

MINUTES OF THE MEETING  
APPROPRIATIONS COMMITTEE  
50TH LEGISLATIVE SESSION

The meeting of the Appropriations Committee was called to order by Chairman Rep. Gene Donaldson on January 15, 1987, at 1:30 p.m. in Room 104 of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Bradley who was absent, and Rep. Spaeth who was late. Also attending were Judy Rippingale, LFA and Denise Thompson, Secretary.

SUPPLEMENTALS:

Mr. Tom Crosser of the Office of Budget and Program Planning presented a short summary on the supplementals for the Institutions and Education Subcommittees (Exhibit 1).

Department of Institutions.

1. \$680,000 General Fund for augmentation of the corrections medical budget due to increased populations and cost per resident increases.

2. \$1,974,297 General Fund - to cover increased Workers' Comp costs for all the institutions.

3. \$4,000 for Mountain View School, \$15,000 for Pine Hills School, \$244,998 for Montana State Prison, \$15,000 for Swan River Forest Camp, and \$12,162 for Montana State Hospital all for canteen service to residents. This was all from State Special Revenues.

Montana State Prison - \$351,291 General Fund-to pay damages incurred in a lawsuit.

Youth Treatment Center - \$140,000 General Fund-to pay for one month delay in selling the facility.

INSTITUTIONS SUBCOMMITTEE REPORT

Rep. Ron Miller, Chairman of the Institutions Subcommittee presented the report from the subcommittee and referred to a list prepared by LFA staff (Exhibit 2) stating that all of the money that the subcommittee is asking approval on is out of the General Fund with the exception of the canteen funds. Those funds come out of the state special revenue canteen funds.

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1. \$680,000 - covers the medical cost overruns within the Department of Institutions. What helped drive this up was an inmate's open heart surgery for \$30,000 and overall expense of doing medical business in the state.

2. \$1,974,297 - Workers' Comp Fund - the supplemental will take them up to June 30 of this year. The costs were increased again in January of this year. The costs for this biennium will be close to \$6 million. The effect of the increases in Workmans' Comp on the institutions has been tremendous because of the type of people such as guards, aides etc. where the rates have doubled.

Rep. Bardanouve asked how the rates are set. Bob Robinson of the Workman's Compensation Division stated that these rates are set based upon the experience in each of the institutions, each institution is rated based upon the premium that was paid by that institution and the liabilities and losses that are incurred against that particular institution. Rep. Bardanouve asked if these rates are set dollar for dollar or what. Mr. Robinson stated no, they are set to anticipate the expected losses based upon the historical experience within that particular occupation code. He referred to a list he had which indicated that since 1982 the state fund will have lost approximately \$1,684,000 against the institutions premiums. The state is losing about 135% of premium right now (Exhibit 3).

Rep. Bardanouve asked Mr. Carroll South, Director, Department of Institutions, if he had instigated any programs to try to cut down on these claims. Mr. South stated they have worked with the Workers' Comp Division since 1983 when this same thing occurred. Yes, they have done many things. A major problem is that MBC and the State Hospital physic aides and other aides are continually lifting non-ambulatory patients and while you should never lift without bending your back, it does not work with patients. They have to be picked up and lifted into the center of the bed. This causes back strain which is the most common claims reported.

Rep. Bardanouve asked if Mr. South had checked with other states and institutions to see what their overall losses have been. Mr. South stated no they had not. He stated that it was something they should pursue. Rep. Bardanouve asked Mr. South to try to find a history of how it occurs in other places, or is Montana uniquely high. Mr. South said he would.

Rep. Quilici asked Mr. South if he thought there was adequate staffing to allow at least two people to do the lifting and therefore, with additional help, the strains

would be less. Mr. South stated that there are always at least two people present when moving these patients.

State Special Revenue Funds - Canteens.

Rep. Miller stated that Mountain View School, Pine Hills School, Montana State Prison, Swan River Forest Camp, and Montana State Hospital are canteen funds. It will not cost the state any money. It just grants the prison canteens the authority to give them appropriation to keep operating the canteens.

Rep. Rehberg asked Rep. Miller if the canteens were self-supporting. Rep. Miller said the state pays the FTE's and the utilities, but other than that they were self-supporting. Rep. Rehberg wondered if there was a profit involved and if so does that profit go back into the canteen fund, or do you sell at cost. Rep. Miller said basically at cost.

Montana State Prison - \$351,291 General Fund. There was a prisoner who had a problem, went to the doctor, he had gangrene set in, he lost his leg. The prisoner sued the doctor's insurance and ETNA paid the claim. The insurance company found out that the contract was not drawn up correctly. At that time, ETNA sued the state for breach of contract. The judgement came down from the district court that this is just now being paid, since approximately 1983.

Youth Treatment Center - \$140,000, after Special Session III, this center was scheduled to be sold, and the operation did not cease until one month after it was scheduled to cease, therefore, they had to pay the expenses for that one month.

Rep. Miller stated that the subcommittee recommended approval of all of these supplementals.

EDUCATION SUBCOMMITTEE REPORT (8:A:30.00)

Mr. Tom Crosser gave a brief description of the supplementals for the Board of Education and Montana University System (Exhibit 1).

Office of Public Instruction(OPI).

1. \$100,609 of General Fund - to pay for expenses incurred by OPI in defense of Title IX Sex Equity Lawsuit. This involves athletic programs in the public schools.

2. \$234,313 General Fund - to help pay expenses in the Foundation Lawsuit. The suit challenges Montana's system and level of funding K-12 education.

Board of Public Education.

\$7,525 General Fund to provide funding for expenses incurred because of added legal costs in the Foundation lawsuit and Title IX lawsuit.

Montana University System.

1. \$4,500 General Fund - to provide per diem compensation at statutory compensation levels for Board of Regent members. Board members served about 50% of FY 86 without per diem reimbursement because of the inaccurate funding level.

2. \$207,657 General Fund - Montana State University is requesting appropriation to correct an error in the Scholarship and Fellowships appropriation. Mandatory fees waiver funding was not included in MSU's appropriation for either fiscal 1986 or 1987. The fact that funds for mandatory waivers were not included in the appropriation does not relieve the University of its responsibility to grant fee waivers to those students who qualify for them.

EDUCATION SUBCOMMITTEE REPORT: (32:03)

Rep. Nathe, Chairman of the Education Subcommittee, reported the action of the subcommittee on the education supplementals.

Board of Public Ed - \$7,525 When the school districts filed the suit against the state for the underfunding of the school foundation program, the Board of Public Education was also sued. They tried to remove themselves from the suit, the judge would not allow them out.

Montana University System - Board of Regents- in the 1985 session the legislature increased per diem from \$25 to \$50 for those boards. But they didn't appropriate the money for the Board of Regents, and consequently, the Regents have been serving without any per diem for the last 6 months.

\$207,657 General Fund - Montana State University - the transfer of figures, apparently fell through the cracks. This was mandated statutorily, and somehow the figures didn't get transferred. They are the only unit of the six that did not receive their fee-waiver money. The subcommittee felt that both of these supplementals should be approved.

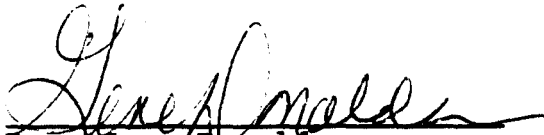
Dr. William Tietz, President of Montana State University, explained to the committee that the mandatory fee waivers

were met in 1985 and 1986. In the June session, it was recognized in the Fiscal Analyst's statements relative to Montana State University's budget. When the budget was finally accepted, it was the executive budget that was excepted, 5% down, and the figures again dropped. The university has not had a chance to come back and appeal for the restitution for those funds, therefore, they absorbed them the first year. With the magnitude of the cuts this year, they are asking that the funds be restored.

Rep. Quilici stated, in other words the fee waivers were over and above \$207,000 but they will absorb the rest. Mr. Tietz stated yes. They were only asking for the number that should have been in the budget.

ADJOURNMENT:

There being no further business before the committee, the committee adjourned at 2:12 p.m.

  
Rep. Gene Donaldson  
Chairman

DAILY ROLL CALL

APPROPRIATIONS COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1-15-87

NAME	PRESENT	ABSENT	EXCUSED
DONALDSON, GENE (Chairman)	✓		
THOFT, BOB (Vice Chairman)	✓		
WINSLOW, CAL (Vice Chairman)	✓		
BARDANOUE, FRANCIS	✓		
BRADLEY, DOROTHY		✓	
CONNELY, MARY ELLEN	✓		
DEVLIN, GERRY	✓		
IVERSON, DENNIS	✓		
MANUEL, REX	✓		
MENAHAN, WILLIAM "RED"	✓		
MENKE, LARRY	✓		
MILLER, RON	✓		
NATHE, DENNIS	✓		
PECK, RAY	✓		
POULSEN, HAROLD	✓		
QUILICI, JOE	✓		
REHBERG, DENNIS	✓		
SPAETH, GARY		✓	
SWIFT, BERNIE	✓		
SWITZER, DEAN	✓		

SupEdIns.Nar

The following narrative explains briefly the supplementals being requested by state education agencies and the Department of Institutions for fiscal year 1987. The narrative is presented in the same order as the supplemental bill.

OFFICE OF PUBLIC INSTRUCTION

\$100,609 General Fund - This supplemental provides funds to pay for expenses incurred by the Office of Public Instruction in its defense in the Title IX Sex Equity Lawsuit. This suit involves athletic programs in Montana's Public Schools.

\$234,313 General Fund - This request helps pay for expenses incurred in the Foundation Lawsuit brought against the state by various school districts. The suit challenges Montana's system and level of funding k-12 education.

BOARD OF PUBLIC EDUCATION

\$7,525 General Fund - This request provides funding for expenses incurred because of added legal costs. These added costs stem from the Board's involvement in two lawsuits involving Title IX and the Foundation Program funding system.

MONTANA UNIVERSITY SYSTEM

\$4,500 General Fund - Supplemental funding is requested to provide per diem compensation at statutory compensation levels for Board of Regent members. The current budget contains only \$25 allowances despite the current law calling for \$50 allowances. Board members had to serve about 50% of FY86 without per diem reimbursement because of the inaccurate funding level.

\$207,657 General Fund - Montana State University is requesting a supplemental appropriation to correct an error in the Scholarship and Fellowships appropriation. Mandatory fee waiver funding was not included in MSU's appropriation for either fiscal 86 or 87. The fact that funds for mandatory waivers were not included in the appropriation does not relieve the University of its responsibility to grant fee waivers to those students who qualify for them.

DEPARTMENT OF INSTITUTIONS

\$680,000 General Fund - This request is for augmentation of the corrections medical budget. The supplemental is needed due to two reasons. First, the average daily population has increased substantially over the 1984 population on which the appropriation was based. Second, the cost per resident has escalated beyond the 1984 base cost. The appropriation was based on an average cost of \$575.94 per year. Actual costs in FY 85 was \$738.82.



(Institutions cont.)

\$1,974,297 General Fund - This supplemental is to cover increased Workers' Comp costs for all of the institutions. A breakdown by institution is:

Montana State Hospital	-	\$1,129,999
Montana Developmental Center	-	416,959
Montana State Prison	-	331,175
Eastmont	-	71,442
Center for the Aged	-	20,588
Vets Home	-	10,157
Pine Hills	-	(3,086)
Mountain View	-	(3,068)
Others	-	130
Total		<u>\$1,974,297</u>

#### MOUNTAIN VIEW SCHOOL

\$4,000 State Special - Mountain View School is requesting additional authority for its Canteen operation. The canteen sells goods to residents and needs extra authority to continue current services.

#### PINE HILLS SCHOOL

\$15,000 State Special - This request is for canteen authority similar to the request at Mountain View.

#### MONTANA STATE PRISON

\$351,291 General Fund - This supplemental provides funding for payment of damages incurred at the Prison because of a law suit involving a malpractice settlement incurred by a local physician and his insurance company. Apparently the doctor's contract had a hold harmless clause leaving the state liable under the original lawsuit by a former inmate.

\$244,998 State Special - The prison needs added canteen spending authority because of the large increase in population. This program provides goods such as cigarettes and personal items to inmates.

#### SWAN RIVER FOREST CAMP

\$15,000 State Special - Like the prison, this request is for the canteen operating fund which does not have adequate authority to continue providing goods to inmates at the facility.

#### MONTANA STATE HOSPITAL

\$12,162 State Special - Canteen operations needs additional authority at the state hospital for continued service to residents.

(Institutions cont.)

#### YOUTH TREATMENT CENTER

\$140,000 General Fund - Sale of the Youth Treatment Center to a private provider (Rivendale) was delayed one month. This supplemental is for operations of the facility for this time period.

**Department of Institutions  
 Supplementals**

		<u>General</u> <u>Fund</u>	<u>Other</u> <u>Funds</u>
Montana Youth Treatment Ctr.	Closing Costs	\$ 140,000	
Director's Program	Workers' Compensation Liab.	1,974,297	
Corrections Medical	Medical Cost Overruns	680,000	
Montana State Prison	Lawsuit Settlement	351,291	
Mountain View School	Additional Canteen Authority		\$ 4,000
Pine Hills School	Additional Canteen Authority		15,000
Montana State Prison	Additional Canteen Authority		244,996
Montana State Hospital	Additional Canteen Authority		12,162
Swan River Forest Camp	Additional Canteen Authority		15,000
<b>Total Funds</b>		<b>\$3,145,588</b> *****	<b>\$291,160</b> *****

1. The department was authorized by House Bill 36 to sell the Montana Youth Treatment Center. House Bill 30, the general appropriations act of Special Session III, reduced the center's appropriation to \$1,297,736 to allow the state's operation of the center until December 1, 1986, the anticipated sales date. The center was sold December 31, 1986. This supplemental of \$140,000 represents the cost of operating the center longer than anticipated.

2. During the 1987 biennium, the department has been paying the Workers' Compensation Division only the amount budgeted for workers' compensation while the rates are actually much higher. The department entered into an agreement with the Division of Workers' Compensation whereby the division maintains a receivable for all charges in excess of the Department of Institutions budget for workers' compensation as set by the 1985 legislature. The supplemental reflects the division's billing in excess of the department's budgeted workers' compensation for the 1987 biennium. This liability is based on actual liabilities from fiscal 1986 and billings through the December 19 pay period in fiscal 1987 which total \$1,155,843. The balance of the liability, \$818,456, is based on projected costs for the remaining pay periods in fiscal 1987.

3. The Corrections Medical Program is a consolidation of all the medical costs of all the correctional institutions, pre-release centers, and aftercare. The program was appropriated \$1,221,947 for the 1987 biennium. The program has already expended the \$1,221,947 and is currently requiring the Prison, to pay any medical costs incurred. The department requests a supplemental of \$680,000 to cover costs currently paid by the institutions and to meet projected costs to fiscal year-end.

4. In 1977, the warden of the Montana State Prison signed a contract with Dr. Benjamin to provide medical services to the Prison. This contract contained what the courts have interpreted as an "iron-clad" hold harmless agreement in which the Prison not only agreed to hold the doctor

January 15, 1987

The Education Subcommittee approved the following supplemental requests on January 14, 1987:

<u>Agency and Program</u>	<u>Fiscal Year</u>	<u>Amount</u>	<u>Fund</u>
Office of Public Instruction			
Title IX Suit	1987	\$100,609	General Fund
Foundation Suit	1987	234,313	General Fund
Board of Public Education	1987	7,525	General Fund
Montana University System			
Board of Regents	1987	4,500	General Fund
MSU - Fee Waiver	1987	207,657	General Fund

DN1:bn:es.

Dept. of Institutions  
 Workers' Compensation Exp.  
 FY 86

	Exp Mod	Earned Premium	Comp. Liability	Med. Liability
State Prison	1.61	\$463,262.29	\$310,734.18	\$101,942.97
Mt View School	0.91	\$46,384.20	\$15,992.10	\$5,175.98
Pine Hills School	0.81	\$68,559.40	\$293.00	\$8,827.29
State Hospital	1.55	\$1,144,805.11	\$438,670.16	\$170,380.19
Swan River Camp	0.79	\$19,668.69	\$0.00	\$55.05
Youth Center	1.00	\$38,300.70	\$44,201.05	\$17,452.62
Veterans Home	0.89	\$51,632.13	\$46,110.81	\$18,541.99
Eastmont Center	0.82	\$63,522.54	\$41,081.88	\$13,400.34
Center for Aged	1.23	\$110,052.80	\$6,318.25	\$5,184.81
Developmental Center	1.68	\$662,148.67	\$468,480.16	\$142,432.82
Department	1.00	\$29,075.86	\$15,546.62	\$17,133.55
<b>Total</b>		<b>\$2,697,412.39</b>	<b>\$1,387,428.21</b>	<b>\$500,527.61</b>
			<b>Net:</b>	<b>\$809,456.57</b>

FY 85

	Exp Mod	Earned Premium	Comp. Liability	Med. Liability
State Prison	1.64	\$400,776.12	\$291,961.12	\$62,531.60
Mt View School	1.13	\$47,798.68	\$5,927.22	\$8,143.07
Pine Hills School	0.98	\$75,381.07	\$241.73	\$7,721.00
State Hospital	1.19	\$727,082.99	\$626,489.14	\$213,172.08
Swan River Camp	0.84	\$18,503.82	\$0.00	\$50.00
Youth Center	1.00	\$4,725.32	\$2,906.21	\$1,143.25
Veterans Home	0.82	\$36,918.15	\$73,647.79	\$40,730.58
Eastmont Center	0.69	\$42,350.15	\$46,194.83	\$20,056.51
Center for Aged	0.89	\$62,389.54	\$51,218.13	\$17,203.99
Developmental Center	1.56	\$481,775.92	\$484,499.61	\$153,298.96
Department	0.87	\$24,103.58	\$45,782.61	\$11,771.38
<b>Total</b>		<b>\$1,921,805.34</b>	<b>\$1,628,868.39</b>	<b>\$535,822.42</b>
			<b>Net:</b>	<b>(\$242,885.47)</b>

FY 84

	Exp Mod	Earned Premium	Comp. Liability	Med. Liability
State Prison	1.23	\$189,368.26	\$211,472.79	\$60,957.12
Mt View School	0.97	\$26,786.69	\$0.00	\$2,770.24
Pine Hills School	0.78	\$39,153.66	\$1,088.83	\$4,369.70
State Hospital	1.18	\$605,468.96	\$1,253,713.88	\$265,156.98
Swan River Camp	0.77	\$10,750.59	\$538.13	\$3,665.07
Youth Center	1.00	\$0.00	\$0.00	\$0.00
Veterans Home	0.84	\$28,607.65	\$26,960.29	\$4,209.40
Eastmont Center	0.64	\$32,729.69	\$51,966.63	\$10,100.96
Center for Aged	0.83	\$46,348.55	\$177,451.94	\$45,009.35
Developmental Center	1.20	\$315,938.56	\$763,478.66	\$209,404.16
Department	0.70	\$15,390.86	\$570.17	\$2,075.24
<b>Total</b>		<b>\$1,310,543.47</b>	<b>\$2,487,241.32</b>	<b>\$607,718.22</b>
			<b>Net:</b>	<b>(\$1,784,416.07)</b>