

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON APPROPRIATIONS

Call to Order: By REP. TOM ZOOK, on January 27, 1993, at 4:00 P.M.

#### ROLL CALL

##### Members Present:

Rep. Tom Zook, Chair (R)  
Rep. Ed Grady, Vice Chair (R)  
Rep. Francis Bardanouve (D)  
Rep. Ernest Bergsagel (R)  
Rep. Roger DeBruycker (R)  
Rep. Marj Fisher (R)  
Rep. John Johnson (D)  
Rep. Royal Johnson (R)  
Rep. Mike Kadas (D)  
Rep. Betty Lou Kasten (R)  
Rep. Red Menahan (D)  
Rep. Linda Nelson (D)  
Rep. Ray Peck (D)  
Rep. Mary Lou Peterson (R)  
Rep. Joe Quilici (D)  
Rep. Dave Wanzienried (D)  
Rep. Bill Wiseman (R)

Members Excused: Rep. John Cobb

Members Absent: None

Staff Present: Terry Cohea, Legislative Fiscal Analyst  
Mary Lou Schmitz, Committee Secretary

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

##### Committee Business Summary:

Hearing: HB 275, SB 71  
Executive Action: None

#### HEARING ON HB 275

An act authorizing a state agency to advance up to 30 percent of the funds appropriated for a state-tribal cooperative agreement.

Opening Statement by Sponsor: REP. BOB GERVAIS, HD 9, Glacier County, Blackfeet Reservation said this Bill does not ask for any new moneys. Some councilmen from his tribe will give testimony.

**Proponents' Testimony:** Al Potts, Vice-Chairman, Blackfeet Tribe, testified on the amendment to the State-Tribal Cooperative Agreement Act which would allow an advance up to 30% of the funds appropriated for a specific cooperative agreement. The Blackfeet Tribe is experiencing problems almost daily because of the economic and fiscal problems of the state of Montana. The Blackfeet Tribe, like many other Indian Tribes in the state, is experiencing fiscal problems in providing essential government services for the residents of the Blackfeet reservation. Although their problems are not comparable with the state's, the problems are serious enough that steps must be taken so the tribal government can continue to provide services. The proposed amendment would provide some degree of relief since most of the programs of the Blackfeet Tribe operate pursuant to a State-Tribal cooperative agreement on a cost reimbursement basis. The Blackfeet Tribe collects all the seed money for the program, then has to wait a period of time for reimbursement from the state. Tribal funds could be used elsewhere if the proposed amendment is enacted into law and the result would be an enhancement to the Blackfeet Tribe's ability to deliver governmental services.

The Blackfeet Tribe and the state of Montana have made several negotiations which resulted in successful arrangements on a government to government basis. However, many of the programs the Blackfeet Tribe operates under have built up rather substantial deficits, some as high as \$115,000. Most programs generally have deficits in the range of \$20,000 at any given time.

**Opponents' Testimony:** None

**Questions From Committee Members and Responses:** REP. PECK asked about contracts or agreements made with the state. He understands some work has to be done before the Tribe receives payment so some upfront money is being requested in this Bill so the Tribe is not funding that work and getting delayed payments. Mr. Potts said that is right. It creates a hardship by having to advance the money with limited funds and wait for payment.

REP. KASTEN asked if an advanced payment would impact the interest in the funds where the money is normally kept and, if so, to what extent. Mr. Potts said the DARE program is behind \$26,000, Nursing Home \$78,000 and Home Health \$26,000. REP. KASTEN asked if they are requesting payment of the funds incurred, plus the advanced payment from then on. Mr. Potts said no, just 30% to handle the deficit.

REP. ROYAL JOHNSON asked if the Blackfeet Tribe operates like the state of Montana by never getting back to even again or do you come to a zero balance at the end of the year once you get these moneys? Mr. Potts said they have tried to do that but certain programs are in deficit. REP. JOHNSON said use the year 1992 as an example. If they have so much money coming from the DARE

program over the year, during that year do you have to borrow to pay the bills as you go along in the DARE program until you get the money from the state? Once you get the money from the state, do you then have a zero balance in that account? **Mr. Potts** said the Tribe finances payrolls for different programs such as DARE, Nursing Home and Home Health until they receive money from the state. Their budget is in need of money all the time.

**REP. QUILICI** said he understands the legislation as a drawing account and want 30% up front so when a project is started other funds won't be used. **Mr. Potts** said that is true.

**Point of Information:** **Brian McCullough**, Department of Labor and Industry said as far as federal funds are concerned, the Federal Government is concerned about interest income in their funds and they want to minimize the amount of funds the state government receives in terms of when they received the moneys versus when they disbursed the funds so nobody is holding the funds more than two or three days relative to making them able to receive interest income. The Department of Labor requests an amendment to this Bill that would say "relative to federal funds and as long as it is in compliance with federal regulations".

**REP. KADAS** said since the Bill is permissive as far as the agency goes, why is that language needed? **Mr. McCullough** said he understood it was permissive but did not want his Department thought of as not cooperating. As long as everyone is aware that's the issue, then it is all right.

**REP. KASTEN** asked if these funds have the same type of government regulations as the REA funds and a lot of the Co-ops. They regulate when they can go in, what kind of fund, where the interest goes, in fact, interest cannot be generated on some construction funds. **Mr. McCullough** said he was not sure at this point if they are covered by the FDL. Actually it is gradually being put into place that all federal funds don't come under the Act initially.

**Closing by Sponsor:** **REP. GERVAIS** said there are some programs which could present a problem by having federal money advanced. There is no problem with state money for there can be an agreement for a program to be advanced. The federal programs that come to the state result in the state receiving indirect cost for administering these funds.

As **Mr. Potts** stated there are some unpaid bills prior to October which prompted this Bill. He quoted "Cash advance to a recipient organization shall be limited to the minimum amount needed and shall be timed to be in accord only with the actual immediate cash requirements of the recipient organization in carrying out the purpose of the approved program." If there is any problem with the program in receiving these incorrect costs it's the responsibility of the state to provide training so these reports are done properly. The Tribe cannot have a deficit because it is

a violation of federal law. The Bill is not asking for any new money.

CHAIRMAN ZOOK CLOSED THE HEARING ON HB 275

HEARING ON SB 71

An Act allowing Department heads to eliminate positions within a Department; Providing a fiscal incentive to the Department head to reduce positions within a Department.

Opening Statement by Sponsor: SEN. TOM TOWE, SD 46, Billings said this Bill addresses a serious problem in state government. If, in fact, a Department head comes close to the end of the fiscal year and still has money in his budget will try to figure out how to spend it or it is removed from the base. If it is removed from the base they will probably not be able to start out at a lower number next year so the incentive is to spend more money at the end of the fiscal year. Even more important, if one were dealing with FTE there would be an urgency not to eliminate FTE out of the base. If they eliminate FTE then their base comes down to the next budgeted year. There is no incentive for Directors and Department heads to reduce their FTE, even though the FTE is not necessary. The suggestion, as presented in this Bill, is to give the Department heads an incentive to cut the FTE out the base if they're not necessary. He referred to Page 3 (eliminate positions within the department) and if, by doing so he/she saves any money he/she is allowed to keep one-half of that savings for any purposes consistent with the mission of his/her Department. The state government will get the benefit of the other half as a reduction. This is scheduled to take effect after the Session, July 1, 1993.

Proponents' Testimony: SEN. BOB BROWN, SD 2 referred to a book Re-Inventing Government and quoted from by both candidates for Governor who indicated they were influenced by it. The thesis of the book is there are some things government can do very well and some things it can't. One of the concepts in the book is the one presented in this Bill by SEN. TOWE. The idea is to give managers in government an incentive to accomplish more for less or at least to accomplish as much for less and government might be run in a more efficient manner.

SEN. SWYSGOOD, SD 37 said this Bill is a tool that legislators start to recognize the needs in order for Department heads to effectively run their departments. This Bill would stop some of the things the legislators do that might cause confusion when vacant positions are eliminated.

Opponents' Testimony: None

Questions From Committee Members and Responses: REP. QUILICI said he concurs with some of the Bill and referred to the one-half savings which can be used at the discretion of the

Department, one-half remaining shall revert to the original funding source. It's the position of the Appropriation Committee that you can transfer money from operating expenses but can't transfer operating expenses to personal services. Personal services cannot be transferred to operating expenses. What if they wanted to use that money to hire another person? **SEN. TOWE** said there is a limitation in Section 17-7-138 that specifically states this does not apply in this situation. He said yes, they do want to be able to make that kind of transfer.

**REP. BERGSAGEL** said if a manager can cut his travel budget why not encourage that kind of management rather than the elimination of employees? **SEN. TOWE** said the point is well taken and has no reason other than a political one and would make that addition as he thinks it is consistent with the philosophy.

**REP. KASTEN** asked if this is the same Bill that Phillips carried last year on the floor? **SEN. TOWE** said that is correct. **REP. KASTEN** asked if he had looked at the other flexibility Bill that is coming through and how do they fit together? **SEN. TOWE** said he is not familiar with that Bill.

**REP. WANZENRIED** asked, does this in any way, serve as deterring the Departments to come to the legislature advising them of new technologies that have rendered existing positions unnecessary? He feels there will never be a proposal before the legislature to eliminate positions if this Bill passes. **SEN. TOWE** said the implication of **REP. WANZENRIED'S** question is that as soon as the legislature redo their budgets carefully and then go home the Departments will immediately reduce the agencies because new technology will allow them to reduce by 3 FTE the people we need in this particular area and, therefore, be able to get the discretionary money this Bill provides. That is a possibility if you assume all department heads are going to be devious and keep away from this Committee the information that would be necessary for full evaluation of the Department. He would hope they would not be and be fully up front.

**REP. BARDANOUE** said they will have to spend the money in a year to make the savings during that biennium. They could not carry this over because it will revert. He asked **Ms. Cohea** if this will make it difficult for the Fiscal Analyst's office to track money. **Ms. Cohea** said no because Section 17-7-138 deals with program transfers. Currently you must spend your budget in substantial compliance with the legislative intent and that is the 5%. She assumed what would happen, in order to trigger this, a document would need to be filed with the Budget Office, the LFA would get a copy and could certainly keep track of it.

**Ms. Cohea** said, as she reads the language, if an agency had an annual appropriation, as most agencies do, they could use it in that year but there would be no provision that would allow them to carry it into the next fiscal year. Most agencies do not have biennial appropriation, just one year. That is something the

Committee may wish to address if they want it to be biennial.

REP. BARDANOUVE said that was the point he was trying to arrive at. SEN. TOWE referred the Committee to Page 4, Line 1 and add after "department" "in either of the fiscal years of the biennial".

REP. KADAS asked Ms. Cohea how she would deal with this situation in creating the current level budget for the next biennium. Ms. Cohea said it would depend on the documentation system the Budget Office arrived at. As she reads the Bill, it eliminates the position forever so it would no longer be part of the current level because they had used the money for something else. REP. KADAS said then eliminate the position and all the money, not half. Ms. Cohea said if it was in the base year, fiscal 92, and they spent half the money in Operating that would be in the base. If they spent it in equipment, equipment is zero based. That would be a problematic issue that would require direction from the Legislative Finance Committee.

REP. PECK referred to Page 4, Line 22 "is not critical to the delivery of direct services" and asked if SEN. TOWE feels it is vital or would it be appropriate for the Committee to remove that with an amendment. SEN. TOWE said he would trust the Committee's judgement.

REP. ROYAL JOHNSON said his subcommittee has addressed the budgets and considering taking severe cuts. Agencies have been asked to come to them and aid them in making those cuts. The exchange for that has been a broader discretion of spending so money can be moved back and forth. What would this proposal do as opposed to giving them broader discretion right now because we've put them in this position? SEN. TOWE said if you give them the flexibility by language indicating making transfers notwithstanding 17-7-138, then it would be harder to identify an actual cut.

REP. BARDANOUVE asked if they could lay off one person and later on hire somebody else. Can they hire somebody back for part of a year? SEN. TOWE said if they decide a particular FTE or several FTE are no longer necessary that comes out of the base and is gone. They can't hire someone else to fill that later on.

REP. FISHER said Motor Vehicle people have some employees in place that eventually will be reduced as they finish a new computer system. How will that affect this? SEN. TOWE said he assumes it is already in their budget that at a certain period of time there will certain vacancies occur and then will come out of the base. If this has been done they won't get credit for it through this Bill.

Closing by Sponsor: SEN. TOWE closed.

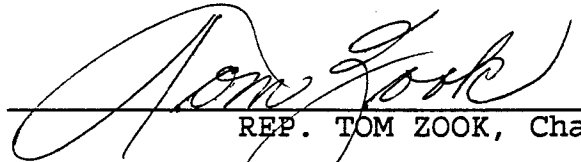
ADJOURNMENT

HOUSE APPROPRIATIONS COMMITTEE

January 27, 1993

Page 7 of 7

Adjournment: 5:00 P.M.

  
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REP. TOM ZOOK, Chair

  
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MARY LOU SCHMITZ, Secretary

TZ/mls

# HOUSE OF REPRESENTATIVES

## APPROPRIATIONS

## COMMITTEE

ROLL CALL

DATE

1/27/93

NAME	PRESENT	ABSENT	EXCUSED
REP. ED GRADY, V. CHAIR	✓		
REP. FRANCIS BARDANOUVE	✓		
REP. ERNEST BERGSAGEL	✓		
REP. JOHN COBB			✓
REP. ROGER DEBRUYKER	✓		
REP. MARJ. FISHER	✓		
REP. JOHN JOHNSON	✓		
REP. ROYAL JOHNSON	✓		
REP. MIKE KADAS	✓		
REP. BETTY LOU KASTEN	✓		
REP. WM. "RED" MENEHAN	✓		
REP. LINDA NELSON	✓		
REP. RAY PECK	✓		
REP. MARY LOU PETERSON	✓		
REP. JOE QUILICI	✓		
REP. DAVE WANZENREID	✓		
REP. BILL WISEMAN	✓		
REP. TOM ZOOK, CHAIR	✓		



HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Appropriations COMMITTEE BILL NO. H.R. 275  
DATE 1/27/93 SPONSOR(S) \_\_\_\_\_

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
AL Potts	BIFT Tribe	✓	
Franklin Lewis At Night	BIFT Tribe	✓	
Brian McCullough	Labor & Industry Information		

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