

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

March 11, 1987

The fifteenth meeting of the Senate Finance and Claims Committee met on the above date in room 108 of the State Capitol. The meeting was called to order by Senator Regan, Chairman at 8:02 a.m.

ROLL CALL: All members present.

CONSIDERATION OF HOUSE BILL 357: Representative Bardanoue, House District 16 and chief sponsor of House Bill 357 said this is a bill I am carrying at the request of the Finance Committee. It was amended, but basically this language is often written into the major appropriation bill. Part of it is a substantial compliance with approved operation budget. The approval for operating budget will be the budget office for agencies, Board of Regents for the Regents and the Supreme court for the Judiciary branch. The legislative intent for the general appropriation act include a formally adopted narrative that accompanies the act. The bill has had some added on by members of the legislature. On line 22 and 23 that the narrative goes with the appropriation act will be adopted and recognized as an official document that clarifies what the intent of the legislation is. Changes in it will have to be approved by the Legislative Finance Committee on the narrative. For the first time you will have a sort of historical narrative of an appropriation bill. You can follow the narrative in the document which accompanies the major appropriation bill and this will give you more information than what is written into the bill. On page 2, line 11--a person authorizing an expenditure in violation of this session is guilty of misfeasance in office and shall be subject to removal from office or from employment upon complaint of the Attorney General or by the Legislature by Joint Resolution. The Legislative Council has criticized the Legislature for writing in a lot of language into appropriation bills to make official language rather than writing it into a boiler plate. It makes for a more firm appropriation since substantial compliance means that no category of the approved operating budget may be exceeded by 5%.

Representative Bardanoue said that realizing there could be human error they had allowed some "compassion" by allowing non compliance up to 5%.

There were no further proponents and Senator Regan asked if there were opponents.

OPPONENTS TO HOUSE BILL 357: David Hunter, Director of the office of Budget and Program Planning (OBPP), said they were not in opposition to this bill in the House nor in its introduced form and had no problem with the language that was in the boiler plate in the last session in statute or if you want to take the bill back to its original form which was the resolution approved by the Finance Committee. It is the amendments that were placed on the bill that give them difficulty and caused them to become opponents. He said they did not get a chance to testify on the House side on the amendments and as a result they were appearing as opponents.

Mr. Hunter said, as the bill now stands, says operational plans that are submitted by agencies, are approved by the office on behalf of the governor must be in conformance with legislative intent, and that legislative intent is that which is expressed in the narrative. It does not say they could be changed in a way that is NOT in compliance with legislative intent. He said, I would read this bill to say if an agency submitted to me a document, a revised operational plan which was no longer in compliance, I could not approve that and as a result of this bill the agency could not spend money that was not in compliance with that operational plan and they would be prohibited from making that expenditure.

Mr. Hunter gave an example of a budget approval by the Institutional subcommittee that has \$30,000 for equipment for the entire biennial. If Warm Springs has problems and the boiler goes out, or any major piece of equipment fail in the next biennium they would normally change their operational plan and move money to equipment and replace the boiler or whatever and spend in compliance with an operational plan. He said he would read the amended bill to say legislative intent is clear on the \$30,000 and if it cost more he could not approve the operational plan and they could not fix it. The Director of Institutions would be placed in a position where he would have to operate without a boiler or be in violation with the law. He said he felt the amendments placed them in a very difficult position. He also mentioned the misfeasance of office and said it is a penalty which is out of line with other penalties in state government. It means you lose your job. He said this would be a state employee losing their job for not filling out an accounting document, and that it was employees, not directors or deputy directors, it was accounting department employees. He said there are thousands and sometimes tens of thousands of claims coming through the accounting department and are handled by centralized services--accounting techs in the agencies and they can do

it because they have an accounting system that protects them.

Mr. Hunter said he was also puzzled by the statement of intent which said the administration is not to put controls on the statewide budgeting and accounting system (SBAS) that would preclude a state agency from expending funds differently than as provided in its approved operational plan. He said he felt the statement of intent was put on the bill to avoid a fiscal note because it would cost money and take time to change SBAS, but if the committee wanted the bill to work you would go out and change the accounting system so when a claim came in if it was not in compliance there would be some check out there on the system that would refuse it and kick it back to the agency. He said he would urge the committee to either remove the House amendments or kill the bill.

Kathy Fabiano, Administrator, Accounting Division spoke as an opponent to House Bill 357. She said she would like to speak to the amendment on page 2 lines 11 through 16 making a person authorizing an expenditure in violation etc. She said she brought along 10 claims submitted by the agencies and was sure if the committee looked through them they would not find anyone authorizing the claims that they were familiar with. They are generally accounting clerks or supervisors working in the accounting department. To change SBAS to control spending at the first expenditure level we estimate would take about 6 months to 1 year and would cost in the area of \$50,000. She said the accounting division did not have this kind of money this year, nor the staff time between now and the effective date of this bill to make that kind of change. She said the reason the 10 people who had signed the claims she had with her were willing to sign them is that the accounting system controls spending at the legal level of authority. The total appropriation level. If any one of these claims would have caused an agency to overspend that legal level red flags go up in the accounting system, the claim is not processed and no warrant is written.

There were no further opponents and Senator Regan asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Jergeson asked, How would this bill work with the Board of Education where it has gotten drawn into the School Foundation lawsuit? You don't appropriate money to pay for anticipated legal costs and tell them to come back for a supplemental next time. Those lawsuits are kind of high and unexpected. How will this bill work in that kind of situation? Representative Bardanouve said he would not be able to answer the question. Senator Jergeson asked Curt Nichols, Legislative Fiscal Analyst (LFA). Mr. Nichols said this bill does not affect

the supplementals so he would assume if an agency needed a supplemental the procedures would be the same. They can request a supplemental transferring money from the second year to the first year, or if they are in the final year they can request a supplemental of the legislature.

Senator Jergeson asked Mr. Nichols if this were not a change in their operational budget, isn't it? Mr. Nichols said it is somewhat of a change but a lot of the language has been in the appropriation bills for years. The requirements to spend in accordance with an operational plan and those things have been requirements.

Senator Keating said, there was reference made to a form B 212, is that a form that floats around? I wanted to ask Curt, is there a specific procedure for altering a budget as established by legislative intent in our appropriation bill? Can someone change their operation by filling out a form and presenting it to someone in a formal fashion? Curt Nichols answered, obviously there is the possibility of change contemplated on page 2. Senator Keating asked, to whom does this form go for approval and change of budget appropriation? Curt Nichols said the approving authority for the executive branch is the Governor, for the University system, the Board of Regents, for the Judicial system the Supreme Court, and for the Legislature, the committees.

Senator Keating asked, would this be the Legislative Finance Committee? Would they be involved in these budget changes?

Senator Regan said they review them, they do not have approving authority. We may express concern but do not approve or deny.

Senator Stimatz asked if lines 16, 17 and 18 on page 1 were a part of the bill in committee and Representative Bardanouve said they were amendments, not part of the original bill.

Senator Gage asked why no fiscal note and asked Scott Seacat if this bill would not increase the work in his office. Mr. Seacat (Legislative Auditor) said it was through frustration in his office that lines 23 and 24 were put in the bill. He said they had trouble tracking.

Senator Keating said, I understand the emergency possibility etc., but how many non-emergencies have gone through the budget process where money was specifically eliminated and specific directions that no money be spent in a certain way, and yet when we come back two years later money has been spent in opposition to legislative intent without any B212, without any concern whatsoever. It all adds up. How do you explain that practice within government; that practice that has led to this bill? Dave Hunter answered, I think that

the practice that you are referring to has led to this, and I guess I would say to you that in a state government that has 14,000 employees and has a billion dollars a year in funds, that you can provide some management flexibility. We're going to have some people in agencies that make mistakes, some people who occasionally take advantage of the system in a way that isn't in compliance with legislative intent, and I won't deny that some of those exist. I guess I would argue to you that they are not large enough to warrant a law suit. I think that is why you have a Legislative Auditor and an LFA staff, to find those and bring them to your attention so that you can deal with them appropriately the next session.

Mr. Hunter said he felt putting the amendments in this bill had the effect of removing the flexibility in the management ability that agencies need to deal with emergencies and the things that no one could anticipate 2 or 2 1/2 years ahead.

Senator Haffey said he would like to clarify the bill with what the finance committee recommended, and see if this is what you remember, Representative Bardanouve. Senator Haffey said, my memory is that the operational plans that are caused and taken care of the first of the year when we meet, etc. Those operational budgets are completed in some detail, but then as we go through the year agencies may change this and these forms aren't as fully completed as the original operational plans are. The Finance Committee was informed that that causes an inability on the part of the Fiscal Analysts office and on the part of the Legislative Auditor's office to track the management of those agencies relative to the original intent as reflected in the operational plan which was submitted, in its full detail. That is why we asked for the bill so that we could track agencies that varied from the operational plan whether it be emergency or otherwise, is that correct? Representative Bardanouve answered, yes, I believe what brought on this bill besides the auditor was the Council criticizing our boiler plate language. A request was made to the Fiscal Analyst last year to find out vacancy savings in the Highway Department and in the process in reviewing the Highway budget they found a transfer of money from the construction program which was approved by Legislature of over \$a million--a million and a half dollars which was used to pay increased salaries and there was no record of that. Had not the Fiscal Analyst's office been looking for vacancy savings they would not have fallen on this roughly \$1 1/2 million transfer into personnel. That is what really brought this bill on.

Senator Haffey said, Representative Bardanouve, so that everyone understands it--the Finance Committee wants the Legislature to have the ability in the interim between sessions to be able to track the operating budgets as they

might have to be changed in as much detail as we can and that is why the bill was submitted. We didn't request the bill as amended to allow for punishment etc., if there is some variation. Representative Bardanouve said, you are right sir. There was no change in the operating budget. I believe they could have gone ahead and asked the budget office to give a change order in the operating budget but they did not.

Senator Haffey said as he recalled the other thing they had talked about was the wisdom of putting on the 5% restraints relative to the emergency thing or the Universities significant changes that might come along, and if I remember correctly we purposely did not put that kind of language in it. Representative Bardanouve answered that was correct.

Senator Himsl asked Scott Seacat, if we put this bill into effect we will change entirely the function of the Legislative post audit. At the present time the audit is concerned with financial and compliance audit and compliance with the statutes, but heretofore it has not been your agencies concern about tracking appropriations. Now that is going to be an entirely different type of operation, is it not? Mr. Seacat said, at present we do audit the compliance program. We make sure that agencies do not overspend their appropriation. Lines 22, 23 and 24 would take that further into the agency. If the Legislature adopts the narrative and the narrative says to the Department of Highways, we don't want you to buy that dump truck we would have to audit compliance to make sure the Department of Highways did not buy the dump truck.

Senator Himsl said, that's in the performance audit, not the compliance. Compliance would check the expenditures through the SBAS system and reconcile those. You do not go in normally and track the appropriation process. Scott Seacat agreed they did not do this throughout the year but did go in at the end of the year and make sure they did not spend more than appropriated. Senator Himsl said, if this goes into effect, it is statute, the whole process and I think the committee should be aware of this. It seems to me that this bill has been changed and I am sure Representative Bardanouve is aware of the changes in it. It seems to me this is too extreme, too tight and too expensive to do the work involved in it. It seems to me where we work the biennial appropriation we need the flexibility and I think there is an invasion of the executive function here and we are making the directors into administrative secretaries and I have a problem with that.

Senator Smith said, in talking about the punishment in the bill. I guess if there is no punishment in the bill for someone who diverts monies over the approval made by the finance committees or the budget committees, then what is

the good of the bill? I would ask Mr. Hunter, if no penalty what is to stop anyone from switching appropriations? Mr. Hunter said, I think there is the normal audit provisions that you have to follow up on it. Sometimes there are unforeseen circumstances, there are emergencies where you need to make some changes.

Senator Gage said, Representative Bardanoue, you talked about being chastised for putting language in that was not in the boiler plate and I got the inference that we would be rectifying that by this. Representative Bardanoue said, in the original bill as it was originally written. Senator Gage asked, how have we changed the constitution? If the constitution said you can't do that because you don't have a statute to do it, or what? Representative Bardanoue said, they say we are writing statutory language into the bill. Senator Gage said, but if the constitution says that you have to change the constitution, you can't just put a statute in and do it.

Representative Bardanoue said in closing, the question of the statement of intent. This was put on basically to keep Mr. Jack Noble quiet. He had all kinds of concerns, and this was written to keep him happy. The criminal penalty may be of concern but notice how rarely it would ever be used. Mr. Bardanoue asked how often would a Joint Resolution be brought because they thought an infraction that serious. On the other hand how often would the Attorney General bring in a complaint unless it was extremely serious. He said he had opposed some of the amendments, but felt he was obligated to support the bill now.

Senator Regan asked for Representative Winslow to come in and while they were waiting if no one had any problem with House Bill 4, the Cultural and Aesthetic Programs and perhaps if it is non controversial we could act on it.

DISPOSITION OF HOUSE BILL 4: Motion by Senator Hmsl that House Bill 4 be concurred in. Senator Keating asked if this was the coal money projects and Senator Regan answered yes, that they had been all carefully researched, etc. The motion was voted, passed, Senator Keating voted no.

CONSIDERATION OF HOUSE BILL 573: Representative Winslow, House District 89, and chief sponsor of House Bill 573 said it was a simple bill, but so far as legislative intent it is a very important bill. Representative Winslow said that in prior years there had been a surplus, then all of a sudden this year we were facing a \$30 million deficit for this year, not the next two years. A discussion was held on what to do with it, an interpretation came out as to whether we could carry it over into the next fiscal year and pay for it then and discussion was held on that. The Legislative

Council came out with an interpretation that according to our constitution it calls for a balanced budget but since we went out thinking it was covered it may not have been right, but nothing illegal about carrying it over to another year. He said he did not like that interpretation and felt the Legislature had a responsibility to cover our checks and pay the bills and as a result had this bill drafted.

There were no further proponents, no opponents, and Senator Regan asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Himsl asked, if we adopt this would we not force special session? Representative Winslow answered, it could, what it does is it forces not under funding.

Senator Himsl said, you know better than I the impact of some of the loads we have such as SRS that we have no control over and we end up short and the money isn't there and it would force us into a special session. Representative Winslow said, yes, if we knew in fact that we were going to be in a deficit position it could force a special session, but said it also forces an honest funding.

There were no further questions and Representative Winslow said he had nothing to add in closing.

Discussion was held on the disposition of House Bill 573 while the committee was waiting for the next sponsor. Senator Jergeson moved to concur and Senator Himsl said he had some problems with the bill since he wondered who was going to determine when that shortage is real or prospective and the who was going to call the special session. The Governor has the authority to do it now and it is actually executive responsibility and he said he felt it should rest there.

Senator Gage said it appears to me it would just make bigger thieves out of the Legislature. We would just steal more money from another fund to make sure we have enough funding in it. I would agree with Senator Himsl, we are creating a situation where we are going to be back here every other year to be sure we have enough money in there.

Senator Smith said he would like to make one comment. Unless we do something pretty quick there is no use in setting a budget, why don't we just say--go out and spend it you can always come back for a supplemental. I think it is time that we tell the executive and the various agencies that it is about time you live within your budget since that's what everyone else has to do. There may be times when there are some emergency unanticipated costs, but unless we get a handle on it there is no way the state will ever operate within a budget.

Senator Hammond said, this doesn't change that. I don't see how it puts a lid on anything. It just says we will come in and balance it.

Senator Regan said there is obviously some dissent and because there are some members absent she would ask that Senator Jergeson withdraw his motion, which he did.

CONSIDERATION OF HOUSE BILL 724: Representative Ron Miller, House District 34 and chief sponsor of House Bill 724 said to give a little background on vacancy savings--it is a serious problem for the state. It started in '79 and everyone recognizes there are some true vacancy savings, and it has been used by the Governor and the Legislature to basically cut government. There is a point where you are no longer recognizing reality such as happened in the '85 biennium and we and the Governor said 4% and realized to the best of his knowledge 2.8%. Had we continued, he said, after the special session we would have been 2 to 3 million dollars in the red. He said the bill is basically in 2 parts. In essence the first part tries to set in procedures for the Legislature to use historical data in instituting vacancy savings. He gave the example of the prison guards as having a historical data of 1.68 vacancy savings. That is a natural vacancy savings. Those positions have to be manned, but when they hire new guards they bring them in at a lower pay scale or grade and there is a natural vacancy savings. Then there is the forced vacancy savings, when some department heads or agencies make people take vacations to get vacancy savings. Next time you come back, use those figures and put vacancy savings on top they have gone past the fat and into the marrow. He said the second part of this bill is the pooling aspect of the bill. If you take an agency that has 4% or 1.68% vacancy savings. If they actually achieve a greater vacancy savings than what the Legislature puts on them 50% of that vacancy savings goes into a central pool. This pools would be managed and directed by the 3 different branches of the state government. This pool could then be drawn upon to go into and get money out in case of an emergency.

There were no further proponents, and Senator Regan asked if there were opponents.

OPPONENTS TO HOUSE BILL 724: Dave Hunter OBPP, said, we have the same problem as with 357. We did not oppose the bill as it was introduced, we did not testify against it and we did not have an opportunity to testify on sections 3 and 4 because they were added in full committee after testimony. I do not feel the executive branch would have any difficulty with the first part which defines vacancy savings and puts it in the statute; section 2 which sets a Legislative policy direction that directs Legislative subcommittees to use historical savings in setting vacancy savings. or section 5

which requires our office to collect historical vacancy savings data as part of the budget request process that would require us to amend the budget request forms that are sent to all agencies which would require agencies to keep track of some of the data they are not keeping right now and submit it as part of their request. I don't think there is any difficulty or particular expense on our part. Sections 3 and 4, the amendments which were offered in full committee which create the pool etc. we do have some problems with. First the amendments say there is a pool, that money will be reverted to that pool and whatever vacancy savings the Legislature sets, if you achieve more than that half of the amount is reverted to the pool. It does not differentiate between funds, federal grants, earmarked funds, general funds, proprietary funds or any others. In 4 areas we have significant problems. I think it creates an unconstitutional diversion of gas tax, livestock earmarked monies, the monies earmarked for the Board of Oil and Gas, and it would cause us to lose the federal grants in the Department of Fish, Wildlife and Parks, the Dingle Johnson Pittman Robertson funds, and I will ask the agencies to speak to that. I don't see anything in this bill that gives anyone the authority to segregate funds. To the extent that we divert federal grant money we will have federal audit exceptions.

Mr. Hunter said, secondly the reversion amendment added on page 3 provides an incentive for agencies to spend money. This bill now says if you are a state agency and you achieve vacancy savings in excess of that calculated by the Legislature you will revert 50% of that money to the pool. I think that provides an incentive to fill the positions since to the extent they save money they will lose the money to the pool. Thirdly, he said, this bill makes budget problems in years when we have short falls, it aggravates the problem.

Jim Flynn, Director, Fish, Wildlife and Parks, speaking as an opponent said, for his department this was a clear diversion of funds. He said the Department would be in violation of both federal and state funds. He said he would particularly reference the committee to section 87-1701 and 87-1708 MCA and the federal regulations 50 CFR 880. These specifically prohibit the diversion of license fees from hunters or fishermen for any purpose other than administrating the department of Fish, Wildlife and Parks. Noncompliance with these statutes would result in the loss of some \$5 million annually of federal Pittman Robertson and Dingle Johnson funding for the state of Montana and perhaps more importantly jeopardize the facilities such as fish hatcheries which the Department has operated through the years with this particular funding sources. He said he would also point out to the committee that the federal administrators that supplies the Fish and Wildlife service

is particularly sensitive to this area and we are in the next few months going to be experiencing an audit on this diversion subject starting in May. I have no hesitancy in my mind that we will come out of the audit with a clean bill of health, but I would like to emphasize to the committee that there is a concern on our spending license dollars by the federal government and we are exposed to these audits on a periodic basis.

Bill Gosnell, Highways, said, I also have the same problems that Dave brought out in regarding the pooling aspect of the bill regarding our funding. As you may be aware, federal aid funds that we receive on highways are on a reimbursement basis. We only receive the funds from the feds that we actually expend first from the state. We may end up with a construction year that is very rainy or something and we would not expend the amount of funds we anticipated. We would only receive back from the feds the actual dollars spent which means we would be leaving some appropriation authority on the table that we would not have any funds for. We then run into the problem that we were going to revert excess funds out of the federal side but there is no cash--no dollars in there. The feds would be very upset if we tried to put federal dollars into someone else's fund. The second part of that is the Highway earmarked account. Article 8, section 6 of the Constitution is the anti diversion clause regarding highway user fees. It is very specific what those funds could be used for and I think we would run into this problem with the legislature in regard to the diversion of the gas taxes. Vacancy savings--in 1986 the department was about \$400,000 short. We did not realize a 4% vacancy savings.

Mr. Gosnell said the weather had a lot to do with their vacancy savings. Bad winters, more maintenance crews, rainy or cold seasons, less construction, etc. and there was no way to know ahead.

Les Graham, Department of Livestock said his concern is of a constitutional nature. Article 12, section 1 and subsection 2 where it says special levies may be made on agricultural products and livestock for disease control and identification, etc. He handed in testimony, attached as exhibit 1. He said another thing that is specific to the department of Livestock is in working with the subcommittee in financing it was brought out that we had a very large vacancy savings rate in the last 2 years. That was a management option. Cattle numbers declined and the type of work we do declined and we adjusted our FTE accordingly. The money that we saved from that did not go to other uses, it was not taken for equipment and operational, it was reverted back to those specific funds which we were able to levy according to the constitution. If we have a historical 5% vacancy rate, using the last 2 years, it takes away from

me the option we worked out with the Legislative subcommittee that we plan to do during the next 2 years. We came in with some massive reductions in FTE's with the idea that we will not have any vacancies in the next 2 years. If you would look at our history and say they have a high rate. I don't think you can look strictly at historic patterns when you are dealing with some of the agencies like our situation where you are dealing with cattle sales, etc.

Larry Fasbender, Director, Department of Natural Resources. He said, I will be very brief, I think you are beginning to get the idea of some of the problems we are looking at so far as directors of agencies are concerned. He said, I commend Representative Miller for trying to deal with this problem. We have the same problems, with many small agencies within the Department of Natural Resources and find it difficult to deal with vacancy savings. At the same time we have the same problem since oil and gas are within the Department of Natural Resources, and by law the funds generated there cannot be used for other purposes. The bill as it presently stands is appropriating those funds and we would wind up violating the law.

Mr. Fasbender said he felt this bill if put back in its original form would generate information that could be used in the next session to help with this problem, but in its present form would create more problems than it solves.

Bob Stockton, Office of Public Instruction said he would not reiterate the problems dealing with federal funds, his office had a very large portion of the funding dealing with federal funds. He said he would commend Representative Miller for at least attempting to make some sort of adjustment which allows us to escape from the tyranny of vacancy savings.

There were no further opponents to House Bill 724 and Senator Regan asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Gage asked, on page 2, line 7 through 12, as I read the language it would indicate to me that if the work done by the positions is not essential there would not be any vacancy savings there, the position would be gone. Representative Miller said, this is where the problem lies. I will address the institutions since that is what I am more familiar with. We have the historical data in just about all of our direct care in Institutions. We have 1.3, 1.7 and 1.8, which members of this committee have very well documented. One of the Representatives has tried to pump it up to 2% just for the sake of putting more money in the budget when it is historically sound. This is the place where we as a Legislature are guilty of not doing our job properly. We

think we have done a good job in the subcommittees and then someone says 4% vacancy savings and that is it--without going into the historical data and doing the job properly. This bill is trying to get a handle on that.

Senator Gage asked, but if a position is not that essential, it shouldn't even be considered in the budget. Representative Miller said he was absolutely correct.

Senator Hammond asked Representative Miller, how do you answer Les Graham's predicament? He was answered, what his predicament is, and I am going to be very harsh on the opponents who came in here today. Vacancy savings is known throughout the state government and people knew this hearing was going on. The people who came in--some do have legitimate problems about their funds, however I don't think the first part is in jeopardy. The pooling aspect, I gather is the only thing people object to. The people who have been here testifying are the ones who, in my opinion, are protecting turf if nothing else. He said the reason there is no fiscal note is that they have all the data at their finger tips now. He said they know what the information is and can send it back to the proper sources if not used.

Senator Hammond said he was more interested in the Department of Livestock and their cutting back because of the situation of livestock and therefore the history would make it look like they could stand vacancy savings when they know that when the numbers in livestock activities increase they will need those people. It will just work backward for those people on the portion of the bill that sets vacancy savings on historical data. Representative Miller said he felt in regard to the history, if he recalled correctly that department took some of the biggest and steepest cuts, despite the vacancy savings. If you listened to him very closely, I don't think he said he reverted one penny back. He then asked Mr. Graham if he had. Les Graham answered that is incorrect, he had said he reverted it back to those earmarked funds from which the mills were originally levied. The money did not go to any other fund, it went right back to where it came from.

There were no further questions and Representative Miller said in closing, this bill gives the definition of vacancy savings as we hope the Legislature would use it. It gives general guidelines to the agencies, it gives general guidelines to the governor to use and we are attempting to get him as well as us to use realistic figures when he sets out his budget, and finally it sets up the pools and the great concern about pools being set up and that department heads will fill vacancies quicker is not valid. If you look at our total budget now you will not see that much money reverted.

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Senator Regan said no action would be taken on the bills since there was not a full committee and announced the hearing closed on the bill. She said the committee would meet again, probably the next week, and take action on bills. The meeting adjourned.



Senator Regan, Chairman

ROLL CALL

50th LEGISLATIVE SESSION - - 1987

Date 3/11/87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR REGAN	✓		
SENATOR HIMSL	✓		
SENATOR JACOBSON	✓		
SENATOR BENGTON	✓		
SENATOR STIMATZ	✓		
SENATOR HARDING	✓		
SENATOR HAFNEY	✓		
SENATOR SMITH	✓		
SENATOR KEATING	✓		
SENATOR STORY	✓		
SENATOR BOYLAN	✓		
SENATOR JERGSON	✓		
SENATOR TVEIT	✓		
SENATOR MANNING	✓		
SENATOR HAMMOND	✓		
SENATOR GAGE	✓		

DATE (3-11-87)

COMMITTEE ON F+C

BILL NO. HB 357, 573 + 724

VISITOR'S REGISTER

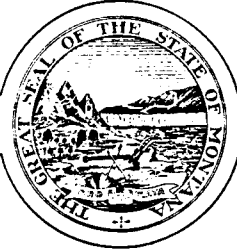
NAME	REPRESENTING	Check One	
		Support	Oppose
GOSNELL Melton Corty	Higgins (724) AARD		X
David Hunter	OBPD 357, 724		X
Jess X. Hagan	Dept of L&HC (AB 724)		✓
Jim FLYNN	DEPT FWP HB 724		✓
Larry Farber	DNRC 724 + 357		✓
Kathy Fabiano	Admin HB 357		✓
JACK NOBLE	UNIVERSITY SYSTEM HB 357, 724		✓

(Please leave prepared statement with Secretary)

DEPARTMENT OF LIVESTOCK

TED SCHWINDEN, GOVERNOR

CAPITOL STATION



STATE OF MONTANA

(406) 444-2023

HELENA, MONTANA 59620

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 1
DATE 3-11-87
BILL NO. 724

March 4, 1987

TO: Les Graham, Executive Secretary
To the Board of Livestock
FROM: N.C. Peterson, Attorney
RE: H.B. 724, Vacancy Savings

There appear to be several problems with this bill. Most concern the conflict between specific laws detailing the limited use of special revenue accounts and this proposal which would impose a different use on the account funds.

Of perhaps more importance and what I would consider a serious defect is the problem of a conflict between this bill and a constitutional provision.

Under the language of the bill, money representing vacancy savings would be transferred from all agencies to a central pool for use by all other agencies or for reversion to the general fund (or somewhere else).

Presumably, under this bill, livestock special mill levy funds would be subject to being transferred just as would any other source of funds.

Therefore, special mill levy livestock funds would be made available for appropriation to other agencies.

I don't believe this is a procedurally correct use of the funds.

The Montana Constitution provides the authority for the legislature to authorize special levies on livestock for certain specific agricultural-ly related purposes. (please note the emphasis)

Call Montana Livestock Crimestoppers 800-647-7464

STANDING COMMITTEE REPORT

March 11

19 87

MR. PRESIDENT

We, your committee on FINANCE AND CLAIMS

having had under consideration HOUSE BILL No. 4

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color

THOFF (Van Valkenburg)

CULTURAL AND AESTHETIC GRANTS APPROPRIATION AND RELATED ISSUES

Respectfully report as follows: That HOUSE BILL No. 4

BE CONCURRED IN

~~XXXXXX~~
~~DO PASS~~

~~XXXXXXXXXX~~
~~DO NOT PASS~~

Senator Pat Regan

Chairman.

STANDING COMMITTEE REPORT

March 11 19 37

MR. PRESIDENT

We, your committee on FINANCE AND CLAIMS

having had under consideration House Bill No. 4

third reading copy (blue)
color

CULTURAL AND AESTHETIC GRANTS APPROPRIATION AND RELATED ISSUES

THOPT (Van Valkenburg)

Respectfully report as follows: That House Bill No. 4

BE CONCURRED IN

XXXXXX
DO PASS

XXXXXXXXXX
DO NOT PASS

.....
SENATOR REGAN

Chairman.