

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

March 17, 1981

The 23rd meeting of the Finance and Claims Committee met in room 108 of the State Capitol on the above date. Senator Himsl, Chairman, called the meeting to order at 9:10 a.m. Roll call was taken with all members present except Senators Stimatz and Smith. Senator Himsl said there were three bills on the board for the day, SJR 24, H.B. 69 and 727, and that he would ask Senator Jacobson to hear her bill first.

CONSIDERATION OF SENATE JOINT RESOLUTION 24: Senator Jacobson from District 42, Butte, Silver Bow, said this is a joint resolution to President Reagan urging continued funding for the MHD facility in Butte. This is a process where it passes hot gasses from coal to electricity in a 2 phase process so that you get about 50% more electricity from the conversion than from the conventional methods. April 18 we are to produce the first electricity in Butte, and it is thought that a plant could be working by 1990. Several other countries are working on this type of plant, but we do not feel a private industry would take it over now since it would not be cost effective at this point. She passed out amendments, attached as exhibit 1. She said her consultation with people working on the MHD facility had resulted in these amendments to clarify the wording on the most part. Amendment 8 is toning down the language a little bit and amendment 10 is removing a section in lines 16 through 19 taking out the reference to Butte Silver Bow so that the project will stand on its own.

Dave Brown spoke as a proponent of the bill. He said this is the third time the legislature has been asked to give the sense of the Legislature that the MHD is a project Montana believes is worth moving ahead with. We are at the point where maybe tests are over and everyone thinks it will work. The most likely support is in conjunction with project 89 which Montana Power announced will be built in Great Falls. I admit that DOE, which is the one the administration feels should be cut, is probably the worst problem and I agree it will have to be cut down in Washington. MHD is a good project and the utility companies who are not allowed to build this kind of a project within their rate base will need the information. We are asking the Congress and President Reagan to help with this. I am convinced that the Reagan administration now believes this technology must be moved ahead.

There were no further proponents, and no opponents, and the Chairman asked if there were questions from the committee.

Senator Aklestad: Senator Jacobson, two years ago we appropriated some money to match from Federal money to get some chance at having a plant located in Montana. Do you know of this? Senator Jacobson: Yes. There was \$500,000 appropriated and it is still in the Natural Resources. The requirements that the Federal Government were to meet has not been met, and we still have the money there.

Senator Aklestad: What was it allowed for? Senator Etchart: As I remember, a competition between the states was involved and we thought it would take \$500,000 to compete between the other states.

Senator Aklestad: Do you know if Tennessee or one of the other states are as far along as we are? Do they have another model? Jacobson: No.

Senator Johnson: What is the current status of MHD in Butte now? Jacobson: They have reached the point where they will generate electricity April 18. They are using oil-coal mixture now. They have not used coal to date. They intend to finish this in 1 1/2 years if given the proper funding.

Senator Johnson: In my experience, there is a great feeling in Butte that MHD is ready to close its doors and people are very concerned. Jacobson: This is something that the people can use in their lobbying efforts in Washington to help them along.

Senator Johnson: How much funding do they have left? Jacobson: Their funding would go through October.

Senator Aklestad: Didn't we have a resolution on the floor already on this? Jacobson: No. It was discussed on the floor to suspend the rules since it couldn't meet the deadline for transmittal, that is all.

Senator Keating: I see something of a paradox. For the past years in the state of Montana, through bureaucracy, etc., there has been an anti-coal attitude. It is difficult to get permits for mining coal, coal burning generators, etc. Now we want to write the Congress asking them for a development of coal. I can't help but say I am for mining some of the coal for the economic benefit of the state. I think we better get our act together though in the future, if we really want projects that will utilize our coal.

Senator Boylan: Not one shovel full of coal in the MHD project yet, is there? Jacobson: No.

Senator Himsl: In regard to the amendments. Are they acceptable to you? Jacobson: Yes. I met with two of the people from MHD yesterday. I went to the legislative council and this is what we came up with.

In closing, Senator Jacobson said she would really appreciate any support you can give to this project. As far as our coal

resources, this project can make it go twice as far. I would appreciate your support.

The hearing on SJR 24 was closed.

CONSIDERATION OF HOUSE BILL 69: Representative Donaldson, House District 29, Lewis & Clark, and chief sponsor of House Bill 69 said this bill is the result of an interim study. This bill is enabling legislation so that the Community Colleges can generate finances. The funding is contained in House Bill 500. The major changes are in Section 3 which deals with the funds going into the community colleges. State general fund appropriation which can be set at each session and H. B. 500 will initiate 53%; the LFA was 51%; 2. tuition and fees, and 3. mandatory levies on the colleges. In addition there is other fees and grants & voted levies. They can pass a 1 mill voted levy for adult education. In section 4, page 3 and 4 it deletes that new section and another new section was put in because of the difficulty of understanding the language in it. I would prefer to wait to close unless there are further questions, and I think there are some other proponents of the bill.

Bill Lannan, Board of Regents-Community College Coordinator said we have anticipated in the study that generated the particular essence of this bill that we support the whole concept of a cost per FTE fund and a designated state funding for the unrestricted funding. Our concern is that the legislative appropriation sets the total unrestricted budget of the community colleges and the only alternative in regard to enrollments is to submit and pass a voted levy. The unrestricted funding will be based on an expenditure per FTE which is a generation of the levies complete funding study. The committee used a past year. The past year has been adjusted to take care of inflation. You take the average per FTE X the projected FTE. Two of the community colleges (but not Dawson) took the projected FTE and the comparative FTE. During a subcommittee hearing we discussed the problem of conservative enrollment projections but were alleviated by thinking the subcommittee was to include an enrollment contingency fund. Our concern is with the second year of the biennium that we will never have in the second year a budget that is only size percent greater than the previous year. That is because the cost per FTE goes up but the enrollment projections are declining. It is an unrestricted decrease of 5%. If they get more than the projected enrollment they cannot utilize any of the income and could not spend it during that particular year because the law does not allow them a budget amendment. He discussed the amendments made between the yellow copy and the third reading copy would give the community colleges a little more leeway yet they could not go beyond their expenditure limits, but could on the unrestricted budget. He said community colleges are an entirely different organization and more complicated than those under the public schools or under the university system.

Norbert Berning, Flathead Community College said that based on

Mr. Lannan's testimony he outlines our major concerns. This also replaces the idea of whether or not it would be allowed to us during the biennium--the first year the increase exceeds the second year, to provide us with out exceeding the amount, to use some of the first year funds and use them in the second year without reducing the levy. The excess fees would be as provided by the bill, used to reduce the levy. Example--say \$1 million the first year (say we spent most of it the first year and we have some for the next year. It would allow us to develop salary increases for the staff) About 75% of our budget could be used in a more economic way.

There were no further proponents and no opponents, and the Chairman called for questions from the committee.

Senator Regan: I don't know where to start. I have some concerns. We call them community colleges and by what we are doing today we are making them Jr. colleges and they become a very real part of the University System. I have a question for Bruce Shively. I was wondering if I heard this right. The state obligates itself for 53%. Can you give the figures as to how it will figure out for Miles and the rest? Bruce: The figures are 53%, yes. I don't have a calculator here, but it would be $31.55 \times 53\%$ for Flathead and Miles. Dawson is higher. There was an adjustment at Dawson because applying these numbers with the given enrollment would in effect close the doors of the institution.

Senator Regan: How many students in the last year? Bruce: in 1980 there were 284.

Senator Regan: I look at this and wonder what we are doing. I think maybe we should be taking the original course. Montana law says free education up to 21. They started the community colleges, and then came into the school foundation program and said we want an amount to compare with the ANB. We said if you get out we will fund it according to the foundation program. When we get involved in setting their budget and putting a cap on it then what we are doing is taking complete control and adding them to the university system. It seems to me anyone can start a community college. Every Indian reservation has a college. We have these Jr. colleges and this is what they will be if we pass this and the percentage will increase and increase. I can remember how it used to be. We are now buying 3 more colleges and I really wonder if that is what we want to do.

Representative Donaldson: I have not had the experience. HJR 58 called for a study. This is the result. The problem relates back to funding and was the population under 21 years old. The average age now in Flathead is 33. I don't think our involvement has changed much from the past biennium.

Senator Aklestad: I think I can agree with Senator Regan. What is the difference between the percentages 51 and 53?

Senator Himsl: When these schools started they were started

by the vote of the people on the basis they had sufficient tax value to support that type of community college. They had three programs, vocational programs, community service programs and a credit transfer program. When they started they were granted an extension of being post-highschool and were financed on the ANB basis. The Legislature said, you have to come up with a different funding program. You will invade some of the resources of common school and secondary school funds. They came into the legislature, and the Legislature told them, we will take you out of the program and we will fund you at the same rate as ANB. Now the question of what control or what position the colleges have, but under the Board of Regents is determined by the Board of Regents as to the budgets and it has developed from there so that it is this committee that reviews the budget and makes available the financing for the community colleges. On page 2, line 7 and 8 they do not count the students in community programs. Apparently in the Legislative Finance study the sources of funding are set up on page 2. I have one question on line 15. The mandatory levy that has existed has been 3 mills. With this addition is it now 4 mills? Bruce Shively: The first was a provision for three mills and this has changed and the mandatory has been under the 65-35% formula. The state share is 65%, the local 35%. The 35% was determined by taking an estimate of tuition and fees and in them to come up with the levy. Sometimes it was more than 3 mills.

Senator Regan: The point you made. The people voted and said we have enough tax base to support it. My concern is that in looking at all the units and knowing that the next 10 years poses a significant drop in the number of graduates from high-school who will be going to college--how much education can we afford for the state of Montana? A state with only 800,000 people and we have one of the most magnificent education pads I have ever heard of in place. Now with this delusion we are making Jr. colleges out of our community colleges and are buying more units for the university system. I wonder if we shouldn't go back to the original ANB. Fund the adult education through 1 mill and through basic education and not take this.

Senator Keating: You talk about a voted levy. What are the size of the district colleges? Bruce: Flathead and Miles encompass the entire county. In the community of Dawson, the district is not quite an entire county, but school district # 1--about 84%.

Senator Keating: Have they been successful in their voted levies in the past? Bruce: Miles has never failed. Flathead has never passed a voted levy and Dawson, always. Hims1: Flathead did pass one. Bruce: Maybe the first one. Regan: They voted for the community college and turned down the Highschool.

Senator Keating: Do they offer a unique system? Bruce: They are a hybrid. Academic courses are similar to the others in the first years but they also offer vocational technical courses. Community colleges offer 1 and 2 year programs but only under graduate courses.

Senator Keating: Is part of their system similar to the vo-tech? Bruce: yes. They have both with a 2 year curriculum.

Senator Himsl: They also have continuing education. Community Service. They have quite an extension of adult education since they take on all kinds of different aspects. It might be fly tying or whatever, but these people pay the cost.

Senator Johnson: How long has it been in Flathead? Bruce: July 1977 in terms of the Jr. college concept. This is a concept when community colleges were 2 years of Jr. college. It was entirely a transfer matter. That is the Jr. colleges. Community colleges get into vocations, technical aspects, adult education, continuing education, etc. They try to do all things for as many people as they can.

Senator Johnson: How do you feel if the funding goes as this bill would go. Do you see yourself as really becoming under the Board of Regents? Are we really buying more colleges?

Bruce: We called it 65-45%. It comes into a 66-44 or something. Some of us are questioning and asking how it will be implemented in the next 2 years.

Senator Keating: The fiscal note has no money in it, but I notice that one of the funding sources is the state general fund appropriation.

Senator Dover: The amount of general fund is appropriated in H. B. 500. This is only an enabling bill. I don't think there is a significant difference in the commitment of the state of Montana after you take out the inflation factor.

Bruce: There is a 22% increase over 80-81 system wide from the general fund.

Representative Donaldson: It is relatively similar to the others. The general fund percentage is 22%. The 22% is the dollar amount increase from one year to the other. The unrestricted is not being funded that much now. The contribution is quite similar. Bruce: When we did the study we had a comparison of other states besides our own. The % of the unrestricted budget worked out to be about 51%. We modified and budgeted up to 53%. Originally we had included the adult one and it is restricted fund and should not be in there. When you pulled that out of the base it increases to 53%. Montana rates about the average in the western United States.

Senator Hims1: Is it not true this provides for a 53% state general fund & it would be 47% otherwise? Bruce: Under the old one it was 65-35. It only appropriated to three revenue sources. We are expanding the amount of the revenues this applies to as if you appropriated the same sort of approach to the 65-35. It came down to about 53%.

Representative Donaldson: The bill does not compel them to fund it at any rate. It does not restrict them.

Senator Keating: I am not all that familiar with it. I am thinking if we go into this system it appeals to the general fund. The state will be financing the colleges and how long will the community support the college? They will say this is part of the university system and the expense will be put back on the taxpayers. I am not sure we can support all this later on.

Senator Dover: The commitment by the state of Montana is about the same as before. Keating: But the cost has come up 22%. Dover: As to where we are going, I really don't know. The bill addresses the funding formula that we believe is fair and equitable. I don't know if they are going to support them down the road. I think the enrollment area has been discussed and there was a lot of difficulty in this area of enrollment figures. We have the highest enrollment in the university system this year. Vo-Techs are up also. Our crystal ball is pretty cloudy here.

Representative Donaldson closed by saying the contribution has not changed significantly. We need to realize there is a difference between community colleges and jr. colleges. The average age in Flathead is 33. It indicates many of the people are being re-trained. I don't think this bill is the one to address the theoretical problem of what will happen. This issue may be discussed later, but I would hope not in this bill.

Senator Hims1 declared the hearing on House Bill 69 closed.

CONSIDERATION OF HOUSE BILL 727: Representative Ann Mary Dussault, representative of district 95, Missoula spoke as the sponsor of the bill. She said 727 has become an interesting little bill to say the least. It was introduced with the simple intent and has become complicated. The bill is intended to simply allow the student governments on the various campuses some input to the Board of Regents in determining policy in regard to student fees. We have some amendments which make it very clear that students have no say in those fees used for bonds and that the Board of Regents have the final authority. Why then is it necessary to put into statute form the fact that students should have input into the expenditure of fees placed on them by the administration of the university system. In

reviewing the system we find the policy regarding the expenditure of fees that any president of the university can expend up to \$10,000 on his own with no other authority. From \$10,000 to \$25,000 the approval of the commissioner is required and for over \$25,000 the Board of Regents must approve. Only when the expenditure gets to \$200,000 is a survey of students required. There has been a lot of controversy on fees from the students. The LFA gave the opinion in 1978 that fees can be expended with only presidents and their conclusion was that these funds should be reviewed in terms of legislative appropriation.

Representative Dussault said it was interesting to see how some of the funds were used and she mentioned using them for such purposes as in 1951 to pay off attorneys, they were used to purchase a computer, purchase homes on the perimeter of the campus, etc. A Supreme Court decision was involved in some of this, and those are probably some of the issues that are grueling the students now. The Board of Regents are interpreting very broadly the authority to require them to assess fees. In 1939 the state Board of Regents increased the fee to \$5 after the 1929 vote to assess students for building units. The students took the Board to court and they said there was no authority to require them to assess. The court ruled in favor of the Regents which were then the Board of Education. They said the expenditure of the mandatory fees must benefit the student. If the proposed building was to be used to house a library etc, if necessary space for instruction they might not be so disposed, but this was for extra curriculum and is part of what they want.

Representative Dussault said they did not feel the funds had necessarily been used properly since they had been used for energy, lights, elm trees, class room moving, science complex, renovation, etc. She said they had some bond council amendments and that Senator Himsl had a copy.

Representative Andreason spoke as a proponent of the bill. He said he had been opposed to some of the campus involvement before, but felt this law is just a simple thing involving a group of people who have a desire to have simple input. He also said he felt with input of this type from the students they could help the legislature to have an accountability of spending at the universities.

Steve Carey spoke as a proponent for the bill as a representative of Associated Students. He said all they were asking for was just advisory rights. The Supreme Court decision said that fees are legal but must be expended with the students in mind. There is no criteria to regulate the expenditures. He gave the instance of a project in June of 1981 of about \$8 million in unrestricted funds but part of them were building funds. \$75,000 in attorney fees. There is another law suit for \$250,000 and we are not sure where it goes but we are hoping that the attorney fees do not come out of building fees. We also have a program authority. The University plans the programs and

our program authority generates a lot of money. The Regents are considering revoking that. We would like some say in how the money is to be spent.

Mike Dahlam, ASUM, left a prepared statement, attached as exhibit 1 under House Bill 727 and also the news clipping, exhibit 2. He then said he would like to touch on some of the things the opposition would bring out. First, the constitutional objection. Does the Legislature have the authority to direct the Regents? We think they have. I think we have to say it is legal. Students are being offered only the right to offer advice. The Board of Regents do not have to take it. The existing statute says through relationship between student body and Board of Regents. This is very consistant with the statute. As a result of different objections it has been amended twice to clarify the bill so that it is clear that students would offer advice only on fees and not on bond indebtedness. Mr. Noble proposes further amendments to say this includes future bond indebtedness. Perhaps the language in 402 and 302? We don't think the amendments are substantive. We don't think the bond companies objections are substantive. I would urge you to pass the bill. We talked to the Betcher Company and have found no reason to think the bond indenture would be incurred by this bill. They are the people who have to go out and raise the money and sell the bonds. The bill benefits out-weigh any faults. It is important that these funds be audited properly.

There were no further proponents and the Chairman asked for opponents.

Jack Noble, Deputy Commissioner for Financial Affairs spoke as an opponent to the bill. He said students do participate in the business of the University System. he gave out a letter to the committee members listing the ways the students do participate in the committee process at the University. He said there are channels the students go through to air a grievance, and they have never been approached at our office nor the Board of Regents. Exhibit is attached.

Mr. Noble continued by saying the collective bargaining unit has more participation than any I have seen. They have long realized that students have a valid share in the governments of the University. Students learn a lot from participating in the government, and they learn the hard way. When something goes wrong it goes through the Board of Regents for a due process chain. It goes to the President, and to my knowledge no similar complaint on these issues there. There was no administrative process followed to the Commissioner's office. As it is, certainly the students can appear before the commissioner. If a complaint is not satisfied through the usual channels, they then have the courts. Today their first step should be taken to go through the proper channels of the University System. This is one campus with 10 committees and they have a lot of opportunity for grievances. If the legislature wants to take on the job of grievance officer, then you will have a lot of 727's in the future.

The Regents cannot turn the student building fees over to the students simply because they have paid a fee. That was never intended. The question was raised as to whether it was legal to use student fees for the purchase of land. In Section 20-25-302 land is one of those listed. We have been taken to task for doing exactly what this Legislature told the Regents to do. Since the bond statutes were enacted, the campus has grown from 10,000 to 25,000 students. We have had to do some things like purchasing land to handle this. On page 5, subsection 4, on borrowing by the Regents--the regents may pledge for the payment of the purchase price of any facility etc. This Legislation authorizes the regents to pledge. The amendment says the student building fees are expended for funds pledged for bond authorization. Since this bill authorizes the Regents to pledge, I can attest that does not belong in that section.

Mr. Noble mentioned the Supreme Court case, testimony is attached. In 1929 or the early 30's the University of Montana wanted a building and they came to the Board of Education. There were 2 fees involved. a mandatory \$5 fee to the students, and since apparently that was not enough to sell the bonds to provide the appropriate pay off, the students passed a referendum and passed an extra \$1. The Supreme Court said you can levy the \$5 fee and spend the money as you see fit irregardless of the students. The \$1 fee was different. Since the students voluntarily did this upon themselves, the court construed it as a gift. The court said the Board of Education could use this \$1 fee for the purpose for which it was raised and no other.

Mr. Noble handed out a letter from Dorsey, Windhorst, Hannaford, Whitney & Halladay and read the second paragraph in regard to the amendments to the bill. He also read the last paragraph in regard to their opinion that the amendment would appear unnecessary since the only purpose of the subsection is to authorize the pledging of rents, income and fees. He said in concluding his testimony that there is student participation and this bill will not enhance it. We plan not to change it. Because there are student building fees the students do not have a vested interest in the fees. The use of the fees is legal and the bond opinions are still adverse. I recognize that while there are other bond companies in the state, the Bond Council is the bonding vendor for the state of Montana. They take great pride in how their language reads and very seldom add other language to their boiler plating. They do not care to have someone else jumping in with the changes.

Patricia Douglas, Fiscal Affairs Vice President at the University of Montana gave her written testimony as an opponent of the bill. A copy of her testimony is attached to the minutes.

There were no further opponents and Senator Himsl asked if there were questions from the committee.

Senator Van Valkenburg: The bill as I read it does not talk about any increased authority for students. It talks about increased advisory input. It does not provide any authority. Where are you reading authority?

Ms. Douglas: Extending advisory capacity through the legislature instead of through their regular chain of procedures-- then it is additional authority indeed. It places an additional burden on the Board of Regents and does express implied authority.

Senator Van Valkenburg: The authorization for attorney fees in the work study case. Why did the regents subsequently repay it back to the building fee account? Douglas: Whenever there is some disagreement between members of the campuses and the Board of Regents any president takes it into account and refunds the money. There was a question raised by a large number of the campus. It was discussed with the Board of Regents and it was decided that over time we would pay it back.

Senator Keating: In the title, line 7 and 8 it refers to the respective representative student governments. Could you explain this? Representative Dussault: That is to indicate that each campus has its government.

Senator Keating: Through what vehicle would the students advise the university authorities on the expenditures? How would they go about presenting their views under this bill? Dussault: I think that procedure would have to be established. This bill does not set out the procedure. It simply says the students shall have input to the Board of Regents concerning the policy.

Senator Keating: Who would establish the method? Dussault: I think I would anticipate it would be by various students and the Board of Regents.

Senator Hims1: Have you read the amendments you are proposing? Dussault: yes.

Senator Hims1: In the title, line 4 you suggest that after "that" you put in the word mandatory. In line 5 you close out building. On page 2 you then go back to student building fees not on student fees. On page 6 you put "provided" back in, cross out "and except for funds pledged for bond obligation and add except for funds pledged for bond obligations." Does this all make sense to you and do what you want to do? Dussault: Those amendments were given to me by the Legislative Council after review by the LFA. It is their intent it is qualifying amendments. The title, section 25-402 and then on page 6 we are talking about mandatory students fees of which building fees are included. It was the intent of the amendment to indicate that.

Senator Himsl: The title does not agree with it. Dussault: It does if you look at the other page and the new language on page 6 is to clarify that it does not include the money for the building funds.

Senator Himsl: You take it out of the title and on page 6 it is all receipts. Dussault: All mandatory fees of which sometimes building fees are included.

Senator Himsl: Are any of the students on the Board of Regents?
Dussault: No. Himsl: Who is the student that is? Dussault: Shelly Hopkins. Himsl: Does she have an input with the Board of Regents? Dussault: Yes. Himsl: Was that avenue of dialogue open? Student: Various avenues of Dialogue were open, yes. Noble: Students can suggest to the Board of Regents, and can suggest what they want to do. We will say that based on past activities that it has not always been as open as it should have been. When we decided to bring this up we were told by Mr. Noble that it would irritate the Board.

Senator Himsl: Do I read that the representative for the building program initiates with the students and that through the respective representative they go to the Board of Regents to review it for their approval or disapproval? Ans. I don't think --. Himsl: Does the appropriation of the fees--does the initiative originate with the students, they report to the Board of Regents what they want to do and the Board of Regents can approve or disapprove. Dussault: The Board of Regents have a set policy on how the mandatory student fees will be administered and used. This bill would allow the student governments on the various campuses to have input in the changing of those policies for approval or disapproval.

Senator Himsl: I read this that it originates with the students. Noble: That is the exact opinion of the Bonding company. The students would establish the policy or procedure and the regents would approve or disapprove. The present policy is that the regents can initiate the policy.

Senator Himsl: Representative Dussault, do you see my problem?
Dussault: It says in accordance with policies by the respective representative student governments to the board of Regents to review for approval or disapproval. Himsl: That is my problem. It says "Policy submitted by----" Dussault: That is clearly not the intent. Himsl: Senator Dussault, would you take a look at this? The initiative should be with the Board of Regents. I have no problem with the students having some input, but I don't think they should take over the initiative. That is clearly the job of the Regents. Dussault: I will take a look at it.

Senator Jacobson: Did you get input from the other student bodies?
Dussault: There was a point where U of M wanted to be amended out of the bill because of the bonding company, but once that was taken care of in agreement, I think.

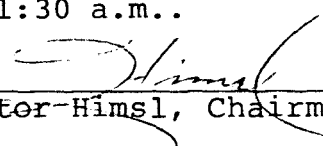
Senator Haffey: If, I would believe inadvertently, the language on page 2 would limit the use of the student building fees, or is it the prospective that they would only be used for student facilities? I understand the student fees can be used for any thing the president of the university and the students want to use it for. Dussault: I will address that in my closing remarks.

Senator Aklestad: Are there any students from any other campuses besides U of M here today? Ans. Yes, one, from MSU.

Senator Aklestad: Are all the students in agreement? Dussault: I have not spoken directly for any of the others. A number of them have said they are in opposition to it.

Representative Dussault closed by saying she would like to respond to some of the points raised by the opponents. The laundry list provided, I have no problem with. I think this indicates there is some participation. For instance, this legislature created a mandate that students participate in the collective bargaining. It has been good. On grievances, there was a series of correspondence that erupted after the bad circumstances on the campus. A letter from Steve Spaulding to Ted Parker trying to clarify the action of the committee. The committee did not recognize that the money be used. There was a memo from Pat Douglas saying, I appologize for the misunderstanding. President Bowers did act on what he thought was community action. I do not take issue with the letter. Once that has been done, there is no point in continuing. The third point was control turned over to the students. It is not our intent, and the students do not want to control the fees, simply input into the policy. Representative Dussault continued by pointing to a statement by Mr. Noble that one of the points the students mentioned was the policy of using the funds for purchasing residential property. This was certainly for the good of the students due to the growth of the campus. Bond underwriters--if you compare this letter with the previous one, we have no problem with the amendment and would incarcerate it into this bill. On the Supreme Court: I could also get a second attorney. On page 124 the decision was not addressed in the attorney's remarks. What he said, I agree with, but he left some out in this. In the end this bill would be meaningless: Why then the big argument against it? All we are asking is that the students have some input. Finally, I would refer again to Pat Douglas's "clear chain of responsibility". In the LFA report, I wondered if there is accountability within these funds. I would be happy to work with anyone to clarify the amendments.

Senator Hims1 declared the hearing closed on House Bill 727, and the meeting adjourned at 11:30 a.m..



Senator Hims1, Chairman

ROLL CALL

FINANCE AND CLAIMS COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/17/81

NAME	PRESENT	ABSENT	EXCUSED
Senator Etchart	✓		
Senator Story	✓		
Senator Aklestad	✓		
Senator Nelson	✓		
Senator Smith			
Senator Dover	✓		
Senator Johnson	✓		
Senator Keating	✓		
Senator Boylan	✓		
Senator Regan	✓		
Senator Thomas	✓		
Senator Stimatz			
Senator Van Valkenburg			
Senator Haffey	✓		
Senator Jacobson	✓		
Senator Himsl	✓		

edw!

Proposed amendments to SJR 24

1. Page 1, lines 13 and 14.
Following: "have"
Strike: "formally recognized the"
Insert: "supported the development of magnetohydrodynamics (MHD), recognizing its"
2. Page 1, lines 14 and 15.
Following: "potential"
Strike: "of magnetohydrodynamics (MHD) power generation"
3. Page 1, line 18.
Following: "successful"
Strike: "completion"
Insert: "development"
4. Page 1, line 22.
Following: "Montana"
Insert: ", allowing longer utilization of coal reserves"
5. Page 2, line 6.
Following: "President"
Strike: "Reagan's budget officials have"
Insert: "Reagan"
6. Page 2, line 7.
Following: "announced"
Strike: "tentative"
7. Page 2, line 10.
Following: "capital"
Insert: "or other technical resources"
8. Page 2, lines 13 and 14.
Following: "a"
Strike: "colossal"
Following: "the"
Strike: "financial, human, and other"
9. Page 2, line 15.
Following: line 14
Strike: "project"
Insert: "technology"
Following: "completion"
Strike: "; and"
Insert: "."
10. Page 2, lines 16 through 19.
Strike: these lines in their entirety.
11. Page 3, line 2.
Following: "that"
Insert: "work toward"

Opinion & comment

The Montana Standard

Official newspaper of Butte-Silver Bow
Founded in 1876

DONALD W. BERRYMAN
Publisher

BERT GASKILL
Editor

JEFFREY B. GIBSON
Editorial Page Editor

It's a good bill

The House last week approved a bill that would give college students a voice in how their building fee money is spent.

It's a good bill, but you'd never know it to hear the squawking from university system officials. They don't want a law that gives students a chance to suggest how student fees should be spent.

The bill, House Bill 727, was introduced by Rep. Ann Mary Dussault, D-Missoula. Dussault sponsored the bill on behalf of University of Montana student representatives. The students were upset by the way the university spent some of the discretionary money in the building fund. The school spent \$25,000 to buy a house "to square the boundaries of the campus," and \$75,000 to pay some athletic department legal fees. (Who wouldn't be upset?)

University system officials say that if the bill becomes law, it could make it more difficult for the schools to sell building bonds, which could lead to higher fees for the students.

That seems a bit far-fetched. The bill doesn't give students the power to decide where the money will be spent or to veto spending decisions. It only requires the authorities to listen to what students have to say about spending projects.

Students who pay fees should have a voice in how the money is spent.

It seems so obvious that you wonder why the Legislature has to pass a law to give them that voice.

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We can tell Ronald Reagan how to save an extra few million bucks a year for the taxpayers.

He can order his cabinet officials to stop clogging the mails with junk.

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Unobservant

Economist Lester Thurow warns that Ronald Reagan's plan for the economy won't work unless Americans make a major effort to curtail consumption.

Thurow should get out of his ivory tower at the Massachusetts Institute of Technology. People are curtailing consumption. They're buying smaller cars, less gas, and are traveling less. In many areas, they're not buying houses, they're wearing last year's fashions (if they're lucky), and they're clipping coupons before going to the grocery store, where they look for the low-

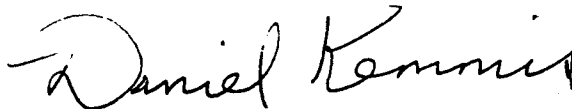
727
TESTIMONY TO SENATE FINANCE AND CLAIMS COMMITTEE

Mr. Chairman:

This testimony is presented in support of House Bill 727. As the representative from the district which contains the University of Montana, I can speak of the continuing difficulty the student government there has had in maintaining a reasonable degree of control over their building fees. I can also assure the committee that student government has been utterly responsible in its efforts to guarantee that these student fees are used for the best interest of students. Given the difficulties that have existed in this area, and given the students' track record of responsibility, I believe this bill is a workable solution to a pressing problem.

Opponents may argue that the bill infringes upon the constitutional autonomy of the Board of Regents. If you will examine the existing law which is here being amended, you will see a great variety of already existing statutory limitations on the Board's freedom of action in this area. The mild limitation of this bill is no different than existing limitations, and no less constitutional.

Thank you for considering this testimony.



Daniel Kemmis
State Representative
District 94



THE MONTANA UNIVERSITY SYSTEM

EXHIBIT A

33 SOUTH LAST CHANCE GULCH

HELENA, MONTANA 59620

(406) 449-3024

COMMISSIONER OF HIGHER EDUCATION

March 16, 1981

TO: Members of Finance & Claims

FROM: Jack Noble *JN*
Deputy Commissioner for
Management and Fiscal Affairs

SUBJECT: H. B. 727

Student Participation on the Committee Process
University of Montana

1. Building Fee Committee: Two students are appointed to the Committee, and one serves as Chairman; in addition, one faculty member and one administrator sit on the Committee. This Committee makes final recommendations to the President regarding the expenditure of all building fees.
2. Campus Development Committee: Three students are appointed to the Committee; five faculty and staff serve on the Committee with the three students along with several ex officio administrators such as the Academic and Fiscal Affairs Vice Presidents and the Director of Physical Plant. This Committee determines the priorities for the Long Range Building Program and any other campus development.
3. Search Committees: The Collective Bargaining Agreement provides that the students shall constitute 20 percent of the total membership of all search committees.
4. APRC: Three out of nine members were students; this Committee was responsible for recommending all the programs and faculty to be terminated under the re-trenchment process of several years ago.
5. Task Force on Security: Two out of the seven persons appointed to this task force which examines and determines campus policy at public events are students.
6. Curriculum and Academic Standards: Six out of seventeen members are students. This Committee makes all recommendations concerning academic standards, graduation requirements, new courses, revised departmental curriculum and other programmatic changes.
7. Graduate Council: Three out of thirteen members of this Committee are students. The Committee is responsible for reviewing all graduate programs, setting the academic standards of same and establishing graduation requirements.
8. Traffic Board: One student serves with two other members to hear all appeals for traffic fines, to set campus vehicular use standards and the fee structure for parking.



Memo
TO: Members of Finance & Claims
FROM: Jack Noble
SUBJECT: H. B. 727
Page 2

9. Foreign Student Advisory: Out of a total membership of seven two students serve on this Committee. It is responsible for reviewing and recommending all policy related to foreign students.
10. Handicapped Accessibility: Two out of five members are students. This Committee is responsible for recommending all facility and other modifications necessary to accommodate the handicapped students.

JHN/llt



THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH

HELENA, MONTANA 59620

(406) 449-3024

COMMISSIONER OF HIGHER EDUCATION

February 27, 1980

Memorandum

est 2
1/28/80

To: Deputy Commissioner Jack Noble

From: David J. Figulla, Chief Legal Counsel

Re: House Bill 727 and the Veeder Case

You have requested that I examine the case of State ex rel. Veeder v. State Board of Education, 97 Mont. 121, 33 P2d. 516 (1934) to determine whether it has any applicability to the proposed change in law contained in House Bill No. 727. It is my understanding that the sponsor of House Bill 727 has represented that the proposed student approval of the use of student building fees is mandated or authorized by the Veeder decision.

My examination of the decision of the Montana Supreme Court in Veeder leaves me of the opinion that there is no basis for the assertions made by the Bill's sponsor. I can understand, however, how one could become confused in reading the decision and arrive at the erroneous conclusion that the case supports the propositions of the proponents of House Bill 727. For that reason I will review the pertinent facts and conclusions of the court in order to provide clarification.

In 1933 the legislature authorized the Board of Education to erect student union buildings and finance such projects in accordance with the National Industry Recovery Act. The Board of Education initiated the necessary procedures and entered into an agreement with the Federal Government to finance the construction of a students' union building at the State University by means of a loan of \$240,000 from the Federal Government, in the form of revenue bonds, and a grant from the Federal Government of \$60,000.

Amortization of this \$300,000 debt was to be made from revenues received from the operation of the building. In order to produce sufficient revenues the Board of Education exacted a \$5.00 per student per year student union building fee which was dedicated to the creation of a sinking fund for the retirement of the bonds at maturity; this building fee being in addition to rents and other income from the building which were also dedicated to repayment of the bonds. Additionally, and herein is where the confusion lies

Memorandum

To: Jack Noble

From: David J. Figuli

Re: House Bill 727 and the Veeder Case

February 27, 1981

Page Two

I believe, the students voted in 1929 to contribute \$1.00 per quarter per student for the purpose of creating a special fund to be used as additional income to help repay the bonds on the student union building project.

The first issue raised in the case concerning the student building fees was raised in regard to the \$5.00 fee imposed by the Board of Education. The question raised was whether the Board of Education could charge such a fee without the consent of the student body. The court's answer to that question was as follows:

The express power to manage and control the business and finances of the institutions carries with it the implied power to do all things necessary and proper to the exercise of the general powers, which would include the exaction of fees, not prohibited, if fees are necessary to the conduct of the business of the institutions.

The court went on to explain that said fees ". . . require no vote of the student body for their exaction." The court continued with a statement that is very apropos to the present controversy. It said:

In the orderly conduct of the business of the institution the board cannot be embarrassed by requiring it to submit such a matter to a vote; nor, if this fee can be pledged for the repayment of the loan secured, can it be possible for the students in some future year to disrupt the plan by staging an election and voting against the payment of the fees.

Thus the conclusion of the court was that the levy of the \$5.00 students' union building fee was accomplished through the exercise of the Board's inherent authority to govern and manage the institution, and was not dependent upon the approval of the students.

The court separately dealt with an issue concerning the \$1.00 student building fee, the fee which was voluntarily contributed by a vote of the students. The court discussed the Board of Education's authority in accepting and using the funds generated by that student fee. The court explained that the fund created by the \$1.00 fee was inaugurated "by

4/3
Noble

DORSEY, WINDHORST, HANNAFORD, WHITNEY & HALLADAY

2300 FIRST NATIONAL BANK BUILDING

MINNEAPOLIS, MINNESOTA 55402

(612) 340-2600

CABLE: DOROW

TELEX: 29-0605

TELECOPIER: (612) 340-2868

115 THIRD STREET SOUTHWEST
ROCHESTER, MINNESOTA 55901
(507) 288-3156

WILLIAM A. JOHNSTONE

(612) 340-2815

March 13, 1981

Mr. Jack Noble
Montana Board of Higher
Education
33 South Last Chance Gulch
Helena, Montana 59601

Dear Mr. Noble :

You have asked us to review the form of H.B. No. 727,
as passed by the House of Representatives.

We believe the amendment to Section 20-25-302 still
contains ambiguities and limitations which could have an ad-
verse affect on the issuance of revenue bonds by the regents.
In line 11 the language "funds" should be "fees and the receipts
therefrom". In the same line it is not entirely clear whether
the exception for bonds relates only to bonds heretofore issued
by the regents or will also cover bonds to be issued by the
regents in the future. The term "bonds" is far narrower than
the terms ("bonds", "notes", or "securities") used in Section
20-25-402 to describe the type of obligations which may be issued
by the regents and to which fees may be pledged. Further,
Section 20-25-402 authorizes fees to be pledged to the payment
of the purchase price of a facility. It would seem that the
language describing obligations of the regents for which fees
may be pledged should be the same throughout Title 20, Chapter
25, Part 3, M.C.A.

In its present form the amendment to Section 20-25-402(4)
contains the same ambiguities and limitations as the amendment
to Section 20-25-302. Further, if the ambiguities and limita-
tions were corrected the amendment to Section 20-25-402(4)
would appear to be unnecessary since the only purpose of the
subsection is to authorize the pledging of rents, income
and fees.

Sincerely yours,


William A. Johnstone

WAJ:cmn

As Amended
PROPOSED AMENDMENTS TO HB 727

1. Title, line 4.

Following: "THAT"

Insert: "MANDATORY"

2. Title, line 5.

Following: line 4

Strike: "BUILDING"

3. Page 6, lines 5 and 6.

Following: "provided"

Strike: "AND EXCEPT FOR FUNDS PLEDGED FOR BOND OBLIGATIONS"

Insert: "provided"

Following: "action"

Insert: ", except with respect to funds pledged for bond obligations,"

TESTIMONY ON HB 727
March 17, 1981

For the record, my name is Patricia Douglas and I am Fiscal Affairs Vice President at the University of Montana. I have worked with our on-campus Building Fee Committee for two and one-half years and I would like to direct my comments specifically to the situation that exists at the University and the type of input students have at our campus.

From some of the testimony and comments from students that I have heard, I would gather that some may have the impression that students have no real avenue of input or appeal on our campus. That is not true. Students are represented on every major committee that advises the president on matters ranging from establishing priorities for the Long Range Building Program, curriculum and academic standards, security, all search committees for major administrative positions to the Graduate Council. In the case of the Building Fee Committee, two students are appointed to that Committee and one serves as Chairman. All recommendations for the expenditure of Building Fee funds must be reviewed and recommended by this Committee.

As to the operation of the Committee, it considers three types of requests: 1) emergency repairs:-- cases where we cannot wait to submit the request to the Legislature through our operations or building program requests; 2) regular re-occurring items such as bond audit costs, the purchase of the computer and an annual art award for outstanding artistic achievement by some student and; 3) projects that enhance or upgrade campus facilities. In the latter case, the Committee pays particular attention to the impact of the project on student needs, and consequently emphasizes those projects which enhance classrooms, laboratories, grounds and other assets directly related to student use.

During the tenure of President Bowers, I can think of only three circumstances in which the Committee and President Bowers have disagreed on the expenditure of Building Fee funds. In one case, the students wanted to spend more on a project than President Bowers thought was feasible; a compromise was developed that more closely resembled the Committee's than the President's preference. In another, the Committee recommended an amount lower than that requested; President Bowers funded the larger amount but only after careful consideration of the impact on the campus. In the third case, the one that I feel triggered the thought of HB 727, there is a disagreement concerning the recommendation of the Committee: some members feel that the item was not recommended; others disagree and indicate that the item was recommended.

The examples make it very clear that while the disagreements have been few, the president of the University does have final authority to expend the money according to Regental and State requirements. I think that is as it should be. If those expenditures are questioned at some later point in time, clearly a Committee such as yours or a Sub-Committee of the Board of Regents would not go to the students to object. Such review bodies want to have a single executive that they can hold accountable for the expenditures. I do not believe that House Bill 727 should be allowed to pass to muddle what is now a clear chain of responsibility.

The final area I would like to touch on goes back to Mr. Noble's comments. I believe that any group would be hard pressed to find an example of where President Bowers or other members of his administration were unwilling to listen to suggestions for changing University policies. We currently have a policy statement regarding the expenditure of Building Fee funds. If the students do not believe that the policy statement is sufficient, then I believe that they should recommend changes to the University administration. If the administration does not adopt the suggestions and cannot justify its position with the students, then I believe that the next level of appeal is the Board of Regents. To reiterate an earlier comment, neither the

University of Montana nor the Board of Regents have received recommendations for changing the review or decision-making process for expending Building Fee funds. I believe that the students should go through regular channels of appeal before drafting legislation to achieve their goals.

Finally, I have been present before this Committee and others during earlier Legislative Sessions and I distinctly remember being cautioned, if that is an accurate assessment, about the extensive authority given students over the student activity fee money. I also remember being reminded that the Chief Executive Officer at a campus was still responsible for all student funding, regardless of whether or not expenditure authority was given to students. I think it is ironic now this session to be arguing against a bill that would, in fact, delegate that authority.

Thank you for the opportunity to testify. I would be happy to answer any questions you may have.

3/17

UNIVERSITY OF MONTANA

DATE: March 19, 1980
TO: Mike Dahlem & Steve Carey
FROM: Max Weiss, ASUM
SUBJECT: Building Fees Amendment

In compliance with your request, the following is an account of the results of my efforts to obtain information about and support for the amendments to 20-25-302 and 20-25-402.

I contacted Mr. William Johnstone's office; and after many unreturned calls and statements, he was out of town or unavailable. I was advised Mr. Johnstone's comments on the matter would be sent to the Commissioner's Office and the decision to share that information would have to be theirs. As I understand, the information was eventually given to you a few hours before the committee hearing.

When it became apparent I was not going to receive information from Mr. Johnstone's office early enough to be of help, I contacted Mr. John Ditzinger, who I had been referred to. Mr. Ditzinger informed me the Commissioner's Office had requested he invoke attorney-client privilege and not comment on the matter of the amendments or student monies in general.

I then contacted the First National Bank in Missoula, as trustee for the bond holder. I was told by Mike Pomeroy and Sue O'Neil that their trustee relationship prevented them from commenting in detail on the substance of our concerns. They referred me to Boettcher & Company in Denver, Colorado. I spoke with Mr. Russell Jansky of their commercial department. He advised me his company had underwritten many of the bond issues for the University system and offered his assistance. We arranged for the transmission of the amendments by telegram, a review by Mr. Elmer Longwell, Mr. Dunn Krahl, and Mr. Al Cook of Boettcher's commercial department, as well as, Mr. Bob Bacus and Mr. Loring Harkness, their legal representatives.

Because of the tight time constraints imposed on us, they agreed to review the matter that night, prepare a report the next day (the day of the hearing), and forward it to you in Helena by telegram.

I had requested they contact me by phone when the report was complete, so I could forward the content to you in case of delay in telegram delivery.

I received a call from Mr. Cook who said a spokesman for the Commissioner's Office had voiced strong opposition to the amendments and Boettcher's participation beyond their interests in the trust indentures. Mr. Cook advised me it was their decision not to comment on our proposed amendments. He did not say who the spokesman was or who the spokesman talked to.

I am sorry I have not been able to furnish you with the information you needed to fairly present the bill; but when every avenue of information has been closed by the Commissioner's Office, my hands are tied.

bp

March 25, 1981

Dear Senator Van Valkenburg:

Here are my amendments to HB 727 and a memo relating to our attempts to get a second opinion on the bond issue. A memorandum from the fiscal analyst relating to building fee expenditures will be available by 9:00 a.m.

Thanks,

A handwritten signature in cursive script, appearing to read "Ann Mary Dussault".

Rep. Ann Mary Dussault

PROPOSED AMENDMENT
to HB 727

1. Page 1, lines 4 through 10.

Strike: In its entirety.

Insert: "A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT CERTAIN MANDATORY STUDENT FEES SHALL BE HELD AND ADMINISTERED FOR STUDENTS OF THE MONTANA UNIVERSITY SYSTEM IN ACCORDANCE WITH EXPRESSED FISCAL AND ACCOUNTING POLICIES ADOPTED BY THE BOARD OF REGENTS UPON AND IN CONSULTATION WITH THE RESPECTIVE REPRESENTATIVE STUDENT GOVERNMENTS; AMENDING SECTION 20-25-302, MCA."

2. Page 2.

Following: Line 10.

Strike: Lines 11 through 16 through "DISAPPROVAL."

Insert: "Student building, activity, union and other special fees prescribed by the regents for all students shall be held and administered for students of the Montana university system in accordance with expressed fiscal and accounting policies adopted by the board of regents upon and in consultation with the respective representative student governments."

3. Page 6, lines 5 through 9.

Following: "students"

Strike: In its entirety.

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It's a good bill

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That seems a bit far-fetched. The bill doesn't give students the power to decide where the money will be spent or to veto spending decisions. It only requires the authorities to listen to what students have to say about spending projects.

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To: Jack Noble
From: David J. Figuli
Re: House Bill 727 and the Veeder Case
February 27, 1981
Page Three

the voluntary action of the student body, it is in the nature of a gift, or grant, or donation to the institution of which the board is the trustee." The court explained that the Board of Education's authority for acceptance and utilization of those "gift" funds was limited by the provisions of Section 836 of the Revised Codes of 1921 which, at subsection 12, gives the State Board of Education the power and duty

[to] receive from the State Board of Land Commissioners, or other boards, or persons, or from the government of the United States, any and all funds, incomes, and other property to which any of said institutions may be entitled, and to use and appropriate the same for the specific purpose of the grant or donation, and none other; and to have general control of all receipts and disbursements of any of said institutions.

On the basis of that section, the court then said that the Board of Education could use or appropriate the fund created by the \$1.00 voluntary fee "for the purpose for which it was raised 'and none other.'" Therefore, it was on the basis of the fact that the \$1.00 fee was voluntary, i.e., a gift, that the court said that the Board was restricted in its use of the funds generated by the fee to those specified by the donors, i.e., the students.

It is clear that the fees addressed in House Bill No. 727 are by no means voluntary, or gifts from the students. They are exacted and collected under statutory authority of the Board of Regents. Therefore, the limitation on the use of student building fees identified in the Veeder decision is of no applicability to the fees addressed in the bill. Further, it was an express conclusion of the Supreme Court in Veeder that the Board of Education, the predecessor to the Board of Regents, did not need student approval in order to levy and collect building fees.

It is my opinion that the reliance placed by the sponsors of House Bill 727 on the Veeder case is completely unfounded.

DJF:blo

To: Jack Noble
From: David J. Figuli
Re: House Bill 727 and the Veeder Case
February 27, 1981
Page Two

I believe, the students voted in 1929 to contribute \$1.00 per quarter per student for the purpose of creating a special fund to be used as additional income to help repay the bonds on the student union building project.

The first issue raised in the case concerning the student building fees was raised in regard to the \$5.00 fee imposed by the Board of Education. The question raised was whether the Board of Education could charge such a fee without the consent of the student body. The court's answer to that question was as follows:

The express power to manage and control the business and finances of the institutions carries with it the implied power to do all things necessary and proper to the exercise of the general powers, which would include the exaction of fees, not prohibited, if fees are necessary to the conduct of the business of the institutions.

The court went on to explain that said fees ". . . require no vote of the student body for their exaction." The court continued with a statement that is very apropos to the present controversy. It said:

In the orderly conduct of the business of the institution the board cannot be embarrassed by requiring it to submit such a matter to a vote; nor, if this fee can be pledged for the repayment of the loan secured, can it be possible for the students in some future year to disrupt the plan by staging an election and voting against the payment of the fees.

Thus the conclusion of the court was that the levy of the \$5.00 students' union building fee was accomplished through the exercise of the Board's inherent authority to govern and manage the institution, and was not dependent upon the approval of the students.

The court separately dealt with an issue concerning the \$1.00 student building fee, the fee which was voluntarily contributed by a vote of the students. The court discussed the Board of Education's authority in accepting and using the funds generated by that student fee. The court explained that the fund created by the \$1.00 fee was inaugurated "by



COMMISSIONER OF HIGHER EDUCATION

February 27, 1980

Memorandum

To: Deputy Commissioner Jack Noble
From: David J. Figuli, Chief Legal Counsel
Re: House Bill 727 and the Veeder Case

You have requested that I examine the case of State ex rel. Veeder v. State Board of Education, 97 Mont. 121, 33 P2d. 516 (1934) to determine whether it has any applicability to the proposed change in law contained in House Bill No. 727. It is my understanding that the sponsor of House Bill 727 has represented that the proposed student approval of the use of student building fees is mandated or authorized by the Veeder decision.

My examination of the decision of the Montana Supreme Court in Veeder leaves me of the opinion that there is no basis for the assertions made by the Bill's sponsor. I can understand, however, how one could become confused in reading the decision and arrive at the erroneous conclusion that the case supports the propositions of the proponents of House Bill 727. For that reason I will review the pertinent facts and conclusions of the court in order to provide clarification.

In 1933 the legislature authorized the Board of Education to erect student union buildings and finance such projects in accordance with the National Industry Recovery Act. The Board of Education initiated the necessary procedures and entered into an agreement with the Federal Government to finance the construction of a students' union building at the State University by means of a loan of \$240,000 from the Federal Government, in the form of revenue bonds, and a grant from the Federal Government of \$60,000.

Amortization of this \$300,000 debt was to be made from revenues received from the operation of the building. In order to produce sufficient revenues the Board of Education exacted a \$5.00 per student per year student union building fee which was dedicated to the creation of a sinking fund for the retirement of the bonds at maturity; this building fee being in addition to rents and other income from the building which were also dedicated to repayment of the bonds. Additionally, and herein is where the confusion lies



THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH

HELENA, MONTANA 59620

(406) 449-3024

March 25, 1981

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COMMISSIONER OF HIGHER EDUCATION

TO: Chairman Senator Matt Hims1
& Members of the Senate Finance and Claims Committee

FROM: Cathie Nelson
University of Montana Student

SUBJECT: House Bill 727

After viewing the presentation of House Bill 727 in Committee, I can not silence my objections to this bill. As a senior at the University of Montana and having been actively involved in student government for the past two years, it's disturbing to think that five students can maintain they represent all students on this bill. Unfortunately most students do not know of and/or understand the ramifications of HB 727.

The University of Montana's student government is run by a select few. They perceive student government to be a 'big business' as well as a full-time job. The students who participate, namely 5, (who originated this bill) have been at the U of M and in student government for so long, that they have accepted an attitude of "us against them." I am very troubled by this. Primarily, the 5 students not even being full-time students stress that they are being suppressed by the administration, along with the Board of Regents. This is hardly the case. There are a number of ways in which students can appeal or oppose decisions of the administration, yet, in the situation which triggered this bill, these roads were not even considered.

As a U of M student, I believe it is necessary to stress another point. About 3 weeks ago, student body elections were held at the U of M with only 15% of the student population voting. This is about the average turnout per year. The students who have initiated this bill are not representing students, they are representing their own interests. If this was a major concern of the student body, why was there not more support for the student leaders? Also, if this is such a major concern why were so few students at the hearing?

Chairman Senator Matt Himsel
and Members of the Senate Finance and Claims Committee

Page two

March 25, 1981

In closing the student body president and vice president are responsible for appointing individuals to various committees. Last year, committees were not filled at all! The Vice President did not even monitor the committees to see what work was being done. In addition, ASUM controls approximately \$450,000 per year of student activity fees. The student's accounting system is such a disaster that no one knows where the money has gone. For these reasons, I do not believe the U of M student government should be given any additional authority when they cannot control what they already have. Student government has the potential for being effective. However, U of M student government has not indicated that it is effective. Therefore, I strongly oppose HB 727.

Respectfully submitted,

Cathleen L. Nelson

Cathleen L. Nelson
Senior, University of Montana
Past ASUM Central Board Member



STATE OF MONTANA
Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59601
406/449-2986

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~~JOHN D. LAVER~~
~~LEGISLATIVE FISCAL ANALYST~~

March 26, 1981

TO: Representative Ann Mary Dussault
House of Representatives

FROM: Curt M. Nichols *Curt Nichols*
Senior Fiscal Analyst

SUBJECT: University Building Fees

The units of the university system accumulate significant amounts of unrestricted fiscal resources in auxiliary and plant fund accounts. The legislature has not routinely reviewed the availability and use of these unrestricted fiscal resources. In the past we have recommended that the legislature carefully review specific commitments of these funds to assure conformity with applicable laws as well as appropriateness of expenditures. Commitments of these funds that have not been considered in the appropriation process include:

1. acquisition of residential property;
2. campus remodeling, maintenance and repair;
3. land purchases;
4. augmentation of long-range building projects authorized by the legislature; and
5. augmentation of operating budgets.

For example, the University of Montana bought residential property for academic use, purchased classroom furniture, renovated the instructional material centers, replaced campus elm trees, gave campus art awards,

committed funds for a computer and did general physical plant renovations without legislative review.

DORSEY, WINDHORST, HANNAFORD, WHITNEY & HALLADAY

2300 FIRST NATIONAL BANK BUILDING

MINNEAPOLIS, MINNESOTA 55402

1468 W-FIRST NATIONAL BANK BUILDING
ST. PAUL MINNESOTA 55101
(612) 227-8017

(612) 340-2600
CABLE: DOROW
TELEX: 29-0605
TELECOPIER: (612) 340-2868

115 THIRD STREET SOUTHWEST
ROCHESTER, MINNESOTA 55901
(507) 289-3156

WILLIAM A. JOHNSTONE

(612) 340-2815

March 13, 1981

Mr. Jack Noble
Montana Board of Higher
Education
33 South Last Chance Gulch
Helena, Montana 59601


Dear Mr. Noble :

You have asked us to review the form of H.B. No. 727,
as passed by the House of Representatives.

We believe the amendment to Section 20-25-302 still
contains ambiguities and limitations which could have an ad-
verse affect on the issuance of revenue bonds by the regents.
In line 11 the language "funds" should be "fees and the receipts
therefrom". In the same line it is not entirely clear whether
the exception for bonds relates only to bonds heretofore issued
by the regents or will also cover bonds to be issued by the
regents in the future. The term "bonds" is far narrower than
the terms ("bonds", "notes", or "securities") used in Section
20-25-402 to describe the type of obligations which may be issued
by the regents and to which fees may be pledged. Further,
Section 20-25-402 authorizes fees to be pledged to the payment
of the purchase price of a facility. It would seem that the
language describing obligations of the regents for which fees
may be pledged should be the same throughout Title 20, Chapter
25, Part 3, M.C.A.

In its present form the amendment to Section 20-25-402(4)
contains the same ambiguities and limitations as the amendment
to Section 20-25-302. Further, if the ambiguities and limita-
tions were corrected the amendment to Section 20-25-402(4)
would appear to be unnecessary since the only purpose of the
subsection is to authorize the pledging of rents, income
and fees.

Sincerely yours,


William A. Johnstone

UNIVERSITY OF MONTANA

DATE: March 25, 1981
TO: Mike Dahlem, Steve Carey
FROM: Max Weiss, ASUM
RE: Student Monies Amendment - H.B. 727

The proposed language, "building and activity fees shall be held and administered for students in accordance with express fiscal and accounting policies adopted by the Board of Regents upon and in consultation with the respective representative student governments," does not in any way change the relationship of the University System to the bondholders. That relationship is one of contract and cannot be altered or infringed upon. The amendment does not alter the amount of money collected or, the purposes for which it may be spent.

The amendment does provide for the existence of a written policy by which requests for expenditures are documented and reviewed and the amendment does provide for the maintenance of records of expenditures once made.

As the situation now exists, those who have attempted to review requests for expenditures or, records of complete transactions have met changed charts of accounts and other impediments to a clear account of any given transaction.

In my discussion with Boettcher & Co. in Denver and others with whom I discussed our proposal, uniformly agreed the existence of a clear accounting policy and maintenance of those records over time would be an asset when dealing with the University System and student monies.

More fundamentally, we are dealing here with public monies and anyone who argues that public monies should not be subject to the clearest public scrutiny should not have the trust of the public.

TESTIMONY TO SENATE FINANCE AND CLAIMS COMMITTEE

Mr. Chairman:

This testimony is presented in support of House Bill 727. As the representative from the district which contains the University of Montana, I can speak of the continuing difficulty the student government there has had in maintaining a reasonable degree of control over their building fees. I can also assure the committee that student government has been utterly responsible in its efforts to guarantee that these student fees are used for the best interest of students. Given the difficulties that have existed in this area, and given the students' track record of responsibility, I believe this bill is a workable solution to a pressing problem.

Opponents may argue that the bill infringes upon the constitutional autonomy of the Board of Regents. If you will examine the existing law which is here being amended, you will see a great variety of already existing statutory limitations on the Board's freedom of action in this area. The mild limitation of this bill is no different than existing limitations, and no less constitutional.

Thank you for considering this testimony.



Daniel Kemmis
State Representative
District 94

Chairman Senator Matt Hims1
and Members of the Senate Finance and Claims Committee

Page two

March 25, 1981

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Senior, University of Montana
Past ASUM Central Board Member



THE MONTANA UNIVERSITY SYSTEM

EXHIBIT A

33 SOUTH LAST CHANCE GULCH

HELENA, MONTANA 59620

(406) 449-3024

COMMISSIONER OF HIGHER EDUCATION

March 16, 1981

TO: Members of Finance & Claims

FROM: Jack Noble *JN*
Deputy Commissioner for
Management and Fiscal Affairs

SUBJECT: H. B. 727

Student Participation on the Committee Process
University of Montana

1. Building Fee Committee: Two students are appointed to the Committee, and one serves as Chairman; in addition, one faculty member and one administrator sit on the Committee. This Committee makes final recommendations to the President regarding the expenditure of all building fees.
2. Campus Development Committee: Three students are appointed to the Committee; five faculty and staff serve on the Committee with the three students along with several ex officio administrators such as the Academic and Fiscal Affairs Vice Presidents and the Director of Physical Plant. This Committee determines the priorities for the Long Range Building Program and any other campus development.
3. Search Committees: The Collective Bargaining Agreement provides that the students shall constitute 20 percent of the total membership of all search committees.
4. APRC: Three out of nine members were students; this Committee was responsible for recommending all the programs and faculty to be terminated under the re-trenchment process of several years ago.
5. Task Force on Security: Two out of the seven persons appointed to this task force which examines and determines campus policy at public events are students.
6. Curriculum and Academic Standards: Six out of seventeen members are students. This Committee makes all recommendations concerning academic standards, graduation requirements, new courses, revised departmental curriculum and other programmatic changes.
7. Graduate Council: Three out of thirteen members of this Committee are students. The Committee is responsible for reviewing all graduate programs, setting the academic standards of same and establishing graduation requirements.
8. Traffic Board: One student serves with two other members to hear all appeals for traffic fines, to set campus vehicular use standards and the fee structure for parking.



THE MONTANA UNIVERSITY SYSTEM

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& Members of the Senate Finance and Claims Committee

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Memo

TO: Members of Finance & Claims

FROM: Jack Noble

SUBJECT: H. B. 727

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9. Foreign Student Advisory: Out of a total membership of seven two students serve on this Committee. It is responsible for reviewing and recommending all policy related to foreign students.
10. Handicapped Accessibility: Two out of five members are students. This Committee is responsible for recommending all facility and other modifications necessary to accommodate the handicapped students.

JHN/llt