

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON LEGISLATIVE ADMINISTRATION

Call to Order: By CHAIRMAN MIKE FOSTER, on January 13, 1997, at  
3:40 pm, in Room 331 Capitol Complex

#### ROLL CALL

**Members Present:**

Sen. Mike Foster, Chairman (R)  
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)  
Sen. Sue Bartlett (D)  
Sen. Bruce D. Crippen (R)  
Sen. John "J.D." Lynch (D)

**Members Excused:** Sen. Thomas A. "Tom" Beck (R)

**Members Absent:** None

**Staff Present:** Greg Petesch, Code Commissioner, Legislative  
Services Division, Shelli Winslow, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 93, SB 30; 1/9/97  
Executive Action: SB 93 Tabled, SB 30 Do Pass

#### HEARING ON SB 93

**Sponsor:** SENATOR VIVIAN BROOKE, House District 33, Missoula

**Proponents:** Kathy Kendall, Montana Board of Crime Control; Kate  
Mrgudic, Mt. Council for Families; Judy Garrity, Prevention  
Resource Center; Fred Fisher, Casey Family Program

**Opponents:** NONE

**Opening Statement by Sponsor:** SENATOR VIVIAN BROOKE, Senate  
District 33, Missoula The bill is a request of the Joint  
Oversight Committee on Children and Families. In one of the  
original meetings the committee was brainstorming about all of  
the things that we wanted to look at. Time and time again we  
figured that our role as the Oversight Committee was to review  
programs for families and children and to evaluate them and give  
recommendations to the Legislature. But, what we continued to

find was that there are not efficient ways to evaluate many of the programs that we approve here in the Legislature. The sponsor recommended to incorporate a specific evaluation piece within the Human Service programs that are seeking continued or new legislative appropriation. Section 4 is the outline of what a fiscal note would look like if the bill were to pass. If the bill were to pass, this piece and the evaluation of the program would be listed in the fiscal note so we could review that and see that there is going to be a way for Legislators in the next session to say okay, these were the goals and where are the results of your evaluation. In our committee deliberations we had a couple of sessions discussing this and we had very good people come and present evaluation mechanisms. We learned that there is anything from the Volkswagen to the Cadillac of evaluation mechanisms and we do not put any kind of requirement in this bill so it gives departments and the program managers some latitude about how they will have the evaluations be conducted.

**Proponents' Testimony :** Kathy Kendall, Montana Board of Crime Control, testimony attached. (EXHIBIT 1)

Judy Garrity, Prevention Resource Council, testimony attached. (EXHIBIT 2)

Kate Mrgudic, Montana Council for Families, coordinates all of the family preservation services for the Department of Health and Human Services. Several years ago when we started looking at child abuse prevention programs around the state there were a lot of activities going on but there was very little information in terms of whether these programs were affecting the outcomes that they were saying they were affecting. When we began Family Preservation as part of the state agencies efforts, we included an evaluation strategy, which is now bearing the results of some very good outcome measures and our ability to alter programs not fund programs, expand programs based on the hard data, not just anecdotal information. There is a lot of information in the state on how to do evaluations. There is technical assistance from agencies as well as the Universities on how to do evaluations. What we have come to appreciate is that evaluations are not something that is done at the end of a service but is really something that is done as part of the initial planning and while programs are being implemented. Evaluations are a very integral part of planning design. If we have good evaluations we know if something is working or not.

Fred Fisher, Casey Family Program, Casey family Program spends hundreds of thousands of dollars per year evaluating the effects of its services in 13 states. Part of the focus is resource allocation but the primary focus is continuous quality improvement. The program does not know if they are doing an adequate job in taking care of the children unless they perform evaluations. The bill makes state agencies question the quality

of services that are paid for with state and federal funds. People in the field have a lack of expertise and funds to develop comprehensive programs. There is also a lack of control over a lot of variables. If you have a prevention program in the school system, that prevention program is only as good as about 15 other programs that are being delivered to the community. The bill would push the agencies in the direction of program evaluations.

Opponents' Testimony:None

Informational Testimony:None

Questions From Committee Members and Responses: SEN. SUE BARTLETT asked SEN. BROOKE, section 2 of the bill that talks about the bill's purpose, says that it is not the intent to mandate that program evaluation be conducted. Section 4 on fiscal note, subsection 2, line 27, says that fiscal notes for bills amending or creating Human Services programs must include the estimated cost for an evaluation to assess program outcomes. Please clarify, if the bill passes in its current form, would a fiscal note have to carry information about what evaluation costs would be.

SEN. BROOKE replied by saying, it does look like there is difference between encouraging rather than mandating. I don't know if the language in Section 4 with fiscal notes must, when possible, show these things. May I please call on Sherri Heffelfinger, the drafter, to help with her interpretation.

According to Ms. Heffelfinger, when drafting the bill, the intent was to identify the cost of the program evaluation and to do that, the fiscal note was to show the cost of an evaluation based on the guidelines, if possible, in Section 3. It was not intended to appropriate any money for the evaluation, it was simply to say, if we could do an evaluation of this program, what would it cost? One of the issues the committee was looking into was the fact that the cost of an evaluation is often overlooked when doing a fiscal note. The intent was to have that as a separated part of the fiscal note so you could tell, of the overall appropriation, what portion of it was required for evaluation.

SEN. BARTLETT continued questioning Ms. Heffelfinger. Was the Oversight Committee not interested in mandating that evaluation costs be a part of the budget for any amendment or new program?

Ms. Heffelfinger No, as far as I know it was not part of the committee to mandate that.

SEN. CHUCK SWYSGOOD asked SEN. BROOKE who are you directing this bill to, in order to provide all this information?

**SEN. BROOKE** It would be each agency that was presenting a new program or an existing program that would be continued.

**SEN. SWYSGOOD** went on to ask if there was a fiscal note attached to this bill?

**SEN. BROOKE** No, there is not.

**SEN. SWYSGOOD** What is the need for this to begin with? It is very open ended as to who receives this information? Anyone that has anything to do with children and families? There has to be some kind of a cost to give supply information to the Legislature.

**SEN. BROOKE** This information would be available to all public agencies and any other interested people. Evaluations are used for all kinds of purposes, including providing information to legislators to make informed decisions about programs and their beginnings.

**SEN. SWYSGOOD** At the current time you don't believe that legislators are supplied the information necessary as we deal with these programs related to Human Services in our subcommittees, to make an informed decision as to what budgeting matters should be applied to these agencies. Why is this so different from the other Human Services agencies?

**SEN. BROOKE** All of those would be listed under the broad title of Human Services programs.

**SEN. SWYSGOOD** Why do we need all this information to make these decisions? The agencies always had more than enough information available to make a determination of the level of funding that we can appropriately fund, why is this necessary?

**SEN. BROOKE** What you are seeing are the numbers that they are requesting, the vision that the department has about reaching particular goals. This bill is looking for a constant critique of how those goals have been met, it shows if they are reaching those goals.

**SEN. SWYSGOOD** stated that he understood where Sen. Brooke was coming from, he believes that this information is already available maybe not as precise as most people would like to see it but when he looks at the title and it deals with children and families he does not know of one single item in the budget in the Human Services of \$1.5 million that doesn't deal with children and families. What this bill is directing that every one of those has an evaluation attached to it and he believes that it will be a fairly substantial cost to the department.

**SEN. J.D LYNCH** to **Ms. Heffelfinger**, There is no fiscal note attached. Isn't there a way they can estimate what it would cost?

**Ms. Heffelfinger.** In the draft we were attempting to tie the fiscal note to the guidelines. The cost estimates may be based on the guidelines which were articulated there because many times when you receive the fiscal note you receive the overall program cost. The intent was to identify what it would cost if we could fund it.

**Closing by Sponsor:** SEN. BROOKE closed by saying, the evaluations would cut down the work for the State Auditor because when they go in to start their audits, these evaluations would move them further ahead. In order to continue various programs that are doubtful, the agencies need to have the evaluations to see if they are meeting their goals. This bill encourages state agencies to present outcome data and evaluations strategies. It will prevent further social problems. New programs are being developed and new data is needed to know whether or not to keep the programs going.

#### HEARING ON SB 30

**Sponsor:** SEN. J.D. LYNCH, Senate District 19, Butte

**Proponents:** None

**Opponents:** None

**Opening Statement by Sponsor:** SEN. J.D. LYNCH, Senate District 19, Butte The bill is at the request of the Legislative Council. This bill would eliminate the requirement statement of intent bills.

**Informational Testimony:** Greg Petesch, Director of Legal Services for the Legislative Services Division. The bill came from the Legislative Improvement Subcommittee, that was created by the Legislative Council last interim. The bill would reduce costs because it would no longer require statements of intent on all bills delegating rule-making authority. The bill would require the Legislature to put in the law, rather than in a piece of advice to an agency, what the Legislature intended the rules to entail. The subcommittee believed that the Legislature would be better served by addressing the delegation of authority in the law itself. The committee was given various examples of instances where the legislature amended the bill and overlooked the statement of intent. So you had the law allowing the agency to adopt rules in conflict with the intent of what the agency was supposed to carry out as expressed in the statement of intent. It would eliminate the requirement that a bill contain that new rule making authority. The bill is primarily a repealer. The bill makes the legislature focus on the delegation of authority.

Questions From Committee Members and Responses: SEN. MIKE FOSTER asked Mr. Petesch, would the statement of intent become part of the statute?

Mr. Petesch, responded to the question by saying, that is correct. In adopting and administering rules there are two requirements that the rules must have, they have to be specifically authorized by a statute and the rules have to implement a specific section and the rule has to cite the section of law being implemented when the rules are adopted. The thought of the subcommittee was that when the legislature says the agency may adopt rules, that is the place for the legislature to tell the agency what they may or may not do in adopting rules rather than something that has no course of effective law. That way agencies are bound and cannot adopt a rule that will contradict the delegation of authority to it or the statute being implemented because the rules may not conflict with the statute and the rules may not add something not contemplated by the legislature to a statute. Those are two of the tenants of administrative law. The thought was that if you focus the intention of the statute on the statute itself rather than something that has no course of effective law you're going to get better drafted guidelines for the agency within which they are able to act.

SEN. CRIPPEN to Mr. Petesch, how would this bill affect legislation that is now before the legislature and has the statement of intent?

Mr. Petesch This bill has prospective effect. During the current session they are acting as if the old law is still in effect. This committee should peruse some of the statements of intent to see how effective they are. A lot of statements of intent are a waste of paper. The legislature needs to tell the agencies what they may or may not do.

Closing by Sponsor: SEN. LYNCH I close.

EXECUTIVE ACTION ON SB 30

Amendments:N/A

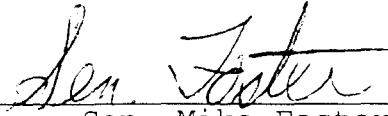
Motion/Vote: SEN. CRIPPEN moved that SB 30 Do Pass. Motion carried unanimously.

EXECUTIVE ACTION ON SB 93

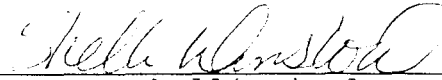
Motion/Vote: SEN. SWYSGOOD MOVED TO TABLE SB 93. The committee VOTED 3-2 IN FAVOR OF TABLING the bill. SEN. BARTLETT and SEN. LYNCH both voted no.

ADJOURNMENT

**Adjournment:** Adjournment at 4:30 pm



Sen. Mike Foster, Chairman



Shelli Winslow, Secretary

MF/sw