

49th LEGISLATURE - SPECIAL SESSION II
MINUTES OF THE MEETING
APPROPRIATIONS COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 27, 1986
2:30 p.m.

The meeting of the Appropriations Committee was called to order by Vice Chairman Donaldson at 2:30 p.m. on Thursday, March 27, 1986 in Room 104 of the State Capitol.

ROLL CALL: All members were present except Representatives Bardanouve, Bradley, and Winslow, who were excused.

EXECUTIVE ACTION was taken on HOUSE BILL 11 and the PLANNING SUBCOMMITTEE RECOMMENDATIONS regarding Special Session III.

Vice Chairman Donaldson reviewed the Planning Subcommittee's activities (See Appropriations Planning Subcommittee records - EXHIBIT A) and the recommendations adopted by them (EXHIBIT B). Representative Quilici wanted to know if any of the recommendations had been presented to the leadership, and Representative Donaldson said the Republican leadership had seen them. Representative Quilici said the Democratic leadership had come up with fairly similar recommendations to those presented by the Subcommittee.

Representative Spaeth suggested that authorization for payment for non-committee members to attend the pre-session be presented on the floor of both Houses for approval, before the end of this Special Session. Representative Donaldson said that any action making the recommendations should be taken by the full Appropriations Committee.

Representative Swift moved to adopt the Subcommittee recommendations and pass them on to the leadership of both Houses. Representative Spaeth suggested that not all the recommendations needed to go before the entire House, although all of the recommendations should go before the leadership. He felt that only those matters that needed full Legislative approval per the Legislative Council would need to go before the full Legislature. The question was called for on the motion that the recommendations be approved and that they be presented to either the leadership or

Appropriations Committee
March 27, 1986 - 2:30 p.m.

the full House, whichever was deemed proper. The motion carried unanimously. The Committee then recessed until 5:30 p.m.

Chairman Bardanouve called the meeting back to order at 5:30 p.m. All members were present.

E X E C U T I V E A C T I O N :

Chairman Bardanouve explained that HOUSE BILL 11 had been amended by the House Agriculture Committee, and the amendments were now part of the bill.

Ms. Pam Joehler, Legislative Fiscal Analyst (LFA), explained the amendments. Several handouts were distributed; see EXHIBITS C, D, E, and F. She explained that the Agriculture Committee had adopted the amendments which had been proposed by the Department of Agriculture (EXHIBIT C). In addition to hiring a coordinator as provided for in the original bill, the amendments provided for necessary staff also. A new section in the bill added some information the creditor would be required to provide when responding to a mediation request. The Committee turned down proposed amendments to make mediation a right, as proposed by many of the proponents.

Keith Kelly, Director of the Department of Agriculture, explained that although the mediation process was voluntary, if both borrower and lender agreed to, they could make a binding agreement.

A further amendment had been adopted, Ms. Joehler explained, which removed the responsibility of determining who was going to be receiving the mediation services from the Department of Agriculture. A waiver of liability amendment was also made. Ms. Joehler then explained the "Kolstad amendment" (EXHIBIT F), which added the definition of a peer counselor to the definition section of the bill.

Representatives Moore and Thoft expressed concern regarding the waiver of liability clause, questioning what the situation would be if a mediator gave bad advice or damaged the borrower. Representative Spaeth pointed out that if one was negligent, one couldn't waive his or her own negligence. It was his opinion that such a waiver probably wouldn't hold up in court; however, the waiver might help to prevent someone from trying to sue.

Appropriations Committee
March 27, 1986 - 2:30 p.m.

Chairman Bardanoue directed the Committee's attention to Page 9 of the bill, providing for appropriation of funds. In response to Representative Moore, Mr. Kelly said \$100,000 was being set aside to hire mediators and pay their expenses. The other \$250,000 was primarily for contracting to the Extension Service and the College of Agriculture, the mental health agencies, for someone to manage the peer counseling part of the program, peer counselor training and expenses, five financial and professional counselors, to be on a retainer basis, Montana Legal Services and the UM Law School. A coordinator for the entire program, secretarial help, and possibly an individual to take care of the paperwork involved with the voluntary mediation would also be hired. Representative Moore submitted that funding was already being provided to many of the agencies listed by Mr. Kelly and he wanted to know why they would need more money.

Carl Hoffman, Director of the Cooperative Extension Service, spoke. He said that in addition to the 2% cut from the Governor, their agency has had a 9.4% cut because of the over-estimation of what their federal funds would be; also at the federal level there is a 57% cut recommended. If the latter cut went through this would mean the cutting of 50 positions. Mr. Kelly said the Department of Agriculture would need to hire five half-time professional financial CPA farm management specialists, mediators would be paid on a daily basis; the contract with the University System he didn't feel would involve the adding of staff on the Universities' part.

Representative Bardanoue wanted to know where the mediators would be found. Mr. Kelly said Senator Towe had mentioned that there were some lawyers in the State who might be qualified to be mediators. Representative Moore wanted to know who would be determining whether or not the applicants would be qualified as mediators. Mr. Kelly said the Department of Agriculture was authorized in the bill to put together an advisory committee, and he was in favor of also including in the bill a provision for a steering committee to help with this, possibly composed of recognized agricultural and financial leaders in the State and representatives from the Advocacy Program.

Appropriations Committee
March 27, 1986 - 2:30 p.m.

Representative Quilici wanted to know if any of those persons whose jobs were in jeopardy due to budget cuts might be able to stay on through some of the jobs which HB 11 would create. Mr. Kelly said they hoped to use some of the peer counselors as well as existing staff for the hotline program, and rather than hire a coordinator for the peer counseling program to hire someone to go through the documents prior to mediation. Curt Nichols, LFA, explained that the expenditure makeup of the program had changed some from what the Committee had received on the handouts.

In response to Representative Donaldson, Mr. Hoffman said that some of their extension agents would be qualified to handle one-to-one counseling, but resources at the State level would have to be drawn upon. In addition they had programs which were ongoing which needed staff time; they have specialists which are necessary for ongoing production work. In the situation under HB 11, \$15,000 would be appropriated for staff to put on a concentrated, week-long training for those counselors, and then meeting with them once a month.

Representative Bradley said that training and background experience for mediation would take a crash course in banking law and legal questions. She added that mediation was presently the No. 1 kind of alternative dispute resolution, and was in favor of giving it a try in Montana.

Representative Connelly wanted to know how Mr. Kelly planned to coordinate the volunteer advocates in the program. Mr. Kelly said the advocates would be making referrals to the hotline where it would be determined what kind of support the people needed. If the peer counselors needed to they would have legal references, professional financial people, or professional mental health people.

Chairman Bardanoue pointed out that the program would end on July 1, 1987. Representative Spaeth wanted to know, if the program were institutionalized, how much of a biennial appropriation would it need. Mr. Kelly said they hadn't carried the thought that

Appropriations Committee
March 27, 1986 - 2:30 p.m.

far. He suggested that the current crisis would be much improved in the future and questioned institutionalizing the program.

(Tape 11:A:000)

Representative Quilici rose in support of the State's helping out as best it could in the mediation issue.

Representative Lory moved that HOUSE BILL 11 DO PASS (with the amendments and Statement of Intent adopted by the Agriculture Committee); it was seconded by Representative Menahan; motion carried with Representative Swift opposed.

The meeting was adjourned.


Representative Francis Bardanoue - Chairman

DR

DAILY ROLL CALL

HOUSE APPROPRIATIONS COMMITTEE
SPECIAL SESSION II
49th LEGISLATIVE SESSION -- 1986

Date 3/27 2:30 pm

NAME	PRESENT	ABSENT	EXCUSED
BARDANOUE, FRANCIS - Chairman			✓
DONALDSON, GENE - Vice Chairman	✓		
BRADLEY, DOROTHY			✓
CONNELLY, MARY ELLEN	✓		
ERNST, GENE	✓		
FRITZ, HARRY	✓		
HAND, BILL	✓		
LORY, EARL	✓		
MANUEL, REX	✓		
MENAHAN, WILLIAM	✓		
MILLER, RON	✓		
MOORE, JACK	✓		
NATHE, DENNIS	✓		
PECK, RAY	✓		
QUILICI, JOE	✓		
REHBERG, DENNIS	✓		
SPAETH, GARY	✓		
SWIFT, BERNIE	✓		
THOFT, BOB	✓		
WINSLOW, CAL			✓

STANDING COMMITTEE REPORT

March 27

1966

Mr. Speaker: We, the committee on APPROPRIATIONS

report HOUSE BILL 2

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Rep. Francis Eardanouve, Chairman

BE AMENDED AS FOLLOWS:

1. Title, line 7
Following: "OF"
Strike: "STATE LANDS"
Insert: "LABOR AND INDUSTRY"
2. Page 2, line 4
Following: "Assistance"
Insert: "and Structured Job Search, Training, and Work Program"
3. Page 2, line 9
Strike: "\$3,226,472"
Insert: "\$0"
Strike: "\$3,679,548"
Insert: "\$3,638,948"
4. Page 2
Following: line 9
Insert: "If SRS contracts with the Department of Labor and Industry to provide all or part of the structured job search, training, and work program, the Department of Labor and Industry is appropriated the spending authority for the contract."

STANDING COMMITTEE REPORT

March 27

1986

Mr. Speaker: We, the committee on APPROPRIATIONS

report HOUSE BILL 11

☒ do pass

☐ be concurred in

☒ as amended

☐ do not pass

☐ be not concurred in

☒ statement of intent attached

Statement of Intent Attached

BE AMENDED AS FOLLOWS:

REP. FRANCIS BARDANOUVE, Chairman

- 1) Title, line 9.
Following: line 8
Strike: "COUNSELING,"
Insert: "AND"
Following: "MANAGEMENT"
Strike: "TRAINING"
Insert: "CONSULTING"
Following: "LEGAL"
Insert: "INFORMATION"
- 2) Page 1, line 21.
Following: "avoid"
Insert: "or mitigate"
- 3) Page 1, line 23.
Following: "state."
Insert: "It is a goal of this program to maximize program effectiveness by utilizing peer counselors and by cooperating with the private sector."
- 4) Page 1, line 20.
Following: line 19
Insert: "(6) 'Peer counselor' means a person who is or has been involved in production agriculture and who has been trained through the department and others in financial counseling and mediation or negotiation techniques and who works to aid financially distressed farmers through this program."
ReNUMBER: Subsequent subsections
- 5) Page 3, line 1.
Following: "with a"
Insert: "statutory"
Following: "or"
Insert: "a perfected "
- 6) Page 3, line 6.
Following: "without"
Insert: "a perfected"
Following: "security"

First

reading copy (white)
color

March 27, 1986

Insert: "interest"

- 7) Page 3, line 14.
Following: "financial"
Strike: "counseling"
Insert: "consulting"
- 8) Page 3, line 15.
Following: "management"
Strike: "training"
Insert: "consulting"
- 9) Page 3, line 16.
Following: "legal"
Insert: "information"
- 10) Page 4, line 1.
Insert: "(1) a network of trained peer counselors who can directly assist financially distressed farmers;"
ReNUMBER: Subsequent subsections
- 11) Page 4, line 1.
Following: "service"
Insert: "and the college of agriculture"
- 12) Page 4, line 3.
Following: "state"
Insert: "or federal"
- 13) Page 4, line 4.
Following: "corporations"
Insert: ", the university of Montana law school,"
- 14) Page 4, line 12.
Following: "including"
Strike: "financial"
Insert: "peer"
- 15) Page 4, line 15.
Following: "coordinator"
Insert: "and necessary staff"
- 16) Page 4, line 18.
Following: "persons"
Insert: ", including peer counselors,"
- 17) Page 5, lines 11 and 12.
Following: line 10
Strike: "imminent"
Following: "foreclosure" on lines 11 and 12
Strike: ", or who has received a notice of foreclosure," on line 12.

March 27, 1986

- 18) Page 5, line 16.
Following: "filing"
Insert: "or responding to"
- 19) Page 5, line 22.
Following: ";"
Strike: "and"
- 20) Page 5, line 23.
Following: line 22
Insert: "(c) any financial statements and pro forma cash flow statements, including those related to any nonfarm activities; and"
ReNUMBER: subsequent subsection
- 21) Page 5, line 25.
Following: line 24
Insert: "(3) In filing or responding to a mediation request, a secured creditor shall provide:
(a) information pertaining to the basis of the credit determination;
(b) financial statements and pro forma cash flow statements on the respective farmer;
(c) statements regarding the status of the farmer's loan performance;
(d) the name and title of the representative of the creditor authorized to enter into a binding mediation agreement; and
(e) any additional information the department may require."
ReNUMBER: Subsequent subsections
- 22) Page 5, line 25.
Following: "farmer"
Strike: "requesting"
Insert: "or secured creditor who agrees to participate in"
- 23) Page 6, lines 4 and 5.
Following: "department"
Strike: "or its agent shall evaluate each request and may"
Insert: "shall"
- 24) Page 6, line 9.
Strike: (6)
Insert: (7)
- 25) Page 6, line 8.
Following: "agrees"
Insert: "or if the mediator determines that an unsecured creditor is a necessary party to the mediation"

Rep. Francis Bardonouve, Chairman.

26) Page 8, line 14.

March 27 19 86

Following line 11

Insert: "Section 12. Waiver of immunity. All parties who voluntarily enter into the mediation process as described in [this act] shall waive their right to take civil action against the state of Montana and its designated mediator and thereby release the state and its designated mediator from civil liability for actions occurring within the scope of the mediation services.

Section 13. Severability. If a part of this act is invalid, all parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Re-number: Subsequent sections

STATEMENT OF INTEREST ATTACHED

STATEMENT OF INTENT

House Bill 11

A statement of intent is required for this bill because it contains a delegation of authority to allow the department of agriculture to adopt rules necessary for the administration of an agricultural assistance and counseling program.

It is the intent of the legislature that the department of agriculture establish an emergency program fulfilling the purpose stated in section 1. Under such program, the department must provide to financially distressed farmers and ranchers the types of assistance enumerated in section 3.

To the best extent possible, the department should first utilize the available services of the cooperative extension service, state agencies, private businesses, professional organizations, volunteer groups, and other persons having knowledge and experience in providing the type of assistance and counseling required by this bill. The cooperative extension service and other state agencies should cooperate with the department of agriculture in providing needed services.

In contracting for services mandated in section 3, the department should ensure that contracted personnel are properly qualified and trained to provide assistance. Moreover, the department should establish a procedure to monitor the delivery of services and to guarantee the proper expenditure of public funds.

All contracts for services should be issued on a fair and impartial basis. In addition, all contracts should contain a clause requiring insurance against liability for the negligence of personnel in providing assistance or counseling to financially distressed farmers and ranchers.

In devising an agricultural assistance and counseling program, the department should examine the various financial counseling, debt mediation, and other programs established in many states to aid agricultural producers who are in serious financial trouble. Specifically, the department should consider the success of similar programs in North Dakota, South Dakota, Iowa, Illinois, Minnesota, Missouri, and Kansas.

MINUTES OF THE MEETING
Appropriations Planning Subcommittee
Appropriations Committee
Montana State
House of Representatives

March 25, 1986

A meeting of the Appropriations Planning Subcommittee was held on Tuesday, March 25, 1986 at 2:30 p.m. in Room 104 of the State Capitol. In addition to Subcommittee Chairman Representative Spaeth, Representatives Donaldson, Miller and Peck were present and no members were absent. In addition, Senator Regan and Representative Devlin were present. An agenda was distributed which listed possible items for discussion by the Subcommittee (Exhibit A).

Agenda items two and three were addressed. Representative Donaldson expressed hope that setting the date for the special session could be a cooperative effort between the Legislators and the Governor's Office, and once the date was set they could work backwards from there to accommodate all the issues to be considered. Also, he hoped that by the end of the current special session the Legislators could have some idea as to when the Governor's proposed changes would be implemented and become effective. He brought up the possibility of some of the Committees meeting prior to the start of the special session. If changes were to be implemented by July 1, he felt the agencies to be affected needed a 30-day period to prepare; this would mean the special session would have to be held in the middle of May.

Senator Regan spoke. She submitted that the length and timing of the session would be decided by the Governor. However, she felt there could be two valuable goals for the subcommittee: (1) to agree to get a cooperative revenue estimate, with the Office of Budget and Program Planning (OBPP) and the Legislative Fiscal Analyst (LFA) working together to reach the closest possible agreement regarding revenue assumptions. She suggested that a commission composed of all those parties who would be involved in making revenue estimates could be appointed by the Governor to come up with revenue estimates with bottom lines which agreed for the most part. (2) Sen. Regan said that if the leadership could agree to adopt a special session rule that allowed bills to automatically have fiscal notes attached when requested, this would be most helpful. She agreed with the suggestion to work with the Governor to get some lead time to study his revenue estimates prior to the session. She suggested that the LFA identify those parts of the budget which had been controversial in the last session but had passed, those parts which might be impacted by the Governor's recommendations, and those which were "soft spots." She stressed that the Legislature was going to be called in to make policy decisions, and some of these should be made independently of the Governor's recommendations.

Representative Miller rose in agreement with Senator Regan's statements.

Representative Devlin wanted to know from Dave Hunter, Director of OBPP, and Judy Rippingale, LFA, if they could have a fairly accurate idea of the revenue situation by May 15. Mrs. Rippingale replied

that there were two big areas of concern to all: (1) corporate tax returns, which were due May 15, and (2) individual income tax refunds, which would still be going out in May. Perhaps by June 5 the LFA and OBPP could have their figures reconciled and differences identified, using the May SBAS figures. Mr. Hunter added that the corporate license tax returns wouldn't be completely processed until May 27, the oil severance, natural gas, and telephone license taxes until June 12 or 13, and State income tax returns between June 1 and 10. Therefore, firm numbers for 1986 really couldn't be provided by the first week in June in his opinion. The May SBAS report would give them a better idea of what the FY 1986 reversions were, which is presently a \$1.5 million area of disagreement between the LFA and the OBPP. Mrs. Rippingale submitted that her office felt the Executive had the ability to encourage the agencies to revert more general fund than if they were not encouraged. How successful the OBPP had been in this regard should show up towards the end of May. She also felt that after looking at these reports that the two offices should be able to reach fairly close agreements.

Regarding fiscal note preparation Mr. Hunter suggested that the Legislative Council provide the Governor's Office a copy of bills needing fiscal notes before the bills went to printing; this would help the process go faster and they should then be able to get the fiscal notes out on time in all cases. Diana Dowling, Legislative Council Director, stated that she would be delighted to do this if authorized to. At present the policy has been that if any information is needed on a bill before the Legislator has a copy, the Legislator has to be consulted. Perhaps a rule could be adopted for the special session so that as soon as a bill request was received the Council would let the OBPP know of the request, perhaps even just giving the OBPP the context of what was going to be drafted. If the Legislators automatically knew they were going to get a fiscal note requested immediately this should solve that problem, she felt. Rep. Donaldson suggested that this might be something the Rules Committee could address immediately, in order to prepare for the next session.

Representative Donaldson said he was not enthusiastic about Senator Regan's proposal of setting up a revenue commission and he felt that the same thing could be accomplished with the OBPP and the LFA sitting down and dealing with the economic assumptions. He also expressed the feeling that the longer they waited for final revenue figures the more difficult it would be for the Legislature to make the changes that would be needed, and the more dramatic the impact would be. He submitted that, except for the corporate tax figures, there was adequate information at present to estimate revenues. He pointed out that no matter when the estimates were prepared they were never going to be 100% accurate.

Representative Devlin was in favor of having the special session as soon as possible, to help give the agencies and departments which might be affected by the cuts more lead time to prepare for them. Representative Spaeth felt the agencies were already preparing themselves for possible cuts, and that they would be able to adapt fairly

quickly unless entire programs were wiped out, for example. He expressed the feeling that he would hate to lay someone off in May based on an erroneous revenue estimate, and this could be avoided by waiting until June. Representative Donaldson said that he felt it would be totally unfair to have a special session June 15 and lay people off July 1, and that he would be more comfortable meeting in May. Representative Peck pointed out that lay-offs wouldn't necessarily have to be made in July.

The Subcommittee then moved on to the subject of bringing committees in prior to the special session. Representative Devlin said that during the 1981 special session it was made clear that any Legislator who wanted to be present at the preliminary committee meetings was welcome and would be compensated for it, and he was in favor of adopting similar guidelines for the upcoming session. Representative Miller was in support of the idea and stressed the importance of being able to prepare for the session beforehand. Representative Devlin said he thought about half the body sat in on the presession hearings in 1981. It was pointed out that executive action by the committees was postponed until the special session itself had convened. Representative Donaldson suggested that perhaps only five days would be needed for presession meetings, and that some of the committees might have to be called in for just one day. Discussion took place regarding which committees should meet prior to the special session.

Representative Donaldson moved that a recommendation be made to the House and Senate leadership that the rules be changed to allow for information to be disseminated from the Legislative Council to the OBPP and the LFA as soon as the bill drafting requests were submitted so that the fiscal notes could be prepared or started on at that time. The motion carried unanimously.

Representative Donaldson then moved that the Subcommittee recommend that the Appropriations, Finance and Claims, and Taxation Committees from both Houses be called in one week prior to the special session and that the Governor's proposals be in the hands of the LFA and the Legislative Council three weeks prior to that date. Representative Peck questioned the Committee's trying to put the Governor into a time frame. Representative Donaldson said there was not much sense in the committees coming in early unless the staff was prepared to help them deal with the problems. Representative Spaeth suggested saying that the committees be called in up to one week prior to the session, and questioned putting a three week deadline for the Governor's proposals. Mr. Hunter said his problem with the motion was that the Governor might have to make a recommendation before the corporate tax numbers would be available. Representative Donaldson said he felt it was important to give to the Governor what the Legislature needed regardless of what the Governor planned to do, stressing that there would have to be some time frames. At least the Legislature needed to indicate to the Governor what it needed to have in order for things to work.

Mrs. Rippingale said the agencies would have had six weeks to work on budget changes after this special session ended and before the middle of May. At a minimum the LFA would like to have two weeks to prepare for the Legislators' arrival. Perhaps the Governor's figures could be treated in a confidential manner until the final figures were in. Mr. Hunter said he wouldn't have any problem allowing the LFA access to any agency proposals and requests that the Governor's Office might have, but he would be surprised if the Governor would be prepared to release a budget on an informal basis and later on a formal basis. He submitted that the time for analysis by the LFA wouldn't be as critical as in a regular session because the Governor's proposals would be somewhat broader and the LFA analysis could be correspondingly condensed.

In response to Representative Miller, Mr. Hunter said it was very important for the Legislature to act before July 1. Policy alternatives would be lost when the pay plan and Foundation Program and SRS increases all went into effect on July 1. To reverse these things after the fact would be very difficult. Representative Miller rose in opposition to meeting in special session on June 16 because it would be forcing the Legislature to act in too short a time, in light of Mr. Hunter's statements.

Representative Devlin had a problem with calling the Taxation Committees in early unless there were specific tax proposals to be addressed. Representative Donaldson said that if there weren't any tax proposals, he didn't feel the Taxation Committees should have to come in.

Representative Donaldson then re-worded his motion as follows: That the Appropriations and Finance and Claims Committees be called in one week prior to the special session and that the Taxation Committees from both Houses also be called in if there are proposed revenue measures in the Governor's proposals in these areas. The question was called for; motion carried unanimously.

Representative Devlin requested that Diana Dowling, Legislative Council, look back to the 1981 Special Session records to see if the Legislators came in and received salaries or per diem.

Representative Donaldson moved that they request the OBPP to communicate with the LFA throughout the process of developing the budget and that the Governor's final proposal be in the hands of the LFA two weeks prior to the committees coming in prior to the session. Representative Spaeth suggested requesting that the information be made available as soon as possible, preferably two weeks before the meetings. Discussion followed concerning wording of the motion. Regarding whether the LFA could prepare in less than two weeks, Mrs. Rippingale pointed out that broad policy questions still required a great deal of thinking and information collecting and the impacts were often much more complicated than going through a line item. Her staff would be hard pressed to get the job done if they had less than two weeks' time.

Representative Donaldson amended his motion to say that the LFA would need the proposal as soon as possible and it appeared that two weeks would be the minimum they would need to perform the analysis. The question was called for; motion carried unanimously.

The meeting was adjourned.

Representative Gary Spaeth
Subcommittee Chairman

DR

Special Session III - Appropriations Planning Committee
Agenda
March 25, 1986
2:30 p.m. in Room 104

1. Length of Session
2. Timing of Session
3. Need to bring in Committees prior to session
 - A. What Committees
 - B. How long
4. When Governor's revised budget will be available
5. When will bill drafting service be available
6. Session structure
 - A. Committees
 - B. Timetable for transmittal
7. Cooperative revenue estimate?
Governor's Commission proposal
8. Fiscal notes - availability of bills

MINUTES OF THE MEETING
Appropriations Planning Subcommittee
Appropriations Committee
Montana State
House of Representatives

March 27, 1986

A meeting of the Appropriations Planning Subcommittee was held on Thursday, March 27, 1986 at 10:30 a.m. in Room 104 of the State Capitol. With Chairman Representative Gary Spaeth presiding, a quorum was present. In addition, Diana Dowling, Executive Director of the Legislative Council, Sharole Connelly, Accounting Director of the Legislative Council, Dave Hunter, Director of the Governor's Budget Office (OBPP), and Judy Rippingale, Legislative Fiscal Analyst (LFA) were present.

Following a brief discussion of the action taken at the previous meeting, Representative Spaeth moved that the Subcommittee adopt the following recommendation: That the leadership be encouraged to take into consideration in their planning process needs concerning the size and number of committee rooms to be utilized and the anticipated needs for support staff, so that this could be communicated as early as possible to all those concerned. Motion carried.

Agenda item No. Six was then discussed. (See Exhibit A, 3/25 - Planning Subcommittee Minutes) Representative Donaldson suggested that a unified revenue estimate be asked for from the OBPP and the LFA, or at least one in which the differences were highlighted. Mr. Hunter said he had no problem with this being a goal. Representative Donaldson moved that the leadership request that the LFA and the OBPP and all others concerned with developing revenue estimates cooperate as much as possible in determining these estimates, with the goal of a single revenue estimate; motion carried.

Discussion took place regarding the estimated length of the special session and the date it would start on. Mr. Hunter said he felt that a tentative starting date would be set before the end of the week.

The subject of reimbursing the Legislators who attended the pre-session committee meetings was then brought up. Mrs. Dowling felt it was important that the entire Legislature, perhaps by way of a motion in both Houses, give its authorization for the Council to pay pre-session expenses. She pointed out that giving this prior authorization wasn't binding until the feed bill was passed. A resolution before both Houses would be very proper, she added, but there was general agreement that the deadline had passed for this option.

Representative Spaeth moved the following recommendation: That the guidelines of the 1981 special session be followed regarding attendance at the pre-special session proceedings by Legislators not on those committees called to meet at that time, as follows: (1) committee members shall receive salaries and expenses, and non-committee members attending the pre-session shall receive expenses only, but no salaries, to include one round trip allowance and per diem expenses up to the statutory allowance of a \$24 maximum, including receipts, for lodging. That a motion to this effect be made in both Houses of

the Legislature so that the Legislative Council can be assured that it has prior authorization to make arrangements to pay Legislators for these expenses, subject to final approval in the feed bill to be introduced at the beginning of Special Session III. (2) That committee schedules of Appropriations, Finance and Claims, and Taxation be established and circulated to all Legislative members and the public prior to the presession committee hearings. The motion carried. See Exhibit A for a full listing of the motions adopted.

The meeting was adjourned.

Representative Gary Spaeth
Subcommittee Chairman

DR

Planning Recommendations for 49th Legislature Special Session III

1. That the Appropriations Committee recommend to the House and Senate leadership that the rules allow for information to be disseminated from the Legislative Council to the Office of Budget and Program Planning and the Legislative Fiscal Analyst as soon as bill drafting requests are submitted so that the fiscal notes can be prepared or started on at that time.
2. That the Appropriations and Finance and Claims Committees be called in one week prior to the Special Session and that the Taxation Committees from both Houses also be called in if there are proposed revenue measures in the Governor's proposals in these areas.
3. That the Office of Budget and Program Planning be encouraged to communicate with the Legislative Fiscal Analyst throughout the process of developing the budget and that the Governor's final proposal be in the hands of the Fiscal Analyst as soon as possible, it appearing that two weeks prior to the meeting of the financial committees would be the minimum amount of time the Fiscal Analyst will need to perform their analysis.
4. That the leadership be encouraged to take into consideration in their planning process needs concerning the size and number of committee rooms to be utilized and the anticipated needs for support staff, so that this could be communicated as early as possible to all those concerned.
5. The Committee recommends that the leadership request that the Fiscal Analyst and the Office of Budget and Program Planning and all others concerned with developing revenue estimates cooperate as much as possible in determining these estimates, with the goal of a single revenue estimate.
6. The Committee recommends that the guidelines of the 1981 Special Session be followed regarding attendance at the pre-Special Session proceedings by Legislators not on those committees called to meet at that time, as follows: (1) committee members shall receive salaries and expenses, and non-committee members attending the presession shall receive expenses only, but no salaries, to include one round trip allowance and per diem expenses up to the statutory allowance of a \$24 maximum, including receipts, for lodging. The Committee recommends that a motion to this effect be made in both Houses of the Legislature so that the Legislative Council can be assured that it has the prior authorization to make arrangements to pay Legislators for these expenses, subject to **final approval** in the feed bill to be introduced at the beginning of Special Session III. (2) That committee schedules of Appropriations, Finance and Claims, and Taxation be established and circulated to all Legislative members and the public prior to the pre-session committee hearings.

Amendments to HB11
Proposed by the Montana Department of Agriculture

*technical
amend*

Amend page 1, section 1, line 21

following: "avoid"
insert: or mitigate

Amend page 3, section 2, subsection (7)(c), line 1

Subsection (7)(c) reads as follows:
(c) a person with a statutory lien or a perfected
security interest in agriculture property; or

Amend page 3, section 2, subsection (8), line 6

following: "without"
insert: a perfected security interest

Amend page 3, section 3, subsection (2), line 14

following: "financial"
strike: ~~counseling~~
insert: consulting

Amend page 3, section 3, subsection (2), line 15

following: "management"
strike: ~~training~~
insert: consulting

Amend page 3, section 3, subsection (2), line 16

following: "legal"
insert: information

Amend page 4, section 4, line 1

following: "service"
insert: + college of agriculture

Amend page 4, section 4, line 3

following: "state"
insert: or federal

Amend page 4, section 4, line 4

following: "corporation"
insert: or the University of Montana Law School,

Amend page 4, section 4, line 15

following: "coordinator"
insert: and necessary staff

Amend page 5, section 6, line 11

strike: ~~imminent~~

Amend page 5, section 6, line 11 and 12

strike: ~~or who has received a notice of foreclosure~~

Amend page 5, section 6, line 16

following: "filing"

insert: or responding to

Amend page 5, section 6, line 23

insert: new subsection (d) to read as follows:

- (d) financial statement(s) and proforma cashflow statement (profit/loss) including any non-farm activities.

Renumber subsequent subsections

Amend page 5, section 6, line 25

insert: new subsection (3) and it reads as follows:

- (3) In filing or responding to a mediation request, the secured creditor(s) shall provide:
- (a) The information pertaining to the basis of the credit determination;
 - (b) Financial statement(s) and proforma cashflow statement on the respective borrower;
 - (c) Statement regarding status of the borrowers loan performance;
 - (d) Indicate name and title of authorized representative of the creditor authorized to enter into a binding mediation agreement; and
 - (e) any additional information the department may require.

Renumber subsequent subsections

Amend page 5, section 6, line 25

following: "farmer"

strike: ~~requesting~~

insert: or secured creditor in

Amend page 6, section 6, lines 4 and 5

following: "department"

strike: ~~or its agent shall evaluate each request and may~~

insert: shall

takes dept out of business of screening

insert: new section 12 as follows:

Section 12. Sovereign Immunity. The state of Montana acting by and through the Department of Agriculture, it's employees, contracted services and personnel shall be immune from liability in the performance of the duties and responsibilities of this act. The State shall not be liable for any action brought against it as a result of any errors, omissions, or negligence that occurs as a result of providing services pursuant to this act.

*wavier
of
liability*

Renumber subsequent sections

Amend page 9, line 6

insert: new section as follows:

Section ____ Severability. If a part of this act is invalid all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more applications, the part remains in effect in all valid applications that are severable from the invalid application.

Proposed Amendment

Alternative 1

New Section _____. Waiver of Liability. All parties who voluntarily enter into the mediation process as described in [this act] shall waive their right to take civil action against the State of Montana or its designated mediator and thereby release the State and its designated mediator from civil liability for actions occurring within the scope of the mediation services.

STATEMENT OF INTENT

House Bill 11

A statement of intent is required for this bill because it contains a delegation of authority to allow the department of agriculture to adopt rules necessary for the administration of an agricultural assistance and counseling program.

It is the intent of the legislature that the department of agriculture establish an emergency program fulfilling the purpose stated in section 1. Under such program, the department must provide to financially distressed farmers and ranchers the types of assistance enumerated in section 3.

To the best extent possible, the department should first utilize the available services of the cooperative extension service, state agencies, private businesses, professional organizations, volunteer groups, and other persons having knowledge and experience in providing the type of assistance and counseling required by this bill. The cooperative extension service and other state agencies should cooperate with the department of agriculture in providing needed services.

In contracting for services mandated in section 3, the department should ensure that contracted personnel are properly qualified and trained to provide assistance. Moreover, the department should establish a procedure to monitor the delivery of services and to guarantee the proper expenditure of public funds.

All contracts for services should be issued on a fair and impartial basis. In addition, all contracts should contain a clause requiring insurance against liability for the negligence of personnel in providing assistance or counseling to financially distressed farmers and ranchers.

In devising an agricultural assistance and counseling program, the department should examine the various financial counseling, debt mediation, and other programs established in many states to aid agricultural producers who are in serious financial trouble. Specifically, the department should consider the success of similar programs in North Dakota, South Dakota, Iowa, Illinois, Minnesota, Missouri, and Kansas.

BILL SUMMARY

(House Bill 11)

Prepared by Tom Gomez
Staff Researcher
Legislative Council

House Bill 11 provides for an agricultural assistance and counseling program to aid financially distressed farmers and ranchers in Montana.

As introduced, House Bill 11 contains the following main provisions:

- provides a statement of purpose, declaring that an emergency program is established to directly assist individual farmers who are financially distressed by making available certain types of assistance and counseling;
- authorizes the creation of a program to provide financial counseling, farm management training, legal services, voluntary debt mediation, mental health assistance, support counseling, and referral services;
- grants the Department of Agriculture responsibility for administration of the program;
- requires the Department of Agriculture to utilize the available services of the Cooperative Extension Service, state agencies, legal service corporations, community service organizations, private businesses, mental health corporations, volunteer groups, and other persons in order to provide the services required under the bill;
- mandates that the Department of Agriculture contract for services with qualified personnel;
- allows the Department of Agriculture to adopt rules necessary for the administration of the program;
- permits the Department of Agriculture to receive gifts and grants to support the program;
- provides for voluntary mediation, whereby a farmer who is in danger of foreclosure or a secured creditor may request mediation of the farmer's indebtedness;
- clarifies the duties and role of mediators in conducting voluntary mediation, requiring the mediator to be an impartial person who is knowledgeable in financial and agricultural matters;

- requires that the Department of Agriculture must dismiss a mediation request if there is an unsuccessful mediation attempt or if either the creditor or the farmer does not agree to participate in mediation;
- establishes the confidentiality of records and information obtained as part of a request for mediation;
- excludes mediation meetings from the provisions of the state open meeting law;
- appropriates money \$350,000 from the general fund for operation of the program; and
- provides for an immediate effective date and a termination date of July 1, 1987.

AMEND SECTION 1:

Purpose. It is the declared purpose of [this act] to establish an emergency program to directly assist individual farmers who are financially distressed by providing them assistance and counseling to manage farm credit problems, to avoid forced liquidation or farm foreclosure, to cope with the financial stress resulting from adverse conditions of agriculture in this state, and to maximize the effectiveness of this program by utilizing peer counselors and cooperating with the private sector.

AMEND SECTION 2 (definitions) TO ADD:

(8) "Peer Counselor" means a person who is or has been involved in production agriculture and who has been trained through the Department and others in financial counseling and mediation/negotiation techniques and who works to aid financially distressed farmers through this program.

AMEND SECTION 4(a) TO ADD AS NEW SECTION (i), RENUMBER SUBSEQUENT SUBSECTIONS:

(i) a network of trained peer counselors who can directly assist financially distressed farmers;

AMEND SECTIONS 4(b):

(b) contract for services with qualified personnel, including peer counselors, farm management specialists, accountants, attorneys, and mental health professionals, to provide the assistance required under [section 3];

AMEND SECTION 4(d)

(d) provide training for peer counselors to assist farmers (needing help with farm financial management problems;

ADD SECTION 4(g):

(g) provide peer counselor access to computer and computer programs.