

## MINUTES

### MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on February 17, 1989, at 10:00 a.m., Room 331, Capitol.

#### ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator Esther Bengtson, Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Paul Rapp-Svrcek, Senator Tom Rasmussen, Senator Eleanor Vaughn

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure

Announcements/Discussion: Chairman Farrell announced that testimony would be limited to 5 minutes for proponents and 5 minutes for opponents.

#### HEARING ON SB 185

##### Presentation and Opening Statement by Sponsor:

Senator Nathe indicated that SB185 is a vehicle to transfer the mental health functions, and institutions, out of the Department of Institutions into the Department of Health.

##### List of Testifying Proponents and What Group they Represent:

Steve Waldron, Executive Director, Mental Health Centers  
Donald L. Harr, Medical Director, Region 3 Mental Health Centers; Montana Medical Association  
Frank Lane, Executive Director, Eastern Montana Mental Health Center  
Dick Hruska, Executive Director, Golden Triangle Community Mental Health Center, Great Falls  
John Nesbo, Director, Mental Health Center, Billings

Testimony:

Mr. Waldron indicated SB185 transfers the mental health functions from the Department of Institutions to the Department of Health and Environmental Sciences, and listed those facilities that would be affected. He stated there are several reasons why this transfer makes sense, and indicated, first, the main focus of the Department of Institutions is on institutional care, rather than community-based services, that the mental health functions in the Department of Institutions are, in fact, health care functions and, consequently, it would make sense to have the health care activities, such as mental health care, located in the Department of Health.

Mr. Waldron reported that, in the opinion of the community-based mental health center providers, the problems of penal institutions have been emphasized in the Department of Institutions much more than the health care components of the department. He stated it is believed that these health care components, mental health services in particular, would receive the emphasis they deserve, if they could be under the jurisdiction of the Department of Health. He noted this bill proposes that the mental health institutions, such as Warm Springs, Montana State Hospital, and the Center for the Aged, be included with the community-based mental health center contracts, in order to maintain the current mental health care system intact. Mr. Waldron urged do pass on SB185.

Testimony:

Mr. Harr testified it is their impression that mental health deserves recognition as a health problem, primarily, rather than an institutional problem. He indicated the latter goes back, in Montana, to the 19th century, when it was considered that all mental health problems needed to be placed in a sanatorium somewhere, and it was on that basis that Warm Springs was established, adding that, initially, it was a private facility, and then moved in to being a state facility. He stated it is their impression that mental health needs to be emphasized as being a problem that is just as much health related as any other kind of health, and, for that reason, it seems only proper and appropriate that the Department of Health be responsible for the on-going function, and as the mental health authority for the State of Montana.

Testimony:

Mr. Lane stated this is not a recent philosophical change for the mental health centers in Montana, noting his board is on

record, in its minutes, of advocating this change 6 years ago. He noted that, about 4 years ago, he had a conversation with Dr. Drynan, who was then director of the Department of Health, and he indicated the Department of Health is capable of assuming those responsibilities. Mr. Lane stated that, prior to the first part of December, he traveled around eastern Montana, met with all of their legislators, either individually or in groups of 2, and there was no major resistance for this change, noting that, in fact, Senator Nathe consented to sponsor this bill. He stated they think it makes perfect sense, that they are a health service, they belong in the Department of Health, and they are as integral to the health service provision in the community as the hospitals.

Testimony:

Mr. Hruska's written testimony is attached as Exhibit 2.

Testimony:

Mr. John Nesbo testified that he and his board of directors support SB185.

List of Testifying Opponents and What Group They Represent:

Curt Chisolm, Director, Department of Institutions  
Joy McGrath, Mental Health Association of Montana

Testimony:

Mr. Chisolm indicated this is one of those reactionary reorganization bills that he would just as soon go away. He stated that, if there is a need to reorganize the human services, he has made commitments to the Institutions Subcommittee on Appropriations, and other legislative bodies, that the human services directors, being SRS, the Department of Institutions, Family Services, and Health, will work together to explore these issues, and bring to closure some of the loose ends which have been dangling around for years in the human services area. He stated that can not be done with this kind of legislation, that this legislation is flawed in the sense that it does not address all the transfer issues which need to be addressed in transferring a major portion of one department to another. He indicated these things are correctable, but they are correctable in time, noting that is one of the reasons that he is saying, wait a minute, hold on, let's not run with this thing at this point in time, because of these loose ends.

Mr. Chisolm added that it does not address thoroughly the reimbursement issues that stay within the Department of Institutions, and it puts the Department of Health squarely in the middle of Western Interstate Compact issues dealing with the transfer of inmates from one state to the other. He indicated those are mistakes that were made, but that he thinks it is testimony as to why they should not react badly to what has been heard from the proponents, noting that the proponents are the mental health centers that have been a little disgruntled with their treatment from the Department of Institutions over the last 8 years. Mr. Chisolm stated he is not responsible for that, adding that he met with them recently, and assured them that they will get equal attention, as far as he is concerned, relative to the systems that they operate. He stated they do operate systems, and need to focus on mental health in a system that represents total continuing care from institutional to community-based services.

Testimony:

Ms. McGrath testified that the Mental Health Association of Montana is a non-profit education and advocacy organization, not a treatment organization, and she is representing consumers, providers, and other interested citizens across the state in opposition to the bill. She stated their main reason is that they have had a stand, for many years, to be cautious in reorganizing mental health services, and to do some careful planning in making a move like this. She added that, at this point, they are reiterating the same thing, noting there is planning going on in the Department of Institutions and that, under the new administration, they feel there is a positive tone, with a renewed emphasis on mental health services and treatment services, and they feel it should remain at this time.

Questions From Committee Members:

- Q. Senator Rasmussen asked Senator Nathe if he feels a lot of thought has gone into this, noting it is a major change, and further asked if there has been communication with the Department of Institutions.
- A. Senator Nathe deferred to Mr. Waldron, noting he assumes there has been quite a bit of thought.

Mr. Waldron responded that the Mental Health Center has had this under discussion for about 3 years, that he is aware of, and those discussions have culminated in this bill. He indicated they have not sat down with the

department and laid out exactly how it would happen, although they did talk with them about the bill, and told them, beforehand, what would be in the bill, as far as the components of mental health treatment, and how they thought the transfer could occur. He stated he thinks it will be fairly easy to do, in that there is a mental health bureau that covers all of the functions, and they will move that bureau, noting the one problem is the veteran's home, which will probably have to be attached to another division or bureau within the department. He indicated the one issue he thinks may be a little bit of a stumbling block, although not a big one, has to do with the computer. He noted there is a system 38 computer at the Department of Institutions which handles billing and fiscal items, and they would have to make some arrangements with the Department of Health to continue to use that system 38. He indicated he does not see that as a big problem because the same situation occurs at the Department of Family Services, with their institutions.

Closing by Sponsor:

Senator Nathe indicated the bill lays before the committee an issue generated out of the past 8 years, and is a result of frustration with regard to the mental health centers. He added there was some movement made to correct that situation, and this is before the committee in the form of this bill.

Chairman Farrell announced the hearing on SB185 as closed.

DISPOSITION OF SB 185

Discussion:

Chairman Farrell stated this bill was received in committee on January 27 and, at that time, he was asked not to hold a hearing on the bill. He indicated they met, and decided to have a hearing, adding that he agreed to have a 15 minute hearing on the bill today. Chairman Farrell stated that both sides know there is a lot that has to be worked out on this bill. He indicated there was testimony regarding transferring of employees and services that go along with this.

Senator Rasmussen offered a motion that SB185 be gently and lovingly placed on the table.

Recommendation and Vote:

Motion passed by the committee that SB185 be tabled, with Senator Harding opposed.

HEARING ON SB441

Presentation and Opening Statement by Sponsor:

Senator Del Gage indicated SB441 is a constitutional amendment which provides a limitation on state expenditures based on the personal income growth of the population of the State of Montana, noting this will be voted on in November of 1990. Senator Gage indicated Mr. Nordtvedt, Director of the Department of Revenue, will give the committee the details of what is envisioned, and what the effect will be, upon approval by the people in the November, 1990 election.

List of Testifying Proponents and What Group they Represent:

Ken Nordtvedt, Director, Department of Revenue  
Dennis Burr, Montana Taxpayers Association  
Valerie Larson, Farm Bureau  
Riley Johnson, National Federation of Business  
Carol Mosher, Montana Cattle Women, Montana Stockgrowers  
Buck Boles, President, Montana Chamber of Commerce

Testimony:

Mr. Nordtvedt distributed a letter from the Governor to each of the committee members, a copy of which is attached as Exhibit 3.

He stated that most governments, including the federal government, are having trouble controlling the growth of expenditures. He indicated it has something to do with the modern political process, and he thinks it is a bipartisan problem; that it happens under Republican and Democratic governments. He indicated that just about any sector of government in society today has a difficult problem, in the normal political process, keeping the growth of government in line with the growth of the ability of the people to pay taxes. Mr. Nordtvedt stated one of the best measures of the people's ability to pay taxes is their personal income, that the personal income of the state changes with inflation, inflation is directly converted into personal income levels, that personal income of a state changes with population, and

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that, hopefully, personal income grows in a state where there is real economic progress and people are earning higher real wages. He indicated that, to enhance the ability of the State of Montana to keep its public expenditures, and therefore its taxes, under control and in line with the people's ability to pay, as measured by their personal income, the administration feels very strongly that the people of Montana should have an opportunity to vote on a constitutional spending limitation amendment to our state constitution. He indicated the administration feels they should have this opportunity, by either the referendum process, which this bill talks about, or the initiative process, in the failure of the referendum process, noting that, if the committee chooses not to refer this to the people for their vote, they will try the initiative process. He further indicated they would like to make this a non-partisan recognition, by all who work in the executive or legislative branch of government, and that more muscle is needed in the constitution to control the growth of spending. He stated they want to approach the committee on that non-partisan basis, and hope that this can be sent, by the legislature, to the people for their vote, through the referendum process.

Mr. Nordtvedt reported there have been tax revolt and tax limitation bills, of all kinds, that never got to the ballot. He noted that some have gotten to the ballot, but that they probably could have been written in a better manner. He indicated they feel this is a moderate approach to limiting spending growth in the state, and that it does not try to micro-manage or get involved in the political process of how to distribute that total spending level of the state among all the different claims and requests for portions of that appropriation. He stated this only deals with putting a lid on the growth rate of the total expenditures, and indicated that two of the last 3 legislative sessions violated a statutory spending limitation law that is on the books, noting that the statutory spending limitation law can be ignored by a simply majority vote. Mr. Nordtvedt reported that the 1983 legislative session increased state spending 28.7%, in a 2 year period where personal income only grew 21.9%, and that the 1985 session increased state spending 22.2%, during a 2 year period when state personal income only grew 14.1%. He indicated repeated spending increases, which exceed the personal income increases in the state, end up creating a higher tax burden on the people of Montana.

Mr. Nordtvedt stated this amendment would provide that state spending can grow as fast as personal income in the state grows. He noted that state spending, if necessary due to

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emergency reasons, can grow faster than personal income, but would require a 2/3 vote of the legislature to do so, indicating that is the muscle, the fiscal tool to discipline ourselves. He added that he is not saying it is a partisan issue, that this discipline is needed for Republicans, Democrats and Independents.

Mr. Nordtvedt indicated it would go into effect, if approved by the voters in November, 1990, after the school funding problem is solved, so that would be behind us and would not have to be accomplished under this constraint. He indicated he thinks this is a timely point to put this constitutional provision in to protect the people of Montana. Mr. Nordtvedt pointed out that we are going through the most major fiscal reorganization this state has ever experienced, and that we have to find a new way, based more heavily on the state, to fund K through 12 schools, which represents over half of all the public expenditures in this state. He indicated that, during this time of transition and turmoil in the state's public finances, the people of Montana would probably take the settlement of that issue a little more kindly if they had the constitutional assurances that such a spending limitation provision would give them for the future years.

He urged the committee's support, adding that the Governor urges their support from both sides of the aisle of this constitutional amendment to be sent to the people for their ratification.

Testimony:

Mr. Burr stated they support SB441 to set a limit on state expenditures, and indicated there are a couple of places in the bill that they would like to suggest amendments to make the bill a little more generic than it is now. He referred the committee to page 2, line 11, which deals with establishing total expenditures for the next fiscal period, and provides that any remaining general fund balances must be refunded, pro rata, on personal income taxes. He indicated they think that might be a little restrictive, that there may be other ways to distribute surplus money. He suggested taking out the word "general" on line 11, to read "any remaining fund balances". He also suggested taking out "pro rata on the annual personal income returns", and inserting "in a manner provided by law." He indicated they think that would make the bill a little more generic.

Mr. Burr referred the committee to Section 18, regarding emergencies, which states the limitation can be exceeded, upon



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the declaration of an emergency by the Governor and a 2/3 vote of all members elected to the legislature. He indicated that might be a little restrictive, and stated it would appear to him that, if the Governor does not declare an emergency, the legislature can not exceed the limits with a 2/3 vote. He suggested taking out "the Governor" on lines 15 and 16, indicating the Governor could then suggest there is an emergency, to which the legislature would respond, but that it would also allow the legislature to respond independently, if the Governor did not declare an emergency.

Mr. Burr then referred the committee to page 3, the definition of emergency, starting on line 10, which states emergency means "an extraordinary event or occurrence that could not have been reasonably foreseen or prevented and that requires immediate expenditure", and indicated he would take out the words "or prevented", noting it seems like it would provide an area of contention as to whether the emergency could not only have been foreseen, but also could have been prevented, and he does not think it adds anything to the constitutional amendment. He indicated he is not suggesting they would not support this concept without those changes, but he thinks those changes might improve the amendment slightly.

Testimony:

Ms. Larson's written testimony is attached as Exhibit 4.

Testimony:

Mr. Johnson reported that, of their 6,000 small and independent business operators in the State of Montana, 87% are in favor of tying limitations to some sort of income control.

Testimony:

Ms. Mosher testified that they like this sign of fiscal responsibility in state government, and they urge the committee's support of this bill.

Testimony:

Mr. Boles stated he does not have anything to add to what has been said, and that the Montana Chamber wishes to be on record in support of this legislation.

List of Testifying Opponents and What Group They Represent:

Nadiean Jensen,, Executive Director, Montana State Council,  
AFSCME; AFL-CIO  
Chuck Stearns, Finance Director and City Clerk, City of  
Missoula  
Phil Brooks, Director, Institutional Research, Montana  
University System

Testimony:

Ms. Jensen stated that it seems strange to them that, if it is tied into the income of Montana, with the outgoing population of Montana, we will soon be down to nothing, we will have no state government, we will have no citizens. She stated that she does not see how it can tie down the expenditures, when state government at this time does not even believe in a cost of living increase to its own employees, and she urged a do not pass on 441.

Testimony:

Mr. Stearns stated that, judging from the comments today, the City of Missoula should not be up here today, because most people think this applies only to state government. He pointed out to the committee that, on page 3, lines 14 and 15, local governments are included, and indicated they are perplexed as to why. He referred to Mr. Nordtvedt's testimony about the connection between income taxes and personal income, and state government, and indicated they agree that connection is there, stating that, if that were the only limitation in this bill, that is their business, not his. He then indicated that including local government in the bill has a big effect on them because the title is, therefore, misleading, only the title and the ballot language on the last page get printed. He reiterated that most of those testifying think it is for state government and state agencies, and they may be willing to vote that way, but this will be affecting their local governments. He asked the committee to make sure the language and the title that gets printed on the ballot is clear, and indicated, if this will include schools and local government, that should also be in the title.

Mr. Stearns stated they do not feel it belongs in this bill, because they don't have the same connection between personal income and income taxes that support state agencies, as exists with property taxes, which support the local governments. He indicated they would prefer to see local governments left out

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of this bill because they do not see the same connection, and that many people in here do not see it, either.

Testimony:

Mr. Brooks indicated that he was previously a state economist with the Department of Commerce, but is appearing today in his capacity with the University System. He stated he has several technical issues to raise in terms of the bill in its present form, as well as philosophical issues, some of which he indicated he is sure the committee is already aware of.

Mr. Brooks stated his understanding of the bill is that a formula, based on changes in state personal income, is being substituted for the discretion of the legislature in terms of setting expenditures. He indicated that, because of this, the committee must look at the measure of personal income, how accurate that is, and what it consists of. He reported that, in his previous position, one of the main things he dealt with was an analysis of the state economy, that the only entity that publishes personal income for states and counties is the U.S. Department of Commerce, and personal income is really a shifting sea of sand.

Mr. Brooks stated that, as an example, total personal income for 1986, first reported by the U.S. Department of Commerce in September of 1987, was estimated at \$10.7 billion for this state. He noted the U.S. Department of Commerce revises these estimates as they get additional information and, a year later, in September of 1988, it was estimated at \$10 billion, \$9.7 to \$10 billion. Mr. Brooks indicated he may have misspoke in terms of the original estimate, and went on to state that is a 3% change in personal income. He reported that some of the apparent actual changes in personal income for prior years, in the 80's, that they now have more accurate data for, did not change more than 3% or 4%, adding that this gives the committee an idea of the inaccuracy of the data. He indicated that, over time, they can close in on what really happened, and an economist or a statistician can say fairly clearly what happened 4 or 5 years ago, in terms of personal income. He noted this bill would require using the most recent estimates of personal income, and he sees that as causing a problem.

Mr. Brooks reported that Section 16 requires an estimate of general fund balances, which is the difference between revenues and expenditures, and the current system of appropriating also requires that, so this would not change. He indicated that, in terms of a biennial budgeting cycle, the

legislature is required to make a guess on revenues 2 1/2 years from now. He noted that revenues are essentially a function of the state's economy, and the state's economy, in the 1980's, has been extremely volatile, going up and down, and pointed out that, in terms of being able to predict that, it is very shaky. Mr. Brooks stated that, because we tax oil income, coal receipts, metals, etc., it is also a function of those prices, and those prices also are extremely volatile. He indicated that, although it may be attractive to simplify things, and set total expenditures as a function more related to a very simple measure like total personal income, he does not see that as very feasible.

Mr. Brooks then indicated that this essentially takes the power away from the legislative bodies to set total expenditures. He noted we have a democratic system in this country, where we have various legislative bodies at the national, state and local levels who have that power, and stated that he thinks that would be a very substantial shift, and would urge reflection on that before voting for a do pass on this. He reiterated that, in its present form, he can not recommend this particular bill.

Questions From Committee Members:

- Q. Senator Rapp-Svrcek asked Mr. Brooks if it is possible that the population of a state could increase, and the personal income of the state not increase reflective to that population increase.
- A. Mr. Brooks responded it is possible, indicating that the main component of personal income is the earnings of workers and, if there is a decrease in average earnings and an increase in population at the same time, those two things might cancel out. He stated another component of personal income is property income, dividends, interest and rental income, which could offset that, and also transfer payments, which are primarily Social Security, Medicare and Medicaid payments.
- Q. Senator Rapp-Svrcek indicated it is his understanding that the legislative fiscal analyst has found total non-farm income to be a much better indication of the state's income health than total personal income, and asked Mr. Brooks to speak to that, briefly.
- A. Mr. Brooks responded that non-farm income is the earnings of workers, outside of agriculture, and is generally a more stable source, both in terms of what is real, and

what the estimates say. He indicated that agricultural income goes up and down every year, and they use non-agricultural income for revenue forecasting purposes because it is a more stable measure of the economy, adding it is the consensus economic variable that is used to analyze the state's economy, and the Bureau of Business and Economic Research at the university emphasizes that, rather than personal income.

- Q. Senator Bengtson indicated that Mr Nordtvedt mentioned real income of the state's people, and he also mentioned a percentage of change in the state's personal income, and asked Mr. Nordtvedt if his reference to real income is something different than the state's personal income.
- A. Mr. Nordtvedt responded that is a preamble to the clause which spells out that the legislature, by statute, shall pass the laws to implement the constitutional spending limitation. He indicated this is supposed to be a generic constitutional guide and that, for instance, the base period of personal income would be determined by legislation. He stated the statutory spending limitation uses an average of the 3 previous years, so that the one-year up and down spikes are taken out, and that most of the technical problems the economist from the university system referred to were addressed in the implementation of a statutory limitation.

Mr. Nordtvedt stated the personal income figure generally incorporates inflation because, when inflation gets higher, it goes back into higher wages, noting it does not necessarily mean higher real wages, but is just the effects of inflation. He indicated real income growth was thrown in the preamble to point out that personal income grows because of growth in real income, but personal income also grows simply because of inflation, and they wanted to point out in the preamble that the spending limitation does take inflation into account as part of the personal income, and finally, that it is thoroughly affected by population. He indicated that, if there are more or less people, there will generally be proportionally more or less personal income because of the population change. Mr. Nordtvedt stated the one quantity that sums it all up, the ability of the people to sustain tax burdens, is total personal income.

- Q. Senator Bengtson asked Mr. Nordtvedt, regarding government spending, whether it be local, school or state government spending, does he think we can devise a system

flexible enough to reflect the peaks and valleys of personal income.

- A. Mr. Nordtvedt responded that, for instance, the statutory approach uses a 3 year average to do that very thing. He stated that, because of the revolution in school funding, and the Supreme Court decision, the state is going to have essential control over school spending in the future, to a much greater extent than in the past. He indicated that is why they are included, and the base that is allowed to grow with personal income is, therefore, greater, too, as it includes the school spending. He noted that, whether you put local governments in the base that is going to be subject to this limit or not, it can go both ways. He indicated that some 20 states have these kinds of spending limitations, that half of them are constitutional, and the other half statutory, pointing out this is not new ground they are embarking on, that it has been used, and has had an effect in a number of states.

Mr. Nordtvedt indicated that, if the committee wants to strike local governments from this, he has the prepared amendments to do so, but indicated he does not think it makes that much difference, and he believes the taxpayer would feel more comfortable that local governments were in this base which is being constitutionally constrained. He reported that local governments have been the most fiscally responsible division of the public sector, and are the ones he would be least concerned about excluding, noting they have managed their affairs well, during the past era, and indicated this is in great part because of restrictions on their budgets here in Helena. He further indicated that it is state and school spending that has been growing faster than the people's ability to pay, noting that the state is going to be responsible for 85% of the school spending, starting in a year or so, and this is essentially part of the state spending level.

Mr. Nordtvedt noted that the amendment he prepared to exclude local governments has a net effect that, if transfers of responsibility are made to local governments, the base will be changed accordingly, adding that those kinds of inter-governmental clauses are not needed if they use the entire state spending, including these local units. He indicated this language was taken from the successful spending limitation constitutional provisions in other states.

Mr. Nordtvedt indicated that, regarding Mr. Burr's testimony, he would support the concept, on line 12, page 2, of using the language "in a manner provided by law", which further makes this generic, and leaves it up to the legislature how to return surpluses to the people. He then stated he would not change general fund, because he thinks the general fund is the one fund they do not want to build up excess surpluses. He noted that in other funds, such as educational funds, etc., they build up surpluses for explicit purposes, such as to earn interest income, etc. for purposes of funding schools. Mr. Nordtvedt stated he thinks general fund should remain on line 11, adding that the other amendments suggested by Mr. Burr would be fine.

Mr. Nordtvedt stated they are attempting to keep this generic, as part of the constitution to provide the people with protection from an excessive growth rate of total spending, and it is not intended to tinker with how that total spending is allocated.

- Q. Senator Harding asked Mr. Burr and Mr. Nordtvedt, regarding line 16, page 2, if instead of the Governor "and" 2/3, if "or" would be agreeable.
- A. Mr. Burr responded he would prefer to have it 2/3 of the legislature rather than the Governor, by himself.

Mr. Nordtvedt stated they think 2/3 of the legislature is sufficient assurance, by itself, and concurrence by the Governor is not necessary. He added they feel letting the Governor exceed the spending limitation by himself would weaken it substantially, but they would accept the notion of simply making it a choice of 2/3 of the legislature.

Senator Harding commented that this was just for declaration of an emergency, which is the reason she asked for that.

- Q. Senator Hofman indicated to Ms. Jensen that he did not quite understand her testimony, noting she testified as an opponent, but said that, if we taxed more, people would leave.
- A. Ms. Jensen responded that she also had her mind on SB422, which is coming up shortly, but that there are more people leaving the state. She indicated that, if we are losing people, we are losing income and, by losing

income, there will be nothing to fund state government. She stated she thinks we need to find a way to fund state government, and she does not feel this bill will do that.

Q. Senator Hofman asked Ms. Jensen if she is saying they will leave both ways.

A. Ms. Jensen responded she did not mean that.

Closing by Sponsor:

Senator Gage noted that fewer people means less government, but it that does not seem to happen, adding that at least this would point us in that direction. He indicated that constraints of the legislature have been placed on local government, but that we do not see fit to do that to ourselves, and this will allow the people to do that for us. Senator Gage noted that, as a legislature, we are probably guiltier than anyone else because we are the fastest growing branch of state government, and should learn a little bit from the kinds of restraints put on local government. He asked the committee to let the people do the same thing for us that we don't have guts enough to do for ourselves.

Chairman Farrell announced the hearing on SB441 as closed.

DISPOSITION OF SB 441

Amendments and Vote:

Senator Rasmussen offered a motion that the amendments suggested by Mr. Nordtvedt to exclude local governments from the bill be adopted. Ms. McClure read the amendments, a copy of which is attached as Exhibit 16. There was discussion regarding the amendments, and the shifting of costs.

Motion passed by the committee to adopt the amendments to SB441 to exclude local governments and inserting a section regarding shifting costs.

Senator Bengtson offered a motion to amend page 2, line 12, striking "pro rata", and inserting "in a manner provided by law", a copy of which is attached as Exhibit 16.

Motion passed by the committee to adopt the amendment to SB441 to strike "pro rata" and insert "in a manner provided by law."



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Senator Harding offered a motion to amend out "the Governor and". Senator Hofman stated he has a problem with that because he thinks the Governor has to have the latitude to be able to declare an emergency. He indicated that someone has to be able to declare an emergency and, generally, that is the Governor's responsibility, adding that, if something drastic happens somewhere in the state, he has to be able to have that latitude, in some cases, in order to qualify for federal aid.

Senator Bengtson stated the Governor still has that power, pointing out that this is as it affects expenditures, that he isn't the one who can appropriate, anyway. She added that he can declare an emergency. A copy of the amendment is attached as Exhibit 16.

Motion passed by the committee to adopt the amendment to SB441 to strike "the governor and", with Senator Hofman opposed.

Senator Rapp-Svrcek offered a motion to amend page 3, lines 11 and 12, to delete the words "or prevented". A copy of the amendment is attached as Exhibit 16.

Motion passed by the committee to adopt the amendment to SB441 to strike the words "or prevented" on page 3, lines 11 and 12.

Ms. McClure stated there was a disagreement regarding taking the word "general" out line 11, so that it would read "fund balances", and indicated Mr. Nordtvedt said he would prefer to leave it. Senator Hofman indicated there is a big difference, that there are funds that stay over and are used, as needed. He added that, at the end of the fiscal period, those funds do not go into the general fund, like most of the others do. Senator Bengtson stated the word "general" is needed in there.

Senator Rapp-Svrcek suggested the committee needs to talk about the issues Mr. Brooks brought up, especially regarding using total personal income, or non-farm income as a gauge. He stated that, sitting in on the Revenue Estimating Committee, it has become clear to him that a more reliable gauge is needed for income growth in the state, that the legislative fiscal analyst and, as Mr. Brooks pointed out, the Bureau of Business and Economic Research use total non-farm income, because of the volatility of farm income, and in deleting farm income out, we have a better gauge of where the state's overall personal income is.

Senator Bengtson indicated she agrees with Senator Rapp-Svrcek, adding that Mr. Brooks' testimony raised a lot of

questions as to whether any of this is feasible, noting there is a lot of ifiness regarding how to determine the state's personal income. She stated she thought "a shifting sea of sand" was very thought-provoking, regarding trying to gauge our expenditures by a figure that we can't get a hold of. Senator Hofman asked if that information would be available from the state income tax division, if we could get that out of their computer. He indicated he thinks agriculture should be included in the state's personal income, that agriculture is a big part of the state's economy, and all of it together will tell you where your state's personal income level is at. Senator Bengtson stated she thinks the whole thing is very difficult.

Senator Rapp-Svrcek stated he has asked that same question, and the answer he has gotten from the people who do this figuring is that there are a lot of times that, on paper, a farmer loses money but, in reality, he really hasn't, noting that is why total non-farm income is a better harbinger of the state's overall income health, because of the deductions and the way a farmer's income taxes are figured. Senator Hofman indicated this is a reflection of the farmer's financial health, that he has these options but, somewhere along the line, he has to pay the taxes. He stated that, if a farmer makes the money, eventually he will have to pay the tax, and indicated he may be able to offset that some but, in the end, he has to pay it, noting that is not a mechanism to make him avoid paying it.

Senator Vaughn stated that makes it uncertain from year to year. Senator Bengtson indicated they will take a 3 year average. Senator Harding stated so many things are based on personal income that we certainly must have a handle on it; a pretty good figure of personal income, if it is averaged out over 3 years, and that should be a surer figure than most anything that they could offer.

The committee discussed the issue of personal income among themselves. Senator Rapp-Svrcek stated he does not know if it needs to be nailed down in the bill, or not, but that the revenue estimating committee does use figures from over a 3 year period to determine the numbers they put into the revenue resolution that comes out on the 45th legislative day. He stated they go through the previous 3 years, and come up with an average figure, and that maybe, although it is certainly not clear in here, that is what they are planning. Chairman Farrell indicated this is a constitutional amendment, and it still has to go through the process. Senator Rapp-Svrcek agreed, indicating there is no motion on the bill yet.

Senator Hofman offered a motion that SB441 do pass as amended.

Recommendation and Vote:

Motion passed by the committee that SB441 do pass as amended, with Senators Bengtson, Rapp-Svrcek, Vaughn and Abrams opposed.

HEARING ON SB 422

Chairman Farrell turned the meeting over the Vice Chairman Hofman.

Presentation and Opening Statement by Sponsor:

Senator Bill Farrell stated that SB422 is an act that would allow a commission to be set up and established to review state government. He indicated they would like to establish a commission to review the activities and operations of state government, and advise the Governor and those agencies of the programs that may be handled better by private organizations.

List of Testifying Proponents and What Group they Represent:

Wayne Phillips, Legislative Liaison, Governor Stephens  
Riley Johnson, National Federation of Independent Business  
Ken Dunham, Associated Printers and Publishers  
Mike Welsh, representing himself  
Valerie Larson, Montana Farm Bureau Federation  
Paula Lindsey, President, Private Employment Agencies of  
Montana  
John Semple, M.A.T.A.  
H. S. Hanson, Montana Technical Council  
Don Ingels, Montana Chamber of Commerce  
James W. Williams, representing himself

Testimony:

Mr. Phillips indicated the effort to look at state government in a reasonable way, and to look for means by which they can privatize program functions, is a key part of Governor Stephens' program and plan for making government more efficient, and for stimulating the economy in Montana. He stated the primary focus of this bill is to identify governmental functions that can be provided more efficiently or economically by private enterprise. He indicated they want to assure the committee this is not a wholesale abandonment

of government functions, but is a responsible look at what government does, and whether it should be done by others.

Mr. Phillips stated the analytical balance is cost and service efficiency. He noted that, when this commission looks at a service provided by government, if there is not a cost savings, or if it can not be done more efficiently by private enterprise, they will not remove it from the government sphere. He indicated the committee should note that this program was adopted from the State of Ohio, which has operated very effectively for a number of years, adding this is not unique, but is a practical step being taken by state government to try to get a handle on their costs, and make their efforts more efficient.

Mr. Phillips indicated they have heard some comment, and stated they will not accept any amendments that will extend this to local government, at this time, adding they do not believe that is the intent of the bill, and this looks specifically only at state government. He stated they would ask the committee to join the Governor in this effort, noting we are all cost-conscious in this legislature, and this process, promoted by this bill, offers a potential for cost savings, and the potential can be realized only if we have a commission to take a look at the various functions of state government, and determine those that might be more appropriately provided by others. Mr. Phillips stated they pledge a reasonable and thoughtful application of its principles, and asked the committee's support of the program in terms of reducing government that might be more appropriately provided by private enterprise.

Testimony:

Mr. Johnson's written testimony is attached as Exhibit 6. He stated this is not a new issue to NFIB, that they have come before the legislature in the past and urged support of this type legislation. Mr. Johnson distributed copies of testimony from Sue Weingartner, Montana Solid Waste Contractors, Inc., a copy of which is attached as Exhibit 7, indicating she had to appear in another hearing and could not attend this meeting.

Mr. Johnson stated they would never support a witch hunt, and are not looking to eliminate jobs. He stated they are looking to create jobs, and national studies have shown, consistently, that up to 35% can be saved by going into the private sector on certain items. He distributed copies of a news article to the committee, a copy of which is attached as Exhibit 9,

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noting that South Carolina is anticipating a \$1.4 million savings by eliminating the inter-agency, not the in-house, but the outside, to the public, type of printing. He added that Colorado just passed this law last year, Arizona has had it for about 5 years, and Ohio and a number of others. Mr. Johnson distributed copies of a political cartoon to the committee, a copy of which is attached as Exhibit 8.

Mr. Johnson reiterated that SB422 is not, in their estimation, a witch hunt, that they want it legitimate, bi-partisan, and honest, and they would support any forms of trying to privatize to the market. He stated that, in the State of Montana, small business is the biggest market in the state, noting that we are losing it drastically, and asked that the committee very seriously consider SB422, and the passage of SB422, to give them, and small business, the opportunity. Mr. Johnson pointed out there is a complaint clause, indicating this is very important to them because there are some industries, or businesses, that would like to have a court of last resort to come in, air their case, make their case, and prove that they can do, and be responsible, and do it for less than what is being done in the state. He stated that is all they ask, that they are not looking for guarantees, or guaranteed paychecks. He indicated what they are looking for is the opportunity; they presently don't have that opportunity, and this bill would provide that opportunity for a court of last resort. He urged the committee's support of SB422.

Testimony:

Mr. Dunham reported that the Associated Printers and Publishers is a trade association representing the people in the graphics arts business in the state. He stated they do support this bill, and are very concerned about the issues of efficiency and appropriateness of the state performing many activities, including printing. He indicated this is a major concern to the state's printing industry at this time, noting they have contended, over the years, that much state printing is neither efficient nor is appropriate to be done in-house.

Mr. Dunham stated that, as the committee is aware, a number of bills in the past 2 sessions have tried to address the problems specifically from the printing industry, and indicated they would support this bill as an additional means of getting done what they have been trying to get done for, probably, 10 years, or more.

Testimony:

Mr. Welch stated the testimony that preceded him is the testimony he would give, and urged the committee to do pass SB422.

Testimony:

Ms. Larson's written testimony is attached as Exhibit 10.

Testimony:

Ms. Lindsey reported she also speaks for a loosely-knit group of temporary services across the state. She indicated she would urge that the committee unanimously approve SB422, noting they are a private employment agency providing services to employers in the state, and they would appreciate the committee respectfully considering this bill. Ms. Lindsey distributed copies of testimony from one agency, a copy of which is attached as Exhibit 11.

Testimony:

Mr. Semple stated they support passage of SB422.

Testimony:

Mr. Hanson stated they go on record as supporting this bill, and indicated he would like to give the committee a specific example, in state government, so they will understand the kind of numbers they are talking about, and the kind of inefficiencies that exist. He reported that, a few years back, there was a \$700,000 project at Giant Springs in Great Falls. He stated it was divided into a \$300,000 increment and a \$400,000 increment; \$300,000 being for the approach roads. He stated the Department of Highways felt they were entitled to that, because they had the design people, and they were a little short of work, so they wanted to do that portion. He noted one of their firms did the \$400,000 project, and entered into a fixed fee of \$30,000 for that \$400,000 project. Mr. Hanson indicated the \$300,000 that the Department of Highways did had no fixed fee involved, and this was controlled by the architectural engineering division of the Department of Administration. He stated that, after the Department of Highways had started the project, and were about half way through, they sent a bill for \$51,000 as part of their fee cost. He noted the AE division thought it was a little high, but were willing to accept it, but it turned out to be only half the fee. He indicated that, when the project finished,

they received another bill for \$51,000, for a total price of \$102,000 for a \$300,000 project. Mr. Hanson indicated that AE objected, and they finally negotiated it to \$75,000, and that the rationale and reason for that high fee was that their overhead was quite expensive, and they had to cover it.

Testimony:

Mr. Ingels stated a review committee could only serve well the state and the people of Montana.

Testimony:

Mr. Williams stated he agrees with all that was said before him, and indicated he would like to point out that there are many interests from different directions, where government may or may not belong. He indicated this establishes a mechanism for an independent review to go look.

List of Testifying Opponents and What Group They Represent:

Gene Fenderson, Montana State Building and Construction Trades Council

Terry Minow, Montana Federation of Teachers; Montana Federation of State Employees

Dennis Sullivan, Citizens Advocacy for Social Justice

Bob Heiser, United Food and Commercial Workers

Nadlean Jensen, Executive Director, Montana State Council #9, American Federation of State County and Municipal Employees

Testimony:

Mr. Fenderson distributed to the committee members copies of written testimony from Mr. Murray, State AFL-CIO, a copy of which is attached as Exhibit 13.

Mr. Fenderson reported he has lobbied for 5 or 6 sessions, 10 or 15 years, and stated that, of all the legislation he has dealt with, this is absolutely the worst he has ever seen, bar none. He indicated they should be called dictators rather than commissioners, and that we might as well turn the Capitol building of this great state over to 5 very powerful people, noting that those 5 have more than the power to review. He stated they have the power to do a great deal, that they have the power to subpoena records, and their whole function is to reduce or eliminate state government, adding that is on page 3. He indicated that is one of the orders of this directive, and he does not think that the citizens of this state elected

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the legislators to turn the power that they have, that they were elected to do, over to a 5 member, powerful commission that could basically dismantle state government, as we know it today, and take that responsibility away from the legislators. Mr. Fenderson indicated that, if we have to review privatization, if that is the great drive, noting he totally disagrees with it, that is the responsibility of elected people like yourselves, and not a commission set up by the private enterprise that has no other force but to make money for themselves or their corporations. He stated that government has a responsibility, not only to the private enterprise system of this country, but it also has a responsibility to the citizens that live here, and it is the responsibility of the legislators to make those decisions, not a commission that is given untold authority in a bill that goes on forever about that.

Mr. Fenderson then stated the other things he notes in the bill are that it has absolutely no worker protection for the people that may be laid off through privatization, there are no policies on reduction of the work force, attrition, there is nothing to require contractors to offer the right of first refusal to affected government employees, there is no protection of transfer of employees from one agency to the other, there is nothing in there that says that, if this is a savings, a percent of the savings for contracting out services goes for job training, retraining workers, there is no offer of early retirement for employees that are affected, there is nothing in there that reserves all in-house jobs that would be left for the displaced workers, there is nothing in there to say that collective bargaining agreements should be recognized if these agencies are shut down or changed, and added that he could go on and on and on. Mr. Fenderson stated they feel very strongly that it is a very bad piece of legislation, that it gives untold powers to a commission appointed by the government that does not even have to have their appointments reviewed, by the Senate, who should be doing that. With that, Mr. Fenderson stated, he would urge the committee do not pass.

Testimony:

Ms. Minow stated they rise in strong opposition to SB422. She indicated the underlying assumption contained in this bill is found in the third clause in the title, "Prohibiting state agencies from performing certain activities;". She stated this committee should be aware that this state has had several failed attempts to save money through privatization, indicating she would like to point to 2 of those. Ms. Minow



referred to the privatization of the pharmaceutical services in the Department of Institutions, which has resulted in balloon costs, indicating the same is true of the children's center in Billings, which is the result of the privatization of mental health services for children; once again, costs have gone up, rather than down.

Ms. Minow stated this committee should be aware that a positive vehicle for looking at the question of privatization is contained in another bill, that is HB719, adding they do not suggest that privatization should never occur. She indicated that, instead, they ask for a positive vehicle for looking at this issue, which would include protection of workers, their jobs and pay, and protection of vital state services. She added this bill is definitely not that vehicle, and they ask that the committee give it a do not pass recommendation.

Ms. Minow referred to written testimony from Tom Schneider, of the Public Employees Association, a copy of which is attached as Exhibit 14.

Testimony:

Mr. Sullivan stated he agrees with the lady about prohibiting, because it is a regulatory agency, in that sense, and it talks about our state governmental activities that are in competition with private enterprise, as though it is a dirty word to be in competition, adding he thought that was the whole gist of what private enterprise is all about. He indicated he has seen some bills, too, and this is a real beauty. He stated he is part of about 80% of the people in this state in that he has a 12th grade education, noting he thinks that most of the people in Montana are relatively simple folk, but they are certainly not simpletons, and this is asking them to be one, that this is what this amounts to. He reported he has worked both in the private sector and in the public sector, in alcohol treatment programs, etc., and one of the problems with privatizing some of these, noting this is certainly what is going to happen on down the road from this bill, is that the people that these agencies care for are the people who can not afford to go to private corporations. He stated another good example of privatization as against government intervention is disabled workers, indicating he knows quite a bit about that, too. Mr. Sullivan stated, if you want to get in trouble, go to a private rehab corporation, and if you don't go to them, that is too bad, because they will get you anyway, they are part of the system. He indicated he could only ask that the committee really be careful with this, noting that

they know better than he does that statistics don't lie, that they are hearing a lot of statistics, but have to remember that liars produce statistics, and that sometimes where we are coming from in life is how we end up with statistics, that they are easy to use. Mr. Sullivan asked the committee to shelve this as far back as they can, send it into the abyss, if necessary, indicating this is not an appropriate bill, and we can come up with something better than this, adding we are going under the idea that this is a review commission when, in actuality, it is a regulatory commission.

Testimony:

Mr. Heiser stated they want to go on record as being very much opposed to this bill, as stated by several of the other opponents of this bill. He added this is a terrible, terrible bill, and urged the committee to give this bill a do not pass recommendation.

Testimony:

Ms. Jensen stated they are opposed to SB422, that not only does it not have their concerns in it, that Mr. Fenderson mentioned, but she would like to go beyond, and asked, once something is privatized, what are the checks and balances. She asked what are your obligations, as legislators, to the citizens of this state, indicating that, if we were to privatize the prison, are the legislators no longer concerned with the care and the appropriateness of how they are treated. Ms. Jensen went on to ask, if we privatize Montana Developmental Center, Warm Springs State Hospital, those sorts of things, where does the legislators' responsibility end, or how are you able to turn around and be able to check on who you sell that out to. She indicated she does not believe that is covered here, nor is there anything in the intent to take a look at that. Ms. Jensen strongly urged the committee to do not pass.

Questions From Committee Members:

- Q. Senator Rapp-Svrcek asked Mr. Phillips if a fiscal note has been issued, and if he has any idea what kind of costs are behind it.
- A. Mr. Phillips responded that there is a provision in the bill to allow for fund raising to pay any costs to the commission, and they would attempt to do it that way.

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- Q. Senator Rapp-Svrcek asked Mr. Phillips what if they are not successful in raising what they consider to be an adequate amount to fund this commission.
- A. Mr. Phillips responded that he guesses it won't be there.
- Q. Senator Rapp-Svrcek asked Mr. Phillips if they would shut it down.
- A. Mr. Phillips responded it would never begin operation, if they did not have the money.
- Q. Senator Rapp-Svrcek pointed out that page 6, line 23, talks about the commission being able to administer oaths, issue subpoenas, and compel the attendance and testimony of witnesses, but that it does not say whether that particular subsection pertains to just the governmental agencies that we are dealing with, or to private business, and indicated the way he reads that, it gives the commission carte blanche to subpoena anyone they want to.
- A. Mr. Phillips responded that is a fair concern, and they would embrace an amendment that they felt was important to have in there.
- Q. Senator Rapp-Svrcek noted that a number of places in the bill talks about efficiency being one of the measures of whether or not state government is doing a better job than private enterprise, pointing out there is no definition of efficiency in there, and asked what does efficiency mean.
- A. Mr. Phillips stated that efficiency is that notion of where is the cost effectiveness, indicating that, if a service is being provided by government, now, and can be provided more cost-effectively by a private service, that would be efficient but, if it is not, it will stay in the government sector. He indicated that is a fairly clear dividing line, and stated he does not think there is a lot of difficulty with that notion.
- Q. Senator Rasmussen noted that Mr. Tom Schneider of the Public Employees Association wanted to enter into the record his testimony in opposition, and distributed copies to the members of the committee, a copy of which is attached as Exhibit 14.

Senator Rasmussen then asked Senator Farrell if there was intention to have legislative review, noting he did not see that in there, and asked what was the intention.

- A. Chairman Farrell responded not necessarily legislative review, but that the bill states there has to be implementation plans before any of these programs are implemented, adding that he would assume it would fall under the administrative rules procedure, and that, once those rules are implemented, they are eligible for legislative review.

Senator Hofman referred Senator Rasmussen to Section 16, on page 12, which talks about the biennial report to the Governor and the Legislative Finance Committee, and lists all the criteria. Senator Rasmussen commented it is just a report.

- Q. Senator Vaughn indicated there seems to be concern about privatizing, and having a system so that people who really need the care, who can now get it from the state agencies and could not afford to get it through the private sector, and asked Senator Farrell to address how those people might be taken care of.
- A. Senator Farrell responded that not only would cost be part of the efficiency, and indicated that cost, availability and the need for the program will also be part of the commission's charge. He stated there are programs that private agencies can not provide as cost-effective as state government, and the state has to provide those.

Senator Farrell stated that, in the implementation and review, the advisory letter, advise and consent part, there is a provision that state agencies have a chance to state whether they can implement these, or not implement these, that it is up for review, and that they send a letter back to the review commission stating why they can not implement what the commission has asked them to privatize, noting there is an exchange between the agency and the commission before this can be implemented, or is final. Senator Farrell stated that he would assume, knowing time frames, that the Legislature, or the Finance Committee, will be meeting.

- Q. Senator Bengtson asked Senator Farrell about the growth of contract work that has taken place throughout state government in the last 4 to 6 years, indicating she knows there has been quite a growth in contract work, referring

to Terry Minow's testimony regarding the pharmaceutical and corrections medical system in the Department of Institutions, and further asked Senator Farrell if he has a summary of how contracting has been used with the private sector, more and more, throughout our operations.

- A. Senator Farrell responded he does not have a summary, indicating that Senator Bengtson serves on the Finance and Claims Committee this session, and stated he would assume she would have a better knowledge of that than he would.
- Q. Senator Bengtson indicated she thinks it is important to note that an interface has taken place throughout state government where we are privatizing in a lot of areas, and asked Ms. Minow to review what she meant by her indication that we have been losing money with contracting of corrections medical programs, and also with the youth treatment center in Billings, and how our costs have risen since.
- A. Ms. Minow responded she does not have the figures in front of her, but can get those for the committee this afternoon. She stated the figure that comes to mind is in terms of the pharmaceutical services, stating that she can get that for the committee this afternoon.
- Q. Senator Bengtson stated she is confused about that because, although she can not remember exactly what the testimony was, that move was made 2 or 3 years ago because of its cost-effectiveness.
- A. Ms. Minow responded that it has not turned out to be that way, that this was the intent of the subcommittee, but it has turned out to cost more, and that, actually, more drugs are being dispensed, noting that nobody has quite figured out why it not only costs more for the pharmacists, but we're actually increasing the amount of drugs under that.
- Q. Senator Bengtson noted that Ms. Minow mentioned the costs of services with the youth treatment center in Billings.
- A. Ms. Minow responded that she can get that, and would be glad to present that to the committee this afternoon, indicating she does not have the figures with her.

Senator Hofman indicated the committee would appreciate receiving those figures.

Closing by Sponsor:

Senator Farrell reported that privatization was discussed all through the campaign, that even the Senators and Representatives discussed privatizing, and that it does the best they can to reduce the cost of state government to the taxpayers. He stated he thinks this is an avenue, that he personally thinks this is simply a review commission and that, if it doesn't turn out to be that way, he is sure the next Legislature will be advise them that they are a review commission. He indicated it is simply a way to look at ourselves, and look at state government, and that, when you serve 90 days every 2 years, many of us do not have the opportunity to look into the programs, and know exactly what is going on in each department, unless we work in those areas. With that, Senator Farrell recommended that the committee give a do pass on SB422.

Vice Chairman Hofman announced the hearing on SB422 as closed.

DISPOSITION OF SB 422

Discussion:

Senator Bengtson stated this bill has a lot of language that is hard to deal with. Senator Hofman offered a motion that SB422 do pass. Senator Bengtson referred to page 6, subsection (c), line 23, which is the powers and duties of the commission, indicating that language is hard to take, noting that includes subsection (d). She offered a motion that subsections (c) and (d) be deleted.

Senator Harding stated it says the commission may do these things, that this is investigative power and they need to have some authority to act. She indicated she understands what Senator Bengtson is referring to, but thinks they need some kind of authority. Senator Vaughn asked if this is just state agencies, and should they add state agencies to (c). Senator Harding indicated she thinks that this refers to state governmental activities. Senator Vaughn indicated it does not say so, and Senator Harding pointed out that (a) does. Senator Rapp-Svrcek pointed out that it does not say so in (c) and (d). Senator Bengtson indicated this should not be in the form of a law that the committee has not had time to review, and she can not imagine it.

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Senator Rasmussen stated this bill is not drafted very well and, although he supports the concept, it gives dictatorial powers without legislative review. He indicated it provides that the legislature is notified, but you are talking about legislative action changing whole departments, changing functions, without the legislature being involved, actually running it through the process. Senator Bengtson suggested a resolution may be a little more acceptable regarding the privatization issue but, to put in a statute something with this extreme language, she can not support it, adding she does not think something like this can be put out on the floor.

Senator Rapp-Svrcek indicated there was some mention about a better vehicle, being HB719, and asked if anyone knows what that is. Ms. McClure responded she knows about the bill, that it provides for a contract review board, it lines out criteria and that, before a state agency can contract out, they must show this. Senator Bengtson noted that, not too many years ago, the Governor had a council, and maybe we should dig that out again. She indicated they spent a lot of time with the private sector, coming in and working with the agencies, and there were a lot of recommendations that were accepted, and some that were not. She reiterated maybe we need to review that again.

Senator Rapp-Svrcek offered a substitute motion that SB422 be placed on the table.

Recommendation and Vote:

Motion passed by the committee that SB422 be tabled, with Senators Anderson, Harding, Hofman and Farrell opposed.

HEARING ON SB 439

Presentation and Opening Statement by Sponsor:

Senator Farrell stated that he is presenting SB439 at the request of the Senate State Administration Committee, and that it is an act revising the Centennial Commission's rule-making authority. He noted the Lt. Governor's office asked for a committee bill on this, stating this is a problem that needs to be addressed because, last year, there were some problems with being able to deal with logos, exclusivity, and audits on people who have gotten grants from the Centennial Commission, and this has to do with the Centennial Celebration.

List of Testifying Proponents and What Group they Represent:

John Kinna, Lt. Governor's Office; Centennial Commission

Testimony:

Mr. Kinna testified that, when he first came into the office, someone said there is a lot of money in the Centennial budget and that, being in the school business for 30 years, he immediately became paranoid, and his ulcers began to act up terribly. He reported that, after the budget meeting the other day, a young man indicated he was a member of the legislative fiscal analysts team, an auditor, and Mr. Kinna stated that he knew that they would have to account for Centennial money, and the things they do.

Mr. Kinna stated this is a bill that would help them do that, noting there are some people who have been given exclusivity with regard to products, and it has been stipulated, generally, as to how that will proceed, but that they are not excited about having anyone look at their books in terms of if they pay the royalties that they agreed to, and those kinds of things. He indicated that, quite frankly, there is nothing in the agreement they sign that says they will have to do that. He indicated this an attempt to fix that, and enable the Centennial Committee and Commission to be able to provide an audit, saying these are the funds that came through here, and have a good paper trail, and be able to account for them. He noted it also has a penalty, that he learned in school you can make all the rules you want to, but somebody is immediately going to say what if I don't, that there has to be a what if I don't, and that is in here.

Mr. Kinna asked for the committee's support of this, and indicated he appreciates the opportunity to address it.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Vaughn asked if those people who have already signed contracts, and it was not in there, have to be this responsive.
- A. Mr. Kinna responded this is not retroactive, and they will have to rely upon the good will of the people. He stated that, at this point, he thinks there are only 2



who, in his opinion, look like they may want to do a number on us.

Closing by Sponsor:

Senator Farrell indicated he was involved in the discussions when there was argument regarding the authority of the Lt. Governor's office, and the Administrative Code Committee advised they did not have the authority to do that. He noted this gives them the authority, that there were contracts signed with the impression they had the authority to impose the rules, but they did not.

DISPOSITION OF SB 439

Discussion:

Senator Bengtson offered a motion that SB439 do pass.

Recommendation and Vote:

Motion passed by the committee that SB439 do pass.

OTHER BUSINESS

Discussion: SB 396 SB 397

Ms. McClure announced there are amendments to SB396 and SB397, and indicated there is one correction to the amendments on SB397. Chairman Farrell asked Ms. McClure to explain the amendments. Ms. McClure explained the amendments to SB396, a copy of which is attached as Exhibit 17.

Senator Harding offered a motion that the amendments to SB396 be adopted.

Senator Harding offered a motion that SB396 do pass, as amended. She indicated that, in local government, they have seen the problems involved with administrative rules, noting they are cumbersome, and have presented lots of problems to local government. She noted that, in dealing with administrative codes, it is another level of law, and that the hearings are always in Helena and are not always accessible.

Senator Rasmussen asked Chairman Farrell if another commission is needed and can't the Governor do this. Senator Vaughn

stated she thinks it could be accomplished with the Secretary of State's office. Senator Rasmussen noted we are creating another bureau, and more bureaucracy. Senator Bengtson stated there are too many loose ends, and too much power in this commission, that there is no salary, no limit on their power, and indicated she thought some of the testimony in opposition to this bill was so on target, and so frightening, that they are all saying this is not going to happen, but she thinks it is extreme to invest power to a commission, and there is nothing there to guide it. She indicated that she thinks, over the years, when we have our legislative oversight on much of this, and the Governor wants to do this, he can still do it.

Senator Vaughn stated she agrees with Senator Bengtson, that the power is with the Governor to work with the Secretary of State's office to get this cleared up, indicating she agrees with Senator Harding on the problem with the administrative codes, noting she thinks the power is already there to get it cleared up.

Recommendation and Vote:

Motion passed by the committee that the amendments to SB396 be adopted.

Motion failed, by roll call vote, that SB396 do pass, as amended.

Discussion:

Ms. McClure explained the amendments to SB397, a copy of which is attached as Exhibit 18.

Senator Rapp-Svrcek offered a motion that the amendments to SB397 be adopted.

Senator Hofman offered a motion that SB397 do pass as amended.

Recommendation and Vote:

Motion passed by the committee that the amendments to SB397 be adopted.

Motion passed by the committee that SB397 do pass as amended, with Senator Rapp-Svrcek opposed.

Discussion:

Senator Anderson requested that the committee reconsider their action on SB396.

Motion passed by the committee to reconsider the committee's action on SB396.

Senator Rapp-Svrcek offered a motion that SB396, as amended, do not pass.

Recommendation and Vote:

Motion failed by the committee that SB396, as amended, do not pass. Chairman Farrell announced that the committee will report SB396 do pass as amended.

ADJOURNMENT

Adjournment At: 12:45 p.m.

  
\_\_\_\_\_  
WILLIAM E. FARRELL, Chairman

WEF/mhu  
SB422.217

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE:

February 17, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTSO	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 441 (first reading copy -- white), respectfully report that SB 441 be amended and as so amended do pass:

1. Title, line 6.

Following: "STATE"

Insert: "AND PUBLIC SCHOOL"

2. Page 2, line 12.

Following: "refunded"

Strike: "pro rata"

Insert: ", in a manner provided by law,"

3. Page 2, lines 15 and 16.

Following: "by"

Strike: "the governor and"

4. Page 3, lines 11 and 12.

Following: "foreseen"

Strike: "or prevented"

5. Page 3, line 15.

Following: "state"

Strike: ", local governments."

6. Page 4.

Following: line 9

Insert: "Section 22. Shifting costs. The state may not impose upon any local unit of government any part of the costs of new programs or services, or increases in existing programs or services, unless a specific appropriation is made that is sufficient to pay the local unit of government for that purpose. If costs are transferred from one unit of government to another unit of government, either by law or by court order, the limitation imposed by section 15 must be adjusted accordingly."

AND AS AMENDED DO PASS

Signed: \_\_\_\_\_

William E. Parrell, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 439 (first reading copy -- white), respectfully report that SB 439 do pass.

DO PASS

Signed: *William E. Farrell*  
William E. Farrell, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 396 (first reading copy -- white), respectfully report that SB 396 be amended and as so amended do pass:

1. Page 1, line 14.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

2. Page 2, line 3.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

3. Page 2, line 24.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

4. Page 3, line 2.

Strike: "The"


Insert: "Except as provided in subsection (5), the"

5. Page 3.

Following: line 12

Insert: "(5) This section does not apply to the attorney general, state auditor, secretary of state, department of public service regulation, or superintendent of public instruction."

AND AS AMENDED DO PASS

Signed: 

William E. Farrell, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 397 (first reading copy -- white), respectfully report that SB 397 be amended and as so amended do pass:

1. Page 1, line 24.

Following: "of state,"

Insert: "department of public service regulation"

2. Page 4, line 15.

Following: "(3)"

Strike: "The"

Insert: "Except for the attorney general, state auditor, secretary of state, department of public service regulation, or superintendent of public instruction, the"

AND AS AMENDED DO PASS

Signed: William E. Farrell  
William E. Farrell, Chairman

2-15-89  
eg  
1:20  
SCRSB397.217



EXHIBIT NO. 1

DATE 2/17/89

BILL NO. SB185

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

Donald L. Harr

DATE:

2/17/89

Address:

1245 N. 29<sup>th</sup> P.O. Box 219  
Billings, MT.

Phone:

252-5658

Representing whom?

Mental Health Centers Montana Medical Association

Appearing on which proposal?

SB 185

Do you:

SUPPORT?

AMEND?

OPPOSE?

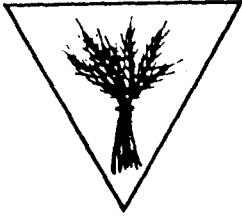
Comments:

Mental Health is recognized as being a Health  
problem rather than an institutional problem.  
The direction around the United States is to  
consider this as such. Montana's current position  
is held over from the attitude that was present  
in the 19<sup>th</sup> century.

While Dr. Drynen was the Director of the Department of  
Health he was in favor of such a change and believed that  
Department of Health is capable of managing the issue as  
the Mental Health Authority of the state.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

# Golden Triangle Community Mental Health Center



REGION II ADMINISTRATIVE OFFICES  
&  
CASCADE COUNTY CLINICAL OFFICES

Holiday Village Mall - 2nd Level  
P.O. Box 3048  
Great Falls, Montana 59403  
Phone: 761-2100

SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 2/17/89

BILL NO. 56185 pgl

2-17-89

## MONTANA'S MENTAL HEALTH SYSTEM

The citizens of Montana recognized that they had an obligation to care for the mentally ill while Montana was still a territory. The Federal government, in 1877, contracted with two doctors to provide care for the "insane" of the Territory and they started a hospital at Warm Springs. Initially there were 13 patients cared for at a cost of \$1.00 per day. This contract was continued after Montana became a state and until 1912, when the hospital became a state institution. At this time there were 854 patients and the hospital had an annual budget of \$200,000.

In the 1940's the public became aware that a serious problem existed nationally after 14% of draft eligible males were rejected as being unfit for military duty due to psychiatric reasons. By 1945 the census at Montana State Hospital had reached 1,864 patients and the institution was in large part a warehousing facility with very little treatment available. The first steps toward community based services occurred in 1947 with the establishment of three Mental Hygiene Outpatient Clinics to care for those patients in the community who had been released from the hospital. The 1950's saw the introduction of psychotropic medications, the utilization of which controlled "bizarre" behaviors and allowed for much more humane treatment and fewer patient restraints.

The 1960's saw the passage of Federal legislation establishing Regional Community Mental Health Centers mandated to provide community based, comprehensive mental health services including: inpatient, outpatient, partial hospitalization, emergency, and consultation and education services. Montana did not participate in the establishment of Community Mental Health Centers until 1967 when the legislature established the five Mental Health Regional Centers governed by boards comprised of County Commissioners or designees and empowered participating counties to levy up to one mill to support the Centers. In actuality, even though the counties were so empowered, all five Centers were not in place until 1974.

In Montana, the movement to deinstitutionalize Warm Springs patients began in 1975, after a major employee strike there revealed that 1,129 patients were receiving services judged to be woefully inadequate due to insufficient funding, their large number, deteriorating physical facilities, inadequate staff wages, and lack of a sufficient number of qualified professional and supportive service personnel.

### COUNTIES SERVED

BLAINE  
CASCADE

GLACIER  
HILL

LIBERTY  
PONDERA

TETON  
TOOLE

The 1975 Montana Legislature responded in the following manner:

1. It mandated that the mentally ill be treated in the least restrictive manner, and those patients inappropriately hospitalized in Montana State Hospital be returned to a community based program.
2. It updated the commitment act; greatly changing the way in which the mentally ill and mentally handicapped were to be cared for and confined for treatment.
3. It created the Mental Health Centers as private nonprofit corporations and mandated that six basic mental health services that constitute "comprehensive" mental health be provided. In addition to the five basic services mandated under Federal Law they added "precare and aftercare" services.
4. It provided for some funding to follow the deinstitutionalized Warm Springs patients into community programs thus allowing the Centers to develop programs for their care.

The Montana Legislature's intent to deinstitutionalize appropriate patients into the care of the Community Mental Health Centers has been largely accomplished. The current census at Montana State Hospital is 288 mental patients and 170 patients at the Galen facility for substance abusers. A further substantial reduction would be possible if funds were made available for community based services. The General Fund commitment to community based services has risen only \$59,815 since 1980 (from \$3,766,991 to \$3,826,806). During this same period Montana State Hospital's General Fund commitment has increased by \$5,978,511 (from \$13,848,825 to \$19,826,836). During the above mentioned period, the developmentally disabled community based program had an increase in State funds from \$7,572,498 to \$18,699,867 with an increase in clients served in the community from 1,604 to 2,289.

The Department of Institutions' Montana Mental Health Plan for fiscal years 1988-1989 revealed that in Fiscal year 1987 Montana State Hospital had an average census of 457 patients, including those at the Galen facility. The total budget was \$20,517,298 of which 91.6% or \$18,789,940 was made up of **General Fund monies**. This represents an average annual cost to the General Fund of \$41,116 per patient. During this same period, the five Mental Health Centers had an average caseload of 7,527, of which a minimum of ~~7,539~~ are diagnosed as being seriously mentally ill. These mentally ill clients would be seriously at risk of inpatient hospitalization at Warm Springs without community intervention. The total budget for all five Mental Health Centers is \$11,667,323 of which 33.6% or \$3,919,542 was made up of **General Fund monies**.

The Community Mental Health Center delivery system is a complex one. By law, the Centers must serve all Montana citizens in need of service without regard to race, color, creed, religion, or the ability to pay. The Centers must provide the complete spectrum of psychiatric services, from the most restrictive such as local inpatient hospitalization, to the least restrictive such as outpatient group and individual therapy. 24-hour emergency services are available throughout the State as well as

twelve 24-hour residential care facilities and fourteen partial hospitalization programs, including two new ones for adolescents. These services are funded from a number of sources:

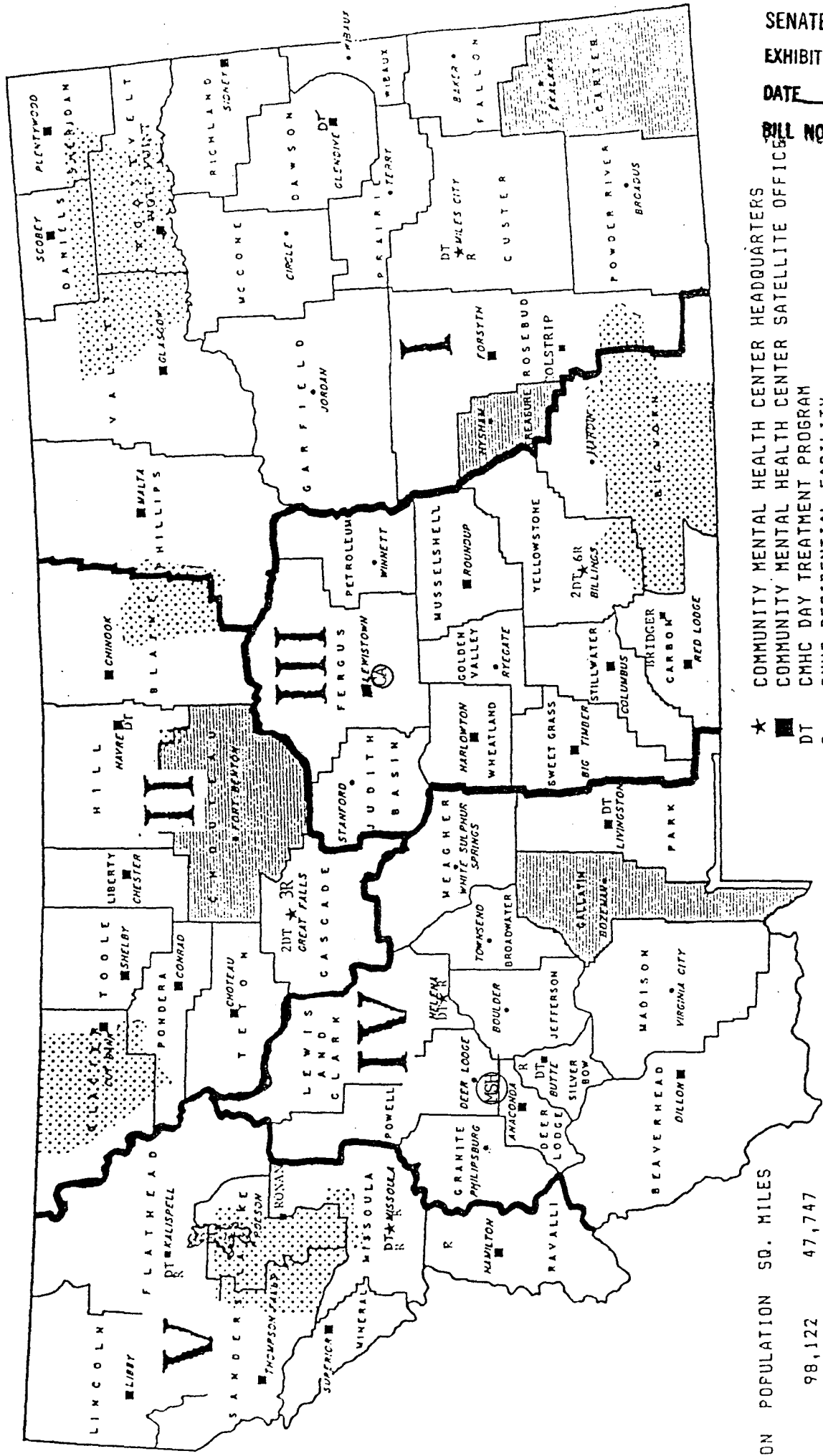
Client and Insurance Fees	19.51%
Medicaid/Medicare	20.02%
County monies	8.30%
Agency contracts	3.49%
Federal Block grant	10.59%
State General funds	33.59%
Other	4.50%

Fifty-two of Montana's fifty-six counties currently contribute and participate in the Community Mental Health system.

The Montana Council of Community Mental Health Centers, of which our Center is a member, is advocating legislative action to address some of the client needs and funding recommendations which are contained in the Legislative Agenda attached. If adopted by the upcoming Legislature it is our belief that a significant number of citizens now hospitalized at Montana State Hospital could be treated in a community program in a less restrictive, more cost effective manner. A portion of the funds now being spent at Montana State Hospital would follow the patient to the community program where they could provide the match necessary for expanded Medicaid services such as case management and supported employment. In addition, it is important that disability insurance coverage for mental illness be increased so that mental disabilities are paid for on the same basis as physical disabilities. It is my hope that the next Legislative session will reaffirm the 1975 Legislature's commitment to community based services for the mentally ill, provide the necessary resources, and prevent the fragmentation of a well functioning, caring Community Mental Health delivery system.

*Duck Hruska*  
Executive Director

# MONTANA'S MENTAL HEALTH SYSTEM



SENATE STATE ADMIN.  
 EXHIBIT NO. 2  
 DATE 2/17/89  
 BILL NO. SB185 pg 4

- ★ COMMUNITY MENTAL HEALTH CENTER HEADQUARTERS
- COMMUNITY MENTAL HEALTH CENTER SATELLITE OFFICE
- R CMHC DAY TREATMENT PROGRAM
- CA CMHC RESIDENTIAL FACILITY
- CA CENTER FOR THE AGED @ LEWISTOWN
- MSH MONTANA STATE HOSPITAL @ WARM SPRINGS
- Non-Participating Counties Indian Reservations

REGION	POPULATION	SQ. MILES
I	98,122	47,747
II	143,510	24,103
III	160,234	25,637
IV	185,191	28,753
V	199,633	19,152



State of Montana  
Office of the Governor  
Helena, Montana 59620  
406-444-3111

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 2/17/89

BILL NO. SB 441

STAN STEPHENS  
GOVERNOR

February 17, 1989

Dear Senator Farrell:

I urge you to refer the proposed constitutional amendment which would impose limitations on the growth of total state expenditures to the people for their consideration.

Both you and I know the difficulty of keeping the growth of public spending within the abilities of our taxpayers to support. This constitutional amendment would aid us in that fiscal management task, yet it is a moderate approach to that end.

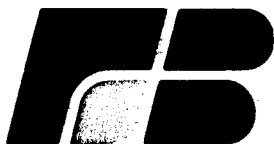
It permits growth of public spending to accommodate inflation, population growth and real income growth of our state's people. The amendment does not attempt to micro-manage our governmental affairs; it only limits the sum total of all spending in the state, leaving the allocations within the total to the normal political processes. The amendment provides exceptions during emergency conditions in the state.

Because of the recent Supreme Court ruling on equalization of school funding, we are, perhaps, now going through the most far-reaching fiscal reorganization that Montana's public sector has ever experienced. Taxpayers need assurance during this transition period and the years beyond that their total tax burden will not grow at an unreasonable rate. This constitutional amendment can help provide them that protection.

Join with me in supporting this constitutional amendment. Let us make this a non-partisan matter. I believe that this is an important enough reform of our fiscal procedures that the people should receive this amendment for their consideration by either the referendum or initiative process. However, the added weight of the legislature's endorsement would be most welcome to these endeavors.

Sincerely,

STAN STEPHENS  
Governor



**MONTANA FARM BUREAU FEDERATION**

502 South 19th • Bozeman, Montana 59715  
Phone: (406) 587-3153

LEGISLATIVE STATE ADMIN.

EXHIBIT NO. 4

DATE 2/17/89

BILL NO. SB441

BILL # SB 441 ; TESTIMONY BY: Valerie Larson  
DATE 2/17/89 ; SUPPORT Yes ; OPPOSE \_\_\_\_\_

Mr. Chairman, members of the Committee, for the record, my name is Valerie Larson, here representing over 3500 Farm Bureau members from throughout Montana.

Mr. Chairman, Farm Bureau is already on record as strongly recommending that Montana state, local, county and school district spending be significantly reduced.

The passage of this Constitutional Amendment would go a long way toward helping in the budgeting process. Our agencies have to recognize that while it is nice to get a raise every year, the money tree does not produce a BUMPER CROP every year.

State government should spend only that amount that allows them to do their mandated duties.

This Amendment will go a long way toward reaching the goal of "living within our means".

Mr. Chairman, Farm Bureau urges passage of SB 441.

Thank you.

SIGNED: \_\_\_\_\_



Executive Office  
318 N. Last Chance Gulch  
P.O. Box 440  
Helena, MT 59624  
Phone (406) 442-3388

SENATE STATE ADMIN.

EXHIBIT NO. 5

DATE 2/17/89

BILL NO. SB441

TESTIMONY

SB. 441

February 17, 1989

Mr. Chairman and Members of the Committee,

For the record, I am Charles Brooks, representing the Montana Retail Association. I appear before you today in SUPPORT of SB. 441.

We feel that state government expenditures and activities continue to grow beyond our abilities to finance them. Prudent management demands that we limit the growth of state government and bring expenditures in line with revenue capabilities. It appears that we as a society continue to look for regulations and legislation to remove all risk of doing business and living.

History indicates that in order to have the freedom that we cherish, we must rely less upon government and assume more responsibility for our own activities and lives.

We urge your support of SB 441 and ask the committee to give a "due pass" recommendation of this bill.



SENATE STATE ADMIN.  
EXHIBIT NO. 6  
DATE 2/17/89  
BILL NO. SB 422 p31

FEBRUARY 17, 1989

by THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS

J. Riley Johnson  
State Director, NFIB/Montana

SENATE STATE ADMINISTRATION COMMITTEE  
MONTANA LEGISLATURE

Chairman Farrell and ladies and gentlemen of the committee, I am J. Riley Johnson, State Director for the National Federation of Independent Business. Our association here in Montana represents over 6,000 small and independent business owners and we come before you today to urge your support of SB <sup>422</sup>~~422~~.

Before I begin, I should note that the question of government competition with private enterprise was put to our membership in our recent NFIB statewide ballot and over 73 percent of the respondents stated that their business was affected by competition from the public sector. I might add, the same ballot question was put to legislators in 1986 and over 68% agreed that government competition should be reviewed.

NFIB bases its support for government competition legislation on two fundamental beliefs: 1) Contracting out is simply a good business practice. This has been proven time and again by national university studies and by governmental studies sponsored by the SBA. It affords the most effective and efficient method of providing state government the needed goods and services. It also forces state government to plan and budget for the highest priority among its services and not merely do things...spend money on projects...because the people and equipment are already there and need to be used. 2) The government's legitimate sphere of operation is to govern...not to engage in commercial or industrial enterprise and compete with its citizens through in-house production of any goods and services which are readily available at reasonable prices in the "for-profit" community.

In-house production of goods and services translates into lost income for small business; lost taxes on income, equipment and property and lost opportunity for Montana to develop its economic base. The State of Montana is the largest customer...the biggest market...for Montana's small businesses. We need this market to keep small businesses on main street all across Montana.

Certainly, there are some functions that state government can should be providing for its citizens. To a large degree, these have already been designated by legislation...designated by you the legislators of our state. But, there are many other functions that being delivered to our citizens that have not been designated by the elected representatives. They are and have been designated by agency administrators who are building budgets that are crippling our state's economy.

<sup>422</sup>  
SB-~~412~~ is not intended as a "witch hunt". NFIB/Montana would not support any such holocaust of state services that would damage the true and needed function of our state government. We are asking for a "REVIEW" of state functions. We are asking for a business-like, bi-partisan approach to making sure what we do in the State of Montana is the best for the State of Montana. NFIB/Montana believes that such a review panel would provide you the legislators the opportunity to keep a sharp fiscal eye on expenses and an on-going review of agency activity as it relates to cost effeciency.

<sup>422</sup>  
SB-~~412~~ is not entirely new. The states of Arizona and Colorado have both passed similar legislation and both are finding it works well. They have not found the review panels to be witch hunts...nor have they found that their review boards have eliminated good, working and meaningful activities within their state governments'.

It is not our intention to merely cut out state jobs. On the contrary, we know SB-<sup>422</sup>~~442~~ will create jobs...but in the private sector. Nor is it our intention to raise costs of delivering goods and services of state government by the so-called "paying more outside" theory. If the true costs of these goods and services were revealed, we know that the costs savings on some things would be real.

In summary, we ask your support of SB-<sup>422</sup>~~442~~ and support of the dwindling private enterprise sector of small business in Montana. We ask that you give small business owners the vehicle for review of the delivery of goods and services and let us show you what we can do.

After all, it is you the elected officials of our state that have the FINAL WORD through the legislative process.

If you strike one blow for the survival of small business in our state...let it be SB-<sup>422</sup>~~442~~.

Thank you for your time.

SENATE STATE ADMIN.

EXHIBIT NO. 7

DATE 2/17/89

BILL NO. SB422



February 17, 1989

Senator Bill Farrell and Members  
of the State Administration Committee  
State Capitol  
Helena, MT 59601

RE: Senate Bill 422

Dear Senator Farrell and Committee Members:

Senate Bill 422 is about reducing government spending by allowing private enterprise to provide some services currently provided by government. This is a good bill and a timely bill. We applaud and support its concept.

Privatization makes sense and can assist our state with the problems we face due to shrinking budgets, growing demands, and fewer resources. Government funds are not a bottomless pit. If a service can be provided by the private sector effectively, with either service improvement or cost savings, then it should be considered.

Critics of the "privatization concept" maintain the status quo, but we should not be intimidated from taking a look at "the bottom line: performing necessary services for our citizens at the least possible costs."

We urge your support of SB 422.

Sincerely,

THE MONTANA SOLID WASTE CONTRACTORS, INC.

By

Sue A. Weingartner  
Executive Director

MONTANA SOLID WASTE CONTRACTORS, INC.

36 South Last Chance Gulch  
Suite A  
Helena, MT 59601  
Phone 406-443-1160

**CAW**  
GUY ARTLEY  
NFIB  
INSIGHT

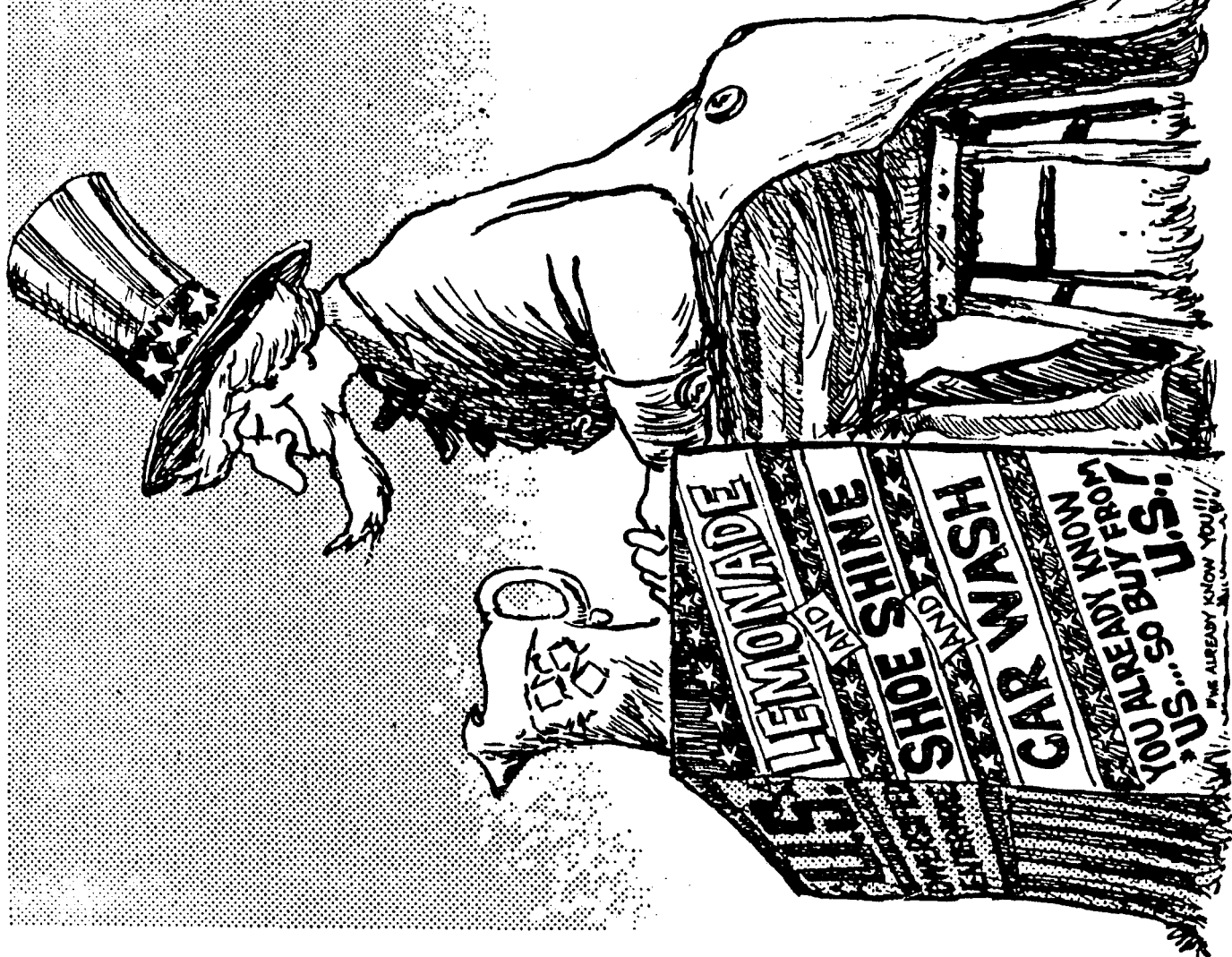
SENATE STATE ADMIN.

EXHIBIT NO. 8

DATE 2/17/89

BILL NO. 56422 201

WHY DON'T YOU  
GO COMPETE WITH  
SOMEONE YOUR  
OWN SIZE??



LEMONADE  
AND  
SHOE SHINE  
CAR WASH  
YOU ALREADY KNOW FROM THE U.S. YOU ALREADY KNOW YOU... SO BUY FROM U.S.

Homemade  
Lemonade  
24

SHOE  
SHINE

CAR  
WASH

# State Begins Closing South Carolina Print Shops

*(Editor's note: This article was written by Russell D. Mellette, who represents PICA in the S.C. General Assembly.)*

Several large South Carolina state agencies are already voluntarily closing down print shops and will bid out most of their printing jobs to commercial printers.

More are expected to follow their lead in future months as state government implements the recommendations of the S.C. Legislative Committee to Study the Printing Needs of State Government.

The study committee report, adopted by the General Assembly earlier this year, recommends that more than half the state's printing facilities be shut down and the work bid out to the private sector. Implementation of the report will save South Carolina taxpayers up to \$1.4 million per year, legislators concluded.

Three officials of the State Budget and Con-



**Chairman of the Board**  
Bernard A. Grant  
Furlong Printing Co.

**Foundation President**  
Thomas W. Reese  
The Hickory Printing Group, Inc.

**President**  
Bill Treadaway

**Editor**  
Becki Thomas

**Photographers**  
Tom Brennan  
Becki Thomas

The PICA Scanner is published monthly for its members and friends by The Printing Industry of the Carolinas, 4651 Charlotte Park Drive, Suite 120, Charlotte, N.C. 28210. (704) 527-7422. Toll free (800) 342-6217 (N.C.) or (800) 233-0286 (S.C.) Circulation: 4000.

The PICA Scanner welcomes your comments and contributions. Send them to P.O. Box 11176, Charlotte, N.C. 28220.

rol Board gave a progress report of the printing privatization project in a recent meeting with the PICA S.C. Legislative Committee, chaired by PICA board member James E. Doar of Wentworth Printing Company, West Columbia.

Robert Bass, Budget and Control Board reprographics manager, said that overall, state agencies have reacted positively to the changes. Some agency heads are even believed to be phasing out their printing operations. He cautioned that more complete implementation will take longer because of natural resistance to change and the personnel logistics.

Bass said the project to date has concentrated on seven or eight agencies so a track record could be established and the study recommendations implemented in stages to gain maximum acceptance. The report set no timetable for implementation.

The two-year study has produced an unanticipated but positive result in addition to meeting cost effectiveness goals. Government and private sector representatives serving on a temporary Advisory Committee have agreed to add more members, become a continuing body, and address other pro-

blems and conflicts in the printing industry. PICA Board Chairman Bernie Grant of Furlong Printing Company, Charleston, will appoint Advisory Committee members who represent various sizes and types of printing firms throughout the state. The Advisory Committee will meet a minimum of once a quarter in various locations around the state. Grant believes the procedure will assure maximum industry participation.

Larry Huckabee, assistant director, Division of Information Resources Management, said cost effectiveness will continue to be the primary goal, but that changing technology and other areas of conflict can also be addressed by the ongoing group.

Richard Campbell, assistant director, Division of Materials Management, told the group about a new printing manual to be available about Oct. 1. The document, which will include input from the public and private sectors, will become the manual governing all printing contracts under the State Procurement Code, Campbell said.

Doar and the government executives emphasized the improved relationship between the public and private sectors which has been one product of the study.

Where an adversarial and sometimes hostile relationship formerly flourished, an atmosphere of cooperative give and take now produces unified recommendations to the Legislature.

"Before the study committee was formed, each side went to the Legislature separately, with a pretty predictable result of the status quo," one official reflected. "We still have differences and conflicts, but working them out and going to the Legislature in a unified effort has produced tangible results and cost savings," he observed.

At the time of the study, state government had 34 printing facilities spread among its agencies, colleges, and universities and technical education schools. Those operations spent \$7.5 million annually producing 285 million pages of documents, an average of 2.6 cents per page.

The study found that the 16 printing shops judged efficient produce about 212 million pages annually at a cost of 2.2 cents each. The other 18 spent about 3.9 cents per page, producing 72 million pages annually. The panel also found that the inefficient agencies were not generating enough volume to justify the overall cost of the equipment cost of the equipment purchased for their in-house printing needs.

The study panel used as a barometer a U.S. Government Printing Office report that showed federal officials were able to get printing done commercially at an average of two center per page.

A potential cost savings ranging from \$110,000 to \$1.4 million annually could be realized if the 18 printing facilities judged inefficient were allowed to seek competitive bids. The lowest figure would result even if there were no jobs terminated or existing personnel shifted to other positions, officials said. Natural attrition of state employees would push the figure closer to the highest one, and the largest possible savings could be realized with minimum layoffs and shifting employees to other responsibilities, officials said.

## Update

Several S.C. state agencies are closing down their print shops following the recommendations of a state committee. Others are expected to follow, inevitably saving taxpayers as much as \$1.4 million annually. PICA members have been actively involved in the on-going issue, which promotes a harmonious relationship between the public and private sectors, and places more government work in the hands of commercial printers. The full story is on page 2.

SENATE STATE ADMIN.  
EXHIBIT NO. 9  
DATE 2/17/89  
FILE NO. 56422 82



**MONTANA FARM BUREAU FEDERATION**

502 South 19th • Bozeman, Montana 59715  
Phone: (406) 587-3153

SENATE STATE ADMIN.

EXHIBIT NO. 10

DATE 2/17/89

BILL NO. SB422

BILL # SB 422 ; TESTIMONY BY: Valerie Larson  
DATE 2/17/89 ; SUPPORT yes ; OPPOSE \_\_\_\_\_

Mr. Chairman, members of the Committee, for the record, my name is Valerie Larson, representing over 3500 Farm Bureau members from throughout Montana.

Farm Bureau has long been on record as endorsing, encouraging and in every way we can, promoting the concept and practice of private enterprise.

Our form of Government is the best in the long history of mankind. But, somewhere along the line, we seem to have forgotten the definition of the word "Government". When those we elect to represent us stop "governing" and start "managing", we are in Big Trouble. Representative Government is fair, equitable, and successful. Representative management is counter-productive, costly, and almost always, inefficient. All we have to do to see this proved, is to look at the Federal Post Office versus the UPS system.

We all know that there are some things that Government has to do, but by passing this bill, we will be able to have the mechanism and the means to sort out those things that should and could be done better in the private sector.

Mr. Chairman, Farm Bureau supports passage of SB 422.

Thank You.

SIGNED: Valerie Larson



SENATE STATE ADMIN.

EXHIBIT NO. 11

DATE 2/17/89

BILL NO. SB422 P21



2304 West Main St.  
Bozeman, Montana 59715  
586-0231  
586-0235



February 17, 1989

Mr. Chairman & Committee Members:

I have operated a private employment agency in Bozeman for nine years now. Together with my four employees, we are responsible for placing over 300 people annually in permanent jobs and as such, see ourselves as an integral part of the local economy.

In a similar way, the approximately 25 other private employment services functioning in this state play a unique and important role in the growth of our economy statewide. It is therefore a peculiar anomaly that the same state government that expresses such concern over our economic well-being and the future employment of our youth, would advance policies that are gradually destroying the private employment agency industry. This is especially ironic when you consider the various proposals now being debated before this legislature that would spend thousands of taxpayer dollars to allegedly "create" and fill jobs. Our industry costs state government absolutely nothing

The private employment agencies of this state are being squeezed to the limit -- not by natural market conditions and fair competition, but by an unbelievable array of competitive entities and predatory practices funded by our own tax dollars and directed by our own government. More and more each day, we are finding our services forced out by government subsidies and locked out by exclusive hiring agreements in restraint of trade. The plethora of state programs, agencies and state-funded "contractors" that offer what is advertised as "free" job placement services would

boggle the mind. These activities are, at best, wasterully duplicative of what the private sector already offers -- or would offer if not pre-empted by government. At worst, they represent a direct assault on a vital area of private enterprise that Montana desperately needs in the years ahead.

It is for this reason that I enthusiastically support SB <sup>422</sup>~~42~~, Private Enterprise Review. This bill will take a giant step forward in establishing procedures to identify harmful government competition with the private sector and ultimately, the proper avenues for their relief. This is a well-concieved and carefully-drafted piece of legislation, and I respectfully urge the committee's unanimous approval.

Yours truly,

Roger E. Kodman  
Owner / General Manager  
Career Concepts & Personnel Leasing

copy: Riley Johnson, NFIB

SENATE STATE ADMIN.  
EXHIBIT NO. 11  
DATE 2/17/89  
BILL NO. SB 422 ps 2



Executive Office  
318 N. Last Chance Gulch  
P.O. Box 440  
Helena, MT 59624  
Phone (406) 442-3388

SENATE STATE ADMIN.

EXHIBIT NO. 12

DATE 2/17/89

BILL NO. SB422

TESTIMONY  
SB. 422

February 17, 1989

Mr. Chairman and Members of the Committee,

For the record, I am Charles Brooks, Executive Vice President of the Montana Retail Association. I am here today in strong SUPPORT of SB 422.

We support the concept that local, state, and federal governments should not be engaged in merchandising, commercial, and service activities that the private sector has the ability to perform. In many cases we see governmental bodies engaged in enterprises that should be the function of the private sector. Free enterprise system has proven time and time again its ability to be responsible in delivering cost effective commercial activities.

We urge your support of SB 422 and ask that the committee give a "due pass" recommendation.



JAMES W. MURRY  
EXECUTIVE SECRETARY

110 WEST 13TH STREET  
P.O. BOX 1176  
HELENA, MONTANA 59624

(406) 442-1708

February 17, 1989

The Honorable William Farrell, Chairman  
State Administration Committee  
Montana State Senate  
Capitol Station  
Helena, Montana 59620

SENATE STATE ADMIN.  
EXHIBIT NO. 13  
DATE 2/17/89  
BILL NO. SB422 pg 1

Dear Bill:

Unfortunately, during the rush of business before transmittal, there seem to be several conflicting hearings on bills of interest to the Montana State AFL-CIO. Because of these conflicts, I am unable to attend the hearing on Senate Bill 422 before the Senate State Administration Committee today, and would like to submit our comments on this legislation via this letter.

The Montana State AFL-CIO strongly opposes Senate Bill 422 for numerous reasons. This bill would establish a private enterprise review commission to review and investigate governmental activities and prohibit state agencies from performing certain activities.

There is no doubt that governmental activities can be done by the private sector. We believe that a very good case might be made for eliminating the budget office through this bill's efficiency clause. However, you should remember the fundamental differences motivating governmental actions as opposed to private sector initiatives. Governmental activities are in response to the public good; private enterprise promotes an individual's personal gain. While these two factors are not always in conflict, there is an inherent variance between the two.

Senate Bill 422 does not recognize this difference either in its application or in its process. When looking at the mammoth powers of this new state agency, one has to wonder where the campaign promises of smaller, less-intrusive government have gone. The powers of this monolith extend to every department, office, commission, board or institution in the executive branch of state government. We should point out that there are no exemptions for other elected officials and that this creature of the governor could be used for political purposes as well.

In this administration's headlong rush toward privatization, its advocates seem to forget that the lay-offs which massive dislocation of governmental functions will obviously entail are men and women who have served the public in good stead. These working people have long and valiant records of public service. What is their reward?

The Honorable William Farrell  
Senate Bill 422  
Page Two, February 17, 1989

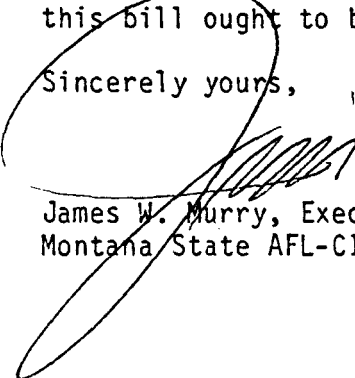
SENATE STATE ADMIN.  
EXHIBIT NO. 13  
DATE 2/17/89  
BILL NO. SB 422 p. 2

Senate Bill 422 makes no provisions for these people -- no retraining or placement, no guarantees for comparable state employment in another service area, no full compensation for accumulated benefits, no incentives for placement in comparable private sector jobs, no early retirement benefits, no protection for existing collective bargaining agreements, no severance pay. They are not even considered in this legislation.

Such humane provisions have been successful in other areas of the country when government services have been privatized. In fact, this legislation and its advocates seem to have no concern for public employees at all, and this attitude is incomprehensible considering that their jobs are at stake.

Senate Bill 422 is a bad bill that will create a monster which could easily be used for political mechanizations. It is a bad bill which totally disregards public employees. It is a bad bill which ignores the legitimate differences between government and the private sector. For these reasons, this bill ought to be buried as far as possible.

Sincerely yours,



James W. Murry, Executive Secretary  
Montana State AFL-CIO

cc: Members of the Senate State Administration Committee

## PUBLIC

SENATE STATE ADMIN.

February 17, 1989

## EMPLOYEES

EXHIBIT NO. 14DATE 2/17/89BILL NO. SB 422 Pa 1

## ASSOCIATION

TO: The Honorable Senate State Administration Committee

FROM: Thomas E. Schneider, Executive Director

SUBJECT: Senate Bill 422

The 7000 member Montana Public Employees Association is strongly opposed to Senate Bill 422. While there may be areas in government that could be looked at for privatizing, this bill is certainly not the method to be used.

All programs of state government were established either by the legislature or the people of Montana. Every legislative session has the opportunity to review the programs but also must appropriate the money necessary to continue the programs. A key part of that process is to provide the public access so that they may be a part of those decisions.

With those thoughts in mind let us look at SB 422.

1. The Governor will appoint a commission of five members of which four must be from the private sector. There's nothing to say that the fifth one can't also represent the private sector. There is no qualification provision. (Section 4)
2. The commission, of which only 3 members need to be present to conduct business, shall have total power to determine what governmental activities are in competition with private enterprise, which they, of course, represent. They, alone, will determine what governmental activities are prohibited and will have court powers to administer oaths, issue subpoenas and compel attendance of anyone, not limited to state employees. (Section 8 )
3. Section 10 gives the commission sole authority to determine what the state agencies can do.
4. Section 14 allows the commission, appointed by the governor, and the agency, headed by a governor appointee, to privatize without even a public hearing, let alone, approval by the legislature.

In a nutshell, Senate Bill 422 allows a five member commission, with no requirement for expertise in government operation or budgeting, to determine what activities government agencies cannot do and then put those activities into the private sector based on their own assessment of costs, savings, necessity or any of the other factors used by the legislature, WITHOUT SO MUCH AS A SINGLE PUBLIC HEARING.

Please vote NO on SB 422



(Continued)

There is nothing in the bill which spells out how an agency can comply. I presume that the activity would be bid to the private sector but the bill doesn't say that. The bill doesn't provide for any type of budget shift. The bill is totally silent in the area of employee protection.

Taken at face value this bill sets up the fifth branch of government. If you feel that there are government activities that should not be operated by the government should you not at the least, present your case to the legislature. Congress has passed a plant closing act to protect employees, please consider the same for your employees.

Again, please vote NO on SB 422

SENATE STATE ADMIN.

EXHIBIT NO. 14

DATE 2/17/89

BILL NO. SB 422 pg 2

EXHIBIT NO. 15

DATE 2/17/89

BILL NO. SB422

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

Dennis Sullivan

DATE:

2-17-89

Address:

2919 OTTAWA

Butte MT. 59701

Phone:

782-2798

Representing whom?

C.A.S.J. & SELF

Appearing on which proposal?

SB. 422

Do you:

SUPPORT?

AMEND?

OPPOSE?

Comments:

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



Amendments to Senate Bill No. 441  
First Reading Copy

For the Committee on Senate State Administration

Prepared by Eddy McClure  
February 16, 1989

1. Title, line 6.

Following: "STATE"

Insert: "AND PUBLIC SCHOOL"

2. Page 2, line 12.

Following: "refunded"

Strike: "pro rata"

Insert: ", in a manner provided by law,"

3. Page 2, lines 15 and 16.

Following: "by"

Strike: "the governor and"

4. Page 3, lines 11 and 12.

Following: "foreseen"

Strike: "or prevented"

5. Page 3, line 15.

Following: "state"

Strike: ", local governments,"

6. Page 4.

Following: line 9

Insert: "Section 22. Shifting costs. The state may not impose upon any local unit of government any part of the costs of new programs or services, or increases in existing programs or services, unless a specific appropriation is made that is sufficient to pay the local unit of government for that purpose. If costs are transferred from one unit of government to another unit of government, either by law or by court order, the limitation imposed by section 15 must be adjusted accordingly."

Amendments to Senate Bill No. 396  
First Reading Copy

Requested by the Governor  
For the Committee on Senate State Administration

Prepared by Eddy McClure  
February 16, 1989

1. Page 1, line 14.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

2. Page 2, line 3.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

3. Page 2, line 24.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

4. Page 3, line 2.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

5. Page 3.

Following: line 12

Insert: "(5) This section does not apply to the attorney  
general, state auditor, secretary of state, department of  
public service regulation, or superintendent of public  
instruction."

SENATE STATE ADMIN.

EXHIBIT NO. 18

DATE 2/17/89

BILL NO. 56397

Amendments to Senate Bill No. 397  
First Reading Copy

Requested by the Governor  
For the Committee on Senate State Administration

Prepared by Eddy McClure  
February 16, 1989

1. Page 1, line 24.

Following: "state,"

Insert: "department of public service regulation"

2. Page 4, line 15.

Following: "(3)"

Strike: "The"

Insert: "Except for the attorney general, state auditor,  
secretary of state, department of public service regulation,  
or superintendent of public instruction, the"

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE: 2/17/89

NAME	REPRESENTING	BILL #	Support	Oppose
Tom Schuder	MPEA	SB 422		X
Mike Walsh	SELF	SB 422	✓	
John LaNesto	MHC-Billings	SB-185	X	
Jack Knuke	MHC GT Falls	SB-185	X	
Paula Lindsey	Express Services	SB 422	X	
Nadine Jensen	AFSME AFL (C)	SB 441 SB 422		X
Valeri Jensen	Farm Bureau	SB 422	X	
Valeri Jensen	Farm Bureau	SB 441	X	
Charles Davis	INGE # 375	SB 422		X
Dennis Sullivan	C.A.S.J.	SB 422		X
Patrick Fellows	INGE # 375	SB 422		X
Frank Thomas	MT MHC	SB 185	X	
Steve Jensen	Mont. Tel. Co.	SB 422	✓	
Charles Snooks	MT. ROT. / ASSOC	SB 422 SB 441	✓	
Christie Mannon	MT Council Mental Health	SB 185	✓	
Carol Moshier	Mt. Leathle Home Mt. Stockgrowers	SB 422 SB 441	✓	
Jay Mc Grath	Montel Health Assn	SB 185		✓
Riley Johnson	NFIB	SB 422	✓	
Roger Koopman	CAREER Concepts	SB 422	✓	
JOE CHISHAM	EDUCATION INSTITUTIONS	SB 185		✓
JAMES W. WILLIAMS	SELF	SB 422	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE: February 17, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Phil Brooks	Univ. System	441		X
KEN DUNHAM	Associated Printers	422	X	
Don Harr	Mt. Medical Assn. Mental Health Centers	SB 185	X	
Don Ingels	Mt Chamber of Commerce	422	X	
Arene Walston	Mental Health Ctrs	185	X	
Bill Opitz	DHEC	SB-185		X
Laurie Shahan	Bozeman Chamber	SB 422	X	
Wayne Phillips	Gov's Offc	422	X	
John Sempio	M.A.T.A.	422	X	
Sue Weingartner	MT. SOLID WASTE Contractors	422	X	
Terry Miron	MFT/AFSE	SB 422		X
Bob Heiser	U.F.C.W.	SB 422		X
Chad Stearns	City of Missoula	SB 441		X
Riley Johnson	NFTB	SB 441	X	
F.H. Buck Boles	MONTANA CHAMBER	SB 422 SB 441	X	
Marlene Muller	Self	SB 426	X	

ROLL CALL VOTE

STATE ADMINISTRATION COMMITTEE  
51ST LEGISLATIVE SESSION

DATE 2/17/89

BILL NO. SB 396

DATE: 2/17/89

BILL NO. SB396

TIME: 12:35 PM

NAME	YES	NO
HUBERT ABRAMS		✓
JOHN ANDERSON, JR.		✓
ESTHER BENGTON		✓
WILLIAM E. FARRELL	✓	
ETHEL HARDING	✓	
SAM HOFMAN	✓	
PAUL RAPP-SVRCEK		✓
TOM RASMUSSEN	✓	
ELEANOR VAUGHN		✓
	4	5

Mary Lynch  
Secretary

William E. Farrell  
Chairman

Motion: That SB396 do not pass as amended.  
motion failed