

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON HOUSE APPROPRIATIONS

Call to Order: By Chairman Bardanouve, on January 11, 1989,
at 4:41 p.m.

ROLL CALL

Members Present: All except

Members Excused: Representative Marks

Members Absent: Representatives Peterson and Menahan

Staff Present: Judy Rippingale, LFA

Announcements/Discussion: Chairman Bardanouve said the
committee had not finished the agenda and there were 4
more subjects to discuss.

HEARING ON MODIFIED BUDGETS

rr30

Tape #4, side A

Presentation and Opening Statement by Mrs. Rippingale, LFA.

Mrs. Rippingale said the question came up from staff
that as the subcommittee is taking executive
action the staff is already preparing for the full
Appropriations Committee, and they need to know if
you want to present your work from subcommittee to
full committee concerning modifieds as you did
last time. Last time you presented the current
level numbers and then put in the modifieds the
subcommittee wanted and presented the modifieds
below. Then the full committee had to vote to put
the modifieds in.

List of Testifying Proponents and What Group They Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony: None

Questions From Committee Members: Representative Bardanouve said he would prefer doing it this way. Others expressed the same view.

Closing by Sponsor: None

DISPOSITION OF DECISION ON MODIFIEDS

Motion: Motion by Representative Swift that we go along with the way we did it last time.

Discussion: None

Amendments and Votes:

Recommendation and Vote: Voted, passed, unanimous of those present.

HEARING ON FUNDING STATUTORY APPROPRIATION

Presentation and Opening Statement by Curt Nichols, LFA

Mr. Nichols gave a handout, exhibit 2 which was on funding operating expenses through statutory appropriations, and read the attached exhibit.

List of Testifying Proponents and What Group They Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

None

Questions From Committee Members: Chairman Bardanouve asked Mrs. Rippingale for comments. She said that basically we are getting more and more statutory appropriations and feel the Legislature may want more flexibility to revise, change or scrutinize these budgets.

A Concern was brought up by Representative Bardanouve on the Lottery bill which is a revenue measure,

but seems to have a free hand on spending for employees, expenses, etc. We seem to have no say, up to a certain amount. Mr. Nichols said this was correct, the appropriation is statutory and they are a percentage designated appropriation. He said table 1 had several listed.

Mr. Nichols asked if the committee would like, in a global sense to address these statutory appropriations to make them Legislative appropriations. It was mentioned that they would have to have a bill to do this. He said the staff had targeted those that are used to fund the operating expenses of state agencies. The majority of statutory appropriations are merely distribution of revenue and bond proceeds, payment of bonds, etc.

Mrs. Rippingale said this is a policy item and did not require a hearing as such.

Closing by Sponsor: None

DISPOSITION OF STATUTORY APPROPRIATION QUESTION

Motion: Motion (518) by Representative Thoft to have a committee bill to give the Appropriations Committee the authority to deal with operating expenses on Statutory appropriations.

Discussion: Mrs. Rippingale said she had talked to Mrs. Dowling and she was not opposed to this solution.

Amendments and Votes: None

Recommendation and Vote: Voted, passed, unanimous of those present.

HEARING ON INDIRECT COST POOL

Presentation and Opening Statement by Mrs. Rippingale, LFA.

Mrs. Rippingale pointed out there were inconsistencies in the central service cost pool accounts and the staff would like the committee to tell them how it should be handled.

List of Testifying Proponents and What Group They Represent:

none

List of Testifying Opponents and What Group They Represent:

none

Testimony:

Curt Nichols, LFA passed out exhibit 3 and 4, and said the Department of Administration cited inconsistency in accounting entity classification and recommended that 41 of the 42 accounting entities be de-earmarked and reclassified as general fund instead of state special revenue.

Mrs. Rippingale said it is consistent in their book, and they put it in state special because we agreed with the Dept. of Administration when they spoke to the Legislative Finance Committee that they had prepared a written report and said these funds should be in state special revenue. There is an inconsistency happening and this is the best place to coordinate.

Questions From Committee Members: None

Closing by Sponsor: none

DISPOSITION OF INDIRECT COST POOL

Motion: Motion by Representative Thoft that the subcommittee will follow a consistent policy on these areas of appropriation.

Discussion: none

Amendments and Votes: none

Recommendation and Vote: Voted, passed, unanimous of those present.

HEARING ON DE-EARMARKING FUNDS

Presentation and Opening Statement by Mrs. Rippingale, LFA.

Mrs. Rippingale said there was one other issue to discuss and that Clayton Schenck had done the research and would explain the problem to the committee. She said this was de-earmarking of funds, and that the Department of Administration had done a study, going through the accounting

entities, and came up with at least 41 accounts they felt should be de-earmarked. She said there is a bill going through to de-earmark them, but the work in the subcommittees should be consistent.

List of Testifying Proponents and What Group They Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Mr. Schenck handed out exhibit 4 which was a list of the accounts he discussed. He said the last session of Legislature pass a law requiring a biennial review in each year prior to the session of all the state special revenue and proprietary accounts be done by the Dept. of Adm. They are required to review all accounts for possible elimination of modification, to provide better program operation and fiscal control and to examine the restrictions against the transfer of the fund balance in those accounts in the fullest extent possible, eliminate any restrictions and transfer those fund balances into the general fund.

Mr. Schenck said the Dept. of Adm. made its first report to the Leg. Finance Committee in June of 1988 and made the determination there were 42 state special revenue accounts where there was no restrictive language on the fund balance and that they should be transferred into the general fund. That action will occur in this fiscal year on June 30, 1989. They also recommended that since those accounts do revert to the general fund each year that those 42 accounts be de-earmarked and reclassified into general fund. The Legislative Finance Committee elected to make the recommendation to the 51st Legislature that 41 of those 42 accounts be de-earmarked. He said 35 of those can be de-earmarked simply by budgeting those accounts as general fund since there is no statutory language, 6 of them marked *, that are statutorily established, and while the fund balances are unrestricted, legislation will be required to de-earmark and that legislation has been introduced.

Questions From Committee Members:

Representative Thoft asked if Senate Bill 78 included any other de-earmarking. Mr. Schenck answered no, it only deals with these. Rep. Quilici asked about the State Auditor's office, the securities regulatory account and the insurance regulatory account. These accounts are paid by the securities people and by the insurance people. The Industry in 1987 were willing to raise their fees to pay for certain functions the Auditor's office could provide for the Insurance Industry. If we de-earmark them, what affect will it have on the State Auditor's office as to actual funding on these various accounts. Mr. Schenck said the funds already revert to the general fund, so it will not have any affect.

Rep. Thoft asked if Senate Bill 78 do the same thing? Does it designate the funds to the general fund? Mrs. Rippingale answered that there were 6 of these accounts that would need a change of substantive law. Senate Bill 78 deals only with these, and it changes the law to put it into the general fund.

Rep. Peck said when the Finance Committee considered these, all of them had been notified and given an opportunity to appear before the Committee. There were a very limited number that came in and they had no real serious objection to it.

Rep. Spaeth said he felt they should have the opportunity to appear before this committee.

More discussion was held in regard to the public knowing about the policy change, and delaying a decision until Monday. Representative Cody asked how many are user fees, and Mr. Schenck answered the majority are. In answer to her question on the public paying money in for a specific purpose, she was told the general funds put money in these accounts also. Mrs. Rippingale said this \$1.4 million, if still there at the end of '89 will go to the general fund whether we do anything with the accounts or not. The issue is in budgeting the activities you will budget them as general fund activities and the revenue will also go into the general fund. Many are only paying a small portion of their expenses and are receiving general fund also.

Closing by Sponsor: None

DISPOSITION OF DE-EARMARKING

Motion: Representative Thoft made a motion we put out notices that we are going to adopt this policy to de-earmark these 41 agencies on Monday and if anyone objects they should be here.

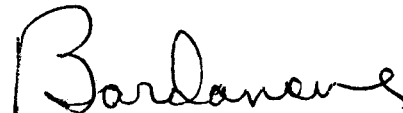
Discussion:

Amendments and Votes: None

Recommendation and Vote: Motion was voted, all members present voting aye with the exception of Representative Cody who voted nay. Motion passed.

ADJOURNMENT

Adjournment At: 5:18 p.m.



FRANCIS BARDANOUE, Chairman

FB/sk

0902.min

DAILY ROLL CALL

HOUSE APPROPRIATIONS COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1-11-89

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE BARDANOUVE	✓		
REPRESENTATIVE SPAETH	✓		
REPRESENTATIVE PECK	✓		
REPRESENTATIVE IVERSON	✓		
REPRESENTATIVE SWIFT	✓		
REPRESENTATIVE QUILICI	✓		
REPRESENTATIVE BRADLEY	✓		
REPRESENTATIVE PETERSON		✓	
REPRESENTATIVE MARKS			✓
REPRESENTATIVE CONNELLY	✓		
REPRESENTATIVE MENAHAN		✓	
REPRESENTATIVE THOFT	✓		
REPRESENTATIVE KADAS	✓		
REPRESENTATIVE SWYSGOOD	✓		
REPRESENTATIVE KIMBERLEY	✓		
REPRESENTATIVE NISBET	✓		
REPRESENTATIVE COBB	✓		
REPRESENTATIVE GRINDE	✓		
REPRESENTATIVE CODY	✓		
REPRESENTATIVE GRADY			

EXHIBIT 1

DATE 1/11/89

HOUSE Appropriations

APPROPRIATIONS COMMITTEE

Agenda

Wednesday, January 11, 1989

1. Format for Presentation to Full Committee of Modifieds Budgets
Approved by Subcommittee
 - a. Present current level and modifieds separately
 - b. Present current level and modifieds together
2. Statutory Appropriations with Operating Expenses
3. Indirect Cost Pool - Consistent Fund Placement
4. De-earmarking



JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

STATE OF MONTANA
Office of the Legislative Fiscal Analyst
STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

January 10, 1989

EXHIBIT 2
DATE Jan 14, 1989
Approp. Com.

TO: Appropriations Committee
FROM: Curt Nichols, Deputy Fiscal Analyst *Curt Nichols*
SUBJECT: Funding Operating Expenses Through Statutory Appropriation

The Montana Constitution requires that except for interest on the public debt, no money shall be paid out of the treasury unless upon an appropriation made by law. (Article VIII, Section 14) State law defines three types of appropriations within the meaning of "appropriation made by law" (Section 17-7-501, MCA):

- 1) temporary appropriations enacted by the legislature as part of designated bills or sections designated as appropriations in other bills;
- 2) temporary appropriations made by valid budget amendment; and
- 3) statutory appropriations made by permanent law.

The statutory appropriation authorizes spending by state agencies without the need for a temporary biennial appropriation or a budget amendment. The major uses of the statutory appropriations are distribution of state revenues to local governments or retirement programs, and payment of principle, interest, premiums, and costs of insuring and securing bonds, notes, or other similar financial obligations.

Statutory appropriations are generally not used to appropriate state agency operating expenses. In 1985, when the legislature enacted House Bill 12 which established statutory appropriations, there were 32 statutory appropriations and only three included operating expenses. After the 1987 legislative session the

number of statutory appropriations increased to 55, with 13 of the statutory appropriations including operating expenses. Table 1 details the 13 programs which have operating expenses statutorily appropriated.

Table 1
Statutory Appropriations Which Affected Operating Expenses

<u>Agency</u>	<u>Purpose</u>	<u>Fund Source</u>
Governor's Office	Flathead Basin Commission	State and Fed. Grants
Board of Public Education	Certification Standards and Practices Advisory Council	Teacher Certification
State Library	Natural Resource Information System	State & Fed. Grants
Historical Society	Historical Sites	Accommodations Tax
Administration	911 Emergency System	Telephone Charges
Administration	Personnel-Employee Health Insurance Claims and Benefits	Insurance Premiums
Administration	Tort Claims	Insurance Premiums and Proceeds
Agriculture	Hail Insurance	Insurance Premiums
Agriculture	Rural Development Program	Trust Fund Interest
Commerce	Aeronautics	Aircraft Registration
Commerce	Tourist Promotion	Accommodations Tax
Commerce	Lottery	Lottery Receipts
Commerce	Growth Through Agriculture	Coal Tax

The increase in the number of programs that have their operating expenses financed by statutory appropriations could create legislative budgeting concerns. The potential concerns are that statutory appropriations do not follow the standard legislative budgeting and appropriations processes, and that the Legislature's flexibility to match financial resources with needs is diminished. The approaches to analyzing and budgeting temporary versus statutory appropriations is different. A program that is supported by a temporary appropriation is analyzed using the prior years data on program expenditures and results. The legislature has an established process of evaluating and appropriating temporary appropriations. The LFA prior to each session prepares a budget analysis which analyzes each program's current level needs. The legislature using the information supplied by the LFA, the governor's budget

office, the department, and other interested parties develops an appropriation bill which reflects the needs of state government. Because statutory appropriations are not included in biennial appropriations bills, they do not receive the biennial legislative reauthorization like the rest of state government.

Statutory appropriations do not go through the biennial legislative scrutiny as do temporary appropriations. The budgets for programs funded by statutory appropriations are determined based upon available revenues. For example, the fiscal 1988 operating expenses of the Montana Promotion program were \$3,043,720. The program which is statutorily financed is appropriated approximately 71 percent of the accommodations tax revenues. The executive budget for the 1991 biennium projects that the program's operating expenditures will be \$3,564,700 per year which is a 17.1 percent increase over fiscal 1988 expenditures. The 17.1 percent expenditure increase is not justified based upon the program's performance but rather the increase is justified by a revenue estimate that projects that the accommodations tax revenues will be 17.1 percent higher in the 1991 biennium. The determining factor in budgeting statutory appropriations is the amount of revenue available for expenditure in the upcoming biennium.

Financial flexibility is the other potential legislative concern about statutory appropriations. To adjust future expenditures of a statutory appropriation will require amending the specific statutory section(s) whereas, with temporary appropriations the legislature can biennially fashion program budgets to fit state needs.

The Legislature's flexibility is also diminished because their ability to apply conditions on how, when, and where state revenues will be expended is lessened. In the general appropriations bill the legislature can include boilerplate language which conditions how specific temporary appropriations may be expended. The legislature does not have the same ability to condition statutory appropriations unless the basic statute for the statutory appropriation is amended. For example,

if the legislature wanted to direct more of the accommodations tax revenues to local government rather than to the state program, it would currently have to amend the statutory appropriation to accomplish this change. If the distribution of accommodation tax proceeds were via a temporary appropriations the legislature could biennially adjust the funding distribution to fit state needs in the general appropriations bill.

EMS:kj:FOESA



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Exhibit 3

1/11/89

Use Appropriations

January 10, 1989

TO: House Appropriations Committee
FROM: Curt Nichols, Deputy Fiscal Analyst *Curt*
SUBJECT: Fund Type Designation for Central Service Cost Pool Accounts

Larger agencies of state government maintain separate programs for the provision of agencywide services such as: accounting, payroll, personnel management, budgeting, data processing, and various other functions. Four agencies use a single account which divisions or programs within the agency contribute from the funds that support their operations to support the central service functions. These accounts receive funds from state and federal sources. Table 1 lists the agencies and examples of the sources of revenue that are contributed to the central cost pool account.

Table 1
Revenue Sources for Central Service Pool Accounts

<u>Agency</u>	<u>Revenue Sources</u>
Office of Public Instruction	Federal grants, driver's training fees, driver's licenses, highway patrol fines, audio-visual library charges
Health and Environmental Sciences	General fund, federal grants, laboratory fees, junk vehicle fees, RIT interest
Commerce	General Fund, federal grants, state business and professional licenses, aviation licenses and fuel taxes, coal tax, accommodations tax, investment income, lottery and video gaming receipts
Labor and Industry	General fund, federal grants, worker's compensation insurance premiums, unemployment insurance taxes

EXHIBIT 3
DATE 1/10/89
HB use approp

The Department of Administration in its review of accounting entities required by the 1987 legislature cited the use of proprietary accounts for central service functions as an inconsistency in accounting entity classification. They noted that only two agencies account for their centralized service operations in proprietary accounts while all other agencies account for this activity in the general fund or state special revenue fund. The report states proprietary accounts should only be used when the agency has a cost accounting system that will accumulate and fairly allocate the total costs, including depreciation and overhead, of a particular service. The LFA budget analysis includes the above four cost pool accounts as state special revenue accounts. This is done as (1) the funds are state funds because they have been "earned" by providing the services to the variously funded programs and (2) state funds for the purpose of paying the particular costs of a program or function of state government are defined as state special revenues under 17-2-101, MCA. The following table lists the fund type used for these central service accounts in the current biennium, contained in the executive budget for the 1991 biennium, and included in the LFA budget analysis for the 1991 biennium

Table 2
Central Service Fund Types

<u>Agency</u>	<u>1989 Biennium</u>	<u>- - - - - 1991 Biennium - - - - -</u>	
		<u>Executive</u>	<u>LFA</u>
Office of Public Instruction	State Special	State Special	State Special
Health	Federal Special	Federal Special	State Special
Labor	Proprietary	Federal Special	State Special
Commerce	Proprietary	Proprietary	State Special

LEGISLATIVE FINANCE COMMITTEE

The following is a list of accounting entities whose fund balances will be transferred to the general fund on June 30, 1989 in accordance with Section 17-2-111, MCA. The committee recommends that 41 of the 42 accounting entities be de-earmarked and reclassified as general fund. Appropriation subcommittees should be directed to budget these accounts as general fund instead of state special revenue.

<u>A/E</u>	<u>Account Title</u>	<u>Agency Number</u>	<u>Agency</u>	<u>FY88 Fund Balance</u>
02093	Westlaw	2110	Judiciary	\$ 5,667
02464*	Ag Lien Filing Fees	3201	Secretary of State	162,893
02047	Copying Fees	3202	Comm. of Political Pract.	519
02044*	Securities Regulatory Acct.	3401	State Auditor's Office	244,836
02060*	Insurance Regulatory Acct.	3401	State Auditor's Office	240,108
02401*	Police/Fire Retirement Fund	3401	State Auditor's Office	103,790
02119	Crime Control Fees	4107	Board of Crime Control	37
02013	Law Enforcement Academy	4110	Department of Justice	16,719
02014	Justice Insurance Clearing Acct.	4110	Department of Justice	-0-
02804	Escheated Estates	4110	Department of Justice	-0-
03141	I.D. Special Services	4110	Department of Justice	7,324
03944	Motor Veh. Prop. Tax Conversion	4110	Department of Justice	14,420
02103	Public Service Commission	4201	Public Service Commission	79,231
03014	Athletic Program	5113	School for Deaf & Blind	-0-
02059	EMT Certification	5301	Department of Health	(711)
02418*	Subdivision Plat Review	5301	Department of Health	51,289
02847	Insurance Proceeds	5301	Department of Health	56,941
03028	Legal Services	5301	Department of Health	3,361
03817	Rabies Vaccine	5301	Department of Health	6,162
02031	Foresters Nursery	5501	Dept. of State Lands	88,043
02438	Floodway Obstruction Removal	5706	Dept. of Natural Resources	400
03036	Centralized Services	5706	Dept. of Natural Resources	5,344
02441*	Cigarette Enforcement	5801	Department of Revenue	6,277
03902	Vehicle Assessment	5801	Department of Revenue	4,059
02035	MDC Donated Fnds-Prevoc. Ctr.	6402	MT Developmental Center	-0-
02846	MDC Canteen	6402	MT Developmental Center	-0-
02914	OFA-Canteen	6404	Center for the Aged	11,844
02917	MSP Canteen	6409	Montana State Prison	51,655
02918	SRYFC-Canteen	6410	Swan River Youth For. Camp	4,471
02919	SRYFC-Clothing Account	6410	Swan River Youth For. Camp	37,168
02920	Veteran's Home-Canteen	6411	Montana Veterans' Home	326
03113	Third Party Reimb-MVH	6411	Montana Veterans' Home	109,573
03932	Vet's Home Interest & Income	6411	Montana Veterans' Home	218
02921	MHS-Canteen	6412	Montana State Hospital	59,247
03933	MSH-Interest & Income	6412	Montana State Hospital	-0-
02028	Prop Occup Admin Services	6501	Department of Commerce	-0-
02079	Fireworks Wholesalers	6501	Department of Commerce	520
02101	GA Training	6602	Dept. of Labor & Industry	-0-
02011	Crime Victims Compensation	6603	Brd. of Crime Control	---
02915	MUS-Canteen	6911	Dept. of Family Services	737
02916	PHS-Canteen	6911	Dept. of Family Services	3,336
03931	PHS-Interest & Income	6911	Dept. of Family Services	63,967
Total				<u>\$1,439,771</u>

*6 AIES are statutorily established, although fund balances are unrestricted. Legislation has been introduced to remove earmarking requirements.

CLSS:kj:ae

EXHIBIT 4
DATE 7/11/89
House Approp