

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **VICE-CHAIRMAN DON HARGROVE**, on April 12, 1999
at 10:12 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Keri Burkhardt, Committee Secretary
David Niss, Legislative Branch

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 670, 4/9/1999
Executive Action: HB 350, HB 670, Discussion

HEARING ON HB 670

Sponsor: REP. BILL EGGERS, HD 6, Crow Agency

Proponents:

George Oshensky, Confederated Salish Kootenai Tribes
Rhonda Whiting, Assistant Administrator of U.S. Small Business
Administration
Wyman McDonald, Coordinator, Office of Indian Affairs
Sharon Hoff, MT Catholic Conference

Opponents: None

Opening Statement by Sponsor:

REP. BILL EGGERS, HD 6, Crow Agency, said under the Governor there is an existing Indian Affairs Coordinator and this job has been redefined with this bill. Under this bill, he will become less of a figurehead and more of an administrator. He said it is a good idea to hire two employees under the Indian Affairs Coordinator with one being the Federal Grants Coordinator and the other a Business Consultant. He referred to the flow chart and information on the Montana State-Tribal Economic Development Commission. **EXHIBIT(sts79a01)** He said the business consultant will coordinate with the seven Montana Tribes. He said the \$200,000 is designed to fund the two FTEs and to provide for an assessment. He said in section 4, the \$200,000 is designed to hire either individuals from the University of Montana or independently. He said the economic development assessment will determine what the strengths and weaknesses are on each of the seven tribal reservations. He said once the assessment is completed then the tribes will either individually or collectively make known to the Grants Coordinator their individual needs. He said there is up to 18.3 percent that can be taken off of most of these federal grants and ones that can be used for administrative expenses. He said with this \$200,000 start they will get the assessment done and the Federal Grants Coordinator in place. He said as they receive more money they can become an independent operation and will be able to expand. He said the bill has a sunset to see if it is going to work or not. He referred to a summary sheet on the bill and what parts had been stricken. **EXHIBIT(sts79a02)** He said they want to fill the abyss between tribal government and the state and to end this polarization. He said this is a bill that is friendly to the state and to the tribes. He said tribes don't have the contractors and specialities to hire people off of the reservation. This bill will help the whole state.

{Tape : 1; Side : A; Approx. Time Counter : 10:24 a.m.}

CHAIRMAN COLE took over the chair.

Proponents' Testimony:

George Oshensky, Confederated Salish Kootenai Tribes, said when they developed an Indian Economic Development Act, the first thing they did was ask the tribes what their needs were and what they had going on with economic development. He said they have the same basic needs as the rest of Montana does with infrastructure, social services, education, etc. He said this is when they began looking at the Federal Domestic Assistant Grants. He discussed this manual. He said out of the 54 applications that

are available, on the first two pages, only four had been applied to by the tribes. He said this \$200,000 for this bill will only be a one time thing until they can start getting some of this money. He said if it doesn't work the bill has a sunset.

Rhonda Whiting, Assistant Administrator of U.S. Small Business Administration, turned in testimony in support of **HB 670.**

EXHIBIT (sts79a03)

{Tape : 1; Side : A; Approx. Time Counter : 10:34 a.m.}

Wyman McDonald, Coordinator, Office of Indian Affairs, said there are three basic reasons for problems relating to Indian involvement in economic development and activity. He said the first one relates to tradition and both sides are responsible for polarization. He said the second is the new practice of devolution. He said the tribes used to have a catalog that they could get federal grants from without any state involvement. He said with devolution that is no longer the case as they have to come to the state and polarization is keeping the tribes from participating. He said the third problem is geographical and Indian traditions. He said there are seven tribes in this state with many of them being 700 miles apart. He said it is very difficult to deal with all of these tribes on a statewide basis. He said this in turn creates more polarization. He said they have very limited staff in their office and a limited budget. He said this will help to bring non-Indians and Indian tribes together.

Sharon Hoff, MT Catholic Conference, said they advocate for the kinds of technical assistance for aids in Native American communities and this bill would be very useful. She said any kind of tools they can give the Indian people to move toward self-sufficiency and to create those conversations between state, federal and Indian tribes will be very helpful.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. JON TESTER asked if they passed out this bill would the resolution that they had earlier on restructuring the Office of Indian affairs be worthless. **Wyman McDonald** said that is possible, but they will work together. He said they need a greater concentration of economic development in this area.

SEN. TESTER asked if the primary job of the two coordinators was to tap into grants at the federal level. **REP. EGGERS** said this bill provides a solution to only one of the many issues that the council faces. He said this bill doesn't attempt to change the

coordinator of Indian affairs in any way other than giving him some additional qualifications. He said the Grants Coordinator will write grants and push all of the buttons to obtain the grants for the tribes. Once he is done, the Tribal Business Center Coordinator is responsible to work with the tribes and identify their needs and translate those needs into grants. He also helps to implement those grants into specified projects.

SEN. TESTER asked if presently there are people in charge of grant writing right now and if not how do they get them. **REP. EGGERS** said at the present time it is under the Department of Commerce and the director is supposed to assist in getting grants etc. and this has not been done. He said if this bill is passed it will now be under the Governor.

SEN. TESTER asked if presently there is no effort made by the tribes to tap into grants. **REP. EGGERS** said yes that is the case.

SEN. DON HARGROVE said the Department of Commerce should be doing this and why are they not. And will this new expanded coordinator with Indian affairs have a working relationship to utilize the information with the Department of Commerce. **George Oshensky** said there is language addressing this issue in that they shall do this, but these agencies can't always do everything that the Legislature wants them to do. He said although the language is very direct for the Department of Commerce they have not been doing it. He said hopefully this language will target these people and they will work to find solutions to those problems. He said by bringing this tribal commission together they will be able to solve economic problems and find out what is working and not working. He said the Salish Kootenai Tribe has been active in seeking these grants. He said there are people out there doing this already, but this bill brings it into focus more.

{Tape : 1; Side : A; Approx. Time Counter : 10:52 a.m.}

SEN. HARGROVE asked if the money has already been appropriated. **REP. EGGERS** said this has gone through House Business and Labor and House Appropriations and they appropriated the \$200,000. This money will go into two special accounts to help it get jump started.

SEN. HARGROVE said the sunset is a short amount of time and can they get it up and running in two years. **REP. EGGERS** said this is what he had to take from Appropriations, but he feels it should be lengthened out.

SEN. HARGROVE asked what was Mr. McDonald's opinions on this. **Wyman McDonald** said this is an access to opportunity. He said

tradition, devolution, and logistics are hindrances to trying to get together to provide opportunities to the Indian tribes. He said they want to bring in Indian resources, advisory, and talent into state government and into the economy of the state and this is not happening. People would rather not work with Indians if they didn't have to.

SEN. HARGROVE said the Department of Commerce seems to have the lines of communication established and would they take advantage of those. **Wyman McDonald** said it is very important to work with those departments because they have a lot of information and staff that is knowledgeable.

SEN. JACK WELLS asked if different representatives at the reservation and Tribal Business Information Centers (TBIC) have the capability to assist in grant writing and applications. **Rhonda Whiting** said no, the facilitators work with clients on a one to one basis and develop business packages. She said through some of the colleges they are working on grant applications. She said the Commerce was directed by the President to do an infrastructure study. She said some of the tribes are better grant writers than others, but it does help to have a contact to know what kind of grants are out there, etc. She said for example Flathead is working with HUD to bring in the one stop mortgage project.

SEN. WELLS asked if their organization is staffed in Montana. **Rhonda Whiting** said she does have a staff in Washington DC., but she has been allowed to be stationed in Montana.

{Tape : 1; Side : B; Approx. Time Counter : 11:03 a.m.}

CHAIRMAN MACK COLE referred to the Fiscal Note and asked if section 7 has been amended. **REP. EGGERS** said yes this has been done.

CHAIRMAN COLE asked if the money that has been appropriated is in **HB 2**. **REP. EGGERS** said it is not in **HB 2**, but has been appropriated.

CHAIRMAN COLE said in the past there has been Indian Business Development Groups and where is the coordination with that organization and the one they are looking at in this bill. **REP. EGGERS** said he had not heard of the Indian Business Development Groups, but there has been some discussion of tribal government and how they will fit into the scheme of things. He said he sees this coordinating working well with all organizations. He said there are 17 TBIC's in the nation and seven of them are in the State of Montana on each reservation. He said they are already in

place, they are funded, managed well, and are connected to the tribal colleges and not to the administration. He said there is no outside interests with this bill.

CHAIRMAN COLE said he does not want to establish another organization if there are others that are already established and could be doing the same thing. He asked if there are members now of the seven recognized tribes and are they not federally recognized. **REP. EGGERS** said they are not included, but they could be added later.

CHAIRMAN COLE said rather than making a new organization could they have the Inner-Tribal Council take care of this. **REP. EGGERS** said the tribes don't always get along with one another and they do have different needs. The Department of Commerce has not fulfilled their statutory mandate and he wanted to come up with a mechanism that would both serve the interest of the state and the tribes. He said some of these grants are only for individual tribes and others are more global for all tribes, etc. He said the commission can work more on global issues, but still work individually. He said this wasn't an attempt to scatter decision making and focus, but to work together. **Rhonda Whiting** said the Small Business Administration works closely with the TBICs, they have money coming in through the Ford Foundation on some revolving credit monies. They are also doing some diversity training with lenders. The Montana-Wyoming Tribal Leaders Association is the chair and they have two staff people and are running out of funding because they are so busy.

Closing by Sponsor:

REP. EGGERS said the Indian communities would like to be the same as any other Montana community. He said this gives the Indian Community and the Legislature a chance to meet one another and discover those needs. People like this idea as it works well with the government and funding process. He said he sees the commission becoming more responsible and working to get federal funding.

{Tape : 1; Side : B; Approx. Time Counter : 11:20 a.m.}

Committee took a break from 11:20 to 11:27 a.m.

EXECUTIVE ACTION ON HB 350

Motion: **SEN. HARGROVE** moved that **HB 350 BE CONCURRED IN.**

Discussion:

David Niss said there are some amendments from the sponsor.

EXHIBIT (sts79a04)

SEN. HARGROVE said basically the philosophy is one of sunshine. He said this bill takes away the competition and temptation to get around things. This bill gives some flexibility on how well money is used and gets rid of money temptations.

Motion: **SEN. WELLS** moved **AMENDMENTS HB035005.ash FOR HB 350.**
(EXHIBIT 4)

Discussion:

SEN. WELLS discussed the amendments.

SEN. HARGROVE asked if amendment #4 should say "on line 4" rather than "on line 5." **(EXHIBIT 4)** **David Niss** said yes.

Vote: Motion **carried 4-0.**

Discussion:

SEN. TESTER said he has some problems with this bill. He said if they want to put this on the Internet it is fine if the Office of Political Practices has the money do an Internet site. If they don't, then the cost could go back to the candidate. He said on page 4, taking away the limits given by the political party is a mistake. Laundering of money could definitely occur in this area and the rich would have an unequal say on issues. He said it makes the process more difficult for a candidate in trying to finance his campaign, etc. He said the effective date of October 1, could cause some problem because many races will be well started by October 1. He said this could cause some problems for the commissioner in determining how to handle these monies if they are earmarked for the general or the primary campaign. This bill will make it more difficult for people to run for office. He said with the current system it was difficult to raise money with the limits, but it works very well. He said he could of gotten more money from the party, but he went to the people and explained to them what he was all about and hoped that they would donate to his campaign.

SEN. WELLS said the idea of an Internet site is a good idea and they shouldn't worry about the commissioner getting that done. He said this would not be a big burden for the candidate any more than it is to fill out all of the reports. He said this might encourage jobs and income for young entrepreneurs to put these on

the Internet. He said the limits on party contribution should be opened up. He said if people want to help candidates individually they can or they can help the party.

SEN. HARGROVE asked if **SEN. TESTER** would explain what happened with his campaign. **SEN. TESTER** said on the C-5 form which is the basic form for contributions it treats individual contributions as contributions. This bill on page 5 says that a candidate may not accept a contribution or deposit 10 days after the election. He said if there is a bill that needs to be paid, the candidate cannot donate to their own campaign to pay that bill because it is considered a contribution. Therefore, the books can't be closed and a candidate can not take office.

David Niss said the language prevents depositing of any contributions.

SEN. WELLS asked if a candidate's personal expenditure under his account is considered a contribution. **David Niss** said if they look through the definitions that apply to this bill, a loan without qualification is a contribution.

Motion/Vote: **SEN. WELLS** moved **A CONCEPTUAL AMENDMENT IN SECTION 5 BY INSERTING "A CANDIDATE MAY NOT ACCEPT A CONTRIBUTION EXCEPT FOR USE OF HIS OWN FUNDS...."**. Motion carried 4-0.

{Tape : 2; Side : A; Approx. Time Counter : 11:43 a.m.}

Discussion:

SEN. TESTER said on page 8 it talks about a candidate may not assume that office until the closing report is filed. He said he had a friend come do some pictures for a campaign brochure in which she charged him \$40 for. He said he wrote her a check and that check has never cleared the bank and he has not been able to close that report. He said the office of Political Practice knows about it and this is four months after December 30 and under this bill he would not have been able to take office.

SEN. WELLS said on line 10, page 8, they could add language that if a candidate suspects or determines a minor violation of this section it shall be reported to the Commissioner of Political Practices and dealt with as they see fit and would not prohibit them from taking office. He said there are numerous infractions of campaign laws that they have written right now. He said he has not filed reports on time and the commission has worked with him to make sure he was not out of the race. There is a lot of discretion applied to all of the laws in this area.

David Niss asked if they are only addressing violations of subsection 4.

SEN. WELLS said they need to consider any section that there is concern.

CHAIRMAN COLE said what about page 2, line 10? **David Niss** said the enforcement provision on page 8, subsection 4, the question arises on whether a candidate will accept his certificate on a minor violation, etc. He said he can't imagine that they would have to resolve this over litigation. He said if they put in a definition of what constitutes a minor, they may reduce the uncertainty of the outcome of that situation.

SEN. HARGROVE asked what does the current statute say right now as far as closing out an account. **David Niss** said this is a new section that addresses the close out of an account.

SEN. HARGROVE said right now it says that a candidate shall dispose of any surplus funds within 120 days of filing the reports. **David Niss** said the difficulty here is the application of that particular penalty. He said if what was enacted in this amendment was not distinguishable in terms of the powers of the commissioner from any other violation, the commissioner would be able to apply whatever discretion he currently has to impose civil or criminal penalties on a violation.

SEN. HARGROVE asked what spurred this bill to ever be introduced. He said he has not had any problems with excess funds or debts at the end of his race. **SEN. WELLS** said he had surplus funds, but had no problem putting it into a constituent fund. He said the objective is to address the surplus funds. He said they need to identify in the final report that all debts have been retired or addressed as outstanding and they would have to be cleared in 120 days. He said perhaps they should take out the minor violations and have the final report filed to show what debts are outstanding.

David Niss asked what happens to the penalty. **SEN. WELLS** said that penalty is there if they don't file that report.

David Niss asked if filing later than the statute requires would it be a minor or major violation? **SEN. HARGROVE** said perhaps that should be a major violation.

David Niss said do they still want a definition of a major or minor violation. And a major violation would include not filing within one week. **SEN. WELLS** said they don't necessarily need major and minor violations. He said all he wants to add here is

the exception of outstanding debt to give them more time to pay for those.

SEN. TESTER said the term "incumbent" needs to be defined on page 2. He asked what if this person doesn't run or he dies, who would take the position. **SEN. HARGROVE** said there are different procedures depending on what office they are running for.

SEN. TESTER said he is all in favor of sunshine, but the fact is he did not give his treasurer the books because he wanted to do them himself. He said it took a lot of time and by passing this bill, they are adding to this time. He said this gives the commissioner the right to tell someone they are out of the race for a minor violation and that is not a minor issue but a major issue.

SEN. WELLS said he would like to see the record of the last time someone was kicked out of a race.

SEN. TESTER said they rotate commissioners all the time and each might interpret this law differently.

David Niss said on page 2 concerning the penalties, there are numerous statutes governing special taxing district for both appointed and elected positions that provide for resignation and appointment or election by somebody else. He said these penalty sections don't change those statutes.

SEN. HARGROVE said perhaps they should wait to do executive action on this bill.

EXECUTIVE ACTION ON HB 670

Motion: **SEN. TESTER** moved that **HB 670 BE CONCURRED IN.**

Discussion:

SEN. HARGROVE said he is disturbed that the Department of Commerce is not doing what they are supposed to be doing. He said he does believe that this bill will pay for itself.

SEN. TESTER said the Department of Commerce is not doing their job and he hopes that these coordinators will do their job.

CHAIRMAN COLE said he would like to see if they could tie this directly into another tribal group.

SEN. WELLS said they need to find a way to challenge the Department of Commerce to meet some of the requirements that are

currently in statute. He said he does not like the idea of creating two more positions in government to do what other people are already being paid to do. He said there is a lot of money being spent for this bill and he does not want to use taxpayer's money to go study something. He said people in Washington are looking for more money to spend and he would like this to stop.

SEN. TESTER withdrew his motion.

ADJOURNMENT

Adjournment: 12:18 P.M.

SEN. MACK COLE, Chairman

KERI BURKHARDT, Secretary

JODI PAULEY, Transcriber

MC/KB

EXHIBIT (sts79aad)