarified that they were not budgeting for supplementals on the status sheet and neither was the executive. The intent was to show those so they would know the projected deficit based on the information available. The executive allowed in their plan that money should be set aside for the feed bill and for supplementals. It wasn't intended to tell the legislature they needed to budget for those; it was informational.

**CHAIRMAN KEENAN** asked if there was a point between now and January when there would be a trigger for the executive to implement up to 10% cuts again and asked if that could happen.

**Mr. Schenck** said it was a reason to leave the balance at the statutory minimum. Implementing the trigger mechanism was totally up to the executive and their projections.

**SEN. ZOOK** asked why supplementals were included that had never been included before. He said they all knew there would be supplementals when they come back and that it didn't seem logical to do so. He said the executive had shown that they'd made a real effort not to have large supplementals. He thought it distorted the total picture.

**SEN. JERGESON** stated that he wasn't sure its been logical over all these years not to take into account supplementals. He felt they had been operating on some glorious fiction on fire supplementals for a long time and not budgeting for fires because they couldn't estimate what they might cost. He raised the question again of double counting of savings on several bills they had heard in committee. He requested that **Clayton** and **Terry** look at HB 6 regarding state vehicle mileage allowance and showing a $400,000 savings. Already in HB 2 there had been the direction to the agencies to reduce their travel budgets by 25%. There was a dollar amount established in HB 2 for travel. How they achieve that savings was up to agencies by reducing the number of trips. HB 6 would pay people a lower mileage allowance in certain circumstances. That is all mechanics in how they achieve their 25% savings. He stated the converse was also true. He felt the staff was missing a circumstance where there was double counting. He also cited the state hiring freeze which was also mechanics for achieving vacancy savings and that there had been some double savings counted that did not exist and that would scew the ending fund balance by $1.8 million. He advised looking at that very closely. ***{Tape : 7; Side : B}***

**SEN. WATERMAN** expressed a concern that because the Governor's cuts were not reflected in appropriations it would lead to a higher trigger amount. She asked if they included the $3.5 cuts and if they took that money out of the appropriation bill, then what would be the amount of the trigger.

**Mr. Schenck** advised the bottom line would be the same because they had already included the $23 million above in the beginning balance. If they are taken out of HB 2, they would be removed above. They were accounted for, they just weren't part of legislative action.

**SEN. WATERMAN** asked about affecting the trigger if they were in or out of HB 2.

**Mr. Schenck** said that was correct but the trigger would shift somewhat when they were done because they would have a lower general fund appropriation level and the trigger was based upon a percentage of the total appropriation. It was true that the trigger would go down by $1 million or so after they were done with legislative action.

**SEN. WATERMAN** asked if they have not included the $3.5 million in cuts in HB 2 then wouldn't the trigger be higher when they went home. If they were included in HB 2 there would be less money appropriated and the trigger would be lowered. She knew they were accounted for on the balance sheet but it would be lower if the cuts were reflected in HB 2.

**Mr. Johnson** said that was correct because the $23 million would not be reflected in HB 2 where the 1% and 2% was applied for determination of the trigger and the appropriate ending fund balance. To the extent that the $23 million was not built into HB 2, the trigger would actually be higher.

**SEN. WATERMAN** wondered how much higher.

**Mr. Johnson** advised it would be a small number--1% of $23 million would be $230,000.

**SEN. JOHNSON** asked if you take the number $37.642 million, the current fiscal condition with legislative action and assuming the legislature decided that was the number they would use, would that would include the $27.1 ending fund balance.

**Mr. Johnson** affirmed that the $37.6 million is the ending fund balance.

**SEN. JOHNSON** said that would be roughly $8 million higher than necessary if they accepted the budget the way it was today.

**Mr. Johnson** said that was correct if they did not plan on costs for any 2003 session costs or 2003 supplementals.

**SEN. JERGESON** asked how the motor vehicle division switch applied to $37.64. He recounted that was part of the Governor's fund transfers and had failed in committee. He wondered what the impact of that was and if there was $8 million less already.

**Mr. Johnson** said that was the case. If the committee were to go back and fund the motor vehicle division out of the general fund, the $37.6 would drop by the $8.3 million.

**SEN. COBB** asked if the difference in the $37.27 million and the triggering mechanism was 1 or 2%. $10 million sounded like a lot of money, but was it pretty insignificant.

**Mr. Johnson** allowed that the fund balance trigger was 2% of the biennial appropriations. That's the 1%.

**SEN. COBB** stated that $10 million more would be cutting it close.

**Mr. Johnson** affirmed that 1% of $10 million was $100,000.

**CHAIRMAN KEENAN** advised the committee regarding **SEN. JERGESON'S** comments on the travel.

**Chuck Swysgood, Office of Budget and Program Planning,** advised that if the committee used the figures of the Budget Office, there would be less of an ending fund balance. If they used LFD's figures and went for the $12 million difference there would be a higher ending fund balance. His perspective was with the things that had happened to date to alter their plan--when they started yesterday they had a $20 million ending fund balance. Then he added on all the things presented to you as their plan and that would be $20.79 million ending fund balance. The trigger was $27.28 million. He was short $6.49 million. He indicated that his process started out with the $20.79 million and roughly added $11.1 million contingent on passage of bills and came up with a little over $31 million ending fund balance. $8 million was lost bringing him back to $23 million, he said. There were 5 or 6 bills that they would probably support that would generate revenue. If they put the $8 million back in they would go home with about a $33 million ending fund balance compared with the LFD's $37 or $38 million. He noted a difference of a difference of about $12 million.

**SEN. COBB** asked if that would be taking all the House cuts to get to the $33 million.

**Mr. Swysgood** asserted that if they took what the House did and assuming it all happened they'd have $31 million; with the $8 million lost it would be $23 million.

**SEN. COBB** asked if the $8 million was put back in along with a few revenue bills it would be $38 million.

**Mr. Swysgood** affirmed that would get where they needed to go.

Recess 6:44 p.m.

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SEN. BOB KEENAN, Chair

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PRUDENCE GILDROY, Secretary

BK/PG

**EXHIBIT(fcs03aad)**