

MINUTES OF THE JOINT MEETING OF
HOUSE APPROPRIATIONS COMMITTEE AND
SENATE FINANCE AND CLAIMS
State Capitol, Governor's Reception Room

March 24, 1977

Representative Francis Bardanouve, Chairman of the Joint Meeting called the meeting to order at 8:05 a.m. for the purpose of receiving the Agencies II, Natural Resources and Business Regulation, Subcommittee Report. Senator C. Thiessen was Co-Chairman. Roll calls of both committees were taken (attached), and a quorum was present.

The Chairman explained the report would be heard first, then the committee would ask questions; then witnesses would testify.

Representative Rex Manuel, District 11, Chairman of Agencies II, was introduced, and in turn introduced the members of the subcommittee, Senators Boylan, Mehrens, Kolstad and Smith, and Representatives Aageson and Estenson. The secretary of the subcommittee, Rita Tennyson was introduced, along with Fiscal Analysts Curt Nichols and Bob Robinson, and members of the Budget Office, Dave Lewis, Ron Wise, Jim Williams, Mike Koehnke. Rep. Manuel expressed his appreciation for the fine job all of these people had done.

Rep. Manuel presented the Summary: Agencies II Subcommittee Report, Attachment A to these minutes, and the Draft Bill, Attachment B. Rep. Manuel commented on the size of the budget, adding it took a great deal of time to work.

DEPARTMENT OF AGRICULTURE:

Rep. Manuel noted this budget is over the executive, and the LFA.

Questions:

The \$70,000 general fund money to the grain lab was questioned; Rep. Manuel explained this budget is nearly at the same level as the last biennium. The federal government previously assumed the cost of the federal grain inspection program, but now the state has to assume it. Rep. Aageson noted there is legislation now before Congress to do away with this requirement; we might get off with just \$35,000 if that legislation is passed in Washington.

The Chairman asked for clarification of the FTE's. Rep. Manuel explained lots are part-time positions; it adds up to a little more than 2 additional FTE's. The 4.83 FTE to the grain lab were there previously by budget amendment.

DEPARTMENT OF FISH AND GAME:

Rep. Manuel stated this department uses the high priority budgeting system, and is hard to compare with other agencies because they can't determine their income in the same manner as agencies that prepare a budget with priorities and appropriate funds.

Fish and Game has two sets of priorities; if they receive all the money they anticipate, they use one set of priorities; if not, they cut priorities. The department feels a lot was learned about their budgeting practices by using this system.

Mention was made of S.B. 44, which could cause some change to the general fund moneys in this budget, depending on how or if it is amended.

The Chairman asked concerning the 31.9 increase in FTE's; why all the additional people? Rep. Manuel explained that the increase is primarily in the area of enforcement; there is some increase in education, hunting access, operation and maintenance, surveys, etc.

Rep. Moore asked how many additional people were placed in enforcement, and for a breakdown between parks and recreation, and game wardens. Rep. Manuel said 29.1 were added in enforcement; 17 additional game wardens are in the fish program. The total number in enforcement is 90.

Rep. Bradley asked concerning the motorboat fuel tax increase; has this passed, and how much was it? \$268,000 approximately, Rep. Manuel replied. The Chairman noted if that doesn't pass, there might have to be adjustments.

The additional 12.7 FTE in hunting access were discussed. Sen. Smith noted there is trouble in getting permission for people to hunt on private land; this is intended to establish a public relations program for better relations between hunters and landowners. The thinking of the subcommittee was that it was much better to have good public relations with the landowners, and not buy more land to take away from the tax base.

DEPARTMENT OF STATE LANDS:

Questions:

The land lease renewals program was discussed; CETA employees were explained and Rep. Manuel stated this is on a 50% matching federal funds. These positions will be cut when the federal moneys run out.

Rep. Moore questioned paragraph 4; is there overlap with work done by the Bureau of Mines? Rep. Manuel explained this program is to determine what is under state lands, and is contracted to the Bureau of Mines. The money comes from the general fund; this program could save the state a lot of money in the long run.

Rep. Marks asked concerning the open cut mining reclamation inspectors; you gave two positions, did they request more? Rep. Manuel replied they requested 4. There was discussion on the funding. B. Robinson explained the earmarked funds are assessments put on boards or individuals having open cut mines such as gravel pits, coal mines, etc., to insure the land will be reclaimed. The fund is set up

to be used for just about anything the department wishes; there is about \$46,000 in the account now. Discussion was held on proper uses of this fund; the amount in the fund wouldn't be sufficient for any great amount of reclamation.

DEPARTMENT OF LIVESTOCK:

Rep. Manuel spoke on the two new microbiologists in the lab; the subcommittee looked at this a long time because of the general fund increase. A millage on cattle has been put on, but the labs are used by the general public, and cattlemen don't feel they can keep paying for this. There is a nearly 150 day lag now in getting back test reports from the lab.

Veterinarians were put in the disease control program because this is less expensive than contracting out the services; private vets don't have time to do the work.

Questions:

Rep. Moore asked if this comes out of general funds, or earmarked funds; 50/50 Rep. Manuel replied.

Sen. Roberts asked what testimony did the committee hear from the Department of Livestock to justify that the general fund increase was based on a more equitable portion of their workload being done for the general public. There was some difference of opinion on this, Rep. Manuel explained; there was some testimony that 10% was general fund and they wanted 50%, and some that the funding was 50/50, and they wanted 60/40 general fund. Animal diseases can be transferred to humans, and these labs do the testing - diseases such as brucellosis, rabies, etc.

Sen. Smith commented that the cattle industry is hurting; the committee felt now is a good time to add general fund dollars to assist in this area. Lots of the general fund surplus we have had was due to good cattle prices a few years ago, he added.

Rep. Aageson added that the department has been asked to better document what services they perform for betterment of the general public, as opposed to those for the livestock industry.

The Chairman asked if rent was allowed in this budget. Rep. Manuel replied it is in 1979; there will be a reversion if they don't move into the new building and it does not have to be paid. There was discussion about the charge and some question whether it was for maintenance; the Department of Administration has a charge for this in their budget.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION:

Rep. Lynch asked if the 1 FTE at Swan River Youth Camp could be put put under the institutions budget; we never seem to know what is going on there, or how many employees there are. Rep. Manuel said

almost every agency has an employee there; we should have a handle on this and know how many employees there are. This FTE will be working under Gareth Moon of the forestry division.

The weather modification project at Miles City was discussed; the Chairman commented this project puts Montana in a strange position. We are going to sue Washington and Oregon for modifying the weather, but are going to modify it ourselves. Rep. Gunderson said he understood the state would have no financial obligation on this. Rep. Manuel explained we didn't fund this two years ago; funds were promised when we were trying to obtain the project for Montana. When the state didn't pay its share, the grain growers didn't pay theirs, either. The Chairman noted we may find the attorney general in a strange position on this, suing Oregon and Washington and defending a suit from South Dakota on what we are doing.

Rep. Kvaalen asked how much is the total appropriation for soil conservations districts, and was told \$200,000. He commented there wasn't overwhelming support for this program. The Chairman also was concerned about this. Rep. Manuel explained that two years ago the soil conservation districts had to assume supervision of the stream preservation act; the Soil Conservation Service no longer does this.

Sen. Smith said we passed the legislation which forces the problem; the federal government is no longer supplying technical assistance. The committee felt that with some of the problems we will be facing regarding water ways, we should assist agriculture with this. They had many letters from the districts asking for this support.

Rep. Bradley asked for clarification on paragraph 5; additional fire districts encompassing the Helena and Avon areas; why general funds in one and not the other? Rep. Manuel explained if we don't go into this the fire department will fight the fires, but can't collect fees, and other fire districts will have to assume the costs. The fees assessed will take care of the FTE's; in the other it is a new district and there is no staff. People living in these areas make it a high fire district. State lands disburses through fire districts.

The weather modification project was discussed further. Rep. Aageson explained it is a federally funded research program to develop understanding of weather modification. Montana made a commitment to lure the project here; the Governor promised \$50,000; grain growers promised \$50,000 to express Montana's interest in the project. Three years have passed and we have never paid the \$50,000. Many other states were willing to contribute money to get this project out of Montana; we wanted it to stay in the Miles City area. Sen Smith added that the committee was provided with a letter from the Governor saying this was a commitment that should be paid.

Rep. Moore asked about the clerical position in #6; who will fund it? This is general funds; the legislative auditor said this position was needed and will cost about \$14,000 for the biennium.

Senator Regan asked concerning the 16 FTE's in #4, is this for contracted services? Also, is it sunset or will we have a program that goes on for 10 years. She suggested asking for a report and a letter of intent so it will be sunset. The Chairman asked how much income do we get from forest lands, and how much is contributed to the general fund.

Mr. Gareth Moon, forestry division, explained the 16 FTE's are for the speed up of the forest inventory. All the money from the sale of timber on state lands goes to the state school fund, about \$1.6 million per year; nothing goes to the general fund. The amount varies as the timber market varies; a bad fire situation could make it go down. Mr. Moon further explained that the persons hired would be ones skilled in reading aerial interpretation maps, and students would be used.

In reply to a question concerning the request for professional foresters, Mr. Moon replied that is for men who would be working full time until the inventory is completed; we would use CETA personnel and forestry school students for the inventory, he said.

Rep. Wood questioned 113 CETA FTE's; that is a pretty large part of the work force. What do they do? Mr. Moon replied these are people on summer employment working in the woods and evaluating what we need to do. 16 FTE's does not mean 16 bodies. They may hire 4 men for a three-month period, which would make 1 FTE. CETA people are used in almost every type of forestry program; they fight fires, pull weeds, work in reforestation, etc. Any work they can do that can be done by their going out in the morning and returning in the evening.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING:

Questions:

Rep. Lynch asked how much money will we spend in this department in legal fees. Rep. Manuel replied the department has one attorney of their own. There was discussion as to whether the attorney general should be paying for this.

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES:

Mr. Patrick Melby, Director, was present to answer questions.

Rep. Manuel began the review of the budget by saying the Title 19 and 20 funds are at the limit, and that is the reason for the additional request. Paragraph 2 is all federal money.

Economic Assistance:

The aim here is to try to budget so they will have to come in for supplementals.

Social Services:

The subcommittee did not recommend the \$135,450 for subsidized adoption. 12 new FTE's were requested for transferring people from nursing homes; the committee felt the current staff should be able to do this.

Questions:

Senator Regan questioned the human services project; this was originally in the governor's budget and they assured us it was gone, now we find it is not - it is just shoved into a new department. Mr. Melby stated he didn't know why those words were used; this is entirely different and is essential for Title XX needs assessment. Without these services they can't get the Title XX funds. The federal government set down guidelines for receiving these funds; the 3 people were transferred to SRS for the needs assessment program. Mr. Lewis added the positions Sen. Regan was questioning are really gone from the governor's budget.

Visual Services:

The Chairman asked what the savings would be by this transfer, and was told they would be in administration.

Rep. Lynch asked if the committee had considered that other states having gone this way are going back to what we now have; this transfer takes the effectiveness of the program away. The small amount saved may not be in the best interest of the bureau; they will get lost in the shuffle of the bureaucracy.

Developmental Disabilities:

Office of Budget memorandum requesting additional funding for this area was distributed, and is attached.

The Chairman asked concerning the 3 additional FTE's in this area; he was told these were transferred from the governor's office and pertain to the DD advisory council.

Aging Services:

Rep. Manuel asked that the committee note the \$100,000 each year of the biennium in this area, in that H.B. 272 is being considered by the House to fund aging services. Also, he would call the committee's attention to the concern that many of the really poor elderly are not benefiting from this program in SRS; SRS shares this concern.

Rep. Lynch asked if this is the area that was cut 56 part-time employees; Rep. Manuel said they didn't eliminate them; 56 were requested and it was kept at the current level of 40.

Questions: (SRS)

Rep. Marks said it is indicated the percentage of funding was raised on the food stamps program and AFDC; what is the poverty level, and why was this raised. C. Nichols replied the poverty level is determined by the federal government, and that is what the state bases its payments on.

Rep. Marks asked about the 10 FTE's for child abuse study; is this to be sunset? Mr. Nichols replied it is a 3 year study that will end in fiscal 1978; these FTE's are not funded in 1979.

Rep. Moore asked how many total refugees are in the state at this time; approximately 165 he was told.

Rep. Moore asked concerning the food stamp withholding program; will it reduce staff? No, but the county people had too much work to do. County staff would have had to be increased if this was not done.

Sen. Hims1 asked for elaboration on the program of integrity bureau. Rep. Manuel explained the cost is for six people to investigate welfare fraud; Mr. Melby asked for six additional in that department; federal requirements require adding three. Sen. Hims1 asked do we not have an investigative arm in the Dept. of Revenue? Mr. Melby replied they have to determine if there is a case to investigate; if they do, it is turned over to the Department of Revenue for investigation.

Rep. Kvaalen asked what they hoped to accomplish with \$1.4 million in attorneys fees in SRS. Rep. Manuel explained this is to provide indigent people with attorneys who could not hire their own. Rep. Estenson added it is set up to assist indigents in divorce actions, etc.; it is not representation in criminal actions.

Rep. Gerke asked concerning the Montana Advisory Council, did you leave the \$48,000 in? He was told \$72,000 per year was requested, but it was held at the current level; they spent about \$48,000 last biennium.

Rep. Estenson noted that the department director had asked that MACCY be discontinued because there is a youth advisory council attached to SRS.

WITNESSES:Visually Handicapped:

Rep. Lynch entered into the record two telegrams, opposing transfer of this division to SRS (attached).

Rep. Gould affirmed what was stated in the telegrams that Montana's division of visual services is a model for other states. He strongly opposes the transfer of this division to SRS.

Phyllis Honka, Montana Association for the Blind, spoke in opposition to the transfer. (Statement attached).

Patrick Melby, Director, SRS, passed out a prepared statement (attached) which he reviewed concerning areas of difference between the department and the budget recommendations:

Program Integrity Bureau: Mr. Melby stated this was created in SRS by pulling together several functions in one bureau with no increase in staff. The request to expand was to cover additional areas of concern. The legislature wants this area straightened out concerning welfare fraud and recovery of third party funds for medical expenses of Medicaid recipients. He is requesting the tool through this bureau to determine if those persons receiving assistance are eligible, to discover welfare fraud, and to assist in recovery of third party payments. A \$71,000 general fund investment will return \$450,000 to the state from third party liability program, he stated. The department is as concerned about rising costs in this area as you are, Mr. Melby continued. There is real concern that only those eligible for public assistance be on public assistance. Mr. Melby stated he is asking for a tool; an investment of \$200,000 total funds - \$70,000 state funds - would return to the state over \$1 million; 39% of that to the general fund. These are moneys that are being spent to pay medical claims that third parties are responsible for paying.

Developmental Disabilities: Mr. Melby stated there is lots of confusion about this budget as explained on the attached prepared statement. Specifically, the 80 children expected to need community based services by June 30, 1977 as a result of the transfer from Boulder was discussed.

Rep. Estenson interjected that there is a cloud of confusion in these statements. She does not believe the subcommittee was confused other than they could not get the actual number from the department itself; there was confusion on the number involved from the budget office and the fiscal analysts' office; at the 11th hour we determined a figure, she stated, but she does not believe the subcommittee labored in confusion.

Mr. Melby agreed; the actual figures were not provided until the 11th hour because the department did not have information as to the difference between the two budgets until 4:30 on Thursday night. They worked through the night reconciling figures. An end of the fiscal year analysis will determine if the projections are correct, he added.

Staff Development: Again, Mr. Melby said, this is a tool to give the department the ability to train additional staff. The cut proposed will prevent the department doing this training. The subcommittee could not see the effectiveness of this training, and I would have to disagree, Mr. Melby stated. There is a real need to train the existing staff.

Veterans Affairs:

The new officer was requested because of the increased workload; Mr. Melby disagrees with the subcommittee line-iteming that this officer be placed in Havre. The workload is in Billings. If you insist on his being in Havre, please fund the office, he asked.

The Chairman asked if Mr. Melby would make an evaluation of need. Mr. Melby responded there are 17,000 veterans in Billings; in Havre, there are 2,000.

Questions to Mr. Melby on the prepared statement:

Mr. Marks asked concerning the different numbers as to how many people will be taken from Boulder and placed under SRS; what is the right number? Mr. Melby said there are 30 out now; the information reported yesterday was for 36 additional - there is confusion as to the number. We have to count the number we will have in the program on July 1, 1977. There was further discussion on how the projections were made.

Sen. Smith noted concerning staff development and the integrity bureau; the subcommittee felt local people doing some of these services now should be able to be trained to take care of this problem.

Rep. Gerke stated there have been complaints about the hospital and nursing home payments; they are slow in being paid and not in the right amounts. He expressed concern that SRS is not paying actual costs; does this appropriation include enough money for you to do this?

The Chairman commented that the fiscal review committee went over this last fall; SRS is paying everything the federal government will allow. In the past Montana paid some hospital charges over and above that level and are being pressured to reimburse the government for those payments. SRS has adopted guidelines the federal government will reimburse us for, he noted.

Mr. Melby disputed the late payment complaint, and the differences in amounts. Federal guidelines require reimbursement on actual and necessary costs. These are different than actual costs. There is about a 7% difference in what we will reimburse and what the patient is charged, he added. Regarding nursing homes, Mr. Melby said some of the things we disallow are radial tires, condominiums, and Porches for the administrators; these are not necessary expenditures for nursing homes.

Rep. Gerke commented nursing homes don't generally include those as expenses; he believes they have been honest. Should they reduce care by 7%, he asked?

Mr. Melby replied no; there was a bill that would have allowed SRS to pay actual costs, but it was reported out do not pass. Mr. Melby reiterated that they will not pay for expenditures not directly related to patient care; nursing home owners leasing homes for value far over the investment, and accelerated payments were explained.

Mr. Melby concluded saying he feels the question of timely payments is a spurious issue to cover the real problem; actual payments. The department has evidence to show that hospital bills are timely paid; they are paid in about 20 days. Hospitals take up to 50 days to bill. The Chairman commented he has checked on this and feels there has been some misrepresentation on the part of the hospitals.

Claims now being computerized were discussed. Some claims are not processed because necessary information was omitted, or the service was questionable; sometimes held to check third party responsibility. 80% of claims are paid within 10 days to hospitals, Mr. Melby stated.

Training funds in the DD area were briefly discussed. The Chairman asked if the 4-C's program was authorized by a previous legislature; it was line itemed in the governor's budget in 1973, Mr. Melby stated.

Big Brothers and Sisters program was questioned. There is \$272,000 for the biennium in this program; was it established by SRS without legislative authorization, the Chairman asked. If it was, we will disband the program, Mr. Melby replied.

Rep. Marks asked that the fiscal analyst get together with the Institutions chairman and the SRS director and get the right figure on the number of people being transferred from Boulder. Chairman Bardanouve insisted we have to reconcile these figures; there are nursing home transfers also, if people are removed from a nursing home it should reduce cost in that area.

Rep. Manuel stated that in the DD program they went through the projections and put in the minutes what they felt the projections would be; if it runs over a certain amount they could come in for a supplemental and justify it, and could have the money.

The Chairman asked Mr. Melby to prepare a list showing facilities where people are located; where they are being served; and what costs are associated with this. Rep. Marks added that during the strike in Boulder around 100 people were placed in nursing homes; will you find those and will they be included in the list Chairman Bardanouve requested, he asked Mr. Melby.

Mr. Melby replied they know where the people are; part of their expense is to provide services to those remaining in nursing homes. Rep. Marks stated he wanted them identified, and Mr. Melby said he would give him a list.

Regarding the department coming back for a supplemental, Mr. Melby objected to this. This legislature cannot bind future legislatures, and a supplemental can't be allowed unless it is an unforeseen emergency, and we can foresee this, he stated. It is a criminal offence to obligate any budget over what it is allowed, he stated.

Rep. Gerke commented to Rep. Marks concerning the requested list; there is a philosophical difference as to who is a DD; he doesn't believe you can ever get a list to the last name. Sen. Smith mentioned that \$3.2 million reverted back two years ago and the subcommittee was

criticized; it is hard to come up with exact services.

The transfer of visual services was again discussed. In reply to a question, Mr. Melby said he believed the cost savings would be minimal and the affect on services could be disadvantageous. Rep. Estenson said there is confusion as to what the subcommittee proposed; they were not asking that services be combined or that visual services be put in rehabilitation services.

Mr. Neil Haight, Director, Montana Legal Services spoke on the \$50,000 reduction. They have been on the same level since 1969 and are trying to maintain existing funding level. Reducing funding will require closing an office and dropping an attorney. He felt the subcommittee had asked questions which are not cabable of being answered quickly; where we are needed, we give service, he stated.

Ward Shanahan, President of the Montana Bar Association Committee on Legal Aid to the Poor, and Board Member of Montana Legal Services Association spoke in support of maintaining the appropriation to Montana Legal Services. Legal Services is under contract with SRS to provide legal services to welfare recipients. Mr. Shanahan stated he believed in equal justice before the law; this money is used specifically to enforce support of children. This is your say in what programs we will have for this service in Montana, he stated.

DEPARTMENT OF AGRICULTURE:

Eldron Fastrup, Dept. of Agriculture, submitted a handout sheet requesting appropriation modifications (attached).

Classification appeals and upgrading of positions was discussed. Mr. Fastrup stated the department has little or no control of this matter; it is between the budget office and the legislature.

FISH AND GAME DEPARTMENT:

Mr. Fletcher Newby, Director, Fish and Game, discussed the affect H.B. 635 and S.B. 44 will have on the department; if they do not pass, there will be a reduction in services or a drain on the general fund.

Mike Koehnke, Budget Office, stated that office supports H.B. 635 and S.B. 44 as a substitute to general fund money for this program.

STATE LANDS DEPARTMENT:

Mr. Leo Berry, Commissioner of State Lands, spoke on this budget, saying their budget is insignificant, but he does not feel the department is. One CETA fund grant should be replaced with general fund money. CETA funds ran out last summer, and they have to do the analysis. The subcommittee recommended using fees to do this, but the department doesn't feel they can use those funds because the position doesn't work on that project. This should be replaced with general fund money.

Board of Investments and Treasurer's Office: A recommendation was made by the legislative auditor that an accountant be hired to keep more accurate track of school trust funds and investments. The technician's position was up-graded to accountant to handle this; the accountant is needed since responsibilities of this position have expanded. The \$6,000 in fees which should be replaced with general fund money and upgrading the technician's position to an accountant would add \$13,000 to the budget.

Reclamation: The Department objects to the funding of the 2 positions. Adding the 2 positions was the subcommittee recommendation. \$50,000 was taken out of an earmarked revenue fund which does not come from funding, but from fees and penalties assessed. This is unethical, Mr. Berry believes. He would have to levy a fine to meet his budget; the fines may be required, but if they are not he is in a tenuous position of having to levy a fine to meet the budget. If the money is not appropriated it can be used for reclamation of land disturbed by mining or other projects needed in this area.

The turnover rate in this department has been high. The personnel division has been asked to look at some positions; \$5,000 additional will be needed if these upgrades and increases are approved.

Questions:

Rep. Moore asked about the environmental planner; this position was previously authorized by budget amendment, when was it approved, and when did he come on board? In 1975, he was told. This was originally federal funds and now half will be general funds.

Rep. Marks asked if environmental impact statements are contracted out, and was told yes.

Rep. Aageson asked about the fines and penalties assessed against coal companies. Mr. Berry replied in the past they averaged around \$10,000 - \$20,000; but that was before companies were aware of the mistakes they were making, and the companies now realize the Dept. means business and will levy the fines, and they are not making as many mistakes.

Rep. Bradley asked what these funds were used for in the last biennium. In 1973-74, for administration, Mr. Berry answered; in the last year to year and a half, the decision was made in the department that the funds would be allowed to accumulate for research of concerns in the reclamation field, and for reclamation of old areas. They are trying to build up the fund; my objection is to anticipate these fines, he stated.

Rep. Kvaalen asked concerning the \$9,000 for land appraisers to verify land value for leases. Mr. Berry replied that over the next 5 years they have 5 field men to cover 1,500 leases; they will have to contract this during the summer. Sen. Smith commented there were mixed emotions on hiring college students to do this; he believed it was throwing away money because you need people who have real knowledge of what they are doing.

Rep. Bradley asked what was the justification for dropping the natural areas program, and was told it was submitted as a budget modification, and that there are changes in the law allowing land to be transferred. The attorney general's opinion being reviewed was mentioned.

The Chairman noted that this department has suffered because the former administrator was tight fisted with salaries; they have not been as highly paid or classified as other employees in state government and this has contributed to the high turnover.

DEPARTMENT OF LIVESTOCK:

Gene Donaldson spoke for the Board of Livestock; the committee put us through the wringer, and as a taxpayer, I appreciate it, he stated. He spoke to Sen. Robert's question concerning the Animal Health Division; it is hard to separate animal health and human health. The lab didn't worry about doing services for the general public until the crunch came financially and now they do need general fund money for this lab.

The Chairman commented that this department really tries to keep a tight rein on their expenses, and on how they operate. They have suggested ways of saving money, and he would commend them for that, and wish other departments would look at themselves in that way.

DEPARTMENT OF NATURAL RESOURCES:

Mr. Ted Doney, Counsel, spoke in the Director's absence. There are no objections to the budget except in the forest inventory; two modifications are requested there for increased general fund as recommended by the executive of \$147,240 for FY78, and \$142,960 FY79.

Robert Lohn, on the Governor's behalf, passed out a letter from the Governor urging support of this modification (attached).

Mr. Gareth Moon, Administrator of State Owned Lands, presented written testimony (attached) in support of the forest inventory. For instance, if the inventory indicates that the cut could be increased to 40 million board feet from the 25 million now, income gain to the school trust would be \$1.2 million annually. Cost of the inventory is \$592,450; \$322,250 would be paid by the U.S. Forest Service. The state would have to come up with \$270,200, and hire 16 FTE. The FTE's would not stay on the job when the inventory is finished.

Mr. Leo Cummins, Forest School, Missoula, spoke in support, saying the cost of the inventory is a bargain, and the benefits would be great.

Mr. Bob Holding, Executive Director of Montana Wood Products, distributed "The Wood Products Industry: A Look Into The Future" which is attached.

Others speaking in support of the forest inventory were:

Mr. Art Crane, President, Montana Wood Products
Mr. Don Nettleton, Director of Land Management, Burlington Northern
Mr. Bob LaProuse, Forestry Committee, and professional forester
Mr. John Ulrick, Dillon.

Questions from the Committee:

Rep. Marks asked if this is a volume inventory, and was told yes, there isn't one now. There are only estimations. Rep. Marks continued, the inventory would include species and volume for state owned and private owned land west of the continental divide? Yes, Mr. Moon replied; it would take 10-15 years to do what we are talking about, and that is why we want to accelerate it. All but about 26,000 acres are west of the divide; some is grazing land east of the divide. Rep. Marks noted this will be a volume inventory on private lands, hiring 16 FTE's; this breaks out to about \$18,000 per year?

Mr. Moon explained there are 5 people in the program, and they will merge these; some of the FTE's are temporary; this caliber of people is needed to do the job properly; 530,000 acres of state owned land is commercial.

There were several questions concerning the federal funds and state dollars; there was discussion on the proportion of state to private lands to be inventoried. This will result in an intensive inventory of state lands; 2-3 pages on each state acre and half page on each private acre.

In reply to a question as to why the state is involved in an analysis of timber on private lands, Mr. Moon replied that Congress passed the Resource Planning Act and required the Forest Service to make 10-year reports on the condition of the forests. They will pay the bill and we will do the inventory; working as a team will produce information faster and more precisely. The 1958 inventory of state lands is obsolete; the feeling is the best way to handle this is to catch up on the inventory now, and continue it. There have been many changes in the forest since 1958.

The Chairman asked if these FTE's will be on PERS and eligible for unemployment; they will be state employees eligible for benefits, Mr. Moon replied.

Rep. Marks asked if the Dept. of Revenue will use these figures for taxes; Mr. Moon answered they will not.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING:

Mr. Ed Carney, Director, distributed a memo regarding centralized cashier for the department, and a sheet showing areas of concern regarding the subcommittee recommendations (both are attached).

Mr. Roy Prusing, Board of Plumbers, stated they need a supplemental or will have to dismiss 10 deputy inspectors and a secretary. The Chairman questioned their being so far over their budget. Mr. Carney explained they are trying to carry out responsibilities established by law. Rep. Kvaalen stated most supplementals are emergency situations; the intent is that you carry out your responsibilities within your budget, he stated.

Mr. Carney said that the laws setting up these boards allow them to be autonomous entities; they are hard to control. The legislative auditor has some suggestions to make a tighter control.

Donna Small, Board of Nursing, Billings, spoke to the need for an increase to the Board of Nursing to fund a training period for the new executive secretary. The Board's cycle of duties are spread over a two year period, and they need this person in training for the year requested.

Mr. Bob McTaggart spoke to additions needed by the Board of Real Estate, and asked that some budget cuts be reinstated. There is a need for additional equipment. They are submitting a draft of some changes they feel they need; reinstating some cuts and eliminating \$30,000 from their request. Mr. McTaggart requested that the sub-committee give the Board a short rehearing, or seriously consider their proposals.

The Chairman stated he would like the fiscal analyst to work with Mr. McTaggart and come up with a reasonable budget they would live with.

Rep. Moore asked what equipment is needed; data processing equipment, to connect with the Department of Administration for processing licenses and complaints, keep track of revenue, broker complaints, etc. The system would cost \$260 per month, Mr. McTaggart said.

Mr. Carney apologized to the committee for neglecting to put into his budget an additional \$11,000 to cover renewal of his lease; also \$2,000 for moving expenses in the event they have to move. They will not be able to renew for the amount paid now.

Mr. Carney reviewed the attached list of concerns of the boards.

Questions:

The Chairman asked how many boards have at least one public member to represent the public, and do they serve a function on these boards? Mr. Carney replied that 11 boards have public members; he has seen total domination either way. The effectiveness of the public member depends on the force of personality of the public member.

There being no further questions or discussion, the meeting adjourned at 1:10 P.M.

MINUTES OF THE APPROPRIATIONS COMMITTEE
HOUSE OF REPRESENTATIVES
State Capitol, Room 225

March 24, 1977

The meeting was called to order at 7:00 p.m., with a quorum present. Also attending the meeting were John LaFaver, Legislative Fiscal Analyst, Dave Lewis, Department Director, OBPP, Patrick Melby, Director of SRS, and Mike Billings, Director of OBPP.

The Chairman stated that the purpose of the meeting was to discuss the two sheets prepared by John LaFaver, one stating the proposed "boilerplate" language, and the other a list of the bills in the committee as of March 24, 1977 (attached). There is a difference of opinion between the Executive and Legislative branches as to how tightly the language that precedes the appropriation bills should be written.

John LaFaver explained that the principle area of disagreement between his office and the Office of Budget and Program Planning is whether the Executive or the Legislative has the authority to appropriate funds that come into the state, particularly by budget amendments that come in in the form of various grants and contracts.

He gave background of the Legislative Interim Finance Committee, and the court suits that removed the committee's authority to approve expenditures during the interim for the entire Legislature. After that decision, the committee did not act on budget amendments. Sixteen other states have interim committees with varying amounts of authority to approve unanticipated fund appropriations. The NCSL has made a strong recommendation that the legislatures have authority in the interim to control expenditure of federal funds in their states.

Mr. LaFaver stated that this problem now in Montana is if the Legislature is going to have final control of these funds, how can it be accomplished. Sections 2 and 3 of the "boilerplate" handout attached to these minutes is the procedure he suggests. The language would provide that expenditure of funds received in excess of those appropriated by this Legislative Session can be expended only by approval of the next Legislature. There would be no delegation of authority; it would rest with the Legislature itself. Because you would not want to turn back federal funds, you need to set up a process by which these funds can be expended. In Mr. LaFaver's opinion, the only alternative to the method set forth in Sections 2 and 3 would be by constitutional amendment delegating authority to a committee, or proceeding under the system as it has been since January of 1976, in which the Executive can approve whatever they deem appropriate.

Mr. Billings explained the problems his office has with this proposal; that the Legislature is only here for a short time, and in the interim he would be asked to write up spending authority and give it to a committee that is not constitutionally empowered to appropriate money, nor guaranteed to be back in the next Legislature with a majority to approve the supplemental appropriation. The

expenditure is made by pulling authority from the next session, and if the complexion of the Legislature has changed at that session, or if they do not like the purpose of the grant and say no, that makes it necessary to curtail expenditures which the last entire Legislature approved. Department directors would have to put their names on the line--contracts would be signed and those contracts might be defaulted by the next Legislature not approving the spending authority. He stated examples of what might occur when you pull a large chunk of spending authority back into the first year and run a department short of spending authority in the second year. They would be faced with after-the-fact review by the entire Legislature on expenditures they could do very little about.

Patrick Melby, Director of SRS, spoke from the director's point of view, stating he shares the concern the Legislature has for the amount of money spent during the interim and the manner in which it is spent. At the same time, there are significant amounts of money coming in from unanticipated sources, mainly the federal government. STS has lots of federal programs and receives increases in allocations during the interim. He can foresee under the LaFaver proposal that the funds might go unspent because he believes that this Legislature cannot bind future Legislatures. The Interim Committee already cannot do this. Under this proposal it would be possible that a director would be placed in the position of violating laws. In determining whether to overspend his budget hoping that the next Legislature would be amenable to the recommendation of the interim committee or the previous Legislature, he would probably not overspend and in that case a grant would have to be turned down.

Dave Lewis spoke concerning the problems with supplemental bills, they have to go through hurriedly and most of the money has already been spent. The Food Stamp Out-reach Program was discussed. Mr. Lewis stated it appeared to him that it would be a fearful process for a director, trying to wait for the next Legislature to assure him he had made the right decision.

The Chairman stated that he sympathized with the problems mentioned by Mr. Billings, Mr. Melby and Mr. Lewis, but that the problem we are facing was created by this administration. We did not have the problem until the Governor took the matter to court and won. Budget amendments were approved and you did not have to come back through this process prior to the court's decision.

Mr. Billings stated there was pressure from other legislators to take this action into court because they were angry with decisions of the fiscal committee. They did not want the committee spending for the entire Legislature.

There was discussion on how the problem was created. Rep. Kvaalen stated that this is over and done with and now the alternatives must be considered. Rep. Gerke stated he believes something should be stated for the Executive Branch, the Legislature should not

enter into every transaction of the Executive. The programs we want to get rid of should be prioritized and eliminated, but the initiative of finding means to fund programs should be left to the Executive Branch.

The Chairman stated that the Constitution says the Legislature should appropriate money. He spoke also on the difficulties in trying to abolish programs that are started by federal funding. Rep. Gerke stated that the Legislature has the same authority to abolish them as they do to start them. Mr. Melby said one of the most significant things was the language in the budget amendment process that no program could be approved if it had impact on the general fund.

Mr. LaFaver was then asked to go through his proposal section by section. There was general discussion as to what problems this would create for directors; growth of government caused by federal funds that are not appropriated; the problems created by supplemental bills and what would happen if they were not approved. Mr. Lewis mentioned in particular the supplemental for the county attorneys salaries that must be approved to fund their March paychecks. Why supplementals occur was discussed. It is generally not anyone's fault because the budgets must be prepared so far in advance; usually 30 months. He said it is characteristic of democracy that every dime available is spent.

Mr. Melby said he thinks the answer to supplementals is to make these funds available to the Executive with enough guidelines from the Legislature to make it workable.

The Chairman stated the problem of the supplementals coming in right after the session is over is that there are probably some in departments right now that will not be presented until after the Legislature adjourns. Rep. Estenson said there should be a constitutional amendment to make it an executive budget. There is an underlying problem that the minute the Legislature leaves the agencies come back for what they did not get during the session in the form of a supplemental request.

Rep. Bradley stated she feels the language we are discussing is completely unworkable. Why is the Chief Justice of the Supreme Court getting involved. Mr. LaFaver stated it would be inappropriate to give the Executive budget amendment authority for the Judicial Branch. There was general discussion on the language. Sections 2 and 3 address budget amendment authority, section 8 is standard language that has been in appropriation bills for 10 years. This proposal is based on the system used in Colorado. The committee discussed whether this is workable in Montana. Oregon has a constitutionally created committee that deals with interim authority.

Rep. Bradley made a motion that Sections 2 and 3 DO NOT PASS. The motion was seconded by Rep. Estenson. Rep. Moore spoke in opposition to the motion. Rep. Gerke said he thinks the Executive should prepare the budget; and if the Legislature is to do it they should be allowed to examine it. He said we are looking at the symptoms, not the problems. Rep. Halvorson mentioned the different accounting systems used and how difficult it is to study these proposals. Rep. Ellis said a decision will be made whether the Legislative Finance Committee will appropriate these funds or the Executive but the problem of whether the next Legislature will accept the decision is still there. Rep. Moore said all the language says is that if the budget director gets notification of funds, he will go through the Finance Committee, which will sponsor it in the next session. Right now the Budget Director has authority over all money coming into the state except general fund moneys.

Rep. Bradley said the key is the last sentence in Section 3. She prefers a constitutional change and does not see that the proposal is workable. Rep. Gerke stated he feels this sets up machinery to circumvent the law. The question was called on the motion that Sections 2 and 3 DO NOT PASS. The vote was 8 no, 5 yes; the motion did not carry (roll call vote attached).

Rep. Kvaalen moved to adopt the boilerplate language to Sections 2 and 3. The vote on the previous motion was reversed and the motion carried.

Section 4 was discussed. This section is to assure that there is enough time to analyze the budget. Methods of assuring agencies get their budgets in early enough for analysis were discussed. Rep. Ellis suggested that if they did not, the Director's salary be shut off. The Chairman said this might not be far off, but perhaps is a little drastic.

Rep. Estenson moved Section 4 be adopted. The Chairman said we perhaps should adopt the concept but have them come up with language that is not so strong. A roll call vote was taken (attached), and the motion carried.

Section 6 was discussed. Dave Lewis expressed concern that this language will create a lot of paperwork and it is in the accounting system. John LaFaver said he will look at this; he thought it was what we are doing now.

Section 7 was discussed. Access to records has been denied, particularly nursing home records. Morris Brussett, the Legislative Auditor, stated that this had been a particular problem for his office. John Northey, attorney for the Auditor, explained the problem of the state reimbursing nursing homes on a contracted basis. They are cost-plus contracts, overhead plus a percentage of profit. He explained inflated costs and how it works. By inflating costs, you bill back to the state to be paid by the federal government. They need access to nursing home records to

see if this is being done, and have been denied this access. Mr. Melby agreed with the audit access requirement and stated that all future contracts between his department and nursing homes will have this requirement written in them.

Audit access is also needed to regional mental health centers. The Chairman said he strongly supports this concept. As we move more and more into contracted services, he is continually getting reports about the centers that cause concern. We have no control over them.

Rep. Gerke asked if Section 10 is likely to force expenditures. Mike Billings also expressed concern that this could cause agencies to spend more than they might need to to prevent reversions. He stated this might necessitate getting back to the agencies to have them identify all 2-year projects and request appropriations for the biennium. This could greatly reduce the kinds of problems this would create. The Chairman asked if this would create a bigger base than they now have under the present system, and Mr. LaFaver said it could work out that way.

Mr. Billings asked that the adoption of Section 2 be reconsidered. He said if the department directors are put in the position of having to draw supplementals to spend federal money, he will not recommend them.

The meeting was adjourned at 9:20 p.m.

FRANCIS BARDANOUVE, Chairman