

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION**

#### **JOINT SUBCOMMITTEE ON EDUCATION & CULTURAL RESOURCES**

**Call to Order:** By Chairman Royal Johnson, on February 21, 1993,  
at 6:35 p.m.

#### **ROLL CALL**

**Members Present:**

Rep. Royal Johnson, Chair (R)  
Sen. Don Bianchi, Vice Chair (D)  
Rep. Mike Kadas (D)  
Rep. Ray Peck (D)  
Sen. Chuck Swysgood (R)

**Members Excused:** none

**Members Absent:** Sen. Dennis Nathe

**Staff Present:** Taryn Purdy, Legislative Fiscal Analyst  
Skip Culver, Legislative Fiscal Analyst  
Doug Schmitz, Office of Budget & Program Planning  
Amy Carlson, Office of Budget & Program Planning  
Curt Nichols, Office of Budget & Program Planning  
Jacqueline Brehe, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: NONE  
Executive Action: NONE

#### **DISCUSSION ON UNIVERSITY SYSTEM ALLOCATIONS**

**REP. MIKE KADAS** distributed and explained **EXHIBIT 1** which used the base which OBPP created for its proposal. The exhibit reallocated the additional \$3.2 million to all the units. It also added additional tuition anticipated due to the change in the student mix and FY93 FTE. For the purpose of this document, any change in WUE students was considered a "wash." He said it meant significantly less tuition revenue than **Curt Nichols**, OBPP, had in his proposal. **REP. KADAS** said he also excluded the tuition associated with tuition indexing. The tuition increases which would be present would be those for graduate students, 1993 FTE and summer tuition. He said the package generated fewer tuition dollars but uses the same amount of general fund dollars.

**REP. KADAS** focused the committee's attention on the set of

columns headed "Revised Allocation of Additional Funds in the Executive Budget" and noted that Montana Tech still did not fare well under this allocation procedure.

**REP. KADAS** raised the question of how the committee should treat tuition. The committee could budget for tuition assuming a certain level. It could then allow budget amendments if the Board of Regents raises tuition above that amount or if schools have higher FTE than estimated. He noted that some committee members were concerned with allowing the Regents to budget amend additional tuition increases over a certain amount. He said his concern was that the Regents would budget amend tuition for additional students. He said he would like the committee to set enrollment caps and one way to do that was to limit tuition budget amendments. However, there were some Constitutional questions as to the legislature's power to limit.

**REP. KADAS** said in the scenario of **EXHIBIT 1**, some tuition increases were included, but no global tuition changes were made. He suggested setting the budgets as described in the exhibit and allow for budget amendments up to the amount prescribed by tuition indexing and then require recapture of any tuition over that amount.

**SEN. CHUCK SWYSGOOD** asked why the allocation for Montana Tech dropped in **EXHIBIT 1**. **Mr. Nichols** said it was due to the high cost of the programs at Montana Tech and the low student/faculty ratio at the school. **REP. KADAS** said the high-cost programs were acknowledged to some extent because the budget of the previous two years was used to establish the base. New students would only increase the amount of tuition dollars.

**REP. RAY PECK** said he found large differences in the millage as percentages of the total for a unit in the OBPP proposal. **EXHIBIT 3, 2/20/93 Taryn Purdy, LFA**, explained that millage in the original LFA current level, which was what would be seen here in the current subcommittee action figures, was based upon FY92 actual students when UofM was almost even with MSU. General fund was based upon the initial allocation in FY92. Millage was much more "equalized" to 1992 enrollment than any other component of the budget. **REP. KADAS** asked if general fund and millage worked together. He said essentially one figures how much other revenue one needs and figures how much millage and "other" was there and the difference was made up with general fund. **Ms. Purdy** explained that method had been used for the OBPP allocation. In the initial allocation of the LFA current level, general fund was the leveling factor. Millage got assigned to each unit based on the number of students. General fund then got added in.

**REP. PECK** asked for the source of the "other revenue." **Ms. Purdy** replied that it was estimated by OCHE and both LFA and OBPP used the figures supplied to them. **Jim Isch, MSU**, explained that the fund sources in the "other" category at MSU include land grant income from the federal government, overhead returns on student

financial aid and earnings from the investment of agency funds. **Jim Todd, UofM**, said that other income consisted of overhead returns on student financial aid at that institution.

**CHAIRMAN ROYAL JOHNSON** asked what the committee will have done for setting the budgets for the units for the next biennium, once it has made the appropriation for the units. He also commented that if the committee makes the appropriation of \$294,123,327 on the bottom of **EXHIBIT 1**, then essentially what the committee has done over the last few weeks was to transfer the cuts to increases in tuition. **REP. PECK** pointed out that **REP. KADAS** would cap tuition by adding language. **REP. KADAS** said he would propose setting the budget at \$294 million and capping the tuition at \$308 million. He said he was not advocating any tuition guarantees because they did not seem realistic.

**Dave Lewis, Budget Director**, commented that the first leg of the guarantee which OBPP had proposed was to allow the units to expend their millage above the amount that was now capped. If the excess millage was insufficient to cover a shortfall caused by a down turn in enrollment, a unit could obtain additional funds through the supplemental process. He said he believed the suggestion to set the budget at \$294 million was about half of what the OBPP proposal entailed. In reply to a question from **CHAIRMAN JOHNSON**, **Mr. Nichols** explained that the original OBPP budget was set at \$288 million; the present proposal was larger due to the inclusion of increased tuition rates.

**REP. PECK** voiced concern over **REP. KADAS'** proposal because he felt capping enrollment was a management decision reserved for the Regents. **John Hutchinson, Commissioner of Higher Education**, agreed with **REP. PECK'S** analysis. He stated that the choice of an institution's size was the Regents' prerogative. **REP. KADAS** noted that the question was one of limiting enrollment and whether it was done by limiting students or by prohibiting tuition increases above a certain level. He said there was not much legal precedent to rely on in this area. **REP. PECK** commented that there was a difference between setting a number limit on students and stipulating that general fund would be backed out if tuition exceeds a certain level. He referred to the Judge decision in the Montana Supreme Court which stated that the legislature could make the appropriations with conditions, but it could not manage the system.

**LeRoy Schramm, Chief Legal Counsel, OCHE**, stated that in Montana there was no clear track record concerning the issue of who controls tuition and enrollment. However, based on decisions which have come down in other states, he believed it was clear that the Regents have the authority over tuition. What makes the issue "murky" in Montana is that the Regents have not asserted their Constitutional authority in the last 21 years. The case for the Regents was strong whether the issue was limiting enrollment or setting tuition. He said there was no question the legislature could set the general fund appropriation for the MUS.

After that, it was the Regents' decision to raise as little or as much money as they want. He said the proposal to offset general fund with any money collected from tuition above a certain level was legally unsound.

**SEN. SWYSGOOD** asked if the legislature could limit budget amendments that dealt with tuition. **Mr. Schramm** answered that he believed that if tuition came in over the appropriated amount, the Regents had the constitutional authority to spend it regardless of budget amendments. **REP. PECK** noted in the Judge decision, the Montana Supreme Court ruled that the legislature could attach conditions to appropriations. **Mr. Schramm** said the court ruled that line item appropriations were only inappropriate if they interfere with one of the governance functions of the Regents. The murky area is what constitutes a governance function. He said he believed setting the size of an institution and setting tuition levels were the heart of governance.

**REP. KADAS** asked **Dr. Hutchinson** for his reaction to the proposal he presented earlier. **Dr. Hutchinson** replied that he was uneasy with the notion that the Regents were being limited in their ability to set tuition for reasons which **Mr. Schramm** articulated. He deferred making a comment on **REP. KADAS'** specific proposal until later. **REP. KADAS** asked how the Regents would respond to enrollment caps enforced within the budget. **Dr. Hutchinson** answered that the Regents would consider enrollment management within their purview. However, if the committee issued a statement of intent in HB 2, the Regents would examine it closely as it had the statement of intent regarding tuition which was issued during the last session.

**REP. KADAS** asked for the Regents reaction to boiler plate language that stated the intent of the legislature that tuition not be raised higher than the levels contained in the tuition indexing model. **Dr. Hutchinson** responded that if the committee and the OCHE reached an agreement as to the level of tuition to be contained in tuition indexing and if that figure was put into the language of the bill as the legislature's intent, the chances that the Regents would violate that language would be remote.

**CHAIRMAN JOHNSON** asked **REP. KADAS** how his most recent proposal **EXHIBIT 1** related to the perceived harm which was done to the UofM by the current committee allocation. **REP. KADAS** explained that was the reason why he went to a whole new base. He said the base which the committee originally used did harm to Montana Tech as well as UofM. His present proposal does less harm to the UofM, but more harm to Montana Tech. He said that another possibility was to return to LFA current level as the base but use either FY93 enrollment as the driver or a five-year average as the driver.

**CHAIRMAN JOHNSON** noted that if the committee adopted the suggestion of the OBPP, it would not be hurting anyone. **REP. KADAS** commented that he believed Montana Tech would be harmed.

He said another possibility would be to use the LFA current level and reduce the general fund in it by \$23.7 million and make that reduction proportional across the units. Then one could add back in the tuition dollars such as the 1993 tuition dollars, graduate tuition and summer tuition. He added that at some point some type of global tuition increase would have to be acknowledged.

Tape No. 1:B:000

**REP. KADAS** said that such a proposal would probably still be \$14 million short of the executive proposal, all of it in tuition. He noted that the OBPP added back in more tuition dollars than the committee was ready to add back in.

**REP. PECK** asked **REP. KADAS** if he would be eliminating amendment 5 in the OBPP proposal. **REP. KADAS** said he would do so for the time being. He said he would suggest not budgeting the tuition increase in the amendment, but allowing the Regents to budget amend it if they desired. He added he would be willing to cap tuition at that level.

**Ms. Purdy** said she would produce the figures for the committee, but needed clarification as to how to proportionately reduce from the LFA current level. She noted that originally some campuses received more general fund dollars than others because of the additional FTE. **REP. KADAS** argued that the proportionate reduction should be equal, i.e., proportionate. **Ms. Purdy** noted that in **REP. KADAS'** original proposal, it was done based on the total funds per unit in the LFA current level. **SEN. DON BIANCHI** asked why it could not be done based on the last two years' average enrollment. **Ms. Purdy** said that because Montana Tech and UofM got the largest share of the general fund in the LFA current level, if the reduction was made proportionally to enrollment, and because the UofM was anticipated to have the majority of the additional funds from tuition increases, the result would be that UofM would experience less of a general fund reduction than MSU.

**REP. KADAS** explained that the proposed approach would address the allocation issue. For the time being it would satisfy him on the tuition issue, although there were decisions still to be made.

**Ms. Purdy** distributed and explained **EXHIBIT 2** which was composed using the conditions as previously delineated by **REP. KADAS**. In reference to **EXHIBIT 2**, **REP. KADAS** asked why there was so much difference between MSU and the UofM when looking at total LFA current level. **Ms. Purdy** explained that it was because MSU had more than 400 more students and also had a lower student/faculty ratio. **REP. KADAS** asked if **Ms. Purdy** used the proportions established in the first column of **EXHIBIT 2**. **Ms. Purdy** replied affirmatively and added that the proportions would shift somewhat if tuition were added because UofM generates more tuition per student on average due to a higher quotient of non-resident students. **REP. KADAS** noted that this approach reduced UofM's cut.

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**Dr. Hutchinson** noted it was difficult to determine how to fairly distribute the cuts. He reiterated that he would prefer that the Regents be allowed to study the matter and then make the cuts.

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ADJOURNMENT

Adjournment: 7:45 p.m.

  
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REP. ROYAL JOHNSON, Chair

  
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JACQUELINE BREHE, Secretary

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# HOUSE OF REPRESENTATIVES

EDUCATION

SUB-COMMITTEE

ROLL CALL

DATE

12-21-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ROYAL JOHNSON, CHAIRMAN	✓		
SEN. DON BIANCHI, VICE CHAIRMAN	✓		
REP. MIKE KADAS	✓		
SEN. DENNIS NATHE		✓	
REP. RAY PECK	✓		
SEN. CHUCK SWYSGOOD			



*This spreadsheet:*

- 1) *reallocates the additional \$3.2m added to the original executive allocation.*
- 2) *adds additional tuition anticipated due to change in student mix and FY 93 FTE.*

**Allocation of Additional \$3.2m in Executive Budget**

<u>Unit</u>	<u>OBPP Original</u>	<u>OBPP Current</u>	<u>Difference</u>	<u>Total Budg FY93 Enroll</u>	<u>Percent</u>	<u>Share of Total</u>
MSU	113,551,712	113,551,712	0	9939	36.7%	1,180,988
UM	106,561,150	108,970,568	2,409,418	9589	35.4%	1,139,400
EMC	35,483,954	36,209,378	725,424	3221	11.9%	382,731
NMC	18,535,448	18,535,448	0	1604	5.9%	190,593
WMCUM	10,858,348	10,937,686	79,338	969	3.6%	115,140
MCMST	21,646,154	21,646,154	0	1728	6.4%	205,327
<b>Total</b>	<b>306,636,766</b>	<b>309,850,946</b>	<b>3,214,180</b>	<b>27,050</b>	<b>100%</b>	<b>3,214,180</b>

**Revised Allocation of Additional Funds in Executive Budget**

<u>Unit</u>	<u>Current OBPP GF/Mill/Oth</u>	<u>Minus \$3.2m</u>	<u>Plus Share of \$3.2m</u>	<u>Revised Total GF/Mill/Oth</u>	<u>Over (Under) Current Subc</u>
MSU	69,805,197	0	1,180,988	70,986,185	(3,308,828)
UM	60,828,701	(2,409,418)	1,139,400	59,558,683	3,314,842
EMC	24,670,136	(725,424)	382,731	24,327,443	465,478
NMC	12,843,636	0	190,593	13,034,229	(84,157)
WMCUM	7,570,066	(79,338)	115,140	7,605,868	(11,285)
MCMST	14,847,731	0	205,327	15,053,058	(376,053)
<b>Total</b>	<b>190,565,467</b>	<b>(3,214,180)</b>	<b>3,214,180</b>	<b>190,565,467</b>	<b>(2)</b>

**Revised Tuition Totals**

<u>Unit</u>	<u>Current Subcommittee</u>	<u>Plus Mix/FY 93</u>	<u>Plus Grad Differential*</u>	<u>Plus NR Summer</u>	<u>Total Tuition</u>	<u>Over (Under) Current Subc</u>
MSU	34,801,884	1,970,460	451,532	234,776	37,458,652	2,656,768
UM	36,942,572	4,000,278	706,698	277,628	41,927,176	4,984,604
EMC	10,069,988	(28,792)	123,442	39,348	10,203,986	133,998
NMC	4,930,226	21,800	102,768	38,308	5,093,102	162,876
WMCUM	2,884,574	45,064	0	6,174	2,935,812	51,238
MCMST	5,655,112	213,566	47,724	22,730	5,939,132	284,020
<b>Total</b>	<b>95,284,356</b>	<b>6,222,376</b>	<b>1,432,164</b>	<b>618,964</b>	<b>103,557,860</b>	<b>8,273,504</b>

\*OBPP allocation.

**Revised Total Funds, by Unit**

<u>Unit</u>	<u>Total Tuition</u>	<u>Revised Total GF/Mill/Oth</u>	<u>Revised Total</u>	<u>Over (Under) Current Subc</u>
MSU	37,458,652	70,986,185	108,444,837	(652,060)
UM	41,927,176	59,558,683	101,485,859	8,299,446
EMC	10,203,986	24,327,443	34,531,429	599,476
NMC	5,093,102	13,034,229	18,127,331	78,719
WMCUM	2,935,812	7,605,868	10,541,680	39,953
MCMST	5,939,132	15,053,058	20,992,190	(92,033)
<b>Total</b>	<b>103,557,860</b>	<b>190,565,467</b>	<b>294,123,327</b>	<b>8,273,502</b>

EXHIBIT 1  
DATE 2-21-93  
SB \_\_\_\_\_

Unit	Total LFA Gen Fund/Millage/ Other Funds	Budgeted FTE	Share	Minus Reduction	Revised Total
MSU	80,855,377	9,574	36.5%	8,300,076	72,555,301
UM	68,350,935	9,161	34.9%	7,942,030	60,408,905
EMC	24,468,853	3,274	12.5%	2,838,359	21,630,494
NMC	13,541,137	1,622	6.2%	1,406,175	12,134,962
WMCUM	8,174,808	945	3.6%	819,258	7,355,550
MCMST	17,913,306	1,653	6.3%	1,433,050	16,480,256
Total	213,304,416	26,229	100.0%	22,738,948	190,565,468

Unit	Total Revised Gen Fund/Millage/ Other Funds	Initial Tuition	Additional Tuition	Revised Total	Over (Under) Current Subc	Over (Under) LFA CL
MSU	72,555,301	34,801,884	2,656,768	110,013,953	917,056	(5,643,308)
UM	60,408,905	36,942,572	4,984,604	102,336,081	9,149,668	(2,957,426)
EMC	21,630,494	10,069,988	133,998	31,834,480	(2,097,473)	(2,704,361)
NMC	12,134,962	4,930,226	162,876	17,228,064	(820,548)	(1,243,299)
WMCUM	7,355,550	2,884,574	51,238	10,291,362	(210,365)	(768,020)
MCMST	16,480,256	5,655,112	284,020	22,419,388	1,335,165	(1,149,030)
Total	<u>190,565,468</u>	<u>95,284,356</u>	<u>8,273,504</u>	<u>294,123,328</u>	<u>8,273,503</u>	<u>(14,465,444)</u>

EXHIBIT 2  
DATE 2-21-93

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

EDUCATION SUBCOMMITTEE DATE 2-21-93  
DEPARTMENT(S) DIVISION

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NAME	REPRESENTING	
Geo. Denison		
Levy Schramm		
John Hutchinson		
Jim Todd		
Mike Malone		
Jim Isch.		
Red Sundstad		
Dave Lewis		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT  
FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.