

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on March 8, 1999 at 3:18 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Fred Thomas, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Dale Berry (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)

Members Excused: Sen. Eve Franklin (D)

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Delila Croucher, Acting Committee Secretary
Martha McGee, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB44, HB 551, 2/26/1999
Executive Action: HB 52, SB 467

HEARING ON HB 44

Sponsor: REP. ROYAL JOHNSON, HD 10, Billings

Proponents: Jerry Hoover, Director of the Montana Health Facility Authority

John Flink, Montana Hospital Association

Opponents: None

Opening Statement by Sponsor:

REP. ROYAL JOHNSON opened on his bill. This bill is intended to give economic development to the state. It allows for health care authority to use up to \$15 million of the Coal Tax Trust to assist small hospitals and health care units by making direct loans to them. A list of projects that the money would benefit was distributed to the Committee. The expertise of the Health Care Authority of the State of Montana will help these facilities get a loan. All the bill does, is authorize the \$15 million for capital projects in the state.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 3.1}

EXHIBIT (ph

s52a01)

Proponents' Testimony:

Jerry Hoover, Director of the Montana Health Facility Authority, rose in support of the bill. There is a small segment of health care facilities in Montana that are non-investment grade. They simply are not large enough. This bill will help get money to them at the same rate as those who are investment grade. By allowing the Authority to administer \$15 million of the Coal Trust Fund. Together, with the Board of Investments, the Authority, will set up a loan criteria and make the information known to the health care facilities. They will then make loan applications. Mr. Hoover feels that it is time to invest some of the Coal Tax Fund back into the state of Montana. The loans to the health facilities will represent the credit worthiness of the borrower. The interest payments will revert to the General Fund. The principle payments will come back, acting as a revolving loan fund to make new loans.

{Tape : 1; Side : A; Approx. Time Counter : 3.1 - 8.8}

John Flink, Montana Hospital Association, rose in support of the bill. There are a number of small health care facilities that could use this source of capital for capital improvements. Obtaining capital is very difficult for small hospitals and small health care facilities.

{Tape : 1; Side : A; Approx. Time Counter : 8.8 - 9.6}

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. CHRISTIAENS asked what kind of an impact a conversion of a non-profit facility to a for-profit facility would have if a loan were involved. **REP. JOHNSON** said it is true that a lot of the facilities are currently non-profit. The bond, however, is an agreement between the hospital and the Health Care Authority.

SEN. CHRISTIAENS said that he thought testimony indicated that the repayment and the interest rates would go back to the Authority for further loan, yet the amendment indicates that they would be deposited in the Coal Severance Tax Permanent Fund.

REP. JOHNSON said that the money does come back in a revolving pool. The money will rest with the Board of Investments during the period of time it is not loaned out, rather than the Health Care Authority. **SEN. CHRISTIAENS** said that the bill talks about all repayment proceeds in excess of \$4.395 million must be deposited in the Coal Severance Tax Permanent Fund. **REP. JOHNSON** said that up until that amount, it remains in the Health Care Authority. The total projects that have been requested is about \$17 million.

{Tape : 1; Side : A; Approx. Time Counter : 9.6 - 13.6}

SEN. BOHLINGER asked if this bill requires a three-fourths vote to take money from the Coal Severance Trust Fund. **REP. JOHNSON** said that it doesn't because the money is really not going to be taken out of the Coal Tax Trust. **SEN. BOHLINGER** asked how the Coal Tax Trust Fund rate is adjusted. **REP. JOHNSON** said that the frequency would depend upon when the money was loaned out, what the market currently is on the money, and the rate above that will be the amount that will be charged. The Health Care Authority and the Board of Investments will make that decision. In order to be acceptable to the people going to borrow the money, it must be at a rate that they can afford, and is representative of their current interest rate market. Each loan is based upon itself. **SEN. BOHLINGER** asked what kind of assurance there is for bond holders. **REP. JOHNSON** said that there are no bond holders except the Coal Tax Trust.

{Tape : 1; Side : A; Approx. Time Counter : 13.6 - 17.4}

SEN. ECK asked if the Montana Health Authority will be the ones who do the contracts, keep track of loan paper, and determine how solid an investment is going to be. **REP. JOHNSON** said that a combination of the MHA and the Board of Investments will scrutinize a loan. **SEN. ECK** noted that there are a lot of bills that are relying on the Coal Tax Trust as a source of money. She wondered if this bill is passed out, will it likely go before the Finance and Claims Subcommittee.

{Tape : 1; Side : A; Approx. Time Counter : 17 - 21.7}

SEN. BARTLETT asked if the intent of the bill was to limit the loans to hospitals and surgical centers or health care facilities. **SEN. JOHNSON** said that the bill would also allow for loans to be made to Chemical Dependency treatment facilities, laboratories, pre-release centers, and all facilities who are eligible under their title. **SEN. BARTLETT** asked how this bill would allow for a revolving fund if the bill specifies that the principle and interest payments on the loans must be deposited in the Coal Severance Tax Permanent Fund until all principle and interest have been re-paid. **Mr. Hoover**, said that all investments on Coal Trust Funds, which return interest and principle back, then the Board of Investments takes the interest and deposits that to the General Fund. The first step is the total fund repayment. **Sen. Bartlett** asked what would happen if someone defaults on one of these loans and how the Coal Tax Fund would be made whole. **Mr. Hoover** said that all the loans that the Authority underwrites, the MHA takes a first position on a mortgage on a facility. The MHA takes a pledge on the gross revenues of the facilities. Finally, the MHA often works with local financial institutions and partials out a percentage of the loan. In the case of a loan default, and the above mentioned does not make the trust whole, MHA does have some funds set aside for loan losses.

{Tape : 1; Side : A; Approx. Time Counter : 21.7 - 25.6}

SEN. DePRATU asked if one of these facilities could go to the Board of Investments and borrow money without this bill. **REP. JOHNSON** said that he does not know for sure. **Mr. Hoover** said that the only eligible corporations for borrowing from the authority, have to be non-profit corporations. **SEN. DePRATU** asked how many facilities would be making a loan application by July 1, 1999 when this bill takes effect. **Mr. Hoover** said that the list previously passed out is a good estimate. **SEN. DePRATU** asked if the maximum loan amount is \$1.5 million. **Mr. Hoover** said that was correct.

{Tape : 1; Side : A; Approx. Time Counter : 25.6 - 29}

SEN. BARTLETT asked how what size a facility has to be to have investment grade bonds. **Mr. Hoover** said that the facility must have 200 beds.

{Tape : 1; Side : A; Approx. Time Counter : 29 - 29.9}

SEN. BISHOP asked what happens to the principle interest as it comes back. **Mr. Hoover** said that with monthly loan repayments by the borrower, the total loan repayment goes into the Trust Fund. The principle stays with the Coal Trust Fund. The interest is then deposited into the General Fund.

{Tape : 1; Side : A; Approx. Time Counter : 29.9 - 30.7}

SEN. CHRISTIAENS asked at what point the loan starts to be repaid. **Mr. Hoover** said that thirty days after the loan closing repayment would begin. Sometimes, for construction loans, six months is allowed.

{Tape : 1; Side : A; Approx. Time Counter : 30.7 - 31.6}

SEN. THOMAS asked **REP. JOHNSON** to how he will cover the loss of interest to the Coal Trust Fund. **REP. JOHNSON** said that he is trying to set this up so that there is no loss to the Coal Trust. The loan will be negotiated at the current rate, plus a quarter of a percent so that there is no loss to the Coal Trust.

{Tape : 1; Side : A; Approx. Time Counter : 31.6 - 32.9}

Closing by Sponsor:

REP. JOHNSON closed on his bill.

{Tape : 1; Side : B; Approx. Time Counter : 14.8 - 15.6}

HEARING ON HB 551

Sponsor: **REP. JOHN COBB, HD 50, Augusta**

Proponents: **John Meredith, Public Assistance Bureau of
the Department of Public Health and Human
Services
Kathleen Fleury, Blackfeet Tribal Government**

Opponents: **None**

Opening Statement by Sponsor:

REP. JOHN COBB opened on his bill. This bill provides state money to Indian Tribes that may be used for their own Tribal Assistance Plan. It allows for a \$100,000 general fund bonus each year of the first two years if the Tribes run their own program. The Federal Government has said that Montana is responsible for running welfare programs, but if a tribe wants to run a program independently, they have the right to do so, if the Federal Government approves of the Tribal plan. The Federal Government will guarantee TANF funds. In return, the State of Montana has to pay a percentage of what it paid out in 1994. If a Tribe establishes its own program, approved by the Feds, they are guaranteed the Federal share, not the state share. Federal law allows for Tribes to count all of the Tribal families and members that are on welfare, as well as Tribal members that are not part of their Tribe. In other words, one does not have to be a Tribal member of a certain Tribe in order to be counted for the allocations of funds. The Salish/Kootenai receives Federal

money for 615 families. Currently they are only serving 178 Tribal families. It was beneficial for the Tribes to run their own welfare programs, and they don't need the state share. This bill will guarantee state money, giving the Tribes assurance that the money will be available. If the Tribes get their case loads down further and further, then the legislature will put a bill in to pull the State share back. This is not new money. There is a five year limit for welfare individuals who are not on the reservation. If one is on Indian land, the five year limit is not effective. This bill also allows for Tribes to contract back to the state. The more Tribes that run their own programs, the better off we all are.

{Tape : 1; Side : B; Approx. Time Counter : 15.6 - 33.1}

EXHIBIT (ph

s52a02)

Proponents' Testimony:

Rep. John Meredith, DPHHS, rose in support of the bill. He supports the bill because he has seen what has happened with the Salish/Kootenai Tribe. Other Tribes do need some kind of a financial incentive to become interested in this situation.

{Tape : 1; Side : B; Approx. Time Counter : 33.1 - 34.1}

Kathleen Fleury, Blackfeet Tribal Government, rose in support of the bill. The Blackfeet Tribe is the largest tribe in Montana with 1500 enrolled tribal members. Of those members, 97% of them work on the reservation. The Tribe is one of the largest land based reservations. There is a 60% unemployment rate. One of the primary focuses of the Tribe is to develop economic development programs in order to get people off of welfare. There is also a lot of criminal activity among the Tribe. One reason believed for that, is because unemployment creates a lot of social ills. **Ms. Fleury** is very supportive of self-determination and in Tribes handling their own programs.

{Tape : 1; Side : B; Approx. Time Counter : 34.1 - 37.5}

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. HARDGROVE asked if the Tribal units begin to lose the number of people in the program, can the legislature then change their status. **REP. COBB** said that as of right now, the Department can negotiate with the Tribes and decide whether to save money or not. This bill would require a bill to pull money from the program. **SEN. HARDGROVE** asked if it would be possible to put a percentage, or a rate, into the bill. **REP. COBB** said that might get too complex.

{Tape : 1; Side : B; Approx. Time Counter : 37.5 - Tape : 2; Side : A; Approx. Time Counter : 0.1}

SEN. CHRISTIANS asked about the Maintenance of Effort and how the state has been handling from General Fund. **REP. COBB** said that the state can spend up to 100% of what was spent in 1994 and all the way down to 75% in order to receive federal money. At 100%, if there is a recession, the federal money will kick in more money to make up the difference. If the state goes below a certain level, the state is on their own. We are spending 25% less, case loads are cut in half, but the people the money is now going to, are more hard-to-serve.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 2.8}

SEN. CHRISTIAENS asked about the General Fund savings that would be reinvested to provide benefits to supportive services, and about the federal exemption rate. **Mr. Meredith** said that originally, the bill talked about reinvesting savings for the hard-to-serve population. That population, which is exempted under federal legislation, is 20% of whatever the population is the year prior to the measurement, or, the year of the measurement calculated out for the full year. We are never going to be able to hold to that exemption rate because there is a much greater number of hard-to-serve individuals.

{Tape : 2; Side : A; Approx. Time Counter : 2.8 - 7.9}

SEN. CHRISTIAENS asked where the \$100,000 shows up in the budget. **REP. COBB** said that it is already in the Divisions budget with in HB 2. **SEN. CHRISTIAENS** asked how many individuals are included in "household" cases. **Mr. Meredith** said that about 4.5 individual make up a "household" on the reservations. **SEN. CHRISTIAENS** asked if the current service caseload is 507, base on 4.5 individuals per household, why didn't the Blackfeet expand it beyond the reservation so they could have counted all of their members. **REP. COBB** said this is just an estimation based on a reservation. If a Tribe decides to run their own program, they will have to determine if they are better off to include all individuals off of the reservation.

{Tape : 2; Side : A; Approx. Time Counter : 7.9 - 13.1}

SEN. ECK said that currently the Tribes do not have to meet the employment criteria that is set up for TANF. She inquired whether they are totally exempt from that, or if it is limited to within a county. **Mr. Meredith** said that the Tribes do have to meet the employment rates. What they do not have to meet, is the five year time limitation. **SEN. ECK** inquired about the possibility of perhaps two more Tribes pursuing independent programs. **REP. COBB** said that the Crow, Northern Cheyenne, Cree

could probably run it themselves, the Blackfeet might have a bit of problems but they are looking at this, the Assiniboine-Sioux would probably lose money on this deal but they are looking at this as well. **Mr. Meredith** said that expressions of real interest from the Blackfeet has been brought forth as well as from the Chippewa-Cree at the Rocky Boy Reservation. The Assiniboine-Sioux have expressed interest but see that it would be financial hardship. The Salish-Kootenai made the decision to run their own program based on the issue of Tribal sovereignty. **{Tape : 2; Side : A; Approx. Time Counter : 13.1 - 15.8}**

Closing by Sponsor:

REP. COBB closed on his bill. He has an amendment that says the Department has to find the \$100,000 in their budget that has been authorized in HB 2 to fund the Tribe if they go off. **{Tape : 2; Side : A; Approx. Time Counter : 15.8 - 16.5}**

EXECUTIVE ACTION ON HB 52

The Committee discussed whether or not to amend the bill as requested by **SEN. BARTLETT**. **Susan Fox** commented on the power of attorney issue, party delegation, and extension of delegation or power of attorney. **SEN. BARTLETT** said that the amendment is really just a question of whether or not the Committee wants to leave it implied or make the power of attorney rights explicit. **SEN. HARDGROVE** said what is being talked about is 180 days of continuous temporary duty. Service can't be terminated while on temporary duty. **EXHIBIT (phs52a03)**

Motion/Vote: **SEN. THOMAS** moved that **HB52 BE CONCURRED IN. Motion carried 10-0.** **{Tape : 2; Side : A; Approx. Time Counter : 16.5 - 24.9}**

EXECUTIVE ACTION ON SB 467

SEN. BARTLETT explained the amendment for SB 467. The bill is designed to establish within the state MOE money, an unemployment insurance program for people who lose their employment through good cause. One of the items that the Department of Labor and Industry is concerned about is the confusion between the term unemployment insurance as known to the DPHHS and regular unemployment insurance. The amendments offered change the name to re-employment insurance, or FAIM re-employment insurance. The amendments make it clearer that eligibility would depend upon an individual having been employed for twenty hours or more a week. The definition of what "good cause" is also defined by the

amendments. A new subsection is added by the amendments that requires the participant to cooperate with the Child Support Enforcement Division. The time period in which someone could be on re-employment insurance would be six months, saying that the individual had worked at least half-time the preceding six months. The amendments make the individual in the re-employment program eligible for child care assistance for the time period that the participant is in search of a job.

EXHIBIT (phs52a04)

{Tape : 2; Side : A; Approx. Time Counter : 24.9 - 29.6}

SEN. BARTLETT said that the amendments state that the participant must actively look for work and keep a written record of all employers contacted. The Department may audit the participants record of employers contacted to verify that the participant is actively looking for work. A participant who does not actively look for work is ineligible for re-employment insurance benefits. If the person becomes ineligible and then applies for FAIM financial assistance, the Department is required to assess the reasons that the participant failed in the re-employment program. One of the reasons for this bill is to help identify particular problems that need to be addressed through a family investment agreement.

EXHIBIT (phs52a05)

{Tape : 2; Side : B; Approx. Time Counter : 15.4 - 16.9}

SEN. BOLLINGER asked if this bill addressed the concerns that Hank Hudson had with the bill. **SEN. BARTLETT** said not in their entirety. **Karlene Grossberg, Bureau Chief for Public Assistance Bureau, DPHHS**, said that in essence the Bureau is in agreement with the amendments. She has four concerns with the bill. One, although the job search requirements in this bill models the regular unemployment insurance program, that is only one job search. The job search that is required of regular FAIM participants is 25 hours a week and raising. Two, the good cause provisions for quitting a job should not include vehicle breakdown and child care breakdowns. Three, it seems that this is to be a rapid re-employment program, and the participant should have all the supportive services necessary. Finally, there was no Fiscal Note included with this bill because it would be able to be set up as a component of FAIM. By changing some codes in the system, the re-employment insurance could be tracked. The way this is set up, using only MOE money it would require more programming to track funding and activity.

{Tape : 2; Side : B; Approx. Time Counter : 16.9 - 21.6}

Motion/Vote: SEN. BARTLETT moved that **THE AMENDMENT (SB046701.ASF) BE ADOPTED. Motion carried 10-0.**

{Tape : 2; Side : B; Approx. Time Counter : 21.6 - 23.8}

Motion: SEN. BARTLETT moved that SB 467 DO PASS AS AMENDED.

Discussion: SEN. THOMAS asked if a time limit is in the bill.

SEN. BARTLETT said that the time limit is specified in the bill as a maximum of six months. SEN. THOMAS asked who this bill applies to. SEN. BARTLETT said that any new FAIM applicant or current participant who meets financial eligibility criteria for FAIM financial assistance, has been employed for 20 hours or more a week in a position paying minimum wage or greater, is ineligible for regular unemployment insurance benefits, has established that the loss of all employment during three of the preceding four months was based on good cause, and who cooperates with child and medical enforcement provisions, are eligible.

SEN. THOMAS asked if a FAIM applicant is paid. Ms. Grossberg said that they do.

{Tape : 2; Side : B; Approx. Time Counter : 23.8 - 28.7}

SEN. CHRISTIAENS asked if money is available in the Department now for the FAIM participants. Ms. Grossberg said yes. SEN. CHRISTIAENS asked why the Fiscal Note is not correct. Ms. Grossberg said that when a separate state program is set up funded with separate state MOE funds, it must be tracked separately in order to meet federal guidelines.

{Tape : 2; Side : B; Approx. Time Counter : 28.7 - 31.3}

SEN. GRIMES asked SEN. BARTLETT to comment on the concerns listed by the Department. SEN. BARTLETT said that the people who apply to the "good cause" element traditionally have used the welfare system as their unemployment insurance system. They live on the edge of economic viability. The job search requirement and the support services work with people who have been in the system a while. They have enough resources so that when they lose one job, they find another one.

{Tape : 2; Side : B; Approx. Time Counter : 31.3 - 40.8}

Vote: Motion carried 6-4 with DePratu, Grimes, Hargrove, and Thomas voting no. A roll call vote was taken.

{Tape : 3; Side : A; Approx. Time Counter : 2.2 - 3.2}

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. AL BISHOP, Chairman

Delila Croucher, Acting Secretary

Martha McGee, Secretary

AB/DC

EXHIBIT (phs52aad)