

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - 2nd SPECIAL SESSION**

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By Senator Judy Jacobson, Chairman, on July 16, 1992, at 10:00 a.m., Room 325.

ROLL CALL

Members Present:

Judy Jacobson, Chairman (D)
Greg Jergeson, Vice Chairman (D)
Gary Aklestad (R)
Thomas Beck (R)
Esther Bengtson (D)
Don Bianchi (D)
Gerry Devlin (R)
Eve Franklin (D)
Harry Fritz (D)
H.W. Hammond (R)
Ethel Harding (R)
Bob Hockett (D)
Thomas Keating (R)
Dennis Nathe (R)
Lawrence Stimatz (D)
Larry Tveit (R)
Eleanor Vaughn (D)
Mignon Waterman (D)
Cecil Weeding (D)

Members Excused: None

Staff Present: Jim Haubein (LFA)

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

HEARING ON HOUSE BILL 8

Presentation and Opening Statement by Sponsor:

Rep. Bardanouve, sponsor, said HB 8 clarifies that the Governor has the authority to direct agencies to reduce spending in the event of a projected general fund budget deficit. He noted that passage of this legislation may mean the legislature will not be in a special session this fall. The bill tries to meet the objections raised by the Montana Supreme Court when they declared unconstitutional the power of the Governor to cut

appropriations. One of the issues raised by the Court was there were no legislative guidelines to guide the Governor in how the cuts should be made. HB 8 provides that the Governor may make a ten percent cut on appropriations under certain circumstances which is more conservative than the old law that was removed.

Rep. Bardanouve said the university strongly objects to being included in this bill if K through 12 school equalization program is not also included. It is their feeling that all education should be in this bill subject to a governor's reduction in an amount of money. He stated the House appropriations committee put K through 12 in the bill as they felt if the university system was included, the rest of education should also pay its fair share. However, the House floor after lobbying from schools were successful in removing lower education for the school foundation program. As HB 8 is now written, it does not include school money for public schools but does include the university. He felt that is the main bone of contention of HB 8.

Rep. Bardanouve said with HB 8 the governor will determine if there is a shortfall in revenue to meet the appropriations. After working with the budget office and determining there is a shortfall, they will then submit revenue calculations to the revenue oversight committee. That will be reviewed by the committee and give their opinion. It is possible they may support the governor's proposal or possibly that the revenue figures may be changed which would then go back to the governor. The governor is not bound by law to follow them but since the committee is a bipartisan committee, the governor usually follows the advice of the committee. The governor will then make his recommendation to the legislative fiscal analyst who will review it and report back her recommendations to the committee. He concluded that HB 8 involves two bipartisan committees, the revenue oversight and the legislative finance committees which are composed of knowledgeable members in areas of finance and revenue. This bill gives the governor some leeway in balancing the budget but still leaves some control of what the governor does. He stated in the long run, it may be more important than any bill this session.

Proponents' Testimony:

None.

Opponents' Testimony:

LeRoy Schramm, Chief Legal Counsel, Montana University System, said while it is difficult to stand up and oppose Rep. Bardanouve on any bill because he personifies good government, the University System is an opponent to HB 8. (See Exhibit 1)

Eric Feaver, Montana Education Association, stated his opposition to HB 8. He said he affirms the remarks made by Mr.

Schramm. He said it is a dubious assertion that HB 8 would meet the constitutional test. He noted if HB 8 passed, it would immediately go into effect and the governor could act within a moment's notice of the adjournment of the session and implement cuts soon after that. He noted it is the legislature's responsibility by constitution to appropriate, then giving that power to the governor at anytime is irresponsible and if the legislature must meet again this year, then so be it. Regarding amending K through 12 into HB 8, he stated that no time have they been included in this type of authority and it was not part of the authority the governor may have had in the past. He said if school districts' reserves are cut significantly, it would put the districts into the negative. They literally could not pay their bills or meet their contracts. Their budgets could not be managed.

Questions From Committee Members:

Senator Fritz asked Rep. Bardanouve if he agreed that the governor could implement this bill immediately upon passage and approval and delete ten percent out of the biennial appropriation of the university system.

Rep. Bardanouve said it was possible but it would be a ridiculous position that the governor would assume. He said he realized the budget is short but not the money the university system is talking about.

Senator Hammond said over the years the university system has torn money away in indirect costs and money for school trust land, interest and income and now the university wants the money over and above the six mill levy appropriated to them. He questioned Mr. Schramm regarding that.

Mr. Schramm said the choice regarding the indirect costs was made by the legislature. He stated the University System recognizes the legislature's authority to appropriate; they are told how much money they will get. He noted the battles they get in with the legislature come in the priority setting. He said it is the university's feeling that once we tell them the amount of money, they will then manage it from there.

Senator Hammond said they have now taken out the language that says it will revert to the general fund. He said although the university system has not quite accomplished that yet, the next step is they will try to statutorily appropriate it. He said that is what happened with the funds from the land grant.

Senator Harding questioned Mr. Feaver if there was a way for schools to operate with less money.

Mr. Feaver said maybe it is time for the legislature to have an interim committee involving school persons from Montana studying those issues. He added that districts' reserves would

be cut to ten percent with some exceptions; many school districts had less than that already. If the crisis continued to get worse after the legislature's adjournment and the governor acted on HB 8, school districts would be severely impaired.

Closing by Sponsor:

Rep. Bardanouve closed. He stated if it is a constitutional issue, possibly we should look at a constitutional amendment if we don't want the legislature convening every few months. Although he sees the concerns of the schools, as legislators we must try to do the best job we can with difficult situations that may face us down the road. He concluded if safeguards can be worked into HB 8 to relieve some of the concerns of Mr. Schramm and Mr. Feaver, he would not object if they were reasonable and it would help the situation.

HEARING ON HOUSE BILL 56

Presentation and Opening Statement by Sponsor:

Rep. Cocchiarella, sponsor, stated that HB 56 provides true cuts to the base of government. It is an attempt to eliminate duplication in government. She said HB 56 would not eliminate functions of government but would eliminate functions from being performed in two or three different areas. It would eliminate various programs, bureaus and positions with the Department of Administration and transfer certain programs within that department to the Department of Labor and Industry and to the office of the budget director. HB 56 would eliminate 6.5 fte's. She indicated the savings to the general fund is \$113,000. She concluded HB 56 is not an attempt to get at any people as the work they perform is always high caliber.

Rep. Cocchiarella said she has an amendment to offer to HB 56 (See Exhibit 2).

Proponents' Testimony:

None.

Opponents' Testimony:

Laurie Ekanger, Administrator, State Personnel Division, stated her opposition to HB 56 (See testimony Exhibit 3) She concluded if it is the desire to reorganize the State Personnel Division, it should be done in a regular session and not a special session.

Mike Micone, Commissioner of Department of Labor and Industry, said while he supports the attempt to try to simplify matters, he thinks it is complicated and drawn out. He stated

his feeling that the legislature should be not transferring programs without transferring resources. He concluded if the committee passed this bill, it should be amended on page 11, line 1 (See amendment Exhibit 4).

Questions From Committee Members:

Senator Hockett asked why there is no fiscal note attached to HB 56. Rep. Cocchiarella said she received a fiscal note and refused to sign it but that she would like to talk to the budget office before it goes any further.

Senator Keating questioned Rep. Cocchiarella if she believed in collective bargaining. Rep. Cocchiarella said yes, she did but she believes it has not happened; she felt the legislature especially in the last session bargained for the governor. Bargaining is not happening with state employees until it gets to the legislature where the legislature bargains. She noted the chief labor negotiator is not eliminated, but moved to the budget office where he works with the numbers. The bargaining that goes on for 77 contracts could be done by agencies and managers hired to know their work site; the managers are hired with the capability of doing those things. Bargaining is supposed to happen before the legislature and not after the legislature.

Senator Keating said he sees this legislation as dismantling the ability of the state to do collective bargaining or at least seriously cripples it. He questions how collective bargaining could be speeded up by this process.

Rep. Cocchiarella said she did not feel HB 56 crippled collective bargaining. She believes it expedites the matter. She concluded she strongly believes in collective bargaining and the only way that happens is when management sits down with its workers, and she did not feel that is happening now.

Closing by Sponsor:

Rep. Cocchiarella closed. She stated it is a complicated bill but there is no intention in HB 56 of moving people around for the sake of moving people around. It is a true effort to cut budget at the base and save money in state government.

EXECUTIVE ACTION ON HOUSE BILL 8

Amendments, Discussion, and Votes:

Senator Beck moved to amend HB 8 to put back in school equalization aid and move the percentage figure from ten back down to four.

When questioned regarding this amendment, Senator Jacobson

said the effect of Senator Beck's amendment is if K through 12 is put in, then the percentage of cuts can be moved from ten percent to four percent because the base is spread wider. His amendment is adding K through 12 and moving the percentage back to four percent.

Senator Aklestad questioned if that would be four percent over the biennium, \$40 million.

Senator Beck said by putting school equalization aid, we have more than doubled what he has the ability to cut. He said if the scenario at ten percent is \$100 million, then the scenario at four percent should be close to the same figure.

Senator Beck's amendment motion failed on a roll call vote.

Senator Fritz moved to amend the bill to make the effective date of HB 8 from passage and approval to January 1, 1993.

When questioned regarding the effect of the motion, Senator Jacobson said HB 8 would be implemented on January 1 which means we would be back in session before anybody would be able to implement the bill. This would have no effect at all on the present administration.

Senator Fritz's amendment motion failed on a roll call vote.

Senator Bianchi moved to amend page 4, line 25, change 20 days of notification to 90 days of notification.

Senator Jacobson advised Senator Bianchi he was referring to the section on the revenue oversight committee.

Senator Bianchi said they should have more than 20 days from the time the governor submits it to review it and agree or disagree with the governor.

Senator Jacobson said there will be another legislative session in six months. If any part of this had to be utilized, she said it was her understanding that Senator Bianchi is asking for a 90 day notification which is a three month notification prior to the governor being able to act.

Senator Bianchi stated it says within 90 days; there can be a response within one day but it can be up to 90 days.

Senator Aklestad stated his thought that the governor needs some type of a document like HB 8 to get by in real severe hard times. If the intent is to try to get it so the present administration cannot do anything until January, we will have a problem and may be back in September for a special session. He concluded by stating his feeling that the taxpayers would not be happy about that.

Senator Jacobson said what this amendment motion is stating is that the revenue oversight committee has up to three months to respond and the budget office and governor's office must wait until they get that response before they can act.

Senator Bianchi's amendment motion failed on a roll call vote.

Senator Jergeson moved to amend page 2, line 11, add "nor make any agency be required to reduce general fund spending by a percentage greater than any other agency based on a consistent base."

Senator Jergeson said as the legislature appropriates money to state agencies we have to develop priorities for state government. If we do not require that the governor in application of this act maintain those priorities that were established through the appropriations process in the regular session, that is when we would be unconstitutionally giving up our appropriation authority to the governor. He indicated this would be a restriction that may provide an avenue of avoiding a constitutional challenge to a statute.

Senator Aklestad said there are some agencies that have very little slack in their budgets and they can't give up as much money as other agencies. He asked Senator Jergeson if all agencies would have to be cut the same under this amendment motion.

Senator Jergeson said that was correct.

Senator Waterman stated that constitutionally if we want this to stand up, it has to be across the board cuts.

Senator Harding stated her opinion that Rep. Bardanouve has brought the bill this far and she felt it should be passed the way it is rather than amend it.

Senator Jergeson's amendment motion carried on a roll call vote.

Senator Tveit questioned the language on page 10 of HB 8, whether the university system is out from under this act in 1996.

Senator Jergeson said it was his understanding that what terminates are the amendments made by this bill to Section 17-7-304.

When asked by Senator Jacobson to comment regarding this, Mr. Schramm said that is the experimental section put in by the legislature where instead of money that would ordinarily revert to the general fund, it goes into the special board of regents maintenance account. All the last section on page 10 does is makes sure that the amendment terminates at the same time the

whole section terminates. It has no effect whatsoever on the board of regents general coverage under the act.

Recommendation and Vote:

Senator Weeding moved that HB 8 AS AMENDED BE CONCURRED IN.

Senator Aklestad said with the last amendment, we have probably cut the amount of money that could be cut in this bill. Even though the percentages are there, they are really irrelevant now because there are some agencies that could not take a significant cut. He concluded this bill has been at least cut in half even though the percentages are there.

Senator Jacobson said before the committee started losing their tempers, she would like to suggest that we now have an inherent difference with the House and it probably will have to be straightened out in conference committee. She stated her feeling that the bill itself has a lot of merit and also suggested that if this governor needs to do cuts and there are problems with Institutions for instance, we are very close to being back and the Department of Institutions could come forth with a supplemental in January. She concluded by stating her feeling we should see how this progresses.

Senator Aklestad said he would like a roll call vote on Senator Weeding's motion.

Senator Weeding's motion that HB 8 AS AMENDED BE CONCURRED IN failed on a roll call vote.

HOUSE BILL 8 WILL COME OUT OF SENATE FINANCE AND CLAIMS WITH AN ADVERSE COMMITTEE REPORT.

EXECUTIVE ACTION ON HOUSE BILL 56

Motion:

Senator Beck moved that HB 56 BE NOT CONCURRED IN.

Recommendation and Vote:

Senator Beck's motion that HB 56 BE NOT CONCURRED IN passed on a roll call vote.

HOUSE BILL 56 WILL COME OUT OF SENATE FINANCE AND CLAIMS COMMITTEE WITH AN ADVERSE COMMITTEE REPORT.

EXECUTIVE ACTION ON SENATE BILL 10

Discussion:

Senator Keating, sponsor, stated his belief there has been coordination between the counties, the hospitals and SRS to amend SB 10 to delete the rescinding of the state medical program. It would be to strike from SB 10 the elimination of the state medical program so that the 12 assumed counties and the state medical program are retained. Also he stated he would like to retain the other parts of the bill dealing with general assistance relief, et cetera, and to amend the state medical program to reduce the eligibility portion somewhat; squeeze the eligibility factors and reduce the benefits a little.

Senator Keating said the amendments are quite technical and are being drafted at the present time. He stated if SB 10 is passed in committee, he could amend it on the Senate floor.

Senator Jacobson said she agreed that Senator Keating explained the concept and the committee may want a little more detail on what is being amended.

Senator Keating said the staff of SRS is present to discuss it. He said the intention is to move the eligibility from 150 percent of poverty to 100 percent of poverty, and hospitalization would still be provided.

Senator Jacobson asked Mr. Robinson of SRS to explain what the benefits will do.

Ms. Julia Robinson said agreement has been reached on what sections need to be changed to reinsert the whole state medical coverage. A new level of eligibility would be put in. She said she would like to propose the poverty level be 100 percent of poverty and then reduce the scope of services. Currently people on state medical are eligible for all medicaid services which is not done in many other states. It now would be catastrophic services which would be physicians, prescriptions and hospitalization.

Norm Rostocki, SRS, discussed choices in terms of money saved from 150 percent to 100 percent and from the current state medical program to catastrophic. He said if the standard is 150 percent and reduced the state medical coverage, \$226,699 general fund dollars will be saved. If state medical is reduced to 100 percent and leave state medical benefits alone it will save 1.558 million. He said the reason for that change is the number of people eligible are reduced.

When asked by Senator Jacobson for cost savings via the amendment being proposed, Mr. Rostocki said that is where state medical eligibility is reduced, 1.898 million of general fund.

Mr. Rostocki said at the current time state medical covers a variety of benefits called primary care which are in categories.

What would be included in the catastrophic coverage is in and out patient hospitalization, physicians and pharmacy. What is being deleted is dental, other practitioners.

Senator Jacobson questioned if Mr. Rostocki is separating them away from medicaid and giving them what we might say as catastrophic or very basic primary care.

Mrs. Rostocki said that was correct.

In a question from Senator Waterman if projects in project work would change, Ms. Robinson said it would not change any of that, which also would include alcohol treatment counselors.

Senator Waterman said it was a valid point that if someone needed these services, the new categories will allow that to be paid for.

Ms. Robinson said that was correct but they would have to be in a project work program.

Senator Waterman said there was a part of SB 10 that reduced GA benefits for 4 and 6 months out of 18, and she questioned if that was still proposed in the bill. Ms. Robinson said yes.

Senator Waterman said some of the new categories were reviewed in subcommittee but she would like Ms. Robinson to comment on the GA benefits.

Ms. Robinson said currently in GA benefits, people receive 4 months of benefits in 12 months. She said that was changed in the House, and now the Department is worried about people coming back every year to obtain benefits that are from out of state. To pull that piece of the proposal, there would be \$10,000 saved in the general fund. She noted that reference is on page 25 of SB 10, lines 18 and 20, as well as page 26, lines 7 through 9.

Senator Keating said if it is only about \$10,000 it means it is not hurting the recipients to any great extent and if it will deter the in-migration to any degree, he felt it should be left.

Senator Keating said before he made a motion on SB 10, maybe the 18 month amount should be discussed.

Senator Waterman said it was her opinion that it would be more acceptable if that portion were removed. She agreed it was a small dollar amount but felt there was some question about that. She complimented Senator Keating on the changes he made to SB 10. She indicated she could support SB 10 if it was changed back to the 12 months.

Amendments, Discussion, and Votes:

Senator Waterman moved that SB 10 be amended to change the

language back to the 12 month period.

Senator Keating said his only reason to change it to 18 months was to deter the in-migration.

Senator Waterman said there are two provisions currently in SB 10 to deter in-migration.

Senator Waterman's amendment motion carried on a voice vote.

Senator Keating moved to amend SB 10 to reinstate the state medical program as it is and that the bill be amended to reduce eligibility for state medical to 100 percent of poverty level and that benefits are restricted to strictly catastrophic, hospital, physician and pharmacy benefits.

When asked by Senator Bianchi to have Gordon Morris comment on this, Mr. Morris said he had an opportunity to discuss this with the sponsor, department representatives and hospital association and they feel it is reinstating state medical assistance in its entirety and reinstating county medical assistance in title 53, and he would support that.

In a question from Senator Bengtson if the hospital association supported this, Bob Olson from the hospital association indicated they concur in principle with the amendments.

Senator Keating's amendment motion carried unanimously.

Recommendation and Vote:

Senator Keating moved that SB 10 AS AMENDED DO PASS.

Senator Jergeson stated his opinion that people who speak for the clients should be asked their opinion about the proposed amendments.

Judy Carlson stated there are some major changes in that it is all services except the hospitals, physicians and pharmacists that are being eliminated from the program. She noted the other practitioners that are involved have not been heard from nor the clients who receive the services, as well as people just barely not eligible for general assistance.

Senator Jacobson asked if those people are picked up on the state medical as far as their medical needs are concerned.

Ms. Robinson said there are categories of people that are cut by this bill. It is going from 150 to 100 percent so some people are being dropped from the services. The other change is the scope of the service.

Senator Keating said some self-sufficiency programs are also being established and some self-help in this bill. Those people will receive some of those medical services through a work program or an education program. As long as they participate in trying to improve their own situation, they will continue to get some help. If they can take care of themselves, that is to their benefit.

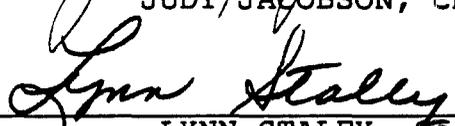
Senator Keating's motion that SB 10 AS AMENDED DO PASS carried unanimously.

ADJOURNMENT

Adjournment At: 12:10 p.m.



JUDY JACOBSON, Chairman



LYNN STALEY, Secretary

JJ/LS

ROLL CALL

FINANCE AND CLAIMS

COMMITTEE

DATE

7/16/92

SPECIAL

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR JACOBSON	✓		
SENATOR JERGESON	✓		
SENATOR AKLESTAD	✓		
SENATOR BECK	✓		
SENATOR BENGTON	✓		
SENATOR BIANCHI	✓		
SENATOR DEVLIN	✓		
SENATOR FRANKLIN	✓		
SENATOR FRITZ	✓		
SENATOR HAMMOND	✓		
SENATOR HARDING	✓		
SENATOR HOCKETT	✓		
SENATOR KEATING	✓		
SENATOR NATHE	✓		
SENATOR STIMATZ	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
July 16, 1992

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 8 (third reading copy -- blue), respectfully report that House Bill No. 8 be amended and as so amended be not concurred in.

1. Page 2, line 11.

Following: "biennium"

Insert: "nor may any agency be required to reduce general fund spending by a percentage greater than any other agency, based on a consistent base"

Signed: Judy H. Jacobson
Judy H. Jacobson, Chairman

JM 7-16-92
Amd. Coord.

SF 7-16-92
Sec. of Senate

ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
July 16, 1992

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 56 (third reading copy -- blue), respectfully report that House Bill No. 56 be not concurred in.

Signed: Judy H. Jacobson
Judy H. Jacobson, Chairman

MA 7/16-92
And. Coord.

SE 7-11-92
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 6
July 17, 1992

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration Senate Bill No. 10 (first reading copy -- white), respectfully report that Senate Bill No. 10 be amended and as so amended do pass:

1. Title, lines 8 through 13.

Following: "RESIDENCY" on line 8

Strike: "ELIMINATING" on line 8 through "INELIGIBILITY;" on line 13

Insert: "LIMITING ELIGIBILITY FOR GENERAL RELIEF MEDICAL ASSISTANCE;"

2. Title, lines 15 and 16.

Strike: "REVISING THE DURATION OF ASSISTANCE PERMITTED;"

3. Title, line 20.

Strike: "50-2-116, 53-2-323, 53-2-813,"

4. Title, line 22.

Following: "53-3-305,"

Insert: "53-3-307, 53-3-310,"

Strike: "53-3-311,"

5. Title, page 1, line 24 through page 2, line 1.

Following: "MCA;" on line 24

Insert: "AND"

Strike: "SECTIONS"

Insert: "SECTION"

Following: "53-3-206,"

Insert: "MCA."

Strike: "53-3-307" on page 1, line 24 through "DATE." on page 2, line 1

6. Page 2, line 4 through page 9, line 15.

Strike: sections 1 through 3 in their entirety

Renumber: subsequent sections

7. Page 9.

Following: line 22

Insert: "(1) "Acute medical need" means an illness, injury, or other serious medical condition that:

(a) demands urgent medical attention; and

(b) is expected to last less than 12 months if treated."

Renumber: subsequent subsections

8. Page 10, line 22.

Following: "needs"

Insert: "and medical needs"

9. Page 13.

Following: line 8

Insert: "(17) "Serious medical condition" means a mental or physical condition that causes a serious health risk to a person and for which treatment is medically necessary. Diagnosis and determination of necessary treatment must be made by a licensed medical practitioner, and the department may confirm the diagnosis through an expert medical review. Necessary treatment includes essential medical care and other services that the department determines, by rule, to be medically necessary. A serious medical condition is limited to chronic illness, an acute medical need, or a medical condition that requires services in order for a person to obtain or retain employment."

Renumber: subsequent subsections

10. Page 15.

Following: line 8

Insert: "(2) public policy requires that certain persons who are in need should be provided with assistance through programs of general relief;

(3) general relief, along with other assistance programs, should be available to provide:

(a) basic necessities that allow minimum subsistence compatible with decency and health; and

(b) financial assistance for medical services necessary for the treatment of a person's serious medical condition.

However, general relief medical assistance should not be available to nonindigent persons who have catastrophic medical expenses."

Renumber: subsequent subsections

11. Page 16, line 23.

Strike: "an 18-month"

Insert: "a 12-month"

12. Page 17, lines 3 and 4.

Strike: "for basic necessities"

13. Page 20, line 9.

Following: "~~provided for in~~"

Insert: "53-3-310 and"

14. Page 21, line 15.

Following: "ineligible for"

Insert: "either of the public"

Strike: "under the"

Insert: "programs commonly referred to as medicaid and"

15. Page 21, line 16.

Strike: "program"

16. Page 21, line 18.

Strike: "that"

Insert: "either"

17. Page 21, line 21.

Following: "for"

Insert: "medicaid or"

Following: "program"

Insert: "or, if ineligible for both programs, whichever period of
ineligibility is longer"

18. Page 22, line 6.

Strike: "(2)"

Insert: "(3)"

19. Page 22, line 14.

Following: "~~month~~."

Insert: "Eligibility for general relief medical assistance is granted for a period of 1 month and terminates when the serious medical condition of the person has been treated. Except as provided in subsection (3), continued eligibility for general relief medical assistance may be established in any subsequent month.

(3)"

20. Page 25, lines 18 and 20.

Strike: "18-month"

Insert: "12-month"

21. Page 26, line 9.

Strike: "18-month"

Insert: "12-month"

22. Page 26, line 10.

Strike: "September"

Insert: "January"

23. Page 26, line 11.

Strike: "1991"

Insert: "1990"

24. Page 26.

Following: line 12

Insert: "(7) Subsections (3) and (4) do not apply to general relief medical assistance."

25. Page 32.

Following: line 12

Insert: "Section 13. Section 53-3-307, MCA, is amended to read:

"53-3-307. County medical assistance not to be paid from state funds -- exception. (1) County general relief medical assistance under ~~53-3-206~~ shall not be entitled to be paid from state funds.

(2) Medical expenses arising from accidental injury to interstate transients shall be paid from county funds and reimbursed by the state upon submission of a proper claim."

Section 14. Section 53-3-310, MCA, is amended to read:

"53-3-310. Scope of general relief medical assistance -- limitations. (1) General relief medical assistance is limited to ~~those services medically necessary to treat a person's serious medical condition~~ inpatient and outpatient hospital services, physician services, and prescription drugs. Assistance may not exceed the scope or duration of similar services provided under the Montana medicaid program pursuant to Title 53, chapter 6, part 1, and rules adopted by the department to administer the program.

(2) General relief medical assistance in a county without state-assumed welfare services must, within the limitations of subsection (1), be provided in amounts determined by the county welfare board.

(3) General relief medical assistance in counties with state-assumed welfare services must, within the limitations of subsection (1), be provided in amounts not to exceed payments under the medicaid program. Services must be limited to the least costly method of alleviating the serious medical condition.

(4) General relief medical assistance is limited to covered medical needs not met by other services or benefits available to the person. Available services or benefits include but are not limited to health and accident insurance, veterans' benefits, industrial accident benefits, medicare and medicaid benefits, and other liable third parties.

(5) A person who is chronically ill may receive general relief medical assistance for services limited to treatment of a serious medical condition related to chronic illness.

(6) A person who has an acute medical need but who is not chronically ill may receive general relief medical assistance but only for services necessary to treat a serious medical condition that requires immediate medical attention to alleviate a serious health risk.

(7) A child less than 18 years of age may receive the same scope and duration of services as provided under the Montana medicaid program provided for in Title 53, chapter 6.

(8) A person who requires medical services in order to obtain or retain employment may receive services similar to those provided under the Montana medicaid program but only for the duration of need.

(9) Except as provided in subsection (7), nothing in this chapter may be construed to require the same scope of medical services as provided under the Montana medicaid program."

Renumber: subsequent sections

26. Page 32, lines 14 and 15, 16 and 17, and 20.
Strike: "for basic necessities"

27. Page 33, lines 8 through 20 .
Strike: section 17 in its entirety

28. Page 39, line 12.
Strike: "Sections"
Insert: "Section"

29. Page 39, line 13.
Strike: "53-3-307, 53-3-310, 53-3-313, and 53-3-318, MCA, are"
Insert: "MCA, is"

30. Page 39, lines 15 and 16.
Strike: section 27 in its entirety

Signed: Judy H. Jacobson
Judy H. Jacobson, Chairman

JAL 7-17-92
Amd. Coord.
SG 7.17.92
Sec. of Senate



THE MONTANA UNIVERSITY SYSTEM

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COMMISSIONER OF HIGHER EDUCATION

OFFICE OF LEGAL COUNSEL

SENATE FINANCE AND CLAIMS

TO: Senate Finance Committee
FROM: LeRoy H. Schramm
Chief Legal Counsel
DATE: July 15, 1992
RE: House Bill 8 (Gubernatorial Rescission Bill)

EXHIBIT NO.
DATE 7/16/92
BILL NO. HB 8

This bill has serious constitutional infirmities. The first problem stems directly from the primary object of the bill. The state constitution gives the legislature the power of appropriation. Article V, Section III. The constitution also states the familiar maxim derived from Montesquieu that "[n]o person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others . . ."

[T]he budget in Montana is a legislative budget not an executive budget . . . [The] 1972 Montana Constitution, vest[s] the power to approve appropriation bills and a budget in the legislative branch. . . . In other words the legislature has the power to adjust and finalize the budget.

State ex rel Judge v. Legislative Finance Committee, 168 Mont. 470, 480 (1975) (emphasis in original).

The essence of this bill is to relieve the legislature of its constitutional responsibility to establish budgets and appropriate monies by giving that authority to the governor. This approach may occasionally take the legislature off the political hot seat and it may avoid the need for a special session now and then. However, these reasons of convenience cannot mask the fact that it amounts to an unconstitutional delegation of legislative authority.

The second constitutional problem is no less serious. Not only does the bill exalt the authority of the executive at the expense of the legislature, it totally ignores the

constitutional role the Board of Regents must play in determining budget priorities for the Montana University System. The bill treats the University System as if it were a state department under the direct authority of the Governor. The bill specifies that the Governor is the one who is to determine what reductions would have the "least adverse impact" on the educational mission of the university system and to modify the budget downward accordingly (p. 2, lines 15-22). It is hard to conceive of a sequence of events more at odds with the constitutional framework for higher education governance than are the procedures of this bill. The constitution specifies that the legislature is to decide the amount of money higher education receives, and the Board of Regents is to determine the educational priorities for which the money will be used. This bill scraps those respective roles and places the Governor in charge of both higher education finances and higher education priorities whenever a deficit occurs.

Finally, this bill runs afoul of the constitution's non-diversion clause. Article X, Section 10 says that "[t]he funds of the Montana University System . . . from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they are dedicated." Funds appropriated to the university system cannot be used for non-higher education purposes. This bill would allow the Governor to reduce higher education expenditures and use the money for totally unrelated purposes. For example, a shortage in the state school equalization account could trigger a budget reduction under this bill. However, because the school foundation program is excluded in the bill from any gubernatorial budget rescission, the higher education money recouped in a reduction would be used for a non-higher education purpose; that is, to keep the state equalization account solvent. The constitutionality of such a diversion might be open to question even if done directly by the legislature, but the unilateral executive initiated diversion contemplated by this bill is even more constitutionally dubious.

When a serious fiscal problem develops, it is tempting for the legislature to say: "Let the Governor fix it." Fortunately, our constitution requires that the people's elected representatives must be involved when such important decisions on public finance are made. The legislature should acknowledge its role as the pre-eminent public budget authority in this state and should abandon the unconstitutional abdication of power that this bill contemplates.

Amendments to House Bill No. 56
Third Reading Copy

Requested by Rep. Cocchiarella
For the Committee on Finance and Claims

Prepared by David S. Niss
July 16, 1992

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 2
DATE 7/16/92
BILL NO. HB 56

1. Page 1, line 16.
Following: line 15.

Insert: "WHEREAS, the Department of Administration has adopted a rule providing for the review of compensation and classification determinations by the Personnel Division of the Department; and

WHEREAS, it is the purpose of the Legislature to eliminate the review function of the Personnel Division."

TESTIMONY OPPOSING HB56

STATE FINANCE AND CLAIMS
EXHIBIT NO. 3
DATE 7/16/92
BILL NO. HB 56

The Department of Administration opposed HB56.

HB56 eliminates two major work units in the State Personnel Division, transfers biennial salary survey from State Personnel Division to the Department of Labor & Industry, and changes the Board of Personnel Appeals administrative rules to exclude the State Personnel Division in an appeals process. The bill anticipates laying off 8 employees in State Personnel Division. But the bill does not eliminate the statutory responsibilities that are being performed by these work units.

Programs for which staff is eliminated are:

I. LABOR RELATIONS AND PAY ADMINISTRATION (General Fund)

- A. Purpose of these programs: To comply with Title 39, Chapter 31 and with Title 2, Chapter 18, Part 3.
- B. Effects of HB56
1. Eliminates all staff (4.5 FTE) for these programs.
 2. Transfers collective bargaining functions to OBPP.
 3. Transfers salary survey to Department of Labor & Industry.
- C. Why is gutting labor relations staff a bad idea?
1. Collective bargaining takes two sides. Eliminating almost all of the negotiators for management's side doesn't change management's role. Instead, negotiations will grind down to a snail's pace.
 2. No one else does it. The chief labor negotiator has sole authority to sign collective bargaining agreements with unions on behalf of the governor (as the governor's designee required by the Public Employees Collective Bargaining Act, Title 39, Chapter 31). The state has 77 agreements with 19 unions covering 6,079 employees.
 3. Agencies do not have staff and expertise to comply with the Act.
 4. Moving the labor negotiator to OBPP will separate this staff from personnel policy, classification and benefits resources and hinder coordination with other personnel activities such as pay, benefits, classification, legal developments.
- D. Is Labor Relations a duplication? No.
1. Only the chief labor negotiator can enter into agreements. Departments of Transportation and Corrections have staff expertise to administer their own contracts (handle grievances, interpret language), but all other agencies rely on this staff for those services as well.
 2. Agency personnel staff handle all day to day hiring, discipline, discharge, RIF, promotions, demotions, and some classification work for 10,500 positions.

- E. Why is eliminating the Pay staff a bad idea?
1. There won't be staff to comply with statute to administer pay programs and write pay rules. HB56 only transfers the biennial salary survey to Department of Labor & Industry but it eliminates all pay staff. Title 2 Chapter 18 Part 3 will still require us to administer pay, write pay rules, and develop special pay programs.
 2. The salary survey is an integral part of pay administration. It depends on matching state jobs with jobs of other employers. The professional job analysts are in State Personnel Division. State Personnel Division is part of a coalition of 15 states whose personnel offices come together to conduct a single combined salary survey in order to consolidate resources, eliminate duplication and improve accuracy.
- F. Is the pay program a duplication? No one else has authority to administer and write pay rules and programs.

II. PROFESSIONAL DEVELOPMENT CENTER (PDC) (Proprietary Fund)

- A. Purpose of PDC: To comply with 2-18-102, MCA, which states that the department of administration shall "foster and develop programs . . . for the improvement of employee effectiveness, including training . . ."
- B. Effect of HB56
Eliminates this entire proprietary program (3 FTE)
- C. Why is PDC staff needed?
1. To provide training to managers on state and federal personnel management laws and rules. To provide managers training in effective, cost efficient management. To reduce potential legal liability for law infractions.
 2. To combine volume and provide or purchase training from contractors to upgrade workforce skills at a lower cost than agencies could afford on their own.
 3. In FY92, spending only \$162,000 with only three FTE, PDC provided training to 5,537 employees.
- D. Is PDC a duplication? No.
1. No one is required to attend or send employees to PDC training. PDC is strictly self-funded and receives no general fund. If courses aren't needed, no one will come.
 2. Some agencies have training staff to address agency specific rules and procedures and professional issues. The state trainers meet regularly to prevent duplication and to coordinate resources.

7/16/92

HB 56

3. PDC prevents duplication by coordinated commonly needed training centrally at a lower cost than agencies could attain individually.
4. PDC also offers services such as meeting facilitation, conflict mediation and coordination of conferences not provided elsewhere.

III. CLASSIFICATION APPEALS AT STEP 3 OF GRIEVANCE PROCEDURE (General Fund)

- A. Purpose: To comply with 2-18-1011, MCA, regarding classification appeals and with Administrative Rules promulgated in ARM 24.26.5 by the Board of Personnel Appeals, which oversees classification appeals. The Board's rules provide that the steps in the process are:
- | | |
|--------|--------------------------|
| Step 1 | Immediate supervisor |
| Step 2 | Agency head |
| Step 3 | State Personnel Division |
| Step 4 | Board of Personnel |
- B. Effect
Codifies Board of Personnel administrative rules to delete Step 3 of the classification appeals process.
- C. Why have a Step 3?
1. State Personnel Division is the authority whose decision is being grieved in most cases.
 2. Many grievances can be settled at this step rather than going to the board.
- D. Is Step 3 a duplication? No.
1. Agencies do not have authority to settle a grievance. Classification has delegated some limited authority to settle certain job classes to MSU, U of M, SRS, and Transportation.
 2. When an agency has done an investigation and issued an opinion, classification does not redo their work.

IN SUMMARY, personnel administration is a discipline made up of a continuum of programs and activities all with one goal: to have a productive workforce. To fragment personnel is counter to this goal. To keep the laws on the books but eliminate the resources to comply is to invite litigation. *Please vote DO NOT PASS on HB56.*

Presented by Laurie Ekanger, State Personnel Division, 444-3871.

SENATE FINANCE AND CLAIMS

HB00056

Senator _____

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 48

DATE 7/10/92

BILL NO. HB 56

July 16, 1992 _____

Page 1 of 1

Madam Chairperson: I move to amend HB0056 third reading copy -- blue copy).

Signed: _____

Senator _____

And, that such amendments to HB0056 read as follows:

- 1. Page 11, line 1, following "board"
Insert: "or designee"

Explanation: Provides for the customary manner of processing cases by the board of personnel appeals who meet monthly.

ADOPT _____

REJECT _____

ROLL CALL VOTE

passed

SENATE COMMITTEE FINANCE & CLAIMS

*HB 56
Be not concurred
in motion*

Date 7/16/92 House Bill No. 56 Time #1

NAME	YES	NO
SENATOR JACOBSON		✓
SENATOR JERGESON	✓	
SENATOR AKLESTAD	✓	
SENATOR BECK	✓	
SENATOR BENGTON	✓	
SENATOR BIANCHI		✓
SENATOR DEVELIN	✓	
SENATOR FRANKLIN	✓	
SENATOR FRITZ		✓
SENATOR HAMMOND	✓	
SENATOR HARDING	✓	
SENATOR HOCKETT	✓	

Lynn Staley
Secretary

Chairman

Motion: *Sen. Beck motion that HB 56*
Be not concurred in.

Carried.

ROLL CALL VOTE (Cont'd)

SENATE COMMITTEE FINANCE AND CLAIMS

Date 7/16/92 H. Bill No. 56 ~~Page~~ # 1

NAME	YES	NO
SENATOR KEATING	✓	
SENATOR NATHE	✓	
SENATOR STIMATZ	✓	
SENATOR TVEIT	✓	
SENATOR VAUGHN		✓
SENATOR WATERMAN	✓	
SENATOR WEEDING	✓	

Secretary _____

Chairman _____

Motion: _____

ROLL CALL VOTE

amendment motion

SENATE COMMITTEE

FINANCE & CLAIMS

Beck amendment

Failed HB 8

Date 7/16/92

HB

Bill No.

8

Time

#2

NAME	YES	NO
SENATOR JACOBSON		✓
SENATOR JERGESON		✓
SENATOR AKLESTAD	✓	
SENATOR BECK	✓	
SENATOR BENGTON	✓	
SENATOR BIANCHI		✓
SENATOR DEVELIN	✓	
SENATOR FRANKLIN		✓
SENATOR FRITZ	✓	
SENATOR HAMMOND		✓
SENATOR HARDING	✓	
SENATOR HOCKETT	✓	

Gene Staley
Secretary

Chairman

Motion: *Sen. Beck amendment motion.*

put back K thru 12 1/2 percent to 4.

Failed

ROLL CALL VOTE (Cont'd)

SENATE COMMITTEE FINANCE AND CLAIMS

Date 7/16/92 House Bill No. 8 # 2

NAME	YES	NO
SENATOR KEATING	✓	
SENATOR NATHE		✓
SENATOR STIMATZ		✓
SENATOR TVEIT	✓	
SENATOR VAUGHN		✓
SENATOR WATERMAN		✓
SENATOR WEEDING		✓

Secretary _____

Chairman _____

Motion: _____

ROLL CALL VOTE

*Amendment
motion
Fritz Amendment
#58*

SENATE COMMITTEE FINANCE & CLAIMS

Date 7/16/92 House Bill No. 8 Time #3

NAME	YES	NO
SENATOR JACOBSON		✓
SENATOR JERGESON	✓	
SENATOR AKLESTAD		✓
SENATOR BECK		✓
SENATOR BENGTON		✓
SENATOR BIANCHI	✓	
SENATOR DEVLIN		✓
SENATOR FRANKLIN	✓	
SENATOR FRITZ	✓	
SENATOR HAMMOND		✓
SENATOR HARDING		✓
SENATOR HOCKETT		✓

Lynn Staley
Secretary

Chairman

Motion: Sen Fritz amendment motion -
effective date to be 1/1/93.

Failed

ROLL CALL VOTE (Cont'd)

SENATE COMMITTEE FINANCE AND CLAIMS

Date 7/16/92 H. Bill No. 8 Page #3

NAME	YES	NO
SENATOR KEATING		
SENATOR NATHE		✓
SENATOR STIMATZ		✓
SENATOR TVEIT		✓
SENATOR VAUGHN	✓	
SENATOR WATERMAN		✓
SENATOR WEEDING		✓

Secretary _____

Chairman _____

Motion: _____

ROLL CALL VOTE

SENATE COMMITTEE

FINANCE & CLAIMS

Bianchi amendment

Date 7/16/92

House

Bill No. 8

Failed # 4

NAME	YES	NO
SENATOR JACOBSON		✓
SENATOR JERGESON	✓	
SENATOR AKLESTAD		✓
SENATOR BECK		✓
SENATOR BENGTSOEN		✓
SENATOR BIANCHI	✓	
SENATOR DEVLIN		✓
SENATOR FRANKLIN	✓	
SENATOR FRITZ	✓	
SENATOR HAMMOND		✓
SENATOR HARDING		✓
SENATOR HOCKETT		✓

Tom Staley
Secretary

Chairman

Motion: Sen. Bianchi amendment motion
change 20 deep ^{to up to} to 90 deep
Page 4, line 25
Failed

ROLL CALL VOTE (Cont'd)

SENATE COMMITTEE FINANCE AND CLAIMS

Date 7/16/92 House Bill No. 8 Time 4

NAME	YES	NO
SENATOR KEATING		✓
SENATOR NATHE		✓
SENATOR STIMATZ	✓	.
SENATOR TVEIT		✓
SENATOR VAUGHN		✓
SENATOR WATERMAN		✓
SENATOR WEEDING		✓

Secretary _____

Chairman _____

Motion: _____

ROLL CALL VOTE

SENATE COMMITTEE

FINANCE & CLAIMS

*Bill 8
Carried*

Date 7/16/92 House Bill No. 8 ~~Page~~ # 5

NAME	YES	NO
SENATOR JACOBSON	✓	
SENATOR JERGESON	✓	
SENATOR AKLESTAD		✓
SENATOR BECK		✓
SENATOR BENGTON		✓
SENATOR BIANCHI	-	
SENATOR DEVLIN		✓
SENATOR FRANKLIN	✓	
SENATOR FRITZ	✓	
SENATOR HAMMOND		✓
SENATOR HARDING		✓
SENATOR HOCKETT	✓	

Lynn Stealey
Secretary

Chairman

Motion: Sen. Jergeson Amendment motion
page 2 line 11.

Carried.

ROLL CALL VOTE (Cont'd)

SENATE COMMITTEE FINANCE AND CLAIMS

Date 7/16/92 House Bill No. 8 Time #5

NAME	YES	NO
SENATOR KEATING		✓
SENATOR NATHE		✓
SENATOR STIMATZ	✓	
SENATOR TVEIT		✓
SENATOR VAUGHN	✓	
SENATOR WATERMAN	✓	
SENATOR WEEDING	✓	

Secretary _____

Chairman _____

Motion: _____

ROLL CALL VOTE

*Weedling Motion
HB 8*

SENATE COMMITTEE FINANCE & CLAIMS

Date 7/16/92 House Bill No. 8 Time #16

Failed

NAME	YES	NO
SENATOR JACOBSON	✓	
SENATOR JERGESON	✓	
SENATOR AKLESTAD		✓
SENATOR BECK		✓
SENATOR BENGTON	✓	
SENATOR BIANCHI		✓
SENATOR DEVELIN		✓
SENATOR FRANKLIN		✓
SENATOR FRITZ	✓	
SENATOR HAMMOND		✓
SENATOR HARDING		✓
SENATOR HOCKETT	✓	

Lynn Steacy
Secretary

Chairman

Motion: *Sen Weedling Motion - As Amended
HB 8 Be Concurred In.*

Failed

ROLL CALL VOTE (Cont'd)

SENATE COMMITTEE FINANCE AND CLAIMS

Date 7/16/92 House Bill No. 8 ~~File~~ # 6

NAME	YES	NO
SENATOR KEATING		✓
SENATOR NATHE		✓
SENATOR STIMATZ	✓	
SENATOR TVEIT		✓
SENATOR VAUGHN	✓	
SENATOR WATERMAN	✓	
SENATOR WEEDING	✓	

Secretary _____

Chairman _____

Motion: _____

The Senate Finance and Claims Committee met twice on July 17. The first meeting started at 8:00 a.m. and the second one at 1:00 p.m.