

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - 2nd SPECIAL SESSION**

COMMITTEE ON APPROPRIATIONS

Call to Order: By Chair Bardanouve, on July 13, 1992, at 2 p.m.

ROLL CALL

Members Present:

Francis Bardanouve, Chairman (D)
Ray Peck, Vice-Chairman (D)
Dorothy Bradley (D)
John Cobb (R)
Dorothy Cody (D)
Ed Grady (R)
Larry Grinde (R)
Mike Kadas (D)
Berv Kimberley (D)
Wm. "Red" Menahan (D)
Jerry Nisbet (D)
Mary Lou Peterson (R)
Joe Quilici (D)
Chuck Swysgood (R)
Bob Thoft (R)
Tom Zook (R)

Members Excused: John Johnson (D)
Mary Ellen Connelly (D)

Staff Present: Terry Cohea, Legislative Fiscal Analyst
Jim Haubein, Senior Fiscal Analyst
Sylvia Kinsey, Committee Secretary

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

HEARING ON HOUSE BILL 41

TRANSFER FROM CERTAIN ACCOUNTS TO GENERAL FUND

Presentation and Opening Statement by Sponsor:

REP KADAS said this is a bill that has looked at fund balances in the state and have gone through and tried to narrow it down to those which had significant fund balances over their operating budget needs. He said the Legislative Auditor has been working on this with him. He handed out EXHIBITS 1, 2, 3 and 4. Referring to EXHIBITS 1 and 2, he said originally he was going to take the \$800,000 and got word later that they have a payment they make in the next month or so and took them down to \$200,000.

On page 4, line 17, there will be an amount appropriated. On Sept. 1st, the particular fund has to transfer whatever amount we put in here to the general fund. We did this in such a way that it would not affect their operating budget in the next fiscal year and, hopefully, into the next biennium. On Sept. 1st, the balance of the OPI Drivers' Training Education fund will be transferred. Prior to Sept 1st, they have to make a large payment out of that fund for schools. We will appropriate what is left in the fund, which should be in the neighborhood of \$200,000 to 300,000. He said he was interested in hearing from the agencies defense and knowing if there was some reason the money could not be taken or if there is a better way of doing it.

REP KADAS said Section 3 is the Building Codes, and referred to **EXHIBIT 3**, page 5 for the explanation. He said the Building Codes department is one of a group that came to him already and said he was raising too much havoc on the dept. He said he had an amendment, which is **EXHIBIT 3**. The remainder of the proposals are listed in **EXHIBIT 3**, and amendments to correct the amounts where agencies or departments had contacted him are on **EXHIBIT 4**.

Opponents' Testimony:

Ray Hoffman, DHES, said last special session we talked about the Junk Vehicle program and the conditions have not changed since the last time. They have worsened. He pointed out that the revenues are down, the price of scrap metal is down and with out removing any of this fund balance, there will still have to be a fee increase to handle the expenditures in a few years.

John Skufca, Administrator Centralized Services, Dept. of Livestock, said this bill would require the transfer of funds originally collected through constitutionally authorized methods and the transfer of these funds into the general fund would seem to be a violation of the Constitution. He pointed out these were funds collected from a specific group and for a specific purpose and quoted Article 12, section 1, subsection 2.

Karen Barclay-Fagg, Director, DNRC, spoke on section 9. She gave a brief history on the Rangeland Improvement Loans Program and said it is established around the Renewable Resource Development Grant program and there is no general fund money deposited into this account. She said they are seeing more applications, have received applications for over \$2 million, have funded \$1.1 million and those have been matched by over a million dollars in federal money. She told what the program emphasis was and stressed this was used particularly in the wet lands and water quality area.

Peggy Parmelee, Montana Association of Conservation Districts, and said she opposed cutting the Rangeland Improvement Loan Program by \$500,000. The conservation districts use this program to make improvements on ranch land in Montana. This cut will be taking 2/3 of the program money and it will be gutted.

Kim Ekenrud, Montana Association of Stock Grazing District and Montana Stock Growers Association, spoke against taking money from the Rangeland Improvement Loan Program. She said she is also co-chairman of the Montana Riparian Education Committee and they are also very concerned over the removal of this money.

Don Artley, Forestry Division, Dept. of State Lands, spoke on Section 11 in the bill, the Air Operations account. He said the fund balance in the proprietary account is not excess to the need of the department. With aircraft, there are expensive costs in the way of maintenance that occur periodically and when it reaches a certain time limit it must have a major overhaul. He said this would force grounding planes until they could be repaired for major maintenance or raising fees. He said the planes were used for fire suppression and cutting this money will likely increase suppression costs.

Edwin Hall, Administrator, Board of Crime Control, said he was not opposed to the \$150,000 per se, but needed to give more information about that fund. Last special session you took \$250,000 out and now you are asking for another \$150,000 plus we have an inter-entity loan which they will probably be unable to pay until April. He said the revenues coming into the program to reimburse the victims isn't equal to our expenditures.

REP QUILICI said one of the things they did do was implement DUI under this in the last session and that has put a real burden on the division. He asked if there was a chance we won't have enough money? **Mr. Hall** said the DUI hasn't had as much impact as they anticipated. Because it is new, we are just seeing them start to come in now so we have no basis to project growth. Some of those cases tend to have a lot of injuries and use the maximum of \$25,000 per case whereas the average is around \$1,400 to \$1,500.

Sandra Guedes, Administrator, Tourism Division, Dept. of Commerce, said she is in charge of the Bed Tax Program. The statutes call for bed tax funds to be spent for the exclusive purpose of tourism. She said this differs from other accounts in that it is a quarterly tax collection rather than a specific amount of funds. She said they manage funds carefully to make sure funds will be available to allow for operations to continue, as well as projects, until the first quarter projections come in. She pointed out they are shifting their emphasis to make tourism a year-round business in Montana and that also affects their cash flow.

Stuart Doggett, Montana Inn Keepers, said he felt the formula for the bed tax established in '87 is still valid and they oppose this section of House Bill 41.

Vern Sitter, Colonial Inn, Helena, said a reduction in promotional monies is a reduction in business and a reduction in business will hurt the small operator. The large operators, convention hotels and franchise operators will not do as well,

but still be okay. It is those people who pass on the overflow business to the small operators and they will be hurt.

John Younger, Montana Farm Bureau, spoke in opposition to section 9. Farmers and ranchers are facing continuing pressure of federal and state regulations to comply with their riparian area demands, range land improvement, etc., and this bill takes away their means of obtaining money to do this. This fund did not come from the general fund, it is RIT money, and would urge the committee to oppose House Bill 41.

Bernie Swift, Senator, District 32, Ravalli County, said he opposed section 10, which would take away fees for a 10 year program. He also wanted to oppose section 8 on slash disposal. The whole concept of this bill is taking money away that these people paid in fees. It is not a general tax dollar.

Jim Jensen, Executive Director, Environmental Information Center, said they oppose any use of Resource Indemnity Tax Trust Fund, originated money or interest from that money for the general fund. He said the oil and gas industry and mining industry paid into the RIT and that money was meant to be used for reclamation.

Jim Peterson, Executive Vice President, Montana Stock Growers Association, said they oppose HB 41 and said the concept of taking user fee funds for special use purposes and putting it into the general fund is wrong. He read a section of the Constitution, Article 12, Section 1, subsection 2: "special levies may be made on livestock and agricultural commodities for disease control and indemnification, predator control and livestock commodity inspection for inspection, research and promotion. Revenue derived shall be used solely for the purpose of the levies."

Jo Brunner, Montana Water Resources Association, said they sincerely hope the committee will not take money from he RIT fund.

Questions From Committee Members:

REP CODY said she believed it was 1989 when **REP BARDANOUVE** and **SEN REGAN** went after all statutory appropriations to put them in the general fund. She asked if this was what was happening here. **REP KADAS** said this was a little different. **REP CODY** asked how much money was involved. **REP KADAS** said, with the amendment he requested, it will be about \$3 million. **REP CODY** asked how he was going to make this up since it is a one-time shot and they do not have the ongoing revenue to make up the expenses. **REP KADAS** said it is definitely a one-time shot and he is trying to balance the budget this session and thought there was a need to consider as many ongoing revenue sources as are available to us. On the other hand, he did not think they should ignore one-time revenue sources. No matter how we put together the budget balance for FY '93, we will see a considerable amount of one-time money.

REP MENAHAN said when we talk about stealing funds from one to the other, he thought the RIT funds should go back where they belong. He said he did not believe what we are using them for is not the intended purpose. He said it was robbed before to put it into the riparian, cattle, range land areas and has been going there for 10 or 15 years, but it was not intended for there and does not belong there. He thought it should be put back where it belongs.

REP GRADY commented on the junk vehicle program. He said this has been around for quite awhile and we have robbed money from here before. Mr. Hoffman said yes, \$.5 million. REP GRADY said he believed the following session they came in for an increase in the junk vehicle fee? Mr. Hoffman said that is correct, but half of it was due to some prudent management and reduction of expenses that the fund balance is there this biennium. REP GRADY said at that time a lot of the legislators did not vote for an increase because it had already been robbed before for general fund and we balked on any increase of fees at that time. He asked, if this happens, will we be looking at a fee increase for junk vehicles to keep this program going? Ray Hoffman said yes, and you may be looking at an increase anyway this coming session because of the price of wrecked cars is going down.

REP GRADY asked if it wouldn't be harder to get a fee increase if this money is taken again and put into the general fee than a true need for an increase. He also said he was concerned with the Range Improvement area, and this is one area where the interest is going into the general fund. He said REP KADAS was trying to avoid digging a deeper hole and taking ongoing revenue to the general fund. This would be one place there would be ongoing revenue if this stayed where it is at because the interest is going into the general fund. REP KADAS said he did not think it is reasonable to treat all these fund balances as little mini trust funds. You can make that argument with every one of these, but a trust fund to him was funded for long term returns on your investments. All these funds are invested in short term investments and you get 3.5 to 4 per cent on them now. He is suggesting when taking them is that they are not balances that are needed for the operation of this department right now and are alternatives to raise other revenue for right now. REP GRADY said this is not a short term, this is a revolving account. He felt it was long term because money keeps going back into the account. REP KADAS said there is over \$700, 000 that is not loaned out at all, it is just sitting in the fund and all it is doing is earning short term interest.

REP GRADY said he didn't like the bill at all, but some areas are pretty critical. He said in the livestock area you are thinking of taking the money that supposedly is going to come back from the helicopter parts, and in the testimony they said they are not sure the case is settled and when the money might be coming back. Are we counting on short-term solutions to balance the budget on money we may not see? They are not sure whether this case will

hold or not. **REP KADAS** said there is a pretty good chance it will hold, and he is saying if it does hold, let's get the money into the general fund. **REP GRADY** asked about the constitutionality issues? **REP KADAS** said the constitutionality is in regard to fees specifically. It doesn't say anything about restitution or interest earned on other fees. It says specifically fees, and that is as far as it goes.

REP THOFT said **REP MENAHAN** made a good point on the RIT money but the oil companies and the mining industries paid that in as a tax. He didn't think they were any more sacred than the rest of the people who had paid into any of the other funds. If rationale is correct, all these funds should be returned to the people who paid them in if there are excesses, and not to the general fund. **REP MENAHAN** said he also felt the \$33,000 we talked about going in that was interest should go back into the RIT fund.

REP PETERSON said during testimony given regarding the junk vehicle program, it was said there is a 50% decrease. Is this in activity or sale? **Mr. Hoffman** said when they crush vehicles they sell them and the price of that steel has been reduced by 50%. **REP PETERSON** asked if the junk vehicles are still coming in at the same rate or are you down on those? **Mr. Hoffman** said he believed it was the same rate.

REP ZOOK said we talked about the constitutionality and **REP KADAS** responded and said when Jim Peterson was reading the law, he said "all monies derived from" this source were protected and he thought an argument could be made that the interest monies off some of these accounts would be included. He said he felt this bill was well intentioned, but felt it was short sighted.

REP MENAHAN said he had seen ads in the paper where junk dealers will come and pick up a car free of charge. **Mr. Hoffman** said normally the vehicles we get in the junk vehicle program are vehicles that have very little salvage value due to wrecking facilities. **REP MENAHAN** said there are people who pick them up and remove saleable parts and then crush them themselves. **Mr. Hoffman** said they have crushers in the larger areas, but when they get out into the remote areas they run into trouble because they don't have the crushers.

REP GRINDE asked **REP KADAS** how he had derived the amount to take out of each fund? Was it a percentage of the slush fund? **REP KADAS** said they tried to look at the total balance that was over their operating costs, looked at their revenues, their expenditures, and if they had any special kinds of expenditures that were unique to that particular fund. He had a concern they were taking too much out of the range land fund, but was not too concerned about the others. **REP GRINDE** asked if it was set up to recover ongoing expenses? **REP KADAS** said he tried to take what he thought they wouldn't need over the next year.

REP GRINDE said this was hard to determine and had seen it happen

to major programs in session. We gut them or underfund them so they are no longer viable programs. He asked if some of these long range programs will be stifled? **REP KADAS** said with regard to junk vehicles, it could be the case in that area, and may also be the case in range land. In the other areas, he would need more convincing to change his mind.

Following recess for floor session the meeting was resumed and **REP KADAS** asked **Mr. Hoffman** what the revenues and expenditures were in the Junk Vehicle account last year and what the projections for this year are. **Mr. Hoffman** said the amount of appropriation for expenses was \$1.48 million. Their anticipated expenses this year are \$950,000. The revenue we are anticipating is around \$900,000 for fiscal '92. **REP KADAS** said for fiscal '92 we have given you appropriation authority for \$1.28 million, and you spent \$950,000. He asked what is projected for fiscal '93 and was told they are anticipating less revenue. The crushing costs for vehicles have decreased, and we should have in the neighborhood of \$800,000 to \$850,000 in revenue, the level of expenses in the program will probably increase from the \$950,000 because of the recycling of freon. It will cost us more to get that freon out of that junk vehicle than it does currently and are anticipating \$10,000 to \$15,000 for that cost. He said he would assume their cost will be right at \$1 million.

REP KADAS asked **Karen Barclay-Fagg** (Director, DNRC) what was the federal loan on the Rangeland Improvement program. She answered that it was the maximum. He asked if that was generally what they looked at and she said generally but it is usually somewhat less than that. **REP KADAS** asked if the program had been up for five years and **Ms. Fagg** said actually it had been up for 12 years. The 1979 legislative session was the first time money was appropriated and it was about \$300,000 for '79. **REP KADAS** asked if the loan activity dropped off in the mid '80s? **Ms. Fagg** said it did in the '86-87 biennium and the '88-89 biennium. **REP KADAS** said you should have a fair number of loans you are getting fully paid back on from the '82-84 period. **Ms. Fagg** said they had calculated what the '93 repayment schedule would be and it would be about \$85,000. **REP KADAS** asked what kind of interest rates are on those loans? **Ms. Fagg** said it is the interest plus 1% for administrative handling, so it is 5% interest. **REP KADAS** asked what level of loans are you anticipating for this coming year of fiscal '93? **Ms. Fagg** said the maximum amount we loan is \$35,000 and the applications we received in 'FY '92 were about 12. We end up funding an average of about half of those we received and are anticipating between 12 and 14 more applications for '93, if the total amount were available. She had gone back and calculated the available funds, subtracted the \$500,000 which is your proposal and that would leave \$238,000 available and from that she subtracted \$50,000 because they have a number of loans in the process and waiting for her signature. That would leave them with about \$188,000 for FY '93, which would fund 5 or 6 loans for FY '93.

REP KADAS asked if the maximum loan allowed is \$35,000? He was told yes. At \$188,000, that would be 6 1/2 loans. He asked if most of them were up in the \$30,000 level? **Ms. Fagg** said they vary. In addition to this \$10,000 is subtracted from the program and transferred to Centralized Services, and that is a general fund so this was used as an offset. About another \$5,000 is provided to the Range Land Resources Council which also makes recommendations for the department. They also have what they call a loss account and calculate that at about 3.5%, so that would be about \$2,200.

REP KADAS asked to try out a calculation. You have a balance of \$738,000, \$50,000 is committed to loans, \$10,000 to Central Administration, \$5,000 for Rangeland Resource Council, \$2,200 to cover bad loans. Then you say you will probably approve about 12 loans for the next year, the maximum amount, and if you back all those out, the difference is what is over and above your needs at least for this year. **Ms. Fagg** said for one year and according to your calculations that would be close to \$500,000. We would have \$238,000 for FY '94, plus a pay back. She said using the loan pay backs, they would then be able to fund only about 2 loans per year.

REP KADAS, referring to **Don Artley**, said the Auditor called your department and got a response back in regard to the Air Operation account and read "Agency personnel indicated \$200,000 could be taken without significantly affecting your operations." Your testimony gave us a different impression than that and he asked who's testimony was accurate. He was told **Mr. Kuchenbrod** would be able to answer the questions better since he had talked to the auditor.

Bob Kuchenbrod, Centralized Services Division, DSL, said the whole thing hinges on the fire season as to what amount will be in that proprietary account. Currently, they have \$250,000 as a balance and an estimate of \$250,000, which gives around \$500,000 and our appropriated expenditures in HB 2 is \$188,000, plus the budget amendment for \$240,000. There is about \$436,000 out of the balance plus the revenue leaves them about \$64,000. If we have a fire somewhere where aircraft is utilized alot, we will have a lot more money than there is here. **REP KADAS** asked if whoever responded to the initial request not know what they were talking about. **Mr. Kuchenbrod** said he had talked to the person who had been talking to the auditor. That person was on a contingency. There is a lot of activity here in the summer.

REP CODY asked **Bill Frazier**, Executive Secretary Dept. of Livestock, why the Board of Livestock committed \$1.2 million of reserve funds to renovation of the diagnostic lab at a time when those types of things are raising a red flag to those of us who sit on these committees and have to vote against alot of things they would not like to. **Mr. Frazier** said this is not something we just suddenly decided to do. He is relatively new (since January) with the department, but this has been an ongoing study

since 1987-1988 and as long as he has been there, there has been 7 board members on a committee evaluating this and they were hoping the University would help us do these accreditations and felt we were 37% over of that building and we found out in April that the University owned the entire building and their balances were so depleted they could not do anything. We looked at these things and taking the lead of the Legislative Auditor that said we must do something with what they felt was a reserve. The board passed unanimously for the renovation and we felt this was livestock money and that we ought to get our lab up to date.

REP CODY asked if there was someone here from the Board and Nancy Espy was referred to. REP CODY said that \$1.2 million in the reserves really has value. If there was that much money, we voted in the '91 regular session to do something with buildings for the University System and had to back out of it because we do not have the money. Why did the Board put the action on the 17th of June to go ahead and give them those reserves instead of rebating that money back to the folks who paid it? Ms. Espy said this was money that was earmarked money for livestock. We had been subject to several reviews of the peers of the laboratory. These are national reviews and our lab is not up to standards, consequently we have to bring that lab up or we cannot function and keep our credibility. This is not a new building.

REP SWYSGOOD said the former director of the department was present and asked Mr. Graham if he could shed some light on this. Les Graham said they have been aware for some time of the need to bring the lab up to standards to make the lab credible. They are not talking only about the lab, but incinerators that are no longer functional. They have air discharge problems, air ventilation within the lab. He said they moved the rabies section partly out of there because of ventilation. That building needs to have something done. He said they have been holding the funds off until the University made a decision on the building.

Closing by Sponsor:

REP KADAS said he thought they would need this bill to balance the budget.

HEARING ON HOUSE BILL 42

TRANSFER CERTAIN LIVESTOCK REVENUES TO THE GENERAL FUND

Presentation and Opening Statement by Sponsor:

REP KADAS said this bill takes \$600,000 of interest earnings out of the Dept. of Livestock and puts it in the general fund. He handed out some amendments (EXHIBIT 5) and referred to the last page on EXHIBIT 3. He said they had gone back about 12 years and just indicated the amount of interest generated off this account. There is a constitutional restriction on the use of the levies.

He said this does not speak of fees or other taxes nor interest income, it talks only of levies. He referred to a section of the law that specifically exempts this account from returning the interest to the general fund, as do most other accounts in state accounting. He said there are few other exceptions, and supposedly they have a rational justification for the exception, but he would argue that there isn't a rational justification for the exception in this case and offer the elimination of this section in code, 81-1-104, (EXHIBIT 6) as an amendment to this bill. Essentially, the department is allowed to keep all the levies which are constitutionally protected in this account and will be able to keep other fees which are not constitutionally protected, but are statutory. They can keep those in this account and the Brand Rerecord fees, but they wouldn't be able to keep the interest earnings which, on an annual basis, are a significant amount. Like other funds, those interest earnings ought to go back to the general fund, and because they are not derived from levies, it is entirely within our prerogative to appropriate them via a statutory appropriation. He said on an annual basis that would be in the neighborhood of \$200,000 a year additional revenue for the general fund. He said he had also appropriated \$600,000 out of this account on the basis that up to a few minutes ago he thought they had about \$800,000 of misplacing general fund obligations in the Livestock Dept. Rumor has it that has been back filled with general fund by the wisdom of the Finance and Claims Committee, and it seems clear to him there is at least another \$600,000 in this fund that has been derived from interest and felt it could be utilized here. He acknowledged the Dept. of Livestock spread sheet that has been handed out and said we all begin with the same amount, \$5.713 million balance. He said he also wanted to acknowledge the \$1.9 million in brand re-record fees. EXHIBIT 8 was handed to the secretary and is included.

REP KADAS went through the items on EXHIBIT 7 telling the committee why he did not agree with them. He said he did not think the Brand Re-Record funds should be subtracted from the \$5.713 million before further accounting was done. He said the lab renovation had to go through LRP and the cash was there to use if necessary. He did not think the balance for disease emergency is accurate either, and has some problems with the balance sheet that was presented.

Opponents' Testimony:

Les Graham said he had agreed when he gave his resignation to help Mr. Frazier. He said he was also representing the Montana Game Breeders Association. He said the fund **REP KADAS** was referring to is not new. It was enacted in 1973 when he was hired by the Board of Livestock, and at that time was put together with the mill levy monies. He said he would address what happened and how fast it can happen. In mid 1970, the department was in a serious financial bind. They did not ask for general fund money, nor did they ask to borrow money. They went

back to the livestock industry at a time they were crippled and asked them for permission to increase our tax and they granted it. They had a brucellosis outbreak in mid '70s. The state was quarantined and they spent almost \$1 million in the next two years and most of it came out of this type of money, some was federal, but that is how fast that money can disappear. In the mid '80s, we had trouble again, former Rep. Donaldson sat down with us and we put together a plan so we would not have to go back to the Livestock industry again for increases, taxes, or fees upon that industry and yet make sure we could hit our cycle. We planned ahead so when we put administrators in they would be covered.

A man who did not give his name testified in opposition to House Bill 42 commented on the Brand Re-record monies in the \$1.5 million range. The statute states we can only use 10% per year. The interest we generate is used to balance our annual budgets.

Nancy Espy, Vice Chair, Board of Livestock, said she would like to assure the committee that their Board of Livestock takes their responsibilities very seriously. They work with their money, their neighbor's money and their friend's money and feel they have run a tight ship. She said they suffered during the '70's and early '80's, both our people and our department. She urged the committee to give an unfavorable consideration to this bill.

Questions From Committee Members:

REP COBB asked if **REP KADAS** had said the Senate put all that money back in? **REP KADAS** said he had not confirmed that, but had heard that. **REP COBB** asked how much money he had taken out and was told approximately \$10,000.

Closing by Sponsor: **REP KADAS** closed.

EXECUTIVE ACTION ON HOUSE BILL 7

IMPLEMENT BUDGET REDUCTIONS

There was some discussion as to whether the bill should be tabled and **REP KADAS** said he felt HB 7 was needed to the extent that they need to delay the requirement for budgets to be submitted to the budget office by 45 days. He felt everything else should be returned to the way the bill was originally written. The agencies need some flexibility after this special session to get their budgets in.

CHAIR BARDANOUVE asked if the boilerplate couldn't handle this. **REP KADAS** said he thought not because the requirement in the law is statutory that the budgets need to be in by date specific.

Motion: **REP KADAS** moved House Bill 7 be amended - see **EXHIBIT 9**.

Discussion: **REP KADAS** said the amendments on page 1 reinsert the

language from line 15 to line 19, retain the language of line 22 to the first line on the next page and on page 3 reinserts the 5%. Essentially the only thing we would do with this bill is at the bottom of page 1, allowing agencies to submit their budgets 45 days after the general appropriations act is approved.

Vote: Motion passed 12 yes, 4 no. Rep Swysgood, Thoft, Grady, and Zook voting no.

Motion: REP KADAS moved House Bill 7, as amended, do pass.

Vote: Motion failed 7 yes, 8 no. Roll call vote # 1.

REP ZOOK said this, in effect, reduces the flexibility of the department's staff to manage the budget.

Motion: REP KADAS moved House Bill 7 be tabled.

Vote: Motion passed 12 yes, 3 no. Reps. Thoft, Swysgood and Grady voting no.

EXECUTIVE ACTION ON HOUSE BILL 8

CLARIFY GOVERNOR HAS AUTHORITY TO DIRECT AGENCIES TO REDUCE SPENDING

Motion: REP SWYSGOOD moved House Bill 8 be amended - EXHIBIT 10.

Discussion: REP SWYSGOOD said basically this adds "AND SCHOOL EQUALIZATION AID". On page 6 following line 21, there is a new section inserted. He said instead of the Governor, the Executive branch ordering elected officers to reduce spending, it orders the Board of Public Education to do so. OPI answers to the Board of Ed and hopefully that will get around the legal question as it relates to the constitutional authority of powers. In Section 4 it points out if the reduction is a direct result of a reduction in spending order they cannot come in for a supplemental.

CHAIR BARDANOUVE asked if the Board can refuse to follow the Governor's recommendation? REP SWYSGOOD said they probably could, but they are an appointed Board like the Board of Regents, and it is a problem we will have to wrestle with that problem if it should arise.

REP KADAS said when we originally proposed this you also proposed reducing the 10% total cut to 4%. He said he did not see that. REP SWYSGOOD said that is not on this amendment and if this amendment passes he would offer that amendment to reduce it.

REP CODY said if we already have something in the statute to allow the Governor to reduce spending, then why are we considering this since that is what this bill says. REP SWYSGOOD said we don't have anything and that is what this bill before us would allow. This amendment is making reference to House Bill 8,

which is a new bill, a new section of law.

Vote: Motion passed, 10 yes, 5 no. **Reps. Quilici, Kimberley, Menahan and Peck** voting no.

REP PECK said as a person in education, we have long had in law the fact that we don't reduce a schedule that the legislature has put out by order of the Governor, and that was his basis for voting no.

Motion: **REP SWYSGOOD** moved to amend House Bill 8, page 2, line 8, following "then" strike 10% and insert 4%. The same changes would be made on line 11.

Discussion: **REP SWYSGOOD** said the reason for this amendment is that if you include school equalization in there you have a larger pie and therefore there is more money available and you can reduce the percentage of over all cuts. He reminded the committee that the SEA or the Board of Regents, have the ability to say no and then there is a problem.

Vote: Motion passed unanimous of those present.

REP KADAS said the Board of Regents may not approve the Governor's cuts. **REP SWYSGOOD** said the same constitutional authority or the same question arises on the School Equalization would arise with the Board of Regents, that they probably could. He felt it was highly unlikely either would, and felt comfortable with this.

REP PECK said he would vote no on the bill for the reasons he gave earlier, but additionally, if you cut the University System the Board of Regents go out and recover the cut. The Public Schools, if cut, there is no recovery possible since most of those are limited under the various rules we have put into House Bill 28. He felt education is education and did not feel we should discriminate against either.

REP MENAHAN said if they are cut, the law says we can only decrease by 4%. What is the result if a school district's levy fails and the Governor issues another 4% cut? They can't get back into a regular session. House Bill 28 says you can only increase by 4%. Where will they be then? **REP PECK** said, you are saying you lose your levy so you don't get the increase and then you are cut besides. **REP MENAHAN** said the law also says you can't increase your next year's budget above 4%. Where would you be then? **REP PECK** said back where you started he assumed.

REP COBB said on Saturday we said if they tried to raise tuition we would cap it and for every dollar they raise we would take a dollar off from the university budget. He said we could do something like that and he could try it on the floor. That would put it on a fairer basis.

REP CODY said the law says the next year's budget cannot be more than 104% of the previous year and said she would question it. That is permissive, and thought it was in statute. She felt the statute would have to be changed. She felt the 104% permissive would stay regardless of what the Governor did.

REP MENAHAN said how do we get money back if our levy fails then the budget is down and the next year all we can go on permissive is 104% of the 20% reduction plus the Governor says we have a cut. He was concerned that they could never regain the loss.

REP KADAS said **REP MENAHAN** was correct, but that is the boat we are in now anyway. This only affects it to the extent that if the Governor were able to talk the Board of Ed into making a cut in the foundation program, your boat would sink by that much more, but it is already sinking. We are going on the assumption that the levy will not pass on the 4th vote and you will lose that as your base.

CHAIR BARDANOUVE said in the case of the worst case scenario and the Regents or the Board of Education says no, there is nothing in this bill that would prohibit the Governor cutting elsewhere to make up the short fall. **REP KADAS** said there is, now that we have a 4% limit, he can only cut 4% and it depends on how big the hole is. **CHAIR BARDANOUVE** said the Governor could cut general government in many areas to make up the difference. He may not necessarily cut 4% of the whole pot, you may only have a proposed cut of 2%.

REP MENAHAN said his other part of the problem is the school district with contracts, etc., that are signed and probably 75% to 85% of the budget is contracted money. Unless that other 15% makes up 4% of your budget or more, what are you going to do? **REP ZOOK** asked if most of those contracts aren't sent out before mill levy time included in the contract that they are subject to passage of the mill levy. **REP MENAHAN** said yes, but this might happen after the contracts are signed, perhaps in the spring or whenever and the contracts are obligated.

REP PECK said this is a University amendment. Mr. Schramm made the point in other discussion in this committee that he felt it was discriminatory the other way if you don't put the foundation program in. He felt we are now arguing that it is discriminatory if you do put it in since they have no way of making up what is cut, but the University does.

Motion: **REP COBB** moved House Bill 8, as amended, do pass .

Vote: Motion passed 10 yes, 5 no. Roll call vote # 2.

EXECUTIVE ACTION ON HOUSE BILL 41**TRANSFER FROM CERTAIN ACCOUNTS TO GENERAL FUND**

Motion: REP KADAS moved House Bill 41 be amended - EXHIBIT 4.

Discussion: It was decided to vote separately on the amendments. REP KADAS said this brings the building code appropriation from \$550,000 to \$400,000 and eliminates section 10, the Brand Re-Record.

Vote: Motion passed unanimous those present.

Motion: REP KADAS moved to further amend House Bill 41 by striking section 6.

Discussion: REP KADAS said this was junk vehicles.

Vote: Motion passed 14 yes, 1 no. Rep. Cobb voting no.

Motion: REP KADAS moved to further amend House Bill 41 by striking section 11, the Air Operation Internal Service Account.

Vote: Motion passed unanimous of those present.

Motion: REP KADAS moved to further amend by striking \$500,000 and inserting \$200,000 in Section 9, Range Land Improvement Loan.

Vote: Motion passed 13 yes, 2 no. Reps. Zook and Peterson voting no.

Discussion: REP THOFT asked what the dollar figure is now. REP KADAS said it is in the neighborhood of \$2 million or a little less.

Motion: REP SWYSGOOD moved to amend House Bill 41 to strike the section that deals with the air craft restitution, section 12.

Discussion: REP SWYSGOOD said the reason for this amendment is that we don't know what that amount is going to be and this is money that has been expended by the Department and he felt they had a right to recover that loss.

REP KADAS said he had talked to Mike McGrath, Lewis & Clark County Attorney who is currently prosecuting the case and he said the way we have it worded would not damage their case in any way. If we had a specific amount it might damage the case, but this will not. He said he would resist the amendment because this is not fee money any more.

REP MENAHAN said the only objection he has is that a person may be set up on a pay back fee that might take 5 or 10 years to pay back. REP KADAS said currently the helicopter this guy built out of all these spare parts was sold for \$250,000 and the total

extent of the claim by the state is in the neighborhood of \$200,000, so there is currently more cash available than there is liability.

REP MENAHAN asked where this money came from. **REP SWYSGOOD** said it came from the Livestock Dept. **Mr. Frazier** said there is also a lien against that helicopter that will have to be taken care of.

REP CODY asked if there has been a court process? Is there going to be a trial? We are all assuming this is over and done with, but what is going on?

Mr. Frazier said the information has been given to the court in L & C County and notice to appear has been given to this individual on the 28th of July. That is as far as it has gone.

REP CODY said she would speak in favor of the amendment. She felt without the amendment the action is stupid. There has been no court case, no finding of guilt, no fine of money and this is really putting the cart before the horse.

REP ZOOK said he would support the amendment because even though the case is coming up, it does not mean if you are awarded the judgement that you will get your price.

REP GRADY asked what the lien is and asked **Mr. Frazier** if this is a lien which would come ahead of the money that would go to the department. **REP KADAS** asked if even with the lien, there is still the potential liability they have to pay for the parts? **Mr. Frazier** told **REP KADAS** he believed that was accurate.

Mark Griffith, Dept of Livestock Investigator, said this is still an ongoing investigation. The defendant appears on July 27th to make his additional appearance. There is a lien against the helicopter and we don't know yet what the outcome will be.

REP THOFT said he felt **REP CODY** was correct. We are trying the case in committee and should stop.

REP KADAS asked how many liens there are on the helicopter? **Mr. Griffith** said to the best of his knowledge, one. **REP KADAS** asked who had filed that lien? **Mr. Griffith** said he had received that information as a part of the investigation and did not believe it would be proper to repeat it.

Vote: Motion passed 13 yes, 2 no. **Reps. Peck and Kadas** voting no.

REP PETERSON said she was concerned about the Victims' Compensation. We just added the DUI area and those requests are just beginning to come in. There will be a number of those requests and felt they would see a lot of this money would be needed in that compensation area.

REP QUILICI said we took \$250,000 out of this last time and the DUI's are coming up. He really thought \$150,000 could be taken.

Motion: REP QUILICI moved to amend House Bill 41, the Crime Victims Compensation section, to delete \$250,000 and insert \$150,000.

Vote: Motion passed unanimous of those present.

Motion: REP KADAS moved House Bill 41, as amended, do pass.

Vote: Motion failed on a tie vote. Roll call vote # 3.

Motion: REP KADAS moved House Bill 41 be tabled.

Vote: Motion passed 12 yes, 3 no. Reps. Cobb, Quilici and Kimberley voting no.

EXECUTIVE ACTION ON HOUSE BILL 42

TRANSFER CERTAIN LIVESTOCK REVENUES TO GENERAL FUND

Motion: REP KADAS moved House Bill 42 be amended - EXHIBIT 5.

Discussion: REP KADAS said this would repeal the section of statute that allows interest to stay in this account. With that repeal the interest would revert to the general fund.

REP SWYSGOOD said he felt REP KADAS's argument would be correct except for an item left out of the argument and that is that the interest would not exist if it wasn't for the users money that was put in there to begin with.

REP ZOOK said he thought REP KADAS was trying to do something statutorily that the constitution may not allow. He said that section of the law talks about "revenue derived" from these sources mentioned shall be used solely for the purposes of the levy.

CHAIR BARDANOUVE said he would refer to the Highway diversion amendment. It is in the constitution that you cannot divert highway money, but we do not pay interest on that and this is the same issue.

REP KADAS said interest on the highway account goes to the general fund, plus interest on the building fund and a half dozen more goes to the general fund.

REP GRADY asked how many accounts REP KADAS knew of where the interest like this is not going into the general fund. REP KADAS said the only other one he is aware of, but is sure there are others, is in Fish, Wildlife and Parks. There is a federal requirement that unless the interest from some fees stays in the

account we will start losing Pitman and Robinson funds.

CHAIR BARDANOUVE replied in a request to mandate all interest go to the general funds on all accounts, that there is a federal provision in the Fish, Wildlife and Parks money and they have us over a barrel there.

Vote: Motion failed with 7 yes, 8 no. Roll call vote # 4.

Motion: REP KADAS moved House Bill 42 do pass.

Substitute Motion: REP THOFT moved House Bill 42 be tabled.

Vote: Motion failed with 7 yes, 8 no. Roll call vote # 5.

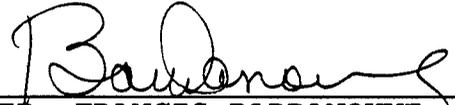
Vote: Original motion of do pass failed on a tie vote. Roll call vote # 6.

Motion: REP SWYSGOOD moved House Bill 42 be tabled.

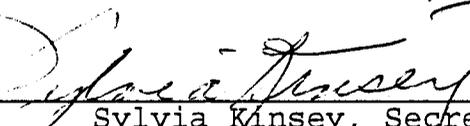
Vote: Motion passed unanimously.

ADJOURNMENT

Adjournment: 5:14 p.m.



REP. FRANCIS BARDANOUE, Chair



Sylvia Kinsey, Secretary

FB/sk

HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE

ROLL CALL

DATE

July 13, 1992

NAME	PRESENT	ABSENT	EXCUSED
REP. FRANCIS BARDANOUVE, CHAIRMAN	✓		
REP. RAY PECK, VICE-CHAIRMAN	✓		
REP. DOROTHY BRADLEY	✓		
REP. JOHN COBB	✓		
REP. DOROTHY CODY	✓		
REP. MARY ELLEN CONNELLY			✓
REP. ED GRADY	✓		
REP. LARRY GRINDE	✓		
REP. JOHN JOHNSON			✓
REP. MIKE KADAS	✓		
REP. BERV KIMBERLEY	✓		
REP. WM. "RED" MENAHAN	✓		
REP. JERRY NISBET	✓		
REP. MARY LOU PETERSON	✓		
REP. JOE QUILICI	✓		
REP. CHUCK SWYSGOOD	✓		
REP. BOB THOFT	✓		
REP. TOM ZOOK	✓		

Mr. Speaker: We, the committee on Appropriations report that House Bill No. 8 (first reading copy -- white) do pass as amended.

Signed: Boulanger
Francis Bardanouve, Chairman

And, that such amendments read:

1. Title, line 8.

Following: "FUND"

Insert: "AND SCHOOL EQUALIZATION AID"

2. Title, line 11.

Following: "FUND"

Insert: "AND SCHOOL EQUALIZATION AID"

3. Title, line 15.

Following: "17-7-140"

Strike: "AND"

Insert: ", "

Following: "17-7-304,"

Insert: "20-9-344, AND 20-9-351,"

4. Page 2, line 8.

Strike: "10%"

Insert: "4%"

5. Page 2, line 11.

Strike: "10%"

Insert: "4%"

6. Page 2, line 13.

Following: "fund"

Insert: "and school equalization aid"

7. Page 6, line 22.

Following: line 21

Insert: "Section 3. Section 20-9-344, MCA, is amended to read:

"20-9-344. Purpose of state equalization aid and duties of board of public education for distribution -- conditions of first

payment. (1) The money available for state equalization aid must be distributed and apportioned to provide:

(a) an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings and grounds, and transportation; and

(b) the Montana educational telecommunications network as provided in 20-32-101.

(2) The board of public education shall administer and distribute the state equalization aid in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law and in a manner that provides for monthly distribution to each district of its foundation program amount and to each county and district distribution of its guaranteed tax base aid;

(b) have the power to require reports from the county superintendents, budget boards, county treasurers, and trustees as it considers necessary; and

(c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public education may not increase or decrease the state equalization aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(3) The board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of schools to withhold county equalization money from a district when:

(a) directed by the governor to reduce spending pursuant to 17-7-140; or

(b) the district fails to:

~~(a)~~ (i) submit reports or budgets as required by law or rules adopted by the board of public education; or

~~(b)~~ (ii) maintain accredited status.

(4) Prior to any proposed order by the board of public education to withhold distribution of state equalization aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(5) If a district or county receives more state equalization aid than it is entitled to, the county treasurer

shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(6) (a) The first foundation program payment and guaranteed tax base aid payment must be based on an estimate of 20% of the entitlement of each district or county and distributed by July 15 of the school fiscal year.

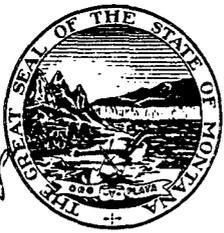
(b) Each subsequent monthly payment must be at least 7% of the entitlement of each district or county."

Section 4. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in state equalization aid. If the money available for state equalization aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide the foundation program schedule support determined in 20-9-348 and the guaranteed tax base aid required under 20-9-366 through 20-9-369, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of guaranteed tax base aid and the foundation programs of the elementary or secondary schools, or both, for the current biennium."

Renumber: subsequent section

Exhibit #1
7/13/92
K. Kadas



The Big Sky Country

- Exhibit # 1
7/13/92 HB 41

MONTANA HOUSE OF REPRESENTATIVES

HB 41 Rep. Kadas

FUND BALANCE TRANSFERS

Bed Tax	\$220,000
Drivers Training	~200,000
Building Codes	400,000
Crime Victims	100,000
Highway Patrol Clearing	750,000
Slash Disposal	67,000
Rangeland Improvement	200,000

TOTAL \$ ~1,937,000

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2
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4

DEPARTMENT OF COMMERCE ACCOMADATIONS TAX	FISCAL 1992 TO MAY 31, 1992	FISCAL 1991	FISCAL 1990
CASH IN TREASURY	\$1,019,978.69	\$918,601.43	\$639,746.55
UNRESERVED FUND BALANCE	\$800,040.31	\$377,515.90	\$376,935.02
REVENUES	\$6,548,770.72	\$5,715,910.34	\$5,144,583.96
EXPENDITURES	\$6,219,459.10	\$5,583,121.31	\$5,126,741.09

exhibit 3
1/3/92
HB 41
1/3/92
DEPARTMENT OF JUSTICE

Crime Control Division

Crime Victims Benefits - Accounting Entity 02011

What would be the impact if \$400,000 of cash was taken from this account?

Personnel at the Board of Crime Control said that taking \$400,000 from this account would "devastate" the Crime Victims Benefit Program. This would not leave enough cash to make crime victims benefit payments. Benefit claims can run as high \$100,000. Personnel know of two DUI payments pending for \$50,000. Total claims pending to be paid are approximately \$211,700. Approximate monthly revenue is \$37,000. Personnel indicated they need a minimum balance of \$150,000 to \$200,000 to operate the program. Personnel noted the number of claims and cost of claims have been increasing drastically over the last five to six months.

In addition, if \$400,000 were taken the Board of Crime Control would not be able to fund the juvenile detention program scheduled to start on July 1, 1992. Personnel said they have already submitted the paperwork for a \$120,000 inter-entity loan from this account. The inter-entity loan will be used to fund start-up costs for the juvenile detention program. The juvenile detention program is funded from a portion of lottery revenue which is made after each quarter ends. The juvenile detention program needs cash to cover expenses from July 1, 1992 until the quarterly lottery distributions are received.

Therefore, using a projected ending cash balance of \$420,000, the Board of Crime Control needs \$270,000 for operations (\$150,000) and the juvenile detention program (\$120,000). This leaves approximately \$150,000 that could possibly be taken.

Highway Patrol Retirement Clearing - Accounting Entity 02014

What would be the impact if \$800,000 of cash were taken from this account?

Personnel at the Department of Justice state the current cash balance as of July 1, 1992 is \$865,800. From this balance they anticipate making a payment of \$71,900 for the accounts portion of the June 1992 highway patrol retirement contribution. They estimate collecting \$10,500 of additional driver's license fees (based upon the previous fiscal year-end collections). Based upon this anticipated cash flow, the cash balance in the account would be \$805,400 after fiscal year-end. If \$800,000 were taken from this account, this would leave a \$5,400 reserve. Projected monthly retirement contributions are \$54,000. Department personnel would be more comfortable with at least a one-month reserve of cash for payment of retirement benefits. Therefore, taking \$750,000 rather than \$800,000 would leave a more adequate balance in the account to meet short-term needs.

Justice personnel indicated that for the short term, current driver's license fee revenue allocated to the Highway Patrol Retirement Clearing Account is sufficient to pay current highway patrol retirement contributions. However, in the long run, personnel believe the retirement contributions will continue to increase as highway patrol officers' salaries increase. Eventually, the retirement contribution needed will be more than the amount allocated from driver's license fees.

DEPARTMENT OF STATE LANDS

Forestry - Slash Disposal A/E 02073

The amount of revenues collected in this fund varies directly with logging activity. As logging activity increases, so do the slash deposits and administrative fees collected. Administrative fees are spent to inspect and monitor slash areas. Deposits are spent to clean up sites abandoned by loggers. The administrative fee is paid to the department at a rate of \$.60 per thousand board feet of timber harvested. The slash deposits, pursuant to section 76-13-111(2), MCA, may not be expended for any purpose other than removal of slash hazards resulting from logging or other wood operations on state or private land. The administrative fee plus additional General Fund moneys support the administrative activities of the program.

Legal Cites: Sections 76-13-401 to 76-13-415, MCA. Also section 76-13-111(2), MCA

Cash Balance on May 30, 1992: \$258,321
(\$232,321 administrative fees
and \$26,000 forfeited slash
deposits designated for clean up

Information on Cash Flows:

Revenue	\$166,216
Expenditures	\$189,335

The agency indicates that if more than \$67,000 of the cash balance is taken from this accounting entity, it would significantly affect the slash disposal program.

Air Operation Internal Service A/E 06538

The Air Operations account is based on fees charged to the users of the Department of State Lands' aircraft. The department sets its hourly air operations rates based on the direct operating costs such as fuel, oil, repairs, and inspections. These rates vary from \$70 to \$700 per hour depending on the aircraft. The rate does not include fixed cost such as pilot salaries, insurance, hangar and office rental and training which are paid by the General Fund. Approximately 60 percent of the air operations budget comes from the General Fund.

The account has accrued a positive balance through the years. Primarily the balance is used to support aircraft maintenance, the purchase of new helicopter propellers, engine overhauls, aircraft remounting and other occurrences that may be unforeseen. There are not statutory restrictions for these funds. However, Federal Aviation Administration regulations mandate certain aircraft parts be replaced on a systematic basis to keep the aircraft airworthy.

In the recent audit report(#91-13), we recommended the department review its accounting for air operations (pp.7-11). The department is currently reviewing the prospects of funding the air operations program solely through proprietary funds. This will result in a fee increase to cover the costs previously paid with General fund moneys. Also, if this change is made, the department foresees the need to maintain a certain level of fund balance to cover unanticipated expenses. Agency personnel indicated \$200,000 could be taken without significantly affecting air operations.

Legal Cites: There are not statutory restrictions.

Cash Balance on May 30, 1992: \$278,426

Information on Cash Flows:

Revenue	\$269,165.00
Expenditures	\$198,409.97

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Junk Vehicle Disposal - Accounting Entity 02845

The Department of Health and Environmental Sciences projects that fiscal year 1992 expenditures will be \$60,000 more than the revenue brought in under the Junk Vehicle Program (estimated revenue \$900,000, estimated expenditures \$960,000). Fund balance in the account is estimated to be \$697,861 at fiscal year-end 1992 (beginning fund balance \$757,861 - \$60,000). The revenue in the account fluctuates with the price of scrap metal. For the past few years, the price of scrap metal has been higher than projected by the department. Even with the higher value of scrap metal, the Junk Vehicle Program is not operated on a break-even basis. Revenues have not been adequate to cover expenditures.

If the legislature left a \$240,000 fund balance in the Junk Vehicle Program (taking approximately \$458,000), we estimate the program would remain solvent for between one and one-half to four years, depending on the value of scrap metal and the rate at which expenditures increase. Junk vehicle fees will need to increase in order to maintain a long term positive fund balance in the account. Taking a large portion of the fund balance from the account may force the department to pay counties for their expenses monthly rather than annually as is the current practice. This could cause cash flow concerns at the county level.

Sections 75-10-533 and 534, MCA, may need to be amended before the funds are transferred to the General Fund.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Rangeland Improvement Loans - Accounting Entity 02052

The Rangeland Improvement Loans Program was established to provide low interest loans to Montana farmers and ranchers for rangeland development and improvement. If the legislature removes \$500,000 in cash from the program, the program will have \$238,000 available for loans rather than \$738,000. The program will exist, there will be less moneys for loans. As moneys from existing loans are repaid, cash will be available for further loans.

DEPARTMENT OF LIVESTOCK

Inspection and Control A/E 02425

The Department of Livestock uses the Inspection and Control Account to record revenue and the expenses of inspecting all cattle and horses leaving any county in the state; recording marks and brands; investigation of livestock thefts and losses; and predatory animal control. Section 81-3-107, MCA, provides that not more than 10 percent of the net brand rerecording fees shall be expended in any one year except in case of emergency declared by the Governor. Department personnel indicate that during the last special legislative session General Fund moneys were replaced with other department funds. Department personnel believe the state Constitution, in addition to other state laws, would prohibit transfer of these funds for other uses.

Legal Cites: Constitution Article XII Sec.1(2); Sections 15-24-921 through 925; Title 81, chapters 1 to 30

Cash Balance on May 30, 1992: \$5,017,149
(includes STIP investments)

Information on Cash Flows:

Revenue	\$3,204,320
Expenditures	\$2,466,864

Department of Livestock

Revenue History for Brand Re-Records

<u>Fiscal Year</u>	<u>New Brands & Transfers Object of Revenue 6001</u>	<u>Re-Record Brands Object of Revenue 6003</u>	<u>STIP Interest Object of Revenue 0025</u>
1979-80	\$ 49,757	\$ 0	\$ 52,848
1980-81	151,474	748,720	117,679
1981-82	162,008	285,004	314,712
1982-83	77,398	0	307,288
1983-84	69,973	0	248,429
1984-85	71,053	0	230,736
1985-86	54,505	0	176,893
1986-87	62,761	0	183,400
1987-88	65,100	0	156,980
1988-89	61,983	0	233,136
1989-90	57,613	0	277,630
1990-91	35,543	1,535,864	304,593
June 1992	<u>118,492</u>	<u>332,554</u>	<u>267,416</u>
Totals	<u>\$1,037,660</u>	<u>\$2,902,142</u>	<u>\$2,871,740</u>

Source: SBAS 631 FYE 1981-91

DEPARTMENT OF COMMERCE

Building Codes State Special Revenue - Accounting Entity 02448

Building Codes Bureau of the Department of Commerce expects to have a cash balance of \$836,959 at the end of fiscal year 1992 and a balance of \$876,819 at the end of fiscal year 1993. We believe that if the legislature removed all the cash except for \$250,000, the Building Codes Bureau should be able to operate without a significant affect in its operation if building in the state does not decrease dramatically. \$250,000 should be sufficient to meet short-term cash needs such as payroll and other expenses. The bureau estimates that revenue will exceed expenditures until fiscal year 1995 when it anticipates replacing vehicles used for inspections. Removing the Building Codes Bureau's cash may require the Department of Commerce to increase the related fees sooner than they previously anticipated.

WDG\j\cmbc999s.mem

Amendments to House Bill No. 41
First Reading Copy

Requested by Representative Kadas
For the House Committee on Appropriations

Prepared by Eddy McClure
July 13, 1992

1. Title, lines 18 through 20.

Following: "FUND;" on line 18

Strike: remainder of line 18 through "FUND;" on line 20

Following: "TRANSFERRING" on line 20

Strike: "\$550,000"

Insert: "\$400,000"

2. Title, line 24.

Following: "20-7-504,"

Strike: "50-60-508"

Insert: "50-60-104"

3. Title, line 25.

Following: "76-13-415,"

Insert: "AND"

4. Title, page 2, line 1.

Following: "76-14-112,"

Strike: "AND 81-3-107,"

5. Page 6, lines 5 through 22.

Strike: section 3 in its entirety

Insert: "Section 3. Section 50-60-104, MCA, is amended to read:

"50-60-104. Inspection fees. (1) The department shall establish a schedule of fees and may collect fees for the inspection of plans and specifications and for the inspection of buildings, factory-built buildings, recreational vehicles, tramways, or any other facility or structure.

(2) On or before September 1, 1992, the department shall transfer \$400,000 from the building codes state special revenue account to the general fund."

{Internal References to 50-60-104: None.}

6. Page 17, line 18 through page 18, line 11.

Strike: section 10 in its entirety

Renumber: subsequent sections

exh 5
Jul 13-92
H. Kadas

- Exhibit # 5
7/13/92 HB 42

Amendments to House Bill No. 42
First Reading Copy

Requested by Representative Kadas
For the House Committee on Appropriations

Prepared by Eddy McClure
July 13, 1992

1. Title, line 9.

Following: "FUND;"

Insert: "REPEALING SECTION 81-1-104, MCA;"

2. Page 1, line 22.

Following: line 21

Insert: "NEW SECTION. Section 2. Repealer. Section 81-1-104,
MCA, is repealed."

Renumber: subsequent section

See Copy 1
see 6
see 13-92

81-1-103. Audit of bills — payment of expenses. The department shall audit all bills for expenses incurred by it in the discharge of its duties, which shall be paid out of the department's moneys in the state special revenue fund.

History: En. Sec. 5, Ch. 51, L. 1917; re-on. Sec. 3257, R.C.M. 1921; re-on. Sec. 3257, R.C.M. 1935; amd. Sec. 88, Ch. 147, L. 1963; amd. Sec. 50, Ch. 310, L. 1974; R.C.M. 1947, 46-105; amd. Sec. 1, Ch. 277, L. 1983.

81-1-104. Investment of state special revenue account funds — crediting of investment income. The board may direct the board of investments to invest funds from state special revenue accounts of the department pursuant to the provisions of the unified investment program for state funds. The income from such investments shall be credited to the state special revenue account of the department from which the investment is made.

History: En. 46-105.1 by Sec. 1, Ch. 16, L. 1977; R.C.M. 1947, 46-105.1; amd. Sec. 44, Ch. 281, L. 1983.

Cross-References

Powers and duties of Board of Investments, 17-6-201.

81-1-105. (Temporary) Authority to dispose of surplus handguns.

(1) The department may destroy, sell, or dispose of surplus handguns owned by the department.

(2) All money received under subsection (1) must be credited to the account from which the handguns were purchased.

(3) The department may adopt rules to implement this section (Terminates October 1, 1993—sec. 6, Ch. 234, L. 1991.)

History: En. Sec. 4, Ch. 234, L. 1991.

Compiler's Comments

Termination Date: Section 6, Ch. 234, L. 1991, provided: "[This act] terminates October 1, 1993."

	Interest Income
FY 88	156,980
89	233,136
90	277,630
91	304,593
June YTD 92	267,416
Total 1,239,755	

Part 2

Inspectors and Detectives

Part Cross-References

Special levies on commodities for livestock and commodity inspection, Art. XII, sec. 1, Mont. Const.

81-1-201. Appointment and powers. The department may appoint stock inspectors and detectives necessary for the protection of the livestock interests of this state. The department shall designate which inspectors and detectives are considered law enforcement officers, and those designated shall take the official oath required by law and shall have similar powers and authority to those conferred by law on deputy sheriffs. However, they are not entitled to the fees or emoluments awarded by law to deputy sheriffs. The

*expt 7
July*

DEPARTMENT OF LIVESTOCK



STAN STEPHENS, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

BRANDS ENFORCEMENT DIV. 406-444-2045
ANIMAL HEALTH DIV. 406-444-2043
BOARD OF LIVESTOCK - CENTRALIZED SERVICES 406-444-2023
MEAT, MILK & EGG INSPECTION DIV. 406-444-5202

HELENA, MONTANA 59620

BREAKDOWN OF RESERVE BALANCE FOR DEPARTMENT OF LIVESTOCK

1.	Estimated F.Y. 92 Ending Balance	\$5,713,000	
A.	Brand Re-Record Funds - \$2,200,000 (81-3-107)	1,900,000	
		<u> </u>	
2.	Balance after Re-Record - deduct		<u>\$3,813,000</u>
B.	Begin Fiscal Year Balance with a 50% reserve = annual budget 5,000,000 = as our revenues are not received until late fall - Dec. when livestock fees are deposited.	2,000,000	
3.	Balance after 50% reserve		<u>\$1,813,000</u>
C.	Board action on 6/17/92 to renovate Diagnostic Laboratory	<u>1,200,000</u>	
4.	Balance after Board action		<u>613,000</u>
5.	Disease Emergency Balance after Disease Emergency	<u>465,000</u>	<u>148,000</u>
6.	Helicopter Reserve for insurance deduct	<u>145,000</u>	
	RESERVE BALANCE		<u>\$ 3,000</u>



JUL 13 1992

Exhibit # 8
7/13/92 HB 42

*1 cc copy
July 8
July 13 1992*

Mr. E. E. Mortensen, Chief
Meat Inspection Bureau
MT Department of Livestock
Capitol Station
Helena, MT 59620

Dear Mr. Mortensen:

This is in response to your recent inquiry concerning the Department of Agriculture's position on the imposition by the State of Montana of user fees for recovering the costs of State meat and poultry inspection.

As you know, the Federal Meat Inspection Act (FMIA) and Poultry Products Inspection Act (PPIA) provide for the establishment and effective enforcement of State inspection programs that are "at least equal" to the programs operated by the Federal Government under the FMIA and PPIA. Any State not having and enforcing an "at least equal" program is required to be designated by the Secretary of Agriculture and, 30 days after the publication of the designation, the requirements of the FMIA and PPIA become applicable to wholly intrastate operations in the State (21 U.S.C. 454, 661).

The provisions of Federal law applicable to meat and poultry inspection provide that the cost of inspection under the FMIA and PPIA shall be borne by the United States except for overtime and holiday work (21 U.S.C. 466, 469, 680, 695). Also, the legislative history of the FMIA and PPIA clearly shows the intent of Congress that Federal and State programs under these acts are not to be financed by direct or indirect user fees or taxes. Both the FMIA and the PPIA intend that the Federal share of funds used to finance the programs shall come from appropriations out of general revenue funds. The States also must provide for the cost of their share through appropriations out of general revenue funds, although it was not the intent "to preclude cooperation with State programs having as a part thereof a licensing system where there is imposed a nominal license fee..." (See Congressional Record, December 6, 1967, pages 18041, H. 16346; House Report No. 1333 on H.R. 16363, 90th Congress, 2d. Session, page 11.)

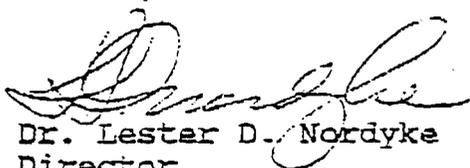
If the FMIA and PPIA were amended to permit the Federal Government to charge user fees for meat and poultry inspection, the States would be able to enact similar provisions for their inspection programs.

Mr. E. E. Mortensen

2

We hope this information is useful. If we can be of further assistance, please let us know.

Sincerely,



Dr. Lester D. Nordyke
Director
Federal-State Relations Staff

Amendments to House Bill No. 7
Introduced Copy

Requested by Representative Kadas
For the House Appropriations Committee

Prepared by Jim Haubein
July 13, 1992

1. Title, line 8.

Strike: "10"

Insert: "5"

2. Page 1.

Following: line 19

Insert: "Expenditures by a state agency must be made in substantial compliance with an operating budget approved by an approving authority. Substantial compliance means that a first-level category in the operating budget may not be exceeded by more than 5%."

3. Page 3, line 3.

Strike: "10%"

Insert: "5%"

Amendments to House Bill No. 8
First Reading Copy

For the Committee on Appropriations

Prepared by Greg Petesch
July 13, 1992

exhibit 10
July 13 - 92
Please Approve

1. Title, line 8.
Following: "FUND"
Insert: "AND SCHOOL EQUALIZATION AID"

2. Title, line 11.
Following: "FUND"
Insert: "AND SCHOOL EQUALIZATION AID"

3. Title, line 15.
Following: "17-7-140"
Strike: "AND"
Insert: ", "
Following: "17-7-304,"
Insert: "20-9-344, AND 20-9-351,"

4. Page 2, line 13.
Following: "fund"
Insert: "and school equalization aid"

5. Page 6, line 22.
Following: line 21
Insert: "Section 3. Section 20-9-344, MCA, is amended to read:
"20-9-344. Purpose of state equalization aid and duties of board of public education for distribution -- conditions of first payment. (1) The money available for state equalization aid must be distributed and apportioned to provide:

(a) an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings and grounds, and transportation; and

(b) the Montana educational telecommunications network as provided in 20-32-101.

(2) The board of public education shall administer and distribute the state equalization aid in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law and in a manner that provides for monthly distribution to each district of its foundation program amount and to each county and district distribution of its guaranteed tax base aid;

(b) have the power to require reports from the county superintendents, budget boards, county treasurers, and trustees as it considers necessary; and

(c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public education may not increase or decrease the state equalization aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

✶ (3) The board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of schools to withhold county equalization money from a district when:

(a) directed by the governor to reduce spending pursuant to 17-7-140; or

(b) the district fails to:

~~(a)~~ (i) submit reports or budgets as required by law or rules adopted by the board of public education; or

~~(b)~~ (ii) maintain accredited status.

(4) Prior to any proposed order by the board of public education to withhold distribution of state equalization aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(5) If a district or county receives more state equalization aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(6) (a) The first foundation program payment and guaranteed tax base aid payment must be based on an estimate of 20% of the entitlement of each district or county and distributed by July 15 of the school fiscal year.

(b) Each subsequent monthly payment must be at least 7% of the entitlement of each district or county."

Section 4. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in state equalization aid. If the money available for state equalization aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide the foundation program schedule support determined in 20-9-348 and the guaranteed tax base aid required under 20-9-366 through 20-9-369, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of guaranteed tax base aid and the foundation programs of the elementary or secondary schools, or both, for the current biennium."

Renumber: subsequent section

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

ROLL CALL VOTE

TIME _____

DATE 7-13-92

BILL NO. 7

NUMBER 7

MOTION: _____

Do Pass HB 7 92
As Amended

NAME	AYE	NO	ABSENT
REP. RAY PECK, VICE-CHAIRMAN	X		
REP. DOROTHY BRADLEY		✓	✓
REP. JOHN COBB		✓	
REP. DOROTHY CODY		✓	
REP. MARY ELLEN CONNELLY			✓
REP. ED GRADY		✓	
REP. LARRY GRINDE		✓	
REP. JOHN JOHNSON			✓
REP. MIKE KADAS	✓		
REP. BERV KIMBERLEY	✓		
REP. WM. "RED" MENAHAN	✓		
REP. JERRY NISBET	✓		
REP. MARY LOU PETERSON		✓	
REP. JOE QUILICI	✓		
REP. CHUCK SWYSGOOD		✓	
REP. BOB THOFT		✓	
REP. TOM ZOOK		✓	
REP. FRANCIS BARDANOUE, CHAIRMAN	✓		
TOTAL	7	8	3

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

ROLL CALL VOTE

TIME

4:52t

DATE

7/13

BILL NO.

8

NUMBER

2

MOTION:

269
2

NAME	AYE	NO	ABSENT
REP. RAY PECK, VICE-CHAIRMAN		✓	
REP. DOROTHY BRADLEY			✓
REP. JOHN COBB	✓		
REP. DOROTHY CODY	✓		
REP. MARY ELLEN CONNELLY			✓
REP. ED GRADY	✓		
REP. LARRY GRINDE	✓		
REP. JOHN JOHNSON			✓
REP. MIKE KADAS	✓		
REP. BERV KIMBERLEY		✓	
REP. WM. "RED" MENAHAN		✓	
REP. JERRY NISBET		✓	
REP. MARY LOU PETERSON	✓		
REP. JOE QUILICI		✓	
REP. CHUCK SWYSGOOD	✓		
REP. BOB THOFT	✓		
REP. TOM ZOOK	✓		
REP. FRANCIS BARDANOUVE, CHAIRMAN	✓		
TOTAL	10	5	3

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

ROLL CALL VOTE

TIME _____

DATE

7-13-92

BILL NO.

41

NUMBER

3

MOTION:

As 6 9 2

NAME	AYE	NO	ABSENT
REP. RAY PECK, VICE-CHAIRMAN	✓	✓	
REP. DOROTHY BRADLEY		✓	
REP. JOHN COBB	✓		
REP. DOROTHY CODY		✓	
REP. MARY ELLEN CONNELLY			✓
REP. ED GRADY		✓	
REP. LARRY GRINDE		✓	
REP. JOHN JOHNSON			✓
REP. MIKE KADAS	✓		
REP. BERV KIMBERLEY	✓		
REP. WM. "RED" MENAHAN	✓		
REP. JERRY NISBET	✓		
REP. MARY LOU PETERSON		✓	
REP. JOE QUILICI	✓		
REP. CHUCK SWYSGOOD		✓	
REP. BOB THOFT		✓	
REP. TOM ZOOK		✓	
REP. FRANCIS BARDANOUVE, CHAIRMAN	✓		
TOTAL	<u>8</u>	<u>8</u>	<u>2</u>

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

ROLL CALL VOTE

TIME

5:10 E

DATE _____

BILL NO. 42

NUMBER 4

MOTION: _____

Amend

H B 42

Interest Grants to General Fund

NAME	AYE	NO	ABSENT
REP. RAY PECK, VICE-CHAIRMAN	✓		
REP. DOROTHY BRADLEY			✓
REP. JOHN COBB		✓	
REP. DOROTHY CODY		✓	
REP. MARY ELLEN CONNELLY			✓
REP. ED GRADY		✓	
REP. LARRY GRINDE		✓	
REP. JOHN JOHNSON			✓
REP. MIKE KADAS	✓		
REP. BERV KIMBERLEY	✓		
REP. WM. "RED" MENAHAN	✓		
REP. JERRY NISBET	✓		
REP. MARY LOU PETERSON		✓	
REP. JOE QUILICI	✓		
REP. CHUCK SWYSGOOD		✓	
REP. BOB THOFT		✓	
REP. TOM ZOOK		✓	
REP. FRANCIS BARDANOUVE, CHAIRMAN	✓		
TOTAL	<u>7</u>	<u>8</u>	<u>3</u>

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

ROLL CALL VOTE

TIME _____

DATE 7-13-92 BILL NO. 42 NUMBER ~~5~~ 5

MOTION: _____

Table

NAME	AYE	NO	ABSENT
REP. RAY PECK, VICE-CHAIRMAN		✓	
REP. DOROTHY BRADLEY			✓
REP. JOHN COBB		✓	
REP. DOROTHY CODY	✓		
REP. MARY ELLEN CONNELLY			✓
REP. ED GRADY	✓		
REP. LARRY GRINDE	✓		
REP. JOHN JOHNSON			✓
REP. MIKE KADAS		✓	
REP. BERV KIMBERLEY		✓	
REP. WM. "RED" MENAHAN		✓	
REP. JERRY NISBET		✓	
REP. MARY LOU PETERSON	✓		
REP. JOE QUILICI		✓	
REP. CHUCK SWYSGOOD	✓		
REP. BOB THOFT	✓		
REP. TOM ZOOK	✓		
REP. FRANCIS BARDANOUVE, CHAIRMAN		✓	
TOTAL	7	8	3

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

ROLL CALL VOTE

TIME _____

DATE 7-13-92 BILL NO. 42 NUMBER 6

MOTION: Do Pass

NAME	AYE	NO	ABSENT
REP. RAY PECK, VICE-CHAIRMAN	✓		
REP. DOROTHY BRADLEY		✓	✓
REP. JOHN COBB	✓		
REP. DOROTHY CODY		✓	
REP. MARY ELLEN CONNELLY			✓
REP. ED GRADY		✓	
REP. LARRY GRINDE		✓	
REP. JOHN JOHNSON			✓
REP. MIKE KADAS	✓		
REP. BERV KIMBERLEY	✓		
REP. WM. "RED" MENAHAN	✓		
REP. JERRY NISBET	✓		
REP. MARY LOU PETERSON		✓	
REP. JOE QUILICI	✓		
REP. CHUCK SWYSGOOD		✓	
REP. BOB THOFT		✓	
REP. TOM ZOOK		✓	
REP. FRANCIS BARDANOUE, CHAIRMAN	✓		
TOTAL	8	8	

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Appropriation

COMMITTEE

BILL NO.

HB 41

DATE July 13 - 92 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>D. S. Spuncher</u>	<u>MT Farm Bureau</u>		<u>X</u>
<u>Harry H. Graves</u>	<u>MT Wool Growers</u>		<u>X</u>
<u>VERN SITTER</u>	<u>Colonial Inn</u>		<u>X</u>
<u>Stuart Doggett</u>	<u>MT Truckers Assoc.</u>		<u>X</u>
<u>Bernie Hewitt</u>	<u>Leg. Self</u>		<u>X</u>
<u>J. Sudders</u>	<u>Commerce</u>		<u>X</u>
<u>J. B. Munn</u>			<u>X</u>
<u>Don Artley</u>	<u>DSL</u>		<u>X</u>
<u>Nancy Ennis</u>	<u>Board of Livestock</u>		<u>X</u>
<u>Wm. G. FRASER</u>	<u>DEPT 9 LIVESTOCK</u>		<u>X</u>
<u>Reagan Kimmel</u>	<u>MLACD</u>		<u>X</u>
<u>Kim Entkerud</u>	<u>MT Assn. of State Grazing Dist. MT Stockgrowers</u>		<u>X</u>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Appropriation COMMITTEE BILL NO. 4842
DATE July 13, 92 SPONSOR(S) Keddes

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>John E. Youngers</i>	MT Farm Bureau		X
<i>Ray W. Graves</i>	MT Wool Growers		X
<i>Nancy Epsy</i>	Board of Livestock		X
W.M.S. FRASER	DEPT OF LIVESTOCK		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.