

Options for SB 133 Implementation

To: Economic Affairs Committee Members
From: Pat Murdo, Economic Affairs Committee staff *Pat*
Re: Options for Encouraging Implementation of SB 133 and Tax Credit Issues

- Seek to include funding for start-up costs and a constitutional test case in the Special Session.
 - Operating expenses as proposed by SB 133 fiscal note: \$52,453
 - Board meetings \$250/person * 5 = \$1,250 for 1 meeting
 - Contracted services for legal/financial assistance = ??
 - Annual report/audit costs = ??
 - Personnel expenses
 - 1 full-time administrator and 1 part-time secretary = \$100,514
(Given the delayed start-up, this uses the FY 2007 amount for both)
 - Contracted services for due diligence on RFP responses = \$20,000
 - Constitutionality test case
 - Utah estimated about \$150,000 for its test case
 - Previous MT test case in 1986 cost about ???
- Request an attorney general's opinion of the constitutionality of SB 133.
 - *Argument for:* this might be quicker than a test case and have the force of law.
 - *Argument against:* the Attorney General considers inappropriate any requests involving constitutionality questions. The legislature presumes the law is constitutional. The AG is to defend the legislature.
- Request that the governor appoint members to the Montana Equity Capital Investment Board but acknowledge that the board does not need to meet until, at the very latest, June 30, 2006, in order to fulfill the requirement that the board "shall meet" once a year.
- File a writ of mandamus request in district court to get the governor to implement SB 133. Alternately, any person affected by nonimplementation of the bill can file a writ of mandamus.

FYI - Regarding tax credits and fiscal notes

The fiscal note for SB 133 estimated loss to the general fund for start-up costs of \$132,107 in FY 2006 and \$65,259 in FY 2007.

The potential loss to the general fund per year is \$12 million if contingent tax credits are used, but these cannot be used prior to July 1, 2010.

In the 2005 session, a major new tax credit bill (not a renewal of old tax credits) signed by the governor was HB 584, which provided tax credits to filmmakers under the Big Sky on the Big Screen Act. Projected impact to the general fund, as noted by the Fiscal Note for HB 584, was a loss of revenue equal to \$420,660 in both FY 2006 and FY 2007. Application fees would bring in an estimated \$17,585.

The fiscal note for HB 584 noted a constitutional concern 1 Economic Affairs Committee Meeting
Montana residents and the requirement that production occ October 28, 2005