#### MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

### COMMITTEE ON APPROPRIATIONS

Call to Order: By Chairman Bardanouve, on June 27, 1989, at 10:02 a.m.

ROLL CALL

Members Present: 19

- Members Excused: None
- Members Absent: One

Staff Present: Keith Wolcott, LFA

- Announcements/Discussion: Chairman Bardanouve said the committee would take executive action on House Bills 44 and 46 and that Representative Peck had a subcommittee report.
- Tape 1, Side A.
- Representative Peck said the subcommittee had met and adopted the amendment (EXHIBIT 1) which reduces the appropriation from \$390,000 to \$200,000 and adds the language under 2. which states "The funds appropriated in this act are contingent upon the Board of Regents maintaining the communications Sciences and Disorders Program through June 30, 1991". He said that amendment was adopted into the bill and the committee recommended the adoption of the bill on a 4 to 3 vote.

DISPOSITION OF HOUSE BILL 44

- Motion: Motion by Representative Spaeth to adopt the subcommittee amendment.
- (028) Representative Cobb asked where they were going to get the rest of the money and Representative Peck said that the answer to that is still up in the air. He said according to what he read in the newspaper today it is still indefinite, and it disturbed him that it has apparently become a bargaining chip in the negotiations that are underway between the administration and the university union.
- Representative Cobb said they had been told they would get an increase in salary and then they are being told they will have to give some of it back.
- Representative Bardanouve said there is also a tentative agreement that there will be a super tuition imposed on this

program as it is in the pharmacy program.

- (045) Representative Kadas said there are two components that would make up the other \$190,000. He said part of it would be super tuition which would bring in about \$30,000 a year and the other part would have to be the faculty reducing their increase the first year. He said that is not something they are being forced to do, the only way it will happen is if they agree to do it and do it for the sake of preserving the CSD program for one more year.
- (056) Representative Grinde said this appropriation will come from the Education Trust account, yet every bill we have on major education reform either takes the major proportion from that trust or guts it completely. He said he wondered which bill would take precedence--if that bill goes through and one of the other bills abolishes the Educational Trust and should pass before this one does, then what are the consequences? Representative Bardanouve said a good point had been raised since the Education Trust seemed to be in some jeopardy, depending on what bill you are looking at.
- (068) Representative Grinde asked for the fiscal analyst's opinion on the question and Mr. Wolcott answered that he is not too sure, but he thought during the regular session when the same sort of precedent was set with some coal tax money there was language in the bill that it was dependent on there being available funds left in the trust. He said when there is no language to reflect that, he felt they would probably have to have a legal opinion.
- Chairman Bardanouve said he wondered since this was a short special session if it might not be better to take the money from the general fund if you want to appropriate the money.
- (084) Representative Kadas said he would move an amendment to take care of this after the first was adopted.
- Motion: Representative Spaeth said he would withdraw his motion and move that House Bill 44 do pass with the amendment proposed by the subcommittee.

Discussion: None

- Amendments, Discussion, and Votes: Motion: Motion by Representative Kadas to strike "Education Trust" and insert "general fund".
- Chairman Bardanouve said the title would have to be amended also. Representative Kadas agreed to include this in the motion.
- Representative Marks asked if this amendment was a part of the original motion and was told by Chairman that it was not, this amendment would stand on it's own.

The amendment was voted, passed, roll call vote, 12 aye, 6 nay.

Motion: Motion by Representative Cobb to strike, following "the" on line 11 the remainder of line 11 through "Montana" on line 12, and to insert "Department of Social and Rehabilitative Services for a".

- (161) Representative Cobb explained his motion as taking the appropriation away from the U of M and putting it in SRS for CSD and they could handle the program by contract with U of M. He said his reason was the Board of Regents said they don't want this program and he could not see giving it back to the U of M when they say it is not necessary. We can study this for a year or two and then perhaps transfer it back when we decide what to do about these high cost programs.
- Representative Cody asked how the students are going to get the education, and Representative Cobb said technically we would give the money to SRS and they would have to fund the program at U of M. He said they would have to contract with U of M to use the program they have there. Rep. Cody said she did not understand with an education program how could they get their education through that program. Rep. Cobb said the problem is we are not supposed to vote on the curriculum of the university and this is an attempt to contract with the university so we would have this program in the state.
- (174) Chairman Bardanouve said he did not think it was because the Regents don't want the program, they just want more money.
- (181) Representative Menahan said he was not sure the Regents had considered the ramifications of what they are doing. He said under the Special Ed program these services are required in the schools. He said it is the same thing with school psychologists. He said there is a shortage of people coming out of these programs and they don't want to work for the same salaries that teachers have, so they will have to be contracted and the fewer of these people that are out there the more we will have to pay for the program. He said if this program goes, we will soon be paying big bucks to get the people that are required by the law suit. He said if we are not going to provide for these services we will have to go back and cut some of the requirements for services that are mandated for special education programs.
- (194) Representative Spaeth asked Commissioner Krause, if we pass this bill, what will happen to CSD? Dr. Krause answered they would do everything they could to save the program including conversations with the union, the possibility of some private donations and the possibility of some super tuition etc.

HOUSE COMMITTEE ON APPROPRIATIONS June 27, 1989 Page 4 of 11

- Representative Spaeth asked the LFA, if we pass this bill without Representative Cobb's amendment and they are successful in raising the additional money, can they still take this \$200,000 and spend it on something else? Mr. Wolcott answered the amendment number two it says the funds appropriated in this act are contingent on the Board of Regents maintaining that program; therefore if they can't maintain it, he said the language should preclude them spending it.
- (218) Representative Spaeth asked Commissioner Krause, if you are unable to keep the program going, even with this appropriation, you would not try to lay claim to this money for something else? Dr. Krause said no, when the Legislature appropriates money specifically earmarked it must be used for that purpose or else it will revert. He said the bill appropriates the money to the Board and the intent of the Board would be to return the money to the Legislature.
- (228) Chairman Bardanouve said he had heard a former Chairman of the Regents say "We can spend the money that you give us in any way we please, and that you have no right to tell us how to spend it." Dr. Krause said when the Legislature appropriates general funds without specific line item or earmarking the Regents do have some discretion on how they use the money, but constitutionally if you earmark money it has to be spent for that purpose or else the Board must return it.
- (240) Representative Peck asked Dr. Krause to explain how this is an element now in the current negotiations with U of M and Dr. Krause answered after the legislative session he had informed the union that they would be giving the 6% salary increase but would not be giving them the 2 1/2%. They have responded with a grievance, which is the first stage of an ongoing arbitration process. He said they had the original hearing and have until July 10 to respond to the grievance. He said depending on the reaction to that they will know whether they will go to arbitration or not. He said in the works here Representative Ream had met with the union and asked them to forego some of the 2 1/2% and we have not gotten an official response from them at this point, but it appears there is an indication they will look at all possibilities to save the program.
- Representative Peck asked if it was true that the Union was telling him "if you recognize the 2 1/2% we will talk to you about the 1%"? Dr. Krause answered yes. Rep. Peck asked, it is a chip in the bargaining process then? Dr. Krause answered that is what he had read in the paper.
- (265) Chairman Bardanouve asked if there is a possibility that the faculty will not get the 2 1/2 % at all? Dr. Krause answered that there is a possibility, that is subject to the

HOUSE COMMITTEE ON APPROPRIATIONS June 27, 1989 Page 5 of 11

arbitration process. Rep. Bardanouve said he understands the money is in the budget so if they do not get the 2 1/2% it will be available for this program. The money has been set aside according to what is in the paper. Dr. Krause answered that the retrenchment plan includes the fact that we will pay the 2 1/2%. Rep. Bardanouve asked, but if it is not paid the money would be there and available? Dr. Krause answered yes.

- (277) Representative Swift asked how do you view the Legislature and entering into the setting of curriculum? Dr. Krause answered that he really did not think that is what is involved in this appropriation since every time the Legislature gives them a program modification you do provide an appropriation for a specific curriculum. He said he felt the concern Rep. Cobb has is if the Board had said we are cutting CSD and that is it, and the legislature came back and said oh no, you are not, we will put this money in and you will keep it, that would be an issue. Here the Board has expressed a concurrence that they want to keep CSD so, in a sense, this appropriation allows the Board that opportunity. He said in this case the Board has left the door open for the Legislature to work with them and try to salvage the program.
- Representative Swift said in view of that we could carry this further--we are now entering into union negotiations. Dr. Krause said there were two amendments that the subcommittee had considered. He said one of them was very specific and talked about super tuition, union concessions etc and he said he felt that would be interfering and putting the faculty in a position where they either get the blame or the glory. He said this amendment is quite general and if you pass the bill with the amendment the subcommittee adopted he did not feel there would be any problem.
- (316) Representative Kimberley asked if Dr. Krause would comment on the proposed amendment and Dr. Krause said it is simply not workable because if they had to contract with SRS for that service they cannot count the credit hours that are generated by the students, so for all practical purposes you eliminate the formula component of the budget that is generated by the CSD program. He said they cannot use outside contracted money and count credit hours in the formula. He said they only have about 60 students and it generates a certain amount of base funding for that program, and if they operated through a contract, by Board Policy and Legislative Procedure, they could not count contract credit hours so the base would be eliminated for CSD.
- (337) Representative Peterson commented on the Cobb amendment by saying she might be the only one there that had come through a speech correction program in the past. She said it disturbs her greatly that a star program is targeted each session. She said she felt the amendment had merit because

next time it will be physical therapy or another of the low generating financial program.

- Representative Cobb asked Dr. Krause about his statement on the base being cut out and said it is being cut out anyway. Dr. Krause answered by saying his comments were related to the low generation program. He said there is about \$400,000 in that base. He said he had said if they were to contract it out they couldn't count the credit hours.
- (383) Representative Grinde said we are looking at areas where we might solve this problem. He asked Dr. Krause--first of all this is a bachelors degree and then a masters degree is needed to go out and do the work, and since Vocational Education is now under the Regents, was there anyone who looked at the possibility of instead of having this accredited program in the University System we might be able to have an intensive 2 or 3 year training in the Vocational programs so that people could go out and administer those programs? Dr. Krause answered there are two elements--one is the speech and hearing, the testing and those things, and that could be done by private providers or professionals that could get licensed to do that. He said the other is the academic where they get degrees that are required to provide the service to the schools. He said basically it has to be a baccalaureate program.
- (413) Representative Kadas said he could not support the Cobb amendment because he was not sure what the impact might be. He said he felt over the long term, we need to get the University Study Committee to look at the problem that we have with CSD and other programs like that. They have a high public service component or high health service component, and that may be part of the solution, but putting it in this bill now could be a mistake.
- Recommendation on amendment: The Cobb amendment was voted, roll call vote, motion failed, 6 members voting aye, 12 voting nay.
- (461) Chairman Bardanouve said he thought it was Senator Jenkins who asked why do we cut out programs that are only one of a He said we have tried to cut out Pharmacy and kind. Architecture and now this one which are the only ones of their kind in the whole system. He said he thought it was Dr. Koch who made the remark that, "well we won't cut out low cost programs, programs that might not be so important but are low cost, because we make more money on those programs and we will lose money if we cut those programs out." He said he was bothered by the philosophy that they keep programs in the University System, not because of their merit or their value to the Montana citizens, or are one of their kind, but you keep programs in the system because they are low cost and the University System makes money on them. He said that is a horrible concept of providing the kind of

education people want in Montana.

- Dr. Krause answered that formula funding causes us to have a mix of programs which if close to 90 or 100% yo can offer a broader array of programs. He said when you start looking at funding that is less than that, you have to find ways where you have enough volume for credit hour generation in the lower cost programs to offset the higher cost programs. He said they are funded at present at about \$3500 a student across the board and CSD costs \$8,000 per student and they have to have a lot of volume in some programs to be able to pull off enough to have an \$8,000 per student in English they could take the other \$500 and use it to help balance out on the CSD program.
- Representative Bardanouve said the dollar sign really determines what programs you recommend to cut or keep. Dr. Krause said one of the problems we have is the high cost programs, and he would tell the committee up front, that any time the University System gets into financial trouble, it will look at the very high cost programs. He said, just as Montana doesn't provide its own medical school because of the tremendous cost, we don't know how many of these special professional programs we can afford either and given the amount of money funded, he would now tell the committee that CSD or the other high cost programs serve the fewest number of students and become the logical ones to look at.
- Dr. Krause said one of the ways they look at duplication in the system is whether or not it is serving a large number of students. He said the most duplicated programs in the system are Education and Business. He said when you have an institution you must have a base of programs and if the institution is going to exist you have to have something that will allow it to attract students. He gave the example of cutting programs at Northern.
- (596) Chairman Bardanouve said in the case of the elementary in Havre, and the decision made, you got a lot of pressure on that.
- (629) Representative Swysgood asked Rep. Cocchiarella since it was quite convenient that we were in special session when this crises arose, what would the Representatives from this districts approach if we had not been in session when this program went on the chopping block? Rep. Cocchiarella said she was not sure, that this had been brought to them by constituents and some of the students that come from all over the state. She said they would have worked with the faculty and tried to work with the union. She said they would probably have gone to see them themselves and would have explored those avenues at least.

- Representative Swysgood said he did not think there was anyone who did not realize the value and work of the program and they were put in a bad spot. He said he wanted to look at the principle of what they were doing and the precedence they would be setting with this legislation. He said all of the units had been cut, and he remembered in 1981 they lost their masters program, lost their American Heritage Program, their Business Program and they gave up football and tried to save their unit, and were successful. He said all this was done before the Board of Regents. He said they went before the Board of Regents and were not successful to a large degree on most of them, but this is the same type of situation. He said none of us like the cuts or the effects on our local communities, and some of us are being in an awkward position in deciding what to do in this situation because already some units have made adjustments to compensate for the cuts. He said he felt they were being asked to render a decision on something that was unfair to the committee.
- (708) Representative Cobb asked if U of M was contracting with the alumni associates for certain services, and was told they would look at everything. He said the trouble with loans was that these students do not make a lot of money when they get out and it could cause a hardship.
- (734) and Side B, 000. Representative Grinde said the Board of Regents had made several cuts and one of them was in the athletic area. He asked how much money U of M had cut, and was told \$150,000. He said he had some real problems with the Board of Regents meeting in the morning, voting to abolish this program and then coming back in the afternoon to try get more money for the program. He said with that move they took themselves off the hot seat and put the Legislature on it. He said he felt instead of the committee debating the bill they should be looking at the formula that is driving these programs where they are going on the number of students to get funding, and we should be looking at something to help the university systems on their merits alone and not what they bring into the university. He said if this were football or something the alumni would be out in force. He said on these assumptions he would move to table House Bill 44.
- Substitute Motion: Substitute motion by Representative Grinde to table House Bill 44.
- (026) Representative Kadas said he would agree with Representative Grinde about the formula which is driving the problem here, we have a high cost program that is out there by itself and doesn't carry anything with it. He said it is easy to cut without affecting the basic mission of the university, and the way the formula works, that's the most sensible thing to cut out. This bill is trying to say, let's preserve this program for one year, because if we

HOUSE COMMITTEE ON APPROPRIATIONS June 27, 1989 Page 9 of 11

don't take this action the program will go down. We will come back some session and spend a lot of money to reinstate the program because there is a demand which will increase. We need to study the formula. He said we are eliminating Religious Studies, physics and taking a pretty good chuck out of athletics. He said the University is not coming in and trying to save the other parts that are getting cut. We are trying to say that CSD is a program that has some extremely good long term benefits to the state of Montana.

- (071) Representative Spaeth said he would speak against the motion to table in favor of the main motion. He said he would be opposed to the \$390,000 and does not feel the U of M was treated much differently than the other institutions in the system. He said he is not totally convinced the Board of Regents didn't look at this program and its political value. He said he felt the bottom line is the CSD program and did not feel the state of Montana could afford to lose this program at this time until we have a chance to really look at the financial circumstances surrounding the decision of the Board of Regents and the decision of this body. He said if we give them the \$200,000 there will have to be some give on the part of other parties, but because of that kind of middle ground of keeping it alive we can look at it and see if we want to deal with it in a long range method or whether it has to die in two years. He said he had told people in his area he was not going to support the bill, the Board of Regents had made the decision, and so be it; but he did not now feel that is fair for the people all over Montana who are the beneficiaries of the program. He said the bottom line was that he would vote for the program but did not like what the Board of Regents and some of the people were playing, what he felt, was games.
- (120) Representative Thoft asked if this program is funded, at what level would the pay increase be? Dr. Krause said he thought the union was discussing about 1/2% which would come up with about \$140,000. He said the whole arbitration process will have to take place before anyone knows what the faculty will get. Rep. Thoft asked if it would be about 1% then? Dr. Krause said because of the way 2 1/2 compounds, to fund the program 2 1/2% at the U of M in the first year represents about \$350,000. He said it would take about 2 1/2.
- (143) Question was called, the motion to table the bill was voted, failed, roll call tie vote, 10 yes, 10 no.
- (167) Representative Peck said he finds a lot of problems with bill, and the primary one is that the other units are cutting programs. He said in fairness to those institutions we have to turn this bill down. The other thing he felt was extremely important is if you vote favorably for this bill you are interjecting the Legislature into the negotiations that are taking place on this question of the 2 1/2% of the

HOUSE COMMITTEE ON APPROPRIATIONS June 27, 1989 Page 10 of 11

U of M. He said he had spoken with administrative people at MSU and they say they are not paying the 2 1/2%. He said if you proceed with this and the U of M gets into that negotiation and puts the 2 1/2% in, you have the U of M out of balance with MSU. He said Rep. Kadas felt the program would go down, but his hunch was that the administration of U of M and the Board of Regents will find the money to keep the program going. He said there are 7.25 FTE as reported to the subcommittee for 60 students, 40 of which are undergraduates and 20 of which are graduates. He said he felt the program was sort of out of line even for a high cost program. He said he felt it would be very wise to stay out of the curriculum and negotiations by defeating this bill.

- (204) Chairman Bardanouve said he had already told them this was the most difficult bill he had heard, Representative Peck and some of the other members have said what he would say, and he felt they were being put in a position they should not be put in. He said this was doubly difficult for him since he had his 22nd anniversary Sunday and he would have to go back and see his wife who at one time had headed up all the speech and hearing programs in Montana and helped to bring the program out of the horse and buggy days. He said he was sure she would be in support of this program, and he knew how deeply she feels about it. He said despite his anger at the whole system he would probably vote for this bill, but is very unhappy with the Regents and the University for putting them in this spot.
- Recommendation and Vote: The original motion by Representative Spaeth that House Bill 44 with the amendment adopted by the subcommittee do pass. Voted, failed, tie vote 10 members voting aye, 10 voting nay.

DISPOSITION OF HOUSE BILL 46

(House Bill 46 is the McCarty Farms bill)

- Motion: Motion by Representative Spaeth that House Bill 46 do pass.
- Discussion: (259) Representative Thoft said he had a problem of seeing where this bill accomplishes anything. He said he felt the process was in place and we would be handing the Justice Department something they don't want, you would probably have to transfer the FTE's to Justice, contract with the same people that are handling the litigation now, and he felt the bill has no value at all.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Roll call vote on the do pass motion for House Bill 46, voted, passed, ll members voting yes, 9 voting no. HOUSE COMMITTEE ON APPROPRIATIONS June 27, 1989 Page 11 of 11

### ADJOURNMENT

Adjournment At: 11:10 a.m.

REP. FRANCIS BARDANOUVE, Chairman

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## DAILY ROLL CALL

# HOUSE APPROPRIATIONS COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date June 27, 1989

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### STANDING COMMITTEE REPORT

"An Act Transferring the Litigation Bureau of the Transportation Division of the Department of Commerce to the Department of Justice"

> June 27, 1989 Page 1 of 1

Mr. Speaker: We, the committee on <u>Appropriations</u> report that <u>HOUSE BILL 46</u> (first reading copy -- white) do pass.

Signed:

Francis Bardanouve, Chairman

ADA AVELLAS

EXHIBI Amendments to House Bill No.44 57 First Reading Copy DATE HB Requested by Senator Jacobson For the Education Subcommittee Prepared by LFA June 23, 1989 dedeel. Page 1, line 13. Strike: "\$390,000" Insert: "\$200,000" 2. Page 1, following line 14. Insert: "The funds appropriated in this act are contingent upon the University of Houtena maintaining the communications

sciences and disorders program through June 30, 1991."

BOARD OF REGENTS

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT. IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.

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## ROLL CALL VOTE

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<u>Sylvia Kinsey</u> Secretary

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<u>Representative Bardanouve</u> Chairman

MOTION:

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# 3 11:02 ROLL CALL VOTE COMITTEE HOUSE APPROPRIATIONS DATE BILL NO. 44 NUMBER NAME AYE NAY ~ REPRESENTATIVE SPARTH  $\nabla$ REPRESENTATIVE PECK REPRESENTATIVE IVERSON REPRESENTATIVE SWIFT REPRESENTATIVE OUILICI REPRESENTATIVE BRADLEY REPRESENTATIVE PETERSON REPRESENTATIVE MARKS REPRESENTATIVE CONNELLY REPRESENTATIVE MENAHAN REPRESENTATIVE THOFT 7 REPRESENTATIVE KADAS REPRESENTATIVE SWYSGOOD V REPRESENTATIVE KIMBERLEY REPRESENTATIVE NISBET REPRESENTATIVE\_COBB REPRESENTATIVE GRINDE V REPRESENTATIVE CODY REPRESENTATIVE GRADY  $\overline{\mathcal{V}}$ REPRESENTATIVE BARDANOUVE

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#\$ ROLL CALL VOTE COMMITTEE HOUSE APPROPRIATIONS DATE 6/27/89 BILL NO. 44 NUMBER NAME AYE NAY REPRESENTATIVE SPAETH ~ REPRESENTATIVE PECK REPRESENTATIVE IVERSON REPRESENTATIVE SWIFT 2 REPRESENTATIVE OUILICI REPRESENTATIVE BRADLEY V REPRESENTATIVE PETERSON REPRESENTATIVE MARKS REPRESENTATIVE CONNELLY REPRESENTATIVE MENAHAN REPRESENTATIVE THOFT ~ 11 REPRESENTATIVE KADAS REPRESENTATIVE SWYSGOOD  $\nu$ REPRESENTATIVE KIMBERLEY REPRESENTATIVE NISBET REPRESENTATIVE COBB REPRESENTATIVE GRINDE REPRESENTATIVE CODY REPRESENTATIVE GRADY V REPRESENTATIVE BARDANOUVE

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Sylvia Kinsey Secretary

### <u>Representative Bardanouve</u> Chairman

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COMMITTEE

DATE 6-27-89 BILL NO.

HOUSE APPROPRIATIONS

NUMBER

NAME	AYE	NAY
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Sylvia Kinsey Secretary <u>Representative Bardanouve</u> Chairman MOTION: am

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