

EDUCATION SUBCOMMITTEE
JOINT SUBCOMMITTEE
ON EDUCATION APPROPRIATIONS
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 7, 1985

Tape 80 Side A

The meeting of the Education Subcommittee was called to order by Chairman Gene Donaldson at 7:05 A.M. on Thursday, March 7, 1985, in Room 104 of the State Capitol.

ROLL CALL: All members were present.

The purpose of the meeting was discussion of the Interest and Income Money and discussion and EXECUTIVE ACTION on the budgets of the University System, Agricultural Experiment Station, Cooperative Extension Service, Bureau of Mines, and Forestry Experiment Station.

Chairman Donaldson said he is sure that everyone is aware of the financial crunch that the state is in at this time. On Wednesday, February 27, there was an attempt by the staff to evaluate the state budget, and the bottom line is that there is a deficit of about \$55 million for the coming biennium. Obviously, the budget has to be balanced. There are a number of ways to do this including raising taxes, but first it is necessary to make a very critical evaluation of those items that have been put in the budget for the coming biennium. One approach being used (that is not popular with the Subcommittee members) is the suggestion that \$7.5 million be removed from the education portion of the budget (EXHIBITS 1 and 2).

Chairman Donaldson said the Education Subcommittee will have to be about \$6.5 million below current level in the various agency budgets, excluding the School Foundation Program. The major portion of the total education budget is the University System (as far as expenditures are concerned). Therefore, over the past three days, the Subcommittee has been looking at all of the budgets in which it is involved to see if it's possible to reach the goal of eliminating \$7.5 million, he said. He noted that the goal becomes more elusive every day.

The first issue discussed was the Interest and Income Money relative to the University System (80:A:065) (EXHIBITS 3 and 4).

Chairman Donaldson explained that during the last biennium the Finance Committee requested an Attorney General's

Education Subcommittee
Minutes
March 7, 1985

opinion as to whether or not the I and I money can be appropriated by the Legislature. That opinion was received, but it dealt primarily with those monies that were obligated. The un-obligated portion, \$670,000, was not dealt with specifically. During its deliberations the Subcommittee has said it will not appropriate that money and that it will be replaced with General Fund, and that the University System would be requested to provide a detailed accounting of how it plans to spend the money.

Chairman Donaldson said there are three options in regard to the I and I money. It can be appropriated and put into the unrestricted budget of the University System; the money can be ignored; or, the third option is what has been done up to this point, which is not appropriate it but insist that there be some accounting of it.

Chairman Donaldson said an attorney's opinion of the issue had been solicited. He read the final portion of that opinion to the Subcommittee:

"For the foregoing reasons I believe that a challenge to the appropriations of these University Land Grant Interest and Income monies could probably be met successfully, however because there is not a great deal of applicable law under the 1972 Constitution, and because some of the existing law is subject to more than one interpretation, it is impossible to draw a more definite conclusion."

Chairman Donaldson pointed out that not much more is known than was known in the beginning.

Leroy Schram (80:A:108), Chief Legal Counsel, Board of Regents, said there is one case on this exact issue. It began in Bozeman in 1901 when a warrant for \$1,500 was drawn against land grant income. It was for current expenses of the institution. The treasurer of the university refused to honor the warrant and said the money had not been appropriated by the Legislature. The Board of Education then went to court and tried to get an order of mandamus saying that the treasurer had to pay the monies. The court ruled that the money must be paid, and that the university could spend the money as it wished (Exhibit 4, page 69). Essentially, in this case the court said the land grant income was not to be treated as general revenue, and it does not need to be appropriated. Mr. Schram said this is the only case on point, and it's 84 years old. He said if the Regents ask him if they should challenge the authority to appropriate the land grant money, in his opinion the challenge would be successful.

Education Subcommittee
Minutes
March 7, 1985

Chairman Donaldson (80:A:192) said the issue is whether or not the universities have the authority to use the monies in the broad context of the statute; the issue is not whether the monies are pledged or unpledged. Mr. Schram said this is a good way of viewing the situation. Mr. Schram said the real question is not "do we have the power to pledge the I and I money?" The power to pledge only comes from the underlying power that is in the Constitution to control that money, and it's from that control that the power to pledge comes.

Discussion of the I and I issue continued between Mr. Schram, Jeff Morrison, Chairman, Board of Regents, Sib Clack, Office of the Budget and Program Planning, Pam Joehler, Legislative Fiscal Analyst's office, and members of the Subcommittee (80:A:250).

Chairman Donaldson asked Mr. Morrison if there is any problem with the University System's specifying what it will do with the I and I money. Mr. Morrison said he feels this is entirely appropriate. Ms. Clack noted that the Executive's position is that the land grant money should not be appropriated.

Senator Haffey (80:A:408) made a motion that the Subcommittee remain with its decision not to appropriate land grant income monies. The motion passed 6 - 1 with Representative Peck dissenting.

Chairman Donaldson called the Subcommittee's attention to the fact that General Fund cuts in current level as of March 6, 1985 amount to about \$1 million (in the education budget).

The University budget was discussed next (80:A:463) (EXHIBITS 5 and 6).

Chairman Donaldson said Ms. Joehler of the Legislative Fiscal Analyst's Office will supply information which will help to determine if there is legitimate vacancy savings that can be used for the University System. Jack Noble, Office of the Commissioner of Higher Education, said vacancy savings data has been requested from the campuses. He said Montana State University's vacancy savings is less than 2 percent, and the University of Montana and Eastern Montana College report about that same level of vacancy savings. Mr. Noble said additional documentation on this issue will be available later on.

Chairman Donaldson said in order to meet the requested \$7.5 million cut it will be necessary to remove about \$2 million per year from the University System budget. Based on the philosophy that tuition and fees are not

Education Subcommittee
Minutes
March 7, 1985

going to be used to offset General Fund, if \$2 million were removed from the budget, the University System would be at about 94 percent of the peer averages. Another option is to remain at current level, which is 97 percent and 95 percent.

Ms. Joehler discussed tuition revenues (EXHIBIT 7). In the current level budget the Subcommittee chose to set the tuition rate at 21 percent of the total budget. This caused some of the tuition money to be left over, and the Subcommittee chose to use that left over money to fund the modifieds. Ms. Joehler said she tried to compare the relative position of the tuition rates which could result in current level with the tuition rates that the Board of Regents have approved. She referred to Exhibit 4 and explained that because the expenditure side at current level is funded at 97 percent, the revenue should also be set at 97 percent of the peers. The Board of Regents said they will not lower the tuition rates, even if the Legislature does not use all the tuition revenue, she said. Ms. Joehler said the extra tuition revenue would then be budget amended.

Chairman Donaldson discussed Exhibit 7. This hand-out describes a means of reaching 97 percent funding in 1986 and 100 percent in 1987. He said if this route were chosen, all modifieds would probably be impossible, and it would be necessary to look for other ways to cut other portions of the University System's budget.

Tape 81 Side A

Chairman Donaldson reviewed the three choices which appear to be available as far as the University System budget is concerned. They are:

- (1) A reduction of \$7.5 million out of the six university units, which would amount to about \$2 million per year. This would put the System at about 94 percent of the peer group average.
- (2) Remain at 97 percent and 95 percent.
- (3) Go to 97 percent and 100 percent for tuition and expenditures. This would involve General Fund expenditures of about \$2 million over the biennium, in a budget of \$300 million.

If Option 3 were adopted, all modifieds would probably be impossible, Chairman Donaldson said.

Education Subcommittee
Minutes
March 7, 1985

Representative Moore (81:A:069) moved adoption of Option 3, which would fund the University System at 97 percent for both instruction and support in 1986 and 100 percent in both areas for 1987 and allow tuition rates of 97 percent and 100 percent respectively.

There was discussion of the motion.

Representative Francis Bardanouve, Chairman, Appropriations Committee, said as far as the budget is concerned, "something's gotta give." He said sooner or later the issue of substantial cuts must be faced, or the propaganda of no increases in any revenue anywhere must be put aside.

In response to a question from Representative Peck, Chairman Donaldson said he has no reluctance in regard to 100 percent tuition--if the University System is funded 100 percent. He is reluctant to fund at 94 percent and charge 100 percent tuition, he said. He said he favors Option 3 because it is an honest approach as far as the students are concerned, and because the increase is substantially less than that of most of the other budgets that have been before the Subcommittee.

Discussion of the motion continued between the Subcommittee members, Ms. Joehler, Mr. Noble and Mr. Morrison (81:A:130).

Chairman Donaldson said basically there is no savings in Option 3, and that's why he feels adoption of the modifieds would be virtually impossible if Option 3 is approved.

Discussion turned to the issue of vacancy savings for the University System.

The Subcommittee returned to discussion of the motion (81:A:225).

In response to a question from Senator Haffey, Ms. Joehler said prior to any action taken at this meeting, comparing the 1984-1985 biennium to 100 percent funding of everything along with the modifieds, the budget was increased by \$14.3 million, and \$8.5 million of that would be funded by tuition fees; the rest of it would come from General Fund.

Discussion returned to the vacancy savings issue (81:A:317).

Senator Haffey asked Mr. Noble if he had a feeling for how 1 percent vacancy savings would affect the various units of the University System. Mr. Noble said after taking a look at the original budgets for the first part of 1983 for personal services, and the expenditures in personal services for that same year, they found that

Education Subcommittee
Minutes
March 7, 1985

vacancy savings were negligible, and in one case negative. He said vacancy savings in the coming biennium would be vacancy savings in a declining market; if you take 4 percent off those declining enrollments with staff numbers also going down, it will be a much more difficult situation than in an increasing or stable situation. Chairman Donaldson said staff turnover will not be as great, and therefore there would be less opportunity for vacancy savings. Mr. Noble said this is correct.

Senator Haffey asked Mr. Morrison that if there is a choice between accepting some vacancy savings and eliminating most or all of the modifieds, what would the University System prefer (from two bad alternatives)? Mr. Morrison said the number one priority remains 100 percent funding of the formula, preferably for both years of the biennium, but 100 percent the second year will be an acceptable alternative. He said this is a reasonable objective both for the state and the University System, and this remains the number one priority. The vacancy savings issue, at least as far as instruction is concerned, is kind of a phony issue, he said. Rather than create a false savings, the problem should be faced straight on, Mr. Morrison said.

Discussion of the vacancy savings issue and of the motion continued between the Subcommittee members, Ms. Joehler, Mr. Morrison and Mr. Noble (81:A:426).

Mr. Morrison noted that it costs \$617,000 per year for each percentage change that is made in the instruction area, and it costs \$370,000 per year for each percentage change that is made in the support area. Ms. Joehler said if the system went to 100 percent instruction for both years and 97 percent for support for both years, instruction would cost \$2 million per year, and in the first year the \$1.3 million of tuition would be used and the cost to General Fund would be \$685,000.

Following a short break, Ms. Joehler distributed a hand-out (EXHIBIT 8), which shows the costs and percentages of going to 100 percent instruction for both years of the biennium and 97 percent support for both years. Chairman Donaldson said this approach would cost \$1 million more of General Fund money.

Tape 82 Side A

Senator Haffey said the motion presently before the Subcommittee would produce no savings. Representative Peck said the motion is really a re-statement of what has already been done, except that it does not address modifieds. Chairman Donaldson said it does not address the modifieds and it does not move to 100 percent funding of the formula

Education Subcommittee
Minutes
March 7, 1985

until the second year of the biennium. Representative Moore said that the motion does address some of the modifieds, in that it would enable the University System to reach 97 percent funding the first year and 100 percent the second year.

Representative Bardanouve asked if this motion will become part of the budget, or if it's a modified. Chairman Donaldson said in keeping with what was originally agreed, the portion that will be added in will basically be a modified, and will have to be identified for the Appropriations Committee as something beyond current level.

In response to a question from Representative Hand, Representative Moore said the motion represents a new package; it is a revision of what was done previously when the Subcommittee voted to move to 100 percent funding for both instruction and support for both years of the biennium. Senator Haffey noted that items 20 and 21 on the modified list will be reduced appropriately, in accordance with the motion (Exhibit 3).

Chairman Donaldson said there is a \$2 million difference between the 1985 biennium and the 1987 biennium, which represents a 1.3 percent biennium change. This increase is substantially less than virtually every other budget the Subcommittee has dealt with, he said. Representative Moore said the motion reflects the fairest way to treat the students because the Board of Regents raised tuition for them.

Representative Bardanouve asked if the modified is not accepted, what happens to the tuition fees? Chairman Donaldson said the fees are set by the Board of Regents; the appropriation is made by the Legislature. There's a question as to whether there may be a difference between the appropriation and the amount that the tuition will raise. If that point were reached, it would probably be necessary to sit down with the Board of Regents and try to resolve the problem, rather than end up in a controversy regarding budget amendments. Representative Moore added that the Subcommittee is trying to prevent any tuition fees being out in limbo.

The motion to fund the University System at 97 percent for both instruction and support in 1986 and 100 percent for both areas for 1987, and to allow tuition rates of 97 percent and 100 percent respectively, was voted on. There was a roll call vote, and the motion passed unanimously (82:A:102).

Education Subcommittee
Minutes
March 7, 1985

The modified recommendations for the University System were discussed next (82:A:110) (Exhibit 6).

Chairman Donaldson reminded the Subcommittee that the modifieds list would be handled as it has been in the past: if there is a motion, the modified recommendation will remain part of the modified budget, and if there is no motion, the recommendation will be dropped.

Representative Moore (82:A:128) moved that Items 20 and 21 of Exhibit 3, the recommendation that both instruction and support for the University System be moved to 100 percent of the funding formula for both years of the the 1987 biennium, be adjusted in accordance with the previous motion. The motion passed unanimously.

Senator Jacobson asked that the Subcommittee consider Item 28, which is for phase-down funds for Montana Tech. She said in the last biennium the University of Montana was in the same position that Tech is now, and she requested that this remain a part of the modifieds.

Senator Jacobson (82:A:144) moved that \$453,112 for phase-down funds for Montana Tech remain part of the modified budget.

There was discussion of the motion between the Subcommittee members, Dr. DeMoney, President, Montana Tech, and Dr. Turley, Montana Tech.

Representative Moore asked if the \$453,112 is the absolute minimum that would allow the school to make its phase-down, or could Tech get by with less money? Dr. DeMoney said \$453,112 represents the school's calculation for what it needs to do the job. Representative Peck said he will have to resist the motion because there is justification for other very important programs. He said he feels Tech knew that enrollment would be down for some time, and he thinks there has been adequate time for the school to make appropriate adjustments. He said it's time to bite the bullet and say no. Senator Jacobson said she hopes the Subcommittee will look favorably at this modified, and that it is vital to the school's wellbeing.

Following further discussion, the motion to approve the modified request for \$453,112 for Montana Tech passed 5 - 2 with Representative Donaldson and Representative Peck dissenting (82:A:249).

Item 24 on the modified list was discussed next--funding for Legal Education Development at the University of Montana.

Senator Haffey said a process was begun two years ago when it was recognized that the student/faculty ratio for the Law School was inappropriate. He said commitments were

Education Subcommittee
Minutes
March 7, 1981

made to reflect this and student fees went up accordingly. At least some commitment should be made at this time, he said, and he asked Dr. Bucklew, President, University of Montana, if the amount of \$25,000 per year would be helpful in at least heading in the right direction. Dr. Bucklew said it would definitely be helpful, and it says to the students that the Legislature is interested in keeping reform of the Law School moving.

Senator Haffey (82:A:310) moved that \$25,000 per year for Legal Education Development at the University of Montana be included as a modified request. The motion passed 4 - 3 with Representative Donaldson, Representative Peck and Senator Hammond voting against the motion.

Item 27 of the modified list was discussed next. This is a recommendation for funding for the Rural Education Center at Western Montana College (82:A:329).

Representative Hand said the program has received national recognition, and there should be some support for it.

Representative Hand (82:A:337) made a motion that \$29,000 for FY 86 and \$31,000 for FY 87 be included as a modified for the Rural Education Center at Western Montana College. The motion passed 4 - 3 with Representative Donaldson, Representative Peck and Representative Moore voting against the motion.

There was brief discussion of Item 25, which is for extension of the Handicapped Children's program at Eastern Montana College from 10 months to 12 months (82:A:381). There was no motion.

Chairman Donaldson commented that the Subcommittee has saved some money over the last three days, but it's coming very slowly. Representative Hand said so far in today's meeting no money has been saved, but money has been spent.

Following a short break, the Subcommittee discussed the Agricultural Experiment Station (AES) (82:A:460).

There is one modified recommendation for AES, which is for \$376,000 for FY 86 and \$294,000 for FY 87 for equipment. There was brief discussion of the recommendation and no motion (82:A:494).

The Soft Spot List, relative to AES, was discussed next (Exhibit 5).

The vacancy savings issue was discussed by the Subcommittee members and Mr. Sykes.

Representative Hand (82:A:531) moved adoption of Option A (Exhibit 2), which would apply 4 percent vacancy savings to faculty and graduate research assistants at AES.

Education Subcommittee
Minutes
March 7, 1985

Representative Moore (82:A:535) offered a substitute motion that Option B be adopted, which would apply 2 percent vacancy savings to faculty and graduate research assistants at AES.

Following further discussion, Representative Peck (82:A:569) moved that the motions be tabled until additional vacancy savings information is available. The motion passed unanimously.

There was discussion of the soft spot called "Terminating Projects" (82:A:583).

Representative Hand (82:A:596) moved Item 2 (Exhibit 5) which would remove \$34,932 in FY 86 and \$1,726,876 in FY 87 from the budget of AES.

There was discussion of the motion between members of the Subcommittee and Dr. Welsh, Director, AES.

NOTE: There will be no further tape references due to failure of tape recorder.

The motion to eliminate \$34,932 in FY 86 and \$1,726,876 in FY 87 from the budget of AES failed 1 - 5.

Representative Hand moved adoption of Item 3, which would eliminate funding for 2.59 FTE previously employed on the dairy research project at AES, in the amounts of \$105,523 for FY 86 and \$107,660 for FY 87.

There was discussion of the motion.

Chairman Donaldson noted that it would not be wise to take this money out of the budget, and said if all the money is removed from the dairy research project all at once, AES will not be able to make the necessary and appropriate changes.

The motion to remove \$105,523 and \$107,660 from the AES budget failed 1 - 5.

Representative Hand moved adoption of Item 4, option a, which would freeze equipment expenditures at the fiscal 1984 level of \$246,143 at AES.

There was discussion of the motion and of other options which are available between the Subcommittee members and Mr. Sykes (Exhibit 5).

The motion to freeze equipment expenditures at AES at the fiscal 1984 level of \$246,143 failed 3 - 4.

Education Subcommittee
Minutes
March 7, 1985

Representative Hand moved adoption of Item 4, option b, which would apply 2 percent vacancy savings to faculty positions at AES.

There was discussion of the motion.

Representative Moore said the money involved here would be a slight savings, and since the equipment modification money was already denied, he will oppose the motion.

The motion to apply 2 percent vacancy savings to faculty positions at AES failed 3 - 4.

Representative Moore introduced a proposal (EXHIBIT 9). He said in order to tighten up the budget, a close look was taken at the Huntley and Conrad research centers. He said if these two stations were closed, there would be a biennial savings of \$1,417,753.

Representative Moore made a motion that the Huntley and Conrad research centers be closed.

There was discussion of the motion.

Chairman Donaldson said fewer stations doing intensified research might be more efficient.

Dr. Welsh said the Conrad Station was authorized three biennia ago, and the Huntley Station is the second oldest research station in the state. The Conrad Station does dry land cropping research. It also does research on minimum till areas and utilization of fertilizers and weed control. The station does research which is relative to that particular area of the state. The Huntley Station does research on crop irrigation, sugar beets and livestock. Feedlots were recently transferred from Bozeman to the Huntley Station. The station also researches different kinds of cropping practices and alternative crops, he said.

Representative Peck said he was unhappy about the introduction of a major proposal of this type, and that the Subcommittee members should be given advance information when a proposal of such magnitude is going to be introduced. Chairman Donaldson said the proposal was put together quickly and that no decisions would be made at this meeting.

Representative Moore said he feels the remaining stations would be able to pick up the slack caused by the closing of the Huntley and Conrad stations. He said these are tough times for agriculture. Representative Peck said he feels discussion of the proposal should be heard and the motion should be tabled.

Education Subcommittee
Minutes
March 7, 1985

Dr. Welsh said each research center is unique. He said elimination of the Huntley Station would mean there would be no study of the problems of irrigation in the Yellowstone Valley. A reduction such as the one proposed would seriously hamper AES's ability to get research done, and then to get that data out to the people who really need it. The Conrad Station was specifically put where it is because of the research that needs to be done in that area, he said.

Dr. Tietz, President, Montana State University, said before such a step as closing two research centers is taken, there would have to be public hearings relative to the closures. He said he has never heard before of orders being given to close specific facilities.

Chairman Donaldson said this was a hearing only on the matter, and that no decisions would be made.

Leo Bratsky, farmer from Bridger, said the geographical location of the Huntley Station is important because it is the only area in the state that researches irrigated crops. He said if the center were closed, farmers and ranchers in the area would have to travel 300 miles to the research centers in Sidney or Havre, and that closing of the center would be disastrous to the area. The people in the area are pleased with the station's work, and the Advisory Council is proud of the station, he said.

Roy Gabel, farmer, Chairman, Huntley Advisory Council, said he opposes even thinking of closing the station, which offers the only irrigation research in the state.

Paul Kronebusch, farmer from Conrad, Chairman, Conrad Advisory Council, said agricultural research is vital. The Conrad Station was established specifically because of its location.

Arnold Gettle, President, Conrad Advisory Council, said the center does a great deal of outside research on farms. The station is well run and yields a great deal of valuable information.

Senator Esther Bengston, District 49, who lives in the Yellowstone Valley, said this is an incredible proposition. Whole programs should not be destroyed, she said. The Conrad Station is a bright spot in her district and is doing a tremendous job. Such a hatchet approach should not be taken, she said.

Education Subcommittee
Minutes
March 7, 1985

Walt Fillmore, Florence, cattle rancher and member of CARE, said if agriculture is going to survive in the state, more research is needed. In the long run, this information will make money for the state, he said.

Mr. Farson, Choteau, member of the Advisory Staff Council, said research activity on winter wheat at the Conrad Station revealed the fact that there is a better variety for use in that area. Without that research, he would still be using the old variety. He said discoveries of this kind should be attributed to the center's off-station testing.

Rick Rominger, farmer from Choteau County, said he is shocked at the proposal to close the Conrad Station. He depends on the station for information on fertilizer efficiency.

Senator Hammond said he is as shocked by the proposal as everyone else. He asked why it is a good idea to take a hatchet to these research stations which serve specific local needs. He said Conrad and Huntley are especially vital because of where they are located. Representative Moore said he realizes this is a delicate situation, however somewhere within the budget money has to be trimmed. He asked if anyone could suggest alternatives to this proposal.

Harry Mitchell, Great Falls, representing the Montana Dairy Association, said if you ask people if they want tax increases, they will always say no. However, many are beginning to recognize the situation the state is now in, and they realize that additional revenue has to come from somewhere. You can only cut the fat so far--and then you hit muscle, he said. If a logical tax package is presented to the people, they will support it, Mr. Mitchell said.

Pat Iman, Victor, said Montana has a money tree that grows out of the resources of the state. It produces a living for us all and helps pay for education, SRS, etc. The tree is tended by the people of the state and fertilized regularly by knowledge. If the money tree is destroyed, nothing can be funded. She said taxes must be raised or services cut lest the tree be killed.

Chairman Donaldson said it has become increasingly difficult to get funds for AES. He said part of the problem is that the productive society is not producing too well, and agriculture has not done a good public relations job.

Education Subcommittee
Minutes
March 7, 1985

Representative Peck moved that the motion to close the Conrad and Huntley stations be tabled. The motion passed 5 - 0.

The Subcommittee next considered the budget of the Cooperative Extension Service (CES).

The modifieds list was looked at first (Exhibit 6). There was no motion on Item 3, which is funding for a Business Development Specialist for CES. There was also no motion on Item 4, which is funding for an extension forester (for nine months).

Turning to the Soft Spots list (Exhibit 5), vacancy savings was discussed, and Representative Hand suggested that this issue be taken up at a later date.

The issue of the Pesticide Specialist was discussed (Item 4, option 2).

Dr. Carl Hoffman, Director, CES, said in 1971 Congress passed an act which specified that handlers of pesticide must be trained to a specific level. The state passed a similar act in the same year. Initially, this program was federally funded, but now that funding has diminished. There are over 8,000 private applicators in the state who must be certified, he said.

Ms. Clack noted that the Executive budget recommends funding of the pesticides specialist.

Representative Hand moved that funding for the pesticides specialist be deleted from the budget. The motion passed 4 - 1 with Representative Moore dissenting.

A discussion of AGNET funding followed.

Dr. Hoffman pointed out that this funding is really for a microcomputer specialist.

Representative Hand made a motion that AGNET funding of \$61,372 for FY 86 and \$63,984 for FY 87 be removed from the budget. The motion failed 3 - 3.

A discussion of the budget of the Bureau of Mines followed.

In regard to the modified recommendation for funding of earthquake studies and fault mapping, Dr. Henry McLernan Acting Director of the Bureau of Mines, stated that \$51,000 per year would support the program adequately at this time.

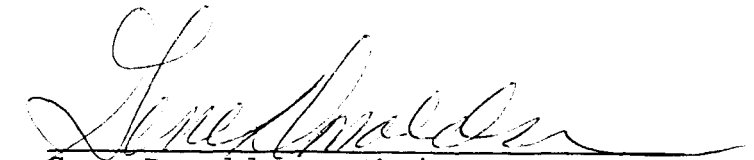
Education Subcommittee
Minutes
March 7, 1985

Representative Hand moved that the modified recommendation of \$51,000 per year for fault mapping be included in the budget of the Bureau of Mines. The motion passed 3 - 2.

The Forestry Experiment Station's budget was discussed.

There was a brief discussion of the modified recommendation of funding to support one scientist, two graduate assistants and one computer programmer. Dr. Stout, Director, Forestry Experiment Station, discussed the request and explained that it was needed to do stepped-up forestry research. There was no motion on the request.

ADJOURN: The meeting adjourned at 10:50 A.M.


Gene Donaldson, Chairman

DAILY ROLL CALL

EDUCATION SUB COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 7, 1985

[illegible]

VISITOR'S REGISTER

HOUSE _____

COMMITTEE _____

BILL _____

DATE March 7, 1985

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Pat Underwood	Bozeman, MT.	AS ORIGINALLY PROPOSED MT. FARM BUREAU	X	
Dwain E. Dayton	Helena	Commissioner of Higher Education		
BB Stout	Missoula	MFCEs	X	
Neil Bucklew	Missoula	U of M		
Ken Harker	Billings	EMC	✓	
Bryce H. Carpenter	Billings	EMC	✓	
Tom Erickson	Haare	NMC	✓	
Bill Bryan	Haare	NMC	✓	
Harvey Hoffman	Helena	Self	✓	
Donald Bittel	Gower	Experiment Stations	✓	
Dr. R. H. Schram	Helena	Mt. Univ. System	✓	
Judson H. Flower	Missoula City	Missoula Community College	✓	
Rick Rominger	Flowerree	Farmer	✓	
JOHN PATTERSON	CUSTER, MONT	HO 97 KEEP EXPERIMENTATION	OPERATING	
Bob Williams	Hobson	SD 15	" "	
W H Dunham	Helena	Montana Land Reliance	X	
Ed C. Jensen	Choteau, M/T	Farmer	X	
Ed Brunner	Helena	Grange - Cattlemen & Union - Cattlemen	Extension Experiment	
Pat Inman	Victor	Ranch - Diversified	Extension Experiment	
Madison McHowan	Highwood	Care Program	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE Education Sub COMMITTEE

BILL _____

DATE March 7, 1985

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Malvin Merja	Jun River, Mont.	Farmers	X	
HARRY Johnson	Kranley, MT	Expanding Stations	X	
James Welsh	Bozeman	Ag Exp. Station	X	
Henry J. Sutton	Bozeman	Ag Exp Station	X	
Carl Hoffman	Bozeman	Coop. Extension Service	X	
Clayton Carroll	✓	✓	X	
Roy Habel	Huntley	Chairman Huntley Farmer Advisor	X	
Geo. C. Bratsky	Bridger Mt.	Farmer (delegate advisory)	X	
Lloyd Schmitt	Stanford	Exp Station Extension	X	
Glen Leavitt	Dillon	Western Mont Col	X	
Ralph Koon	Dillon	Western Mont College	X	
Vic Burt	Butte	MT. Tech.	X	
Roy H. Turley	Butte	MT Tech	X	
Ed BINGLER	Butte	MT TECH	X	
Fred W. De Money	Butte	MT. TECH	X	
Jeff Morrison			X	
Jack Noble	Helena	Mont. Univ. Sys.	X	
Al Kunkin	Helena	Alternative Energy Resources	X exp. 5/15 ext. recomm	
Jack L. man	Victor	Ranchers	Ext Research	
Wes. Wilson	Missoula	Union	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE Education Sub COMMITTEE

BILL _____

DATE March 7, 1985

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Paul K. Krontz	CONRAD	KAA MRM CONRAD MARS BOLLING	✓	
John Phillips	Conrad	Farmer	✓	
Walt Fillmore	Florence,	MSU Co. CARE Committee Cattle rancher	✓	
Tom Nopper	Bozeman	MSU	✓	
Bell Tietz	Bozeman	MSU	✓	
Sen. Eddie Langston	Shelby	SD 49		
Rep. Ray Burlingame	Bigfork	HD 49		
Rep. E. Sloan	Lockwood	HD 98		
Mary Teyon	Helena	MSU Cattle Graz. Pstr H. Stock raisers, Woodrowns	X	
MONTAINE JOHN	BILLINGS	HD 96		
Richard Wacker	Montana College Coalition	MSU	X	
Michelle E. Wing	Bozeman	Assoc. Students MSU	X	
Monte Koch	Helena	AFUM	X	
Bruce Slatford	Helena	ASMSU	X	
Mark Blewett	Helena	ASUM		
Harry Mitchell	GTF	MDA (Dairyman)	X	
Kati Williams	Hobson	observer		
Jan Huls	CORVALLIS	MDA	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

3-7-85

General Fund Status on Subcommittee action
as of 3/6/85.

Prepared By	Initials	Date
Approved By		

		1	2	3	4	5	6
		General Fund in Current Level		Cuts Current	in Level		
Agency		'86	'87	'86	'87		
1							
2	Board of Pub. Ed.	\$103158	\$102498	\$-0-	\$-0-		
3	Super. of Pub. Inst.						
4	Operating	2336517	2344880	(45000)	(45000)		
5	Special Ed.	2854442	29380218	-0-	-0-		
6	School Lunch	640000	655000	-0-	-0-		
7	Transport.	6175000	6295000	-0-	-0-		
8	G + T	100000	100000	(100000)	(100000)		
9	Second Vo-Ed	750000	750000	(750000)	(750000)		
10	Vo-Techs	4329573	4152043	-0-	-0-		
11	MSDB	2707945	2761130	(86945)	(86946)		
12	CHIZ	2903767	2700688	(30500)	(97000)		
13	Board of Regents	24622	25263	-0-	-0-		
14	Fire Services	231230	232999	-0-	-0-		
15							
16	Total as of 3/6	46846304	49490719	(1012445)	(1078946)		
17							
18	Approved Modifications						
19							
20	Commissioner			\$16137	\$16137		
21	OPI			114881	77065		
22	Board of Public Ed.			4625	2125		
23	School for Deaf + Blind			70264	70288		
24	Fire Services			8660	8663		
25	Vo-Techs			376990	371853		
26							
27	Total			\$591557	\$546131		
28							
29	Net Cuts Subtracting Modts.			(420888)	(532815)		
30	3% of Current Level (Goal)			1465389	1484992		
31							
32	Total under 3%			\$1044501	\$952177		
33							
34							
35							
36							
37							
38							
39							
40							
41							

SUBCOM ACTION THROUGH 3-5-85 - ENTIRE MUS - CURRENT LEVEL ONLY

EXPENDITURES	--FY86--	--FY87--	--87B--
BoR	\$24,622	\$25,263	\$49,885
CHE	\$10,103,290	\$10,169,421	\$20,272,711
AES	\$9,437,202	\$9,566,362	\$19,003,564
CES	\$4,274,116	\$4,302,883	\$8,576,999
FCES	\$686,640	\$691,446	\$1,378,086
BM&G	\$1,507,128	\$1,530,968	\$3,038,096
Subtotal	\$26,032,998	\$26,286,343	\$52,319,341
Subtotal - BoRCHE	\$15,905,086	\$16,091,659	\$31,996,745
SIX MAJOR UNITS	\$114,063,412	\$115,160,103	\$229,223,515
GRAND TOTAL	\$140,096,410	\$141,446,446	\$281,542,856
GRAND TOTAL - BoRCHE	\$129,968,498	\$131,251,762	\$261,220,260

GENERAL FUND AND MILLAGE:

--General Fund--			
BoR	\$24,622	\$25,263	\$49,885
CHE	\$6,173,229	\$5,917,457	\$12,090,686
AES	\$6,220,888	\$6,233,623	\$12,454,511
CES	\$2,297,894	\$2,269,361	\$4,567,255
FCES	\$686,640	\$691,446	\$1,378,086
BM&G	\$1,454,128	\$1,477,968	\$2,932,096
Subtotal	\$16,857,401	\$16,615,118	\$33,472,519
SIX MAJOR UNITS	\$73,836,575	\$74,559,035	\$148,395,610
GRAND TOTAL	\$90,693,976	\$91,174,153	\$181,868,129
GRAND TOTAL - BoRCHE	\$84,496,125	\$85,231,433	\$169,727,558

--Millage--	\$14,019,000	\$14,151,000	\$28,170,000
TOTAL \$100AE TRANSFER (excludes BoRCHE)	\$98,515,125	\$99,382,433	\$197,897,558

SUBCOM ACTION THROUGH 3-5-85 - ENTIRE MUS - MODS ONLY - ALL GF

EXPENDITURES	--FY86--	--FY87--	--87B--
BoR	\$0	\$0	\$0
CHE	\$16,137	\$16,137	\$32,274
AES	\$376,881	\$294,767	\$671,648
CES	\$23,000	\$75,114	\$98,114
FCES	\$106,377	\$79,026	\$185,403
BM&G	\$256,300	\$44,300	\$300,600
Subtotal	\$778,695	\$509,344	\$1,288,039
SIX MAJOR UNITS	\$2,533,552	\$1,378,231	\$3,911,783
GRAND TOTAL	\$3,312,247	\$1,887,575	\$5,199,822

SUBCOM ACTION THROUGH 3-5-85 - ENTIRE MUS - CL AND MODS - GF ONLY

EXPENDITURES	--FY86--	--FY87--	--87B--
BoR	\$24,622	\$25,263	\$49,885
CHE	\$6,189,366	\$5,933,594	\$12,122,960
AES	\$6,597,769	\$6,528,390	\$13,126,159
CES	\$2,320,894	\$2,344,475	\$4,665,369
FCES	\$793,017	\$770,472	\$1,563,489
BM&G	\$1,710,428	\$1,522,268	\$3,232,696
Subtotal	\$17,636,096	\$17,124,462	\$34,760,558
SIX MAJOR UNITS	\$76,370,127	\$75,937,266	\$152,307,393
GRAND TOTAL	\$94,006,223	\$93,061,728	\$187,067,951

SUMMARY: SUBCOMMITTEE OVER EXEC. BUDGET (MINUS 2%)

General Fund Only	--FY86--	--FY87--	--87B--
CURRENT LEVEL	(\$306,435)	\$2,451,163	\$1,644,728
MODS	\$3,719,231	\$1,177,482	\$4,896,713
TOTAL	\$2,912,796	\$3,628,645	\$6,541,441

STATE
OF
MONTANA
**ATTORNEY GENERAL
MIKE GREELY**
JUSTICE BUILDING, 215 N. SANDERS, HELENA, MONTANA 59620
TELEPHONE (406) 444 2026

RECEIVED

SEP 18 1984

EXHIBIT 3
3-7-85

LEGISLATIVE
FISCAL ANALYST

APPROPRIATIONS - Funds pledged as security for
university revenue bond obligations;

BOARD OF REGENTS - Authority over funds pledged as
security for university revenue bond obligations;

MONTANA CODE ANNOTATED - Sections 20-25-301, 20-25-302,
20-25-401, 20-25-402, 20-25-403;

MONTANA CONSTITUTION - Article II, section 31; article
X, section 9(2)(a) and (d).

HELD: The Legislature may not appropriate, by bill,
revenue generated from sources pledged to
cover university system revenue bond
requirements, when the revenue obtained from
these sources exceeds the bond requirements.

18 September 1984

Judy Rippingale
Legislative Fiscal Analyst
State Capitol
Helena MT 59620

Dear Ms. Rippingale:

You have asked my opinion on the following questions:

1. May the Legislature appropriate, by bill,
revenue generated from sources pledged to
cover university system revenue bond
requirements, when the revenue generated
from these sources exceeds the bond
requirements?
2. If so, must the "excess revenue" be
appropriated for a particular purpose?

For reasons I have outlined below, I conclude that the Legislature does not have the authority to make such appropriations; consequently I do not find it necessary to reach your second question.

The Board of Regents (frequently referred to hereinafter as "the Regents") is given specific statutory authority to issue bonds. § 20-25-402(3), MCA. Debts created by these bonds are not charged against the State as general obligations. § 20-25-403, MCA. The Board of Regents may pledge various sources of university system income (rather than tax revenues) as security for the bonds it issues. Pursuant to section 20-25-402(4), MCA, the Board may:

(4) pledge for the payment of the...principal and interest on bonds, notes, or other securities authorized in this chapter or otherwise obligate:

(a) the net income received from rents, board, or both in housing, food service, and other facilities;

(b) receipts from student building, activity, union, and other special fees prescribed by the regents for all students; and

(c) other income in the form of gifts, bequests, contributions, federal grants of funds, including the proceeds or income from grants of lands or other real or personal property; receipts from athletic and other contests, exhibitions, and performances; and collections of admissions and other charges for the use of facilities, including all use by other persons, firms, and corporations for athletic and other contests, exhibitions, and performances and for the conduct of their business, educational, or governmental functions;

....

10705 x
Your question concerns whether the State Legislature may appropriate some or all of the funds from these pledged sources whenever the income generated from them exceeds the bond obligations such as payment of principal and income. Since your request concerns the effect of future and therefore hypothetical legislative action, this opinion is advisory in nature.

The Board of Regents is given broad authority to manage the university system's sources of revenue. Section 20-25-301(9), MCA, gives the Regents "general control of all receipts and disbursements of the system." Section 20-25-302, MCA, expressly grants the Regents the power to purchase, construct, equip, or improve land, buildings, and other facilities and to devote the revenues from the operation of these facilities, including any fees collected therefrom, to debt service and reserves, "so far as such revenues have not been previously obligated for the purposes." § 20-25-302(3), MCA. Section 20-25-401, MCA, authorizes the Regents to establish and collect student building fees and pledge the receipts to various uses such as the acquisition and construction of recreation facilities, or for principal and interest payable on revenue bonds issued to finance such facilities. Finally, the Regents are authorized by law to use bond revenues to refund or retire outstanding bonds. § 20-25-402(7), MCA. For these purposes the statute specifically permits the Regents to use:

revenues or other funds on hand, in excess of the amount pledged by resolutions or indentures authorizing outstanding bonds.... Revenues and other funds on hand, including reserves pledged for the payment and security of outstanding revenue bonds, may be... invested and disbursed as provided in subsection 7(c) hereof to the extent consistent with the resolutions or indentures authorizing such outstanding bonds.

§ 20-25-402(7)(d), MCA.

The terms of the bonds are also instructive. The indenture provisions which you attached to your opinion request include language concerning how the funds in the various bond reserve accounts may be used. For example, section 5.04 of a 1965 Eastern Montana College indenture calls for the creation of a "Revenue Fund" for the purpose of covering current expenses associated with the bond project. The balance of the Revenue Fund must be used to complete the deposit in the "Revenue Bond Fund" and to restore any deficiencies therein. "[T]he Regents may use any remaining balance in the Revenue Fund not needed for current expenses and payable" to redeem outstanding bonds, acquire or improve facilities, or "for any other purpose for which the funds pertaining to the College may lawfully be expended." Section 4.03 of

a 1971 Montana State University indenture provides for revenue derived from the bond project to be deposited in a "Bond Account" to be used for payment of principal and interest. Excess funds are placed in a "Reserve Account," the use of which is within the Regents' discretion. Pursuant to section 4.04, the "Reserve Account" funds are also to be used to make up any deficiencies that may arise in the "Bond Account."

I have cited the aforementioned statutory and indenture provisions in order to emphasize the broad legal responsibility given to the Board of Regents with respect to the use of the university system's income, as well as the Regents' contractual obligations, which may not be impaired by state law. Mont. Const. art. II, § 31. Were the Legislature to appropriate those funds from pledged sources that are "in excess" of the amount necessary to cover bond requirements (assuming it would be possible to determine this amount), the practical effect would be to eliminate the Regents' authority to use pledged revenue in the variety of ways set forth in the law. The options given the Regents in expending pledged revenues, e.g., to redeem revenue bonds, or to improve university facilities, would be meaningless if the funds to be used were always unavailable because they had been appropriated by the Legislature.

Moreover, the terms of the bonds which require that certain amounts of funds be maintained in reserve accounts contemplate that a minimum of funds be kept in reserve. It is entirely possible that responsible fiscal management would necessitate an increased reserve at some future time. If the Regents are foreclosed this option because the "excess" pledged revenue is appropriated by the Legislature for other purposes, then the actions of the Legislature would prevent the Regents from exercising duties which the Legislature has imposed upon them by statute. The possible need for an increased reserve also suggests that it may never be possible to precisely calculate the amount of any "excess" pledged funds.

Additional support for my conclusion is found in the case law. The Board of Regents' powers over the financial affairs of the university system were addressed in Board of Regents of Higher Education v. Judge, 168 Mont. 433 at 446, 543 P.2d 1323 at 1331, 1334 (1975), wherein the Court emphasized that the Legislature's power to appropriate does not extend to

private funds received by state government which are restricted by law, trust agreement or contract. Since these types of funds may be pledged by the Regents as security for revenue bonds pursuant to section 20-25-402(4), MCA, the above-cited portion of the Court's opinion in Board of Regents is relevant to your question. So also is the decision in State ex rel. Veeder v. State Board of Education, 97 Mont. 121 at 133, 33 P.2d 516 at 521-22 (1934), in which the Court, interpreting statutes currently in effect, found that the Regents' predecessor, the State Board of Education, had express power to manage and control the business and finances of the university system and had implied power to do all things necessary and proper to the exercise of those general powers. See § 20-25-301(8) and (9), MCA. See also State ex rel. Blume v. State Board of Education, 97 Mont. 371 at 378-79, 34 P.2d 515 at 518-19 (1934) (the State Board of Education was vested with exclusive power to receive and control the funds derived from land grants). At the heart of the Court's decisions are the provisions of the 1972 Montana Constitution and its 1889 predecessor, concerning the Board of Regents' general control over the university system. Article X, section 9(2)(a) and (d), of the 1972 Constitution provides:

(2)(a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

....

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

In summary, the statutes and the terms of the bonds themselves give the Board of Regents control over the use of the sources of income that are pledged as security for university system revenue bonds, regardless of whether the income "exceeds" the bond obligations. Appropriation of these funds by the Legislature would contravene the legal authority to control the funds that is vested in the Board of Regents.

Judy Rippingale
Page 6
18 September 1984

THEREFORE, IT IS MY OPINION:

The Legislature may not appropriate, by bill, revenue generated from sources pledged to cover university system revenue bond requirements, when the revenue operated from these sources exceeds the bond requirements.

Very truly yours,



MIKE GREELY
Attorney General

STATE EX REL. KOCH, RELATOR, v. BARRETT, STATE
TREASURER, RESPONDENT.

(No. 1,704.)

(Submitted July 20, 1901. Decided August 1, 1901.)

(Opinion filed November 4, 1901.)

*Grant of Lands by United States for the Use and Benefit of
State Agricultural Colleges—Appropriation by State—In-
come as Trust Funds—Income from Leases.*

1. Act of Congress, February 22, 1890, granted to the state, subject to Act of Congress July 2, 1892, certain lands for the use of agricultural colleges. Act of Congress July 2, 1892, provided that lands so granted should be sold, and the proceeds invested as a perpetual fund, the interest to be appropriated to the support of at least one college in such manner as the legislature might prescribe. Constitution, Art. XVII, Sec. 2, providing for the temporary leasing of such lands until they should be sold, and Article XI, Sec. 4, authorizing such sale. Article XI, Sec. 12, devoted the interest on leased lands from sales and profits from leased lands to the maintenance of the institutions to which the lands belonged. Political Code, Secs. 3470-3519, 3500-3505, authorized the leasing of leased lands by the land commission; 7d. Sec. 3470, declaring that the board of education might receive all funds and income to which any of the state educational institutions may be entitled to be used for the specific purpose of the grant. Section 1513 provided that the state treasurer should be the treasurer of this board. Section 1625 gave the immediate control of the State Agricultural College to an executive board, the treasurer of which should give bond to the state board of education. *Held*, that the legislature had not failed to prescribe how the income from the grant should be appropriated to the support of the agricultural college, and it was the duty of the state treasurer to pay the warrants drawn by the executive board on the income in his possession.
2. The funds and income derived from the grant were trust funds, to be disbursed through the agency of the state, and were not subject to Constitution Art. VII, Sec. 20, providing that claims against the state other than for the salary or compensation of a public officer should be audited and allowed by the state board of examiners, and paid only on the warrant of the state auditor.
3. The income from the lease of the lands granted was available for the use and support of the agricultural college; it not being a condition precedent to its right inure to the land should be sold, and the proceeds invested so as to provide an income from interest thereon.

APPLICATION for writ of *mandamus* by the state, on the relation of Peter Koch, as treasurer of the executive board of the

State Agricultural College, against A. H. Barrett, state treasurer. An alternative writ was issued, and defendant moved to quash the writ and to dismiss the petition. Writ granted.

Messrs. Hartman & Hartman, for Relator.

Mr. James Donovan, Attorney General, for Respondent.

MR. CHIEF JUSTICE BLANTLY delivered the opinion of the court.

The relator herein applied to this court on July 24, 1901, for a writ of *mandamus* to compel the defendant, as the state treasurer, to pay a certain warrant drawn upon him by the vice president and secretary of the executive board of the State Agricultural College, and in favor of the relator as the treasurer of said board, for funds with which to pay a balance of \$1,500 of the current expenses of the institution for the schoolistic year ending June 30, 1901.

The relator alleged in his application that the funds in the hands of the defendant had been derived from rents of lands leased by the state land commission belonging to the grant of lands made by the United States government in aid of the agricultural colleges; that they were, therefore, properly applicable to the payment of the warrant in question; that the account for which the warrant had been drawn had been approved and ordered paid by the state board of education, but that the defendant wrongfully refused to pay the same, in violation of his legal duty in the premises. An alternative writ was issued, requiring the defendant to pay the warrant, or to show cause on July 29, 1901, why he had not done so. The attorney general appeared in his behalf, and interposed a motion to quash the writ, and dismiss the proceeding, on several grounds, two of which he urged as conclusive against the issuance of the writ, namely: "That the legislature of the state of Montana has not appropriated the sum demanded, or any part thereof, to the maintenance of said agricultural college of the state of

Montana," and "that there is no law authorizing the payment to the holder of moneys derived from the leasing of lands donated to the state of Montana for the use and support of said agricultural college." The questions thus raised were then submitted for final decision, the attorney general conceding that, if they should be decided adversely to his contention, the writ should issue as prayed. After consideration, the court concluded that the contention made by the attorney general could not be sustained, and on August 1 ordered the writ to issue. No written opinion was then handed down, because the court was about to adjourn for the summer vacation. Owing to the importance of the interests involved, however, we deem it proper to state our reasons now for the action then taken.

Under the Act of congress approved February 22, 1880, commonly known as the "Homeliving Act," providing for the admission of Montana into the Union as a state upon equal footing with the original states, there were granted to the state, subject to the provisions of the Act of congress approved July 2, 1862, certain lands for the use and benefit of state agricultural colleges. The lands so granted were accepted on behalf of the state, subject to the prescribed conditions, both by the constitutional convention (Ordinance No. 1, Subdivision 7) and by the state legislature (Session Laws of 1893, pp. 171-173; Political Code, Sec. 1628). By reference to the Act of congress of July 2, 1862, and particularly section 4 thereof, it will be seen that it was contemplated by congress that the lands granted by the Homeliving Act should be sold; that the proceeds should be profitably invested, so that the principal should be forever preserved as a permanent endowment fund; and that the interest thereof should be devoted to the support of the college or colleges established pursuant to the declared purpose of the grant. Neither of the Acts of congress referred to specifically provides that the land granted may be leased by the state authorities pending a sale; but the state constitutional convention, anticipating possible difficulty and delay in converting the lands into money, and with a purpose of making

the grant profitable in the meantime, authorized the legislature to provide by law for the leasing of all the agricultural and grazing lands included in the grant until they should be sold. (Constitution, Art. XVII, Sec. 2.) The constitution also created a state land commission, consisting of the governor, secretary of state, superintendent of public instruction and attorney general, to have the "direction, control, leasing and sale" of all lands granted to the state for educational purposes (Constitution, Art. XI, Sec. 4), subject to the regulations to be prescribed by law. Another provision was made (Constitution, Art. XI, Sec. 12), requiring the funds derived from the sale of lands embraced in the several grants to the state for the use and support of state institutions of learning, as well as funds derived from other sources for that purpose, to be preserved inviolate and sacred for the purposes for which they were dedicated, but directing that the interest upon the invested funds, together with the rents from the leased lands, be devoted to the "maintenance and perpetuation" of the various institutions to which they, the respective grants, belonged. Pursuant to these several provisions of the constitution, the legislature has enacted regulations under which, in default of sale, all agricultural and grazing lands may be leased under the direction of the state land commission for terms not exceeding five years, and requiring the revenues derived therefrom to be paid into the hands of the state treasurer. (Political Code, Secs. 3170-3519, 3590-3595; Session Laws of 1897, pp. 178, 179; Session Laws of 1899, pp. 86-92.) Under these provisions of law considerable quantities of agricultural and grazing lands selected for the use and benefit of the State Agricultural College at Bozeman, have been leased, and the income derived therefrom has been paid into the hands of the defendant, as state treasurer, to the amount of \$16,000.

The first contention made by the attorney general was based upon this language contained in Section 4 of the Act of Congress of July 2, 1862: "¶ * * That the moneys so invested shall constitute a perpetual fund, the capital of which

shall remain forever undiminished, * * * and the interest of which shall be inevitably appropriated by each state out of which take and claim the benefit of this act to the endowment, support and maintenance of at least one college, * * * in such manner as the legislatures of the states may prescribe. * * * He argued that the legislature of this state has enacted no provision of law under the authority of which any interest or income derived from the grant may be applied to the support of the college.

The state board of education was created by the legislature under authority of the constitution (Constitution, Art. XI, Sec. 11). This board consists of the governor, state superintendent of public instruction and attorney general, *ex officio* members, with eight other citizens, appointed by the governor, by and with the consent of the senate. Its powers and duties are enumerated in Chapter I, Title III, Part III of the Political Code, and are very extensive. Section 1516 declares: "The powers and duties of said board shall be as follows:

"(1) They shall have the general control and supervision of the state university and the various state educational institutions.

"(2) To adopt rules and regulations, not inconsistent with the constitution and laws of this state, for its own government, and proper and necessary for the execution of the powers and duties conferred upon them by law.

"(3) To prescribe rules and regulations for the government of the various state educational institutions. * * *

"(10) 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 the said institutions may be entitled, and to use and appropriate the same for the specific purpose of this grant or donation, and none other, and to have general control of all receipts and disbursements of any of said institutions."

It is further provided (Section 1513) that the state treasurer shall be the treasurer of this board. Turning to Chapter IV,

Title III, Part III of the same Code, under the provisions of which the institution was established, and special regulations provided for its government and control, we find (Section 1425) that the immediate direction and control of it is vested in an executive board, consisting of five members, appointed by the governor, by and with the consent of the board of education. This latter board is required to have a secretary and treasurer, selected from its own members, or not, at the pleasure of the board, who shall give bond in such sum as may be prescribed by the state board of education for the faithful performance of his duties, and to account for all moneys coming into his hands by virtue of his office. From the various provisions of the constitution cited and the statutes enacted to carry out their evident intention, it is apparent that the state board of education is vested with the exclusive power to receive, invest, manage and control the funds derived from the sale of the lands granted to the state for the use and support of the agricultural college, and that the income therefrom is subject to the orders of the board to meet the current expenses of the institution. The defendant is the proper depository of these funds, and is therefore liable, upon the order of the board, to pay out the income derived therefrom as current necessities demand; for under Section 1516, cited, the board is empowered "to receive from the state board of land commissioners or other boards or persons, any and all funds, incomes and other property to which any of the said institutions may be entitled, and to use and appropriate the same to the purpose of the grant or donation, and to have general control of the receipts and disbursements." It is also clear that the executive board, of which the relator is treasurer, has direct management and control of the affairs of the institution, and that it is the duty of the defendant to pay the warrants drawn by it, when ordered to do so by the state board in the exercise of its general powers. The legislature has therefore not failed to "prescribe" how the income derived from the grant shall be appropriated to the "endowment, support and maintenance" of the institution, as

was contemplated by the Act of congress making the grant.

The attorney general contended further, in this connection, that the claim for which the warrant was drawn is a claim against the state other than for a salary or compensation of a public officer, and should be audited and allowed by the state board of examiners and paid upon the warrant of the state auditor. To support this contention he cites Section 90 of Article VII of the Constitution, as follows: "The governor, secretary of state and attorney general shall constitute a board of state prison commissioners, which board shall have such supervision of all matters connected with the state prisons as may be prescribed by law. They shall constitute a board of examiners, with power to examine all claims against the state, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law. And no claims against the state except for salaries and compensation of officers fixed by law, shall be passed upon by the legislative assembly without first having been considered and acted upon by said board. The legislative assembly may provide for the temporary suspension of the state treasurer by the governor, when the board of examiners deem such action necessary for the protection of the moneys of the state."

The relation of the state government to the trusts created by the provisions of the Enabling Act was considered in *State ex rel. Hickford v. Cook*, 17 Mont. 529, 43 Pac. 928, wherein there was a controversy over the payment of the compensation due to members of the capitol commission. It was said in that case, in substance, that lands granted by congress to provide for the erection of the state capitol, and accepted by the state, became a trust; that funds derived therefrom were trust funds, to be devoted exclusively to the purpose of the trust, through the agency of the state; that the disbursement of them was not an expenditure of the state "within the meaning of expenditures generally referred to in the constitution"; that the state officers could not use the fund for any other purpose than that designated in the Act of Congress; and that, in so far as they dealt

with that fund, they created no obligation which the state was bound to pay out of the ordinary revenues derived from taxation. Again, in *State ex rel. Dittine v. Collins*, 21 Mont. 418, 53 Pac. 1114, the section of the constitution cited by the attorney general was considered, and it was held that the state university fund was a trust fund; that the state acted in connection with it as a mere agent to execute the trust; and that, as in the administration of it no debt was or could be created against the state, the constitutional restriction as to the expenditure of the funds arising therefrom did not apply. "It is evident furthermore," this court said, "that the Act of the legislature providing for the creation of the university building did not contemplate that claims arising under the terms of the contracts for the buildings should be subject to approval by the state board of examiners." This statement was based upon a provision of the statute creating the university commission, which authorized it to draw warrants upon the state treasurer payable out of the trust funds in his hands. We think the principle of these cases applicable to the present case, and that the legislature, in defining the powers and duties of the board of education, with a view of following the spirit and intention of the Act of congress creating the trust, intended that this board should be clothed with the special and exclusive power of executing it free from the limitations and restrictions of the constitution as to the expenditure of the ordinary revenues of the state. It may be that a different rule would apply to expenditure of any moneys appropriated by the legislature out of the revenues of the state to supplement the revenues derived from the trust fund thus left to the control of the board. Upon this question, however, we express no opinion, as it was not properly before us.

Under the second ground of the motion the attorney general argued that congress, in making the grant, intended that it should become available only after a sale of the lands granted, and an investment of the moneys thus obtained, so as to provide an income from interest; that this intention is manifested

by the fact that there is nothing either in the Enabling Act or in the Act of July 2, 1862, authorizing the state to adopt a system of leasing for the purpose of creating a revenue for current necessities, and hence such revenue as have been or are derived from this source cannot lawfully be used by the board of education to pay the bill in question, notwithstanding the provisions of the constitution and statutes effect. The result of this contention is that all of these provisions are in violation of the acts creating the trust, and that to subject the fund in the hands of the defendant to the payment of the demands created by the board would be only another step in the course of mismanagement of which the state government has been guilty. We do not think this position maintainable. We think the manifest intention of congress was to create a permanent endowment, which was to be preserved inviolate; and to require that the revenues derived therefrom should be faithfully applied to the support of the institutions created, and not be diverted to other purposes. So long as this intention is carried out, we think it makes no difference what mode is adopted. The grant was made in view of conditions existing at the time, and others which might arise. It certainly could not have been intended that lands which could not be readily and specifically sold, but which, from their character and situation, could be made to yield a revenue by a system of leasing, should be allowed to lie idle and unprofitable until such time as the state could sell them, and thus comply with the strict letter of the grant. The grant was made and accepted with the existent conditions in mind, and, in our opinion, the constitutional convention, in making the provisions it did, and the legislature in providing the mode by which they are made effectual, both exhibited a wise foresight, and have thus made it possible for the people to have the present benefit of the gift of the federal government without in any way impairing its value or diverting it to improper uses.

Writ granted.

STATE, APPELLANT, v. FOSTER, RESPONDENT.

(No. 1,092.)

(Submitted October 7, 1901. Decided November 11, 1901.)

Larceny—Evidence—Sufficiency—Appeal—New Trial.

1. Where an order granting a new trial be absent as to the grounds on which it is based, it will be affirmed, if it can be justified on any ground on which the motion was predicated.
2. Where there is a substantial conflict in the evidence the action of the trial court in granting or denying an application for a new trial on the ground that the evidence is insufficient to justify the verdict, or that the verdict is contrary to the evidence, will not be disturbed on appeal.
3. Where there is no substantial evidence to support the verdict it is the duty of the trial court, on a motion of law, to vacate and set aside the verdict, and if it refuse to do so its action will be held erroneous.
4. On a presentation for grand larceny, that accused and others were following the itineraries of political speakers under a conspiracy to commit larceny, and that at a political gathering the prosecuting witness together with his left arm, recognized accused and the associate standing at his left, and after seeing a discharge of three bullets he discovered his purse was missing, is insufficient to justify a conviction of accused for the particular larceny.

Appeal from District Court, Lewis and Clarke County; Henry C. Smith, Judge.

W. M. FOSTER was convicted of grand larceny, and from an order granting a new trial the state appeals. Affirmed.

Mr. James Donovan, Attorney General, and Mr. O. W. McConnell, for the State.

Mr. H. R. Purcell and Messrs. Nelson & Leach, for Respondent.

MR. CHIEF JUSTICE BRANTLEY delivered the opinion of the court.

The defendant was convicted of the crime of grand larceny, and sentenced to a term of two years at hard labor in the state

Soft Spots
Education Subcommittee

	Fiscal 1986		Fiscal 1987	
	General Fund	Other Funds	General Fund	Other Funds
1. <u>Commissioner of Higher Education</u>				
Student Assistance Program--Reduce beginning WICHE medical student from nine in each year of the 1987 biennium to five. Between the WICHE and WAMI medical program, 25 beginning medical students would be funded in each year of the 1987 biennium.	\$86,000	\$ -0-	\$176,000	\$ -0-
State Work Study				
Option a: Discontinue funding the state work study program as federal work study expenditures have not decreased as anticipated by the 1983 legislature in funding the program.	\$300,000	\$ -0-	\$300,000	\$ -0-
Option b: Reduce state funding of the state work-study program to 50 percent of what is included in current level.	\$150,000	\$ -0-	\$150,000	\$ -0-
2. <u>Community Colleges</u> --Change the percentage of state support from the current 53 percent to one of the following options. If the percent of state support is lowered, the mandatory levy on local community college districts would increase by a like amount.				
Option a: Reduce state support to 50 percent	\$186,790	\$ -0-	\$187,572	\$ -0-
Option b: Reduce state support to 51 percent	\$124,527	\$ -0-	\$125,048	\$ -0-
Option c: Reduce state support to 52 percent	\$62,264	\$ -0-	\$62,525	\$ -0-
3. <u>Agricultural Experiment Station</u>				
1. <u>Vacancy Savings</u>				
Option a: Apply 4 percent vacancy savings to faculty and graduate research assistants.	\$141,022	\$ -0-	\$141,022	\$ -0-
Option b: Apply 2 percent vacancy savings to faculty and graduate research assistants.	\$70,511	\$ -0-	\$70,511	\$ -0-

Soft Spots
Education Subcommittee
Continued

	Fiscal 1986		Fiscal 1987	
	General Fund	Other Funds	General Fund	Other Funds
2. Terminating Projects--Current level includes funding for three projects in fiscal 1986 which are scheduled to terminate in fiscal 1985 and 35 projects in fiscal 1986. The experiment station does not have plans for reallocating funds freed from the terminating projects to new and/or existing projects in fiscal 1986 and 1987.	\$34,932	\$ -0-	\$1,726,876	\$ -0-
3. Dairy Research Project FTE--Current level includes funding for 2.59 FTE previously employed on the dairy research project. The dairy research project is scheduled to terminate in fiscal 1985.	\$105,523	\$ -0-	\$107,660	\$ -0-
4. Equipment--The current level equipment budget represents a three year average of equipment expenditures with inflation added to fiscal 1986 and 1987. The following options would reduce the amount budgeted for equipment:				
Option a: Freeze expenditures at the fiscal 1984 level of \$246,143.	\$67,719	\$ -0-	\$85,512	\$ -0-
Option b: Use the three year average, but provide no inflation.	\$25,227	\$ -0-	\$41,020	\$ -0-
4. Cooperative Extension Service				
1. Vacancy Savings.				
Option a: Apply 4 percent vacancy savings to faculty positions. A vacancy savings rate was not applied in the current level budget.	\$90,437	\$ -0-	\$90,437	\$ -0-
Option b: Apply 2 percent vacancy savings to faculty positions.	\$49,719	\$ -0-	\$49,719	\$ -0-

Soft Spots
Education Subcommittee
Continued

	Fiscal 1986	Other Funds	Fiscal 1987	Other Funds
General Fund				

4. Cooperative Extension Service - continued

2. Pesticides Specialist--Included in current level is a 1.22 FTE pesticides specialist requested by the extension service as a modified.

	\$38,952	\$ -0-	\$40,231	\$ -0-
--	----------	--------	----------	--------

3. AGNET--Remove general fund support for AGNET as usage of the computer based information system has decreased by 63.2 percent from fiscal 1983 to 1984 and users are not supporting 50 percent of the cost of the program as intended by the legislature. User fees paid 31 percent of the cost of AGNET in fiscal 1984.

	\$61,372	\$ -0-	\$63,984	\$ -0-
--	----------	--------	----------	--------

5. Bureau of Mines--Vacancy Savings

Option a: Apply 4 percent vacancy savings to faculty positions. A vacancy savings rate was not applied to these positions in the current level budget.

	\$24,500	\$ -0-	\$24,500	\$ -0-
--	----------	--------	----------	--------

Option b: Apply 2 percent vacancy savings to faculty positions

	\$12,250	\$ -0-	\$12,250	\$ -0-
--	----------	--------	----------	--------

6. Forest and Conservation Experiment Station Vacancy Savings

Option a: Apply 4 percent vacancy savings to faculty positions. A vacancy savings rate was not applied to these positions in the current level budget.

	\$18,127	\$ -0-	\$18,127	\$ -0-
--	----------	--------	----------	--------

Option b: Apply 2 percent vacancy savings to faculty positions.

	\$ 9,064	\$ -0-	\$ 9,064	\$ -0-
--	----------	--------	----------	--------

Soft Spots
Education Subcommittee
Continued

	Fiscal 1986	Other Funds	Fiscal 1987	Other Funds
--	-------------	-------------	-------------	-------------

7. Office of Public Instruction--State Special Revenue.
The current level budget originally approved by the subcommittee contained an error in that \$49,500 in state special revenue was omitted from the budget--\$9,500 in each year in resource assessments and \$40,000 in each year in reimbursements by local school districts for costs associated with the distribution of school foods. The subcommittee later increased state special revenue by \$49,500 each year, but the general fund was not reduced. Therefore, the general fund is supporting expenditures in the budget that were not identified in the hearing with any specific activity or function. This option would reduce the general fund by \$45,000 in each year. Operating expenses should be increased by \$4,500 in each year as available resource assessment revenue exceeds related expenditures by \$4,500 in each year of the 1987 biennium.

	\$45,000	\$ -0-	\$45,000	\$ -0-
--	----------	--------	----------	--------

8. Montana School for the Deaf and Blind

1. Carpet replacement in the Academic Building.

Option a: Do not provide for partial replacement of the carpet in the Academic Building in the 1987 biennium as provided for in current level.

	\$10,000	\$ -0-	\$10,000	\$ -0-
--	----------	--------	----------	--------

Option b: Delay replacement of the carpet in the Academic Building until fiscal 1987.

	\$10,000	\$ -0-	\$ -0-	\$ -0-
--	----------	--------	--------	--------

2. Vacancy Savings--One percent vacancy savings was applied to personal services in the Education Program.

Option a: Apply 4 percent vacancy savings to personal services in the Education Program.

	\$35,564	\$ -0-	\$35,579	\$ -0-
--	----------	--------	----------	--------

Option b: Apply 2 percent to personal services in the Education Program

	\$11,955	\$ -0-	\$11,960	\$ -0-
--	----------	--------	----------	--------

Soft Spots
Education Subcommittee
Continued

		Fiscal 1986		Fiscal 1987	
		General Fund	Other Funds	General Fund	Other Funds
9.	University System				
1.	The subcommittee replaced \$970,000 each year of land grant income that had previously been used for general operations with general fund. The impetus for doing this was the attorney general's opinion relating to university bond revenues which stated the legislature could not appropriate revenues pledged for repayment of university revenue bonds. Of the \$970,000 land grant income each year, only \$300,000 is actually pledged. The remaining \$670,000 each year is not pledged.	\$670,000	\$ -0-	\$670,000	\$ -0-
2.	Vacancy savings was applied to only the physical plant program at each unit, but Western Montana College. No vacancy savings was applied at Western because its physical plant program employs fewer than 20 FTE. Vacancy savings applied at various rates would provide general fund savings of:				
a.	All programs at 4 percent	\$2,951,325	\$ -0-	\$3,085,670	\$ -0-
b.	All programs at 2 percent	\$1,389,170	\$ -0-	\$1,456,342	\$ -0-
c.	All programs at 1 percent	\$601,540	\$ -0-	\$635,126	\$ -0-
d.	Instruction at 1 percent, all others 4 percent	\$1,494,713	\$ -0-	\$1,530,474	\$ -0-
e.	Instruction at 0 percent, all others 4 percent	\$1,009,175	\$ -0-	\$1,012,075	\$ -0-

Soft Spots
Education Subcommittee
Continued

	- - - - Fiscal 1986	- - - -	- - - - Fiscal 1987	- - - -
	<u>General Fund</u>	<u>Other Funds</u>	<u>General Fund</u>	<u>Other Funds</u>
3. The Board of Regents increased tuition rates for the 1987 biennium which is expected to generate \$25.3 million in fiscal 1986 and \$27.2 million in fiscal 1987. The subcommittee used only \$23.9 million in fiscal 1986 and \$24.2 million in fiscal 1987 to fund the current level budget. The tuition rates required to generate this lower revenue level would place Montana's tuition and fee rates at approximately 91.7 percent of the peers in fiscal 1986 and 88.8 percent in fiscal 1987. The current level budget funds the instruction program at 97 percent of its peer average in both years of the 1987 biennium. If the tuition revenue used in the current level budget was sufficient to cause the tuition rates to be 97 percent of the peers both years, a general fund savings would amount to:	\$1,381,205	\$ -0-	\$2,208,317	\$ -0-

Soft Spots
Education Subcommittee
Continued

	Fiscal 1986		Fiscal 1987	
	General Fund	Other Funds	General Fund	Other Funds
9. University System				
1. The subcommittee replaced \$970,000 each year of land grant income that had previously been used for general operations with general fund. The impetus for doing this was the attorney general's opinion relating to university bond revenues which stated the legislature could not appropriate revenues pledged for repayment of university revenue bonds. Of the \$970,000 land grant income each year, only \$300,000 is actually pledged. The remaining \$670,000 each year is not pledged.	\$670,000	\$ -0-	\$670,000	\$ -0-
2. Vacancy savings was applied to only the physical plant program at each unit, but Western Montana College. No vacancy savings was applied at Western because its physical plant program employs fewer than 20 FTE. Vacancy savings applied at various rates would provide general fund savings of:				
a. All programs at 4 percent	\$2,951,325	\$ -0-	\$3,085,670	\$ -0-
b. All programs at 2 percent	\$1,389,170	\$ -0-	\$1,456,342	\$ -0-
c. All programs at 1 percent	\$601,540	\$ -0-	\$635,126	\$ -0-
d. Instruction at 1 percent, all others 4 percent	\$1,494,713	\$ -0-	\$1,530,474	\$ -0-
e. Instruction at 0 percent, all others 4 percent	\$1,003,175	\$ -0-	\$1,012,075	\$ -0-

Continued

would amount to:

----- Fiscal 1986 -----	----- Fiscal 1987 -----
<u>General Fund</u>	<u>General Fund</u>
<u>Other Funds</u>	<u>Other Funds</u>
\$1,381,205	\$2,208,317
\$ -0-	\$ -0-

Education Subcommittee Modified Recommendations

Agency	----- Fiscal 1986 -----			----- Fiscal 1987 -----		
	General Fund	Other	Total	General Fund	Other	Total
Commissioner of Higher Education						
1. Rent Increase	\$ 9,637	\$ -0-	\$ 9,637	\$ 9,637	\$ -0-	\$ 9,637
Ag. Experiment Station						
2. Equipment	\$376,881	-0-	\$376,881	\$294,767	-0-	\$294,767
Cooperative Extension Service						
3. Business Dev. Specialist	\$ 23,000	-0-	\$ 23,000	\$ 23,805	-0-	\$ 23,805
4. Extension Forester	-0-	-0-	-0-	51,309	-0-	51,309
Bureau of Mines						
5. Groundwater Data Base	\$116,300	-0-	\$116,300	\$ 44,300	-0-	\$ 44,300
6. Earthquake Hazards Eval	140,000	-0-	140,000	-0-	-0-	-0-
Forest Experiment Station						
7. Expand Research	\$106,377	-0-	\$106,377	\$ 79,026	-0-	\$ 79,026
Office of Public Instruction						
8. Teacher Certification						
Testing	\$ 50,500	-0-	\$ 50,500	\$ 12,500	-0-	\$ 12,500
9. School Accreditation	49,000	-0-	49,000	49,000	-0-	49,000
10. Supplant Vo-Ed Funds	128,763	-0-	128,763	129,130	-0-	129,130
Board of Public Education						
11. Management Analyst	\$ 29,109	-0-	\$ 29,109	\$ 28,599	-0-	\$ 28,599
12. Contract Legal Service	2,125	-0-	2,125	2,125	-0-	2,125
13. Word Processor	2,500	-0-	2,500	-0-	-0-	-0-
School for the Deaf and Blind						
14. Phonic Ear Equipment	\$ 30,250	-0-	\$ 30,250	\$ 30,250	-0-	\$ 30,250
15. Additional Teachers	59,721	-0-	59,721	59,745	-0-	59,745
Fire Services Training						
16. .50 FTE Secretary	\$ 8,660	-0-	\$ 8,660	\$ 8,663	-0-	\$ 8,663
17. Contract Instructors	8,281	-0-	8,281	8,281	-0-	8,281

Education Subcommittee Modified Recommendations
Continued

Agency	----- Fiscal 1986 -----			----- Fiscal 1987 -----		
	<u>General Fund</u>	<u>Other</u>	<u>Total</u>	<u>General Fund</u>	<u>Other</u>	<u>Total</u>
Vo-Tech Centers						
18. Replace Vo-Ed Funds	\$ 376,990	\$ -0-	\$ 376,990	\$ 371,853	\$ -0-	\$ 371,853
19. Additional Student Services FTE	72,992	-0-	72,992	73,548	-0-	73,548
University System						
20. 100% Instruction	\$ 684,857	\$1,381,205	\$2,066,062	\$ -0-	\$2,072,351	\$2,072,351
21. 100% Support	1,848,693	-0-	1,848,693	961,773	897,795	1,859,568
22. Hazardous Materials	193,950	-0-	193,950	98,550	-0-	98,550
23. Indirect Costs to 80%	94,353	-0-	94,353	94,353	-0-	94,353
24. Legal Education - UM	36,000	-0-	36,000	101,000	-0-	101,000
25. MCHC - EMC	33,803	-0-	33,803	33,803	-0-	33,803
26. Groundsperson - NMC	16,000	-0-	16,000	16,000	-0-	16,000
27. Rural Education Cntr - WMC	69,200	-0-	69,200	72,750	-0-	72,750
28. Phase Down - Tech	<u>453,112</u>	<u>-0-</u>	<u>453,112</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Total Subcommittee	<u>\$5,021,054</u>	<u>\$1,381,205</u>	<u>\$6,402,259</u>	<u>\$2,654,767</u>	<u>\$2,970,146</u>	<u>\$5,624,91</u>

	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>
GENERAL FUND	\$ 71.9	\$ 74.8 65.3%	\$ 73.2 63.7	\$ 75.5 63.4
TOIITION	21.1	22.8 19.8%	25.3 22.0%	27.1 22.8%
OTHER	<u>16.4</u>	<u>17.0</u>	<u>16.3</u>	<u>16.5</u>
TOTAL	\$ 109.4	\$ 114.6	\$ 114.8	\$ 119.1
	4.37%	+0.2%	+3.7%	

<u>1ST YEAR</u>			<u>2ND YEAR</u>	
TOIITION	97%	PEERS	100%	PEERS
INSTRUCTION	97%	"	100%	"
SUPPORT	97%	"	100%	"

<u>BIENNIAL TOTALS</u>	<u>CURRENT</u>	<u>%</u>	<u>1987</u>	<u>AMOUNT</u>
GENERAL FUND	\$ 146.7 m	1.4%	\$ 143.7 m	2m
TOIITION & FEES	\$ 43.9	17.4%	\$ 52.4	8.5 m

3-7-85

	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>
General Fund	71.4	74.5	75.3	74.4
Tuition	21.1	22.0	25.3	27.1
Other	<u>16.4</u>	<u>17.2</u>	<u>16.3</u>	<u>16.5</u>
Total	109.4	114.6	116.9	118.0

2.9%

.9%

Percent

Tuition 97% Pass
Inst 100%
Supp 97%

2nd Year

100% Pass
100%
97% Pass

Biennium Totals

General Fund

Tuition Fees

Other

	<u>1985</u>	<u>90</u>	<u>1987</u>	<u>Ass 4</u>
* 146.7 H		2.9%	149.7 H	* 3.4
43.9		19.4%	52.4	8.5 H
32.4		(1.3)	32.8	(.6) H

January 28, 1985

State Capitol
Helena, MT 59620

Dear _____

You asked what savings would occur if the state closed down the Huntley and Conrad research centers. In answering your question, the following assumptions were used:

- (a) Both research centers would be closed as of July 1, 1985. If there is any delay past July 1, 1985 in closing both research centers, expenditures carried into fiscal 1986 would reduce the savings noted in this response.
- (b) Employees at the Huntley and Conrad research centers would be laid-off and not transferred to other research centers.
- (c) Equipment used at the Huntley and Conrad research centers would be sold at auction by the Department of Administration. Therefore, the LFA current level equipment budget for fiscal 1986 and 1987 would be reduced by amounts included in the budget for replacement of equipment at Huntley and Conrad. No estimate can be made at this time on the revenue the auction would generate--revenue that could be used to reduce the general fund. The original cost of the equipment inventories at Conrad and Huntley as of August of 1984 was \$128,979 and \$306,739, respectively.
- (d) LFA current level earmarked revenue estimated for the Main Station in the 1987 biennium would not be significantly affected. It is assumed cattle used in feedlot research at Huntley could be transferred to Bozeman, Sidney, or Havre--stations which currently use cattle in various types of research projects. If the herd had to be sold earmarked revenue would increase significantly in fiscal 1986 and drop to around \$200,000 in fiscal 1987.
- (e) The disposition of each research center as to whether the land would be sold or leased is not addressed in this response. Any income that would be generated from leasing or selling the land could be used to reduce the general fund.

The following table presents actual fiscal 1984 expenditures for the Huntley and Conrad research stations and projected expenditures for fiscal 1986 and 1987. Projected expenditures for fiscal 1986 and 1987 are included in the LFA current level budget.

Table 1
Huntley and Conrad Research Stations--Actual Fiscal 1984
Expenditures and Projected Expenditures for Fiscal 1986 and 1987

<u>Research Station</u>	<u>Fiscal 1984</u>	<u>Fiscal 1986</u>	<u>Fiscal 1987</u>
Huntley			
FTE	12.16*	12.16	12.16
Personal Services	\$205,814	\$286,910	\$286,910
Operating Expenses	180,124	195,759	205,547
Equipment	<u>13,896</u>	<u>14,078</u>	<u>14,998</u>
Total	<u>\$399,834</u>	<u>\$496,747</u>	<u>\$507,455</u>
Conrad			
FTE	6.44*	6.44	6.44
Personal Services	\$112,556	\$165,952	\$165,952
Operating Expenses	34,700	37,712	39,598
Equipment	<u>11,500</u>	<u>2,100</u>	<u>2,237</u>
Total	<u>\$158,756</u>	<u>\$205,764</u>	<u>\$207,787</u>
Total Expenditures	<u>\$558,590</u>	<u>\$702,511</u>	<u>\$715,242</u>

*Budgeted by the Agricultural Experiment Station.

Table 2 presents the projected savings in the 1987 biennium from closing the Huntley and Conrad research centers. A projected biennial savings of \$1,417,753 could result from closing the two research centers. Current level FTE would decrease 18.60 FTE. The general fund savings is projected at \$1,411,753 in the 1987 biennium. State special revenue (earmarked) is projected to decrease by \$6,000. The decrease in state special revenue would result from the loss of revenue at the Western Triangle Research Center from the sale of surplus crops--estimated at \$3,000 in fiscal 1986 and \$3,000 in fiscal 1987.

Table 2
Projected Affect on LFA Current Level Budget from Closing Huntley
and Conrad Research Stations
Fiscal 1986 and 1987

<u>Budget Item</u>	LFA Current Level with Huntley and Conrad		LFA Current Level without Huntley and Conrad		Biennial <u>Savings</u>
	<u>1986</u>	<u>1987</u>	<u>1986</u>	<u>1987</u>	
FTE	255.57	255.57	236.97	236.97	18.60
Personal Services	\$6,258,345	\$6,258,345	\$5,805,483	\$5,805,483	\$ 905,724
Operating Expenses	1,680,411	1,765,594	1,446,940	1,520,449	478,616
Equipment	<u>100,516</u>	<u>107,110</u>	<u>84,338</u>	<u>89,875</u>	<u>33,413</u>
Total	<u>\$8,039,272</u>	<u>\$8,131,049</u>	<u>\$7,336,761</u>	<u>\$7,415,807</u>	<u>\$1,417,753</u>
<u>Funding</u>					
General Fund	\$5,711,693	\$5,713,092	\$5,012,182	\$5,000,850	\$1,411,753
Federal	1,807,579	1,897,957	1,807,579	1,897,957	-0-
State Special	<u>520,000</u>	<u>520,000</u>	<u>517,000</u>	<u>517,000</u>	<u>6,000</u>
Total	<u>\$8,039,272</u>	<u>\$8,131,049</u>	<u>\$7,336,761</u>	<u>\$7,415,807</u>	<u>\$1,417,753</u>

I hope this information is of assistance to you. If you have any questions, please come see me.

Sincerely,

Bill Sykes
Assistant Analyst

BSLEG:esl:GD 1-28-5