

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON FINANCE & CLAIMS**

**Call to Order:** By Chair Judy Jacobson, on February 16, 1993, at 12:00 noon.

**ROLL CALL**

**Members Present:**

Sen. Judy Jacobson, Chair (D)  
Sen. Eve Franklin, Vice Chair (D)  
Sen. Gary Aklestad (R)  
Sen. Tom Beck (R)  
Sen. Don Bianchi (D)  
Sen. Chris Christiaens (D)  
Sen. Gerry Devlin (R)  
Sen. Gary Forrester (D)  
Sen. Harry Fritz (D)  
Sen. Ethel Harding (R)  
Sen. Bob Hockett (D)  
Sen. Greg Jergeson (D)  
Sen. Tom Keating (R)  
Sen. J.D. Lynch (D)  
Sen. Dennis Nathe (R)  
Sen. Chuck Swysgood (R)  
Sen. Larry Tveit (R)  
Sen. Eleanor Vaughn (D)  
Sen. Mignon Waterman (D)  
Sen. Cecil Weeding (D)

**Members Excused:** Senator Franklin, Senator Vaughn

**Members Absent:** None

**Staff Present:** Terry Cohea, Legislative Fiscal Analyst  
Lynn Staley, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 327, HB 111  
Executive Action: HB 111

**HEARING ON HB 111**

**Opening Statement by Sponsor:**

Representative Simpkins, House District 39, sponsor, said HB 111 simply deletes the law in one section and repeals section 17-3-104. (Exhibit 1) All requests for grants flow through the Governor's office for his prior approval before they go in. According to a legislative audit, this procedure is a waste of time. With HB 111 grant requests will be made directly by the department to the federal government, but at the same time nothing can be spent until they have an appropriation either from the interim committee or the legislature itself. It does not authorize spending of money but authorizes grant requests, in any given two year period, to go forward without first being screened by the Governor's office.

**Proponents' Testimony:**

None.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Beck asked if any grants require matching funds.

Rep. Simpkins said he was not sure, but if it does, the money would still have to be appropriated by the Legislature. It would be exactly the same as we do now. Even if the Governor previewed it, the same procedure would have to be followed to appropriate it, even under the current system, because the Governor's office does not assume that an appropriation has been made.

Senator Swysgood asked Senator Jacobson, as a member of the Legislative Finance Committee, if when budget amendments come in, have they been through the process of going through the Governor's office for review, and whether they meet the criteria set forth.

Senator Jacobson said the application and the position in the Governor's office that handled this was given up in the special session. They would still have to come in and ask for a budget amendment. They don't come before the Finance Committee twice, but go to the Governor's office twice.

Senator Nathe said the Legislative Finance Committee can do nothing with regards to budget amendments.

Senator Jacobson said we can hold them for 90 days.

Senator Nathe said they are turning in all applications for federal grants until they are awarded and once they are awarded and in place, we have no control over them. The last vestige of control is being wiped out with this bill.

Senator Jacobson said there is a vestige of control if it deals with general fund money because we have to appropriate the general fund money. If things come before the Budget Committee, whether they have to do with tuition money for the university system or anything else, either the Governor's office or the Regents can act on that 90 days later and overturn anything we may say.

Senator Fritz asked Rep. Simpkins regarding the section we are repealing, it makes an exception for the university system research grants and the section we are amending doesn't mention that at all, so what would be the status of the research grants.

Rep. Simpkins said it makes it better for them because the applications no longer have to be approved by the governor's office; it would be direct.

Senator Fritz said section 104 already makes an exception.

Senator Jacobson said all budget amendments that come to the Finance Committee come from the Board of Regents; presently they don't go through the Governor's office. The governor's office has never looked at research grants.

Rep. Simpkins said that is why they are exempt from this law.

**Closing by Sponsor:**

Representative Simpkins closed by thanking Senator Jacobson for her knowledge in answering questions, and urged a do pass for this bill.

**HEARING ON SB 327**

**Opening Statement by Sponsor:**

Senator Kennedy, Senate District 3, said the statement of intent clarifies SB 327, and that Darryl Bruno of the Alcohol and Drug Division will explain the bill to the committee.

**Proponents' Testimony:**

Darryl Bruno, Administrator of Alcohol and Drug Abuse Division, Department of Corrections and Human Services, said this legislation would allow state approved private chemical dependency programs organized for profit to be eligible for earmarked alcohol tax revenue. (Exhibit 2)

Mike Rupert, President of Chemical Dependency Programs of Montana, stating his support of SB 327, said all programs in their organization are approved by the Department of Corrections and Human Services. They are 90 percent non profit. He said the element of the bill is to consider that the law talks about

approved by the Department of Corrections as well as profit or non profit. The approval status is critical because it does not open up things to new entities. This bill is a type of housekeeping bill in that it will make it easier for alcohol and drug use division to provide services for people that need it.

John Brekke, owner and operator of Wilderness Treatment Center in Marion and Wilsall, Montana, said the Department of Family Services has in the past contracted indigent kids to them. He said they specifically treat adolescent males and would ask that this opportunity be given to the Department of Institutions to also contract a program such as theirs. He urged passage of SB 327.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Swysgood thinks the bill opens an area of service to another entity and in the statement of Mr. Bruno, they have negotiated these contracts at a reduced rate. He said he has served on that budget before, and knows that sooner or later these people will come in asking for a provider rate increase. He said the one thing that disturbs him is that Mr. Bruno says it doesn't affect the Galen facility. He asked Mr. Bruno about him saying, "who could be more effectively served at another location", leaves that up to the determination of the Department to say that anyone could be more effectively served. He asked if that was right.

Mr. Bruno said that is not right. He said in answer to his first question, there have been ongoing negotiated contracts for 10 or 12 years with the federal block grants with Northern Montana and Rimrock. These are to serve clients that cannot be appropriately served at Galen. He said there is a waiting list for Galen. There are certain things, including pregnant females that Galen doesn't have the ability to handle those cases. The location is not very good for handicapped people or people that have a lot of medical problems. They have had these contracts ongoing for numerous years, but have never had the ability to contract with the private for profit programs, which he thinks would be a good service for some of their clients.

Senator Swysgood said when they deal with a for profit organization, they are there for a reason, and that is to make money.

Mr. Bruno said there hasn't been any difference to the state of Montana between their private for profit chemical dependency programs and their private not for profit chemical dependency programs. They all charge between \$200 and \$250 a day.

Sen. Swysgood said his concern is they negotiated at a reduced rate. He questioned if that is to get the business from another facility that is providing the service and then they will come back in 2 to 4 years and ask for an increase because they cannot make it go?

Mr. Bruno said they will only contract a limited number of bids at these reduced rates. He said their rate has been in the 70's for 10 years. They have always dictated the amount they are willing to pay, and if they won't accept that, they won't contract them.

Sen. Swysgood asked Mr. Bruno about the total amount of money in the alcohol funds, if he knew what it is, and how much currently goes to the non profit, and how much goes to the Galen facility.

Mr. Bruno said they have only had a limited amount this year, approximately \$155,000. The rest is federal block grant. That's what they have been contracting with the private not for profit programs. The proposed budget for this year at Galen is based around two million five hundred thousand dollars. They would not be contracting that amount.

Senator Keating asked if they have a day rate at Galen.

Mr. Bruno said the yearly rate at Galen is in the low 60's.

Sen. Keating said he has served on the Board of the Rimrock Foundation for 10 years and it is a private, profitable, free standing treatment center, but there are no stockholders and they do not make a profit. They are paying off the building and they pay the staff and personnel. There are no stockholders getting dividends. There is no profit reserve. They write off 22 percent of their gross revenues in service to indigents and about 10 per cent of their budget is from county money for indigents; they get very little of the beer, wine and liquor tax, except what comes through the counties. The county monies are tied to indigent services that they send to the foundation. He said there is no profit in Rimrock Foundation.

Senator Christiaens asked Mr. Bruno if there would be any additional money other than from this tax, and if it would open up more beds available for chemical dependency treatment.

Mr. Bruno said it would give them more options to contract for needed services.

Senator Christiaens asked if it would open up availability for probation and parole officers that may not end up needing to be revoked, if they could get into a community program.

Mr. Bruno said they have a plan for Galen to run a 14 day program and they see that type of person going to the 14 day program for rehab and then back into the community program as an out patient.

Senator Jacobson said Senator Keating indicated Rimrock Foundation is a for profit program, and she was confused.

Senator Keating said no, they are not for profit. They charge based on their full charge the same amount as most all the programs whether they are for profit or not for profit.

Sen. Lynch said in his subcommittee they have changed general funds for alcohol revenue tax because there was some left over. They also plan on reducing substantially the waiting list at Galen. They have increased FTE's. He questioned if we are contracting now for federal grant money, we are using the alcohol tax right now for relieving general fund, why do we need SB 327 at all if we can do it with federal grant, block grant money today. At \$67 dollars a day why are we even thinking of spending some of this money elsewhere when it is funding the program at Galen?

Mr. Bruno said they will always have the need to make services available. The situation for health care on the Galen campus is not what it should be. He said there will always be the need to keep some people out of Galen, such as pregnant females.

Senator Lynch said we are doing that now; this is not needed.

Senator Beck said as he understands it, we cannot do it with federal funds at the present time, so they are looking at state funds.

Mr. Bruno said general fund, and he did not have any general fund in his budget.

Senator Beck asked what this did to the local programs that are going on now.

Mr. Bruno said it has no bearing on the local programs because the legislature appropriates a certain amount of earmarked money for contracting. The bill gives them more options when they are contracting with private programs.

Sen. Beck asked why the federal doesn't allow this.

Mr. Bruno said they believed private for profit programs would charge more for their services than non profits and that hasn't been true in this state. They also don't allow them to contract with new patient hospital programs for the reason new patient hospital programs are generally more expensive than free standing programs, and that isn't true in Montana either.

Senator Beck asked if they were concerned about the quality of care.

Mr. Bruno said no.

Sen. Lynch asked if this would only apply to those facilities that give service that Galen cannot give, only for the ones Galen is not able to handle, and not because of a waiting period.

Mr. Bruno said yes, it would just give them a little more flexibility.

**Closing by Sponsor:**

Senator Kennedy closed on SB 327.

**EXECUTIVE ACTION ON HB 111**

**Motion:** Senator Bianchi moved HB 111 BE CONCURRED IN.

**Vote:** The motion CARRIED with Senators Nathe, Beck, Tveit, Aklestad and Swysgood voting no. Senator Jacobson will carry the bill.

**EXECUTIVE ACTION ON SB 232**

**Discussion:** Senator Jacobson said this is the lump sum appropriation to the Board of Regents. She noted that SB 232 was held up for amendments, but amendments had not been offered. She asked the committee if they were ready to act on SB 232.

**Motion:** Senator Christiaens moved SB 232 DO PASS.

Senator Swysgood said he has a problem with it as it relates to his subcommittee. Senator Swysgood said because of that, he would make a Substitute Motion to TABLE SB 232.

Senator Jacobson said it would help to understand that the subcommittee seems to be going in the direction of lump sum by unit. They are thinking about putting in some language dealing with administrative costs which would probably directly affect lines 16 through 18 talking about the allocation of funds.

Senator Keating said he has some sympathy for lump sum by unit, and he got the impression Sen. Fritz was going to amend the bill along that line.

Senator Jacobson said he was talking about amending the bill to do the same things the subcommittee is doing in HB 2. She would like the subcommittee to do it.

Senator Nathe said all the schemes to fund the university system are driven by one thing, and that is the shortage of money. If we move to lump sum, even if it is lump sum for all the units or lump sum by unit, we will have to go to corridor lump sum

funding. Any other move is ridiculous. The student formula way we have of funding the system now is student FTE sensitive. Unless you take the student sensitive out of the block lump sum funding, you would be in the same mess as we are now. Unless SB 232 is amended to allow for corridor funding, where each unit can move within a range up or down without being penalized, you would be back to the same thing we have now. The formula we have now would work fine if we had money.


**Vote:** Senator Swysgood's substitute motion to TABLE SB 232 carried with Senator Waterman voting no.

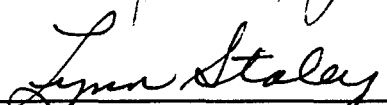
**EXECUTIVE ACTION ON SB 327**

**Motion/Vote:** Senator Christiaens moved SB 327 DO PASS. The motion FAILED on a roll call vote with 9 yes and 9 no. (See attached roll call vote).

**ADJOURNMENT**

**Adjournment:** 12:50 P.M.

  
\_\_\_\_\_  
JUDY JACOBSON, Chair

  
\_\_\_\_\_  
LYNN STALEY, Secretary

JJ/LS



# ROLL CALL

SENATE COMMITTEE FINANCE AND CLAIMS

DATE 2/16/93

| NAME                | PRESENT | ABSENT | EXCUSED |
|---------------------|---------|--------|---------|
| SENATOR JACOBSON    | ✓       |        |         |
| SENATOR FRANKLIN    |         |        | ✓       |
| SENATOR AKLESTAD    | ✓       |        |         |
| SENATOR BECK        | ✓       |        |         |
| SENATOR BIANCHI     | ✓       |        |         |
| SENATOR CHRISTIAENS | ✓       |        |         |
| SENATOR DEVLIN      | ✓       |        |         |
| SENATOR FORRESTER   | ✓       |        |         |
| SENATOR FRITZ       | ✓       |        |         |
| SENATOR HARDING     | ✓       |        |         |
| SENATOR HOCKETT     | ✓       |        |         |
| SENATOR JERGESON    | ✓       |        |         |
| SENATOR KEATING     | ✓       |        |         |
| SENATOR LYNCH       | ✓       |        |         |
| SENATOR NATHE       | ✓       |        |         |
| SENATOR SWYSGOOD    | ✓       |        |         |
| SENATOR TVEIT       | ✓       |        |         |
| SENATOR VAUGHN      |         |        | ✓       |
| SENATOR WATERMAN    | ✓       |        |         |
| SENATOR WEEDING     | ✓       |        |         |
|                     |         |        |         |

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 16, 1993

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 111 (first reading copy -- white), respectfully report that House Bill No. 111 be concurred in.

Signed: Judy H. Jacobson  
Senator Judy H. Jacobson, Chair

# ROLL CALL VOTE

SENATE COMMITTEE FINANCE AND CLAIMS

BILL NO. SB327

DATE 2/16/93 TIME 12:50 A.M. P.M.

| NAME                           | YES | NO |
|--------------------------------|-----|----|
| SENATOR JACOBSON               |     | ✓  |
| SENATOR JERGESON               | ✓   |    |
| SENATOR AKLESTAD               |     | ✓  |
| SENATOR BECK                   |     | ✓  |
| SENATOR BIANCHI                | ✓   |    |
| SENATOR CHRISTIAENS            | ✓   |    |
| SENATOR DEVLIN                 |     | ✓  |
| SENATOR FORRESTER              |     | ✓  |
| SENATOR FRANKLIN <i>absent</i> |     | ✓  |
| SENATOR FRITZ                  | ✓   |    |
| SENATOR HARDING                | ✓   |    |
| SENATOR HOCKETT                | ✓   |    |
| SENATOR KEATING                | ✓   |    |
| SENATOR LYNCH                  |     | ✓  |
| SENATOR NATHE                  |     | ✓  |
| SENATOR SWYSGOOD               |     | ✓  |
| SENATOR TVEIT                  |     | ✓  |
| SENATOR VAUGHN <i>absent</i>   |     |    |
| SENATOR WATERMAN               | ✓   |    |
| SENATOR WEEDING                | ✓   |    |
|                                |     |    |
|                                |     |    |
|                                |     |    |

*Lynn Staley*  
SECRETARY

CHAIR

MOTION: *Senator Christiaens moved Do Pass*  
*Motion Failed*

SENATE FINANCE AND CLAIMS  
EXHIBIT NO. 1  
DATE 2/16/93  
BILL NO. HB 111

**17-3-104. Applications for funds by state agencies — approval.** All applications made by state agencies for federal assistance program funds, with the exception of university system research grants, must be approved by the governor prior to their submission to the federal authorities. The form and procedure for submission for the governor's approval shall be determined by

925

FEDERAL REVENUES AND ENDOWMENTS

17-3-108

the budget director. Applications by constitutionally elected officials shall be subject only to review and comment by the governor.

**History:** En. 79-2706 by Sec. 6, Ch. 259, L. 1975; R.C.M. 1947, 79-2706.

**Cross-References**

Federal grants and cooperative research studies, 20-25-231.

## SENATE FINANCE AND CLAIMS

EXHIBIT NO. 2DATE 2/16/93BILL NO. SB 327

## Testimony SB 327

This legislation would allow State approved private chemical dependency programs organized for profit to be eligible for earmarked alcohol tax revenue .

The purpose of this legislation is to allow the Department of Corrections and Human, Services Alcohol and Drug Abuse Division (ADAD) to contract with the most appropriate state approved program for inpatient treatment Services for individuals who are inappropriate for services at Montana Chemical Dependency Center (MCDC) at Galen or individuals who could be more effectively served at another location.

DCHS is very limited as to the programs in which we can contract with for inpatient services or who are willing to contract with us at a negotiated reduced state rate currently @ \$77.00 per day. At the present time there are nine state approved community based inpatient programs in Montana. The department has contracts in Fy 93 with only two, the Rimrock Foundation in Billings and Northern Montana in Havre.

This is primarily due to the contracting restrictions on our available funding sources, Alcohol Earmarked Tax Revenue and Federal Block Grant Funds. ADAD does not have any General Fund appropriated for community services. Both the Federal Block Grant and the Earmarked Tax are prohibited from being contracted to private for profits for Chemical dependency services. We are also prohibited from contracting block grant to inpatient hospital programs.

The reason for these restrictions is the conception that private for profit and hospital programs charge more for their services than nonprofit or free standing programs. This has never been true in Montana. Inpatient Chemical dependency programs charge, about the same amount. The department only contracts with programs that will except a reduced rate for services.

There are many good inpatient programs DCHS would like to contract with but are prevented from doing so. Among them are the Wilderness programs in Marion and Wilsall, Glacier View in Kalispell and Rocky Mountain Treatment Center in Great Falls. All have indicated a desire to contract with ADAD at a negotiated reduced rate for services. The Department of Family Services with General Fund has been able to contract with these private programs at a reduced rate.

It is essential that the Department have the flexibility to contract with providers who can serve clients inappropriate for Galen or who could benefit more from services offered at another program. For example we currently refer all indigent pregnant females , severely handicapped or those with severe medical conditions to Northern Montana in Havre.

We would also like to contract with other programs. For example the wilderness programs could provide services for young men, who demonstrate behaviors and pathologies that have severely effected there lives and abilities to function. The therapeutic approaches at wilderness combine a strong chemical dependency treatment orientation with the development of self reliance and corresponding self esteem via there wilderness program. This combination has proven effective with young males who have a history of numerous negative consequences from there use of chemicals.

We urge your passage of SB 327.

Respectfully submitted by: Darryl L. Bruno

Administrator of Alcohol and Drug Abuse Division  
Department of Corrections and Human Services

DATE 2/16/93

SENATE COMMITTEE ON Finance & Claims

BILLS BEING HEARD TODAY: SB 327, HB 111

| Name          | Representing                | Bill<br>No. | Check One |        |
|---------------|-----------------------------|-------------|-----------|--------|
|               |                             |             | Support   | Oppose |
| Mike Ruppert  | CDPM                        | 327         | X         |        |
| Glenn Schaner | DCMS / AD #10               | 327         | X         |        |
| John Brekke   | Wilderness Treatment Center | 327         | X         |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |
|               |                             |             |           |        |

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY