

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By **CHAIRMAN ALVIN ELLIS JR.**, on February 3, 1995,
at 3:15 p.m.

ROLL CALL

Members Present:

Rep. Alvin A. Ellis, Jr., Chairman (R)
Rep. Peggy Arnott, Vice Chairman (Majority) (R)
Rep. Vicki Cocchiarella, Vice Chairman (Minority) (D)
Rep. Matt Denny (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Dan W. Harrington (D)
Rep. Jack R. Herron (R)
Rep. Joan Hurdle (D)
Rep. Sam Kitzenberg (R)
Rep. Gay Ann Masolo (R)
Rep. Norm Mills (R)
Rep. William Rehbein, Jr. (R)
Rep. John "Sam" Rose (R)
Rep. George Heavy Runner (D)
Rep. Debbie Shea (D)
Rep. Richard D. Simpkins (R)
Rep. Diana E. Wyatt (D)

Members Excused: Rep. Bob Keenan (R)

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council
Renae Decrevel, Committee Secretary

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

Committee Business Summary:

Hearing: HB 352, HB 201, HB 365
Executive Action: None

HEARING ON HB 352

Opening Statement by Sponsor:

REP. RAY PECK said that the bill was an effort to control the transfer of any cash from a university system unit's budget account into the unit's foundation account. Foundations are

private corporations, so if a university unit makes a transfer of any money into that foundation, it is considered private and is not subject to a public audit by the legislative auditor.

Foundations have a long history in American education of being associated with higher education for the purpose of raising money for the colleges. There is concern that tax dollars are being involved in the functioning of the foundations. This is an effort by the state of Montana to prevent tax funds or other state resources of the university to be deposited in the foundation accounts. An amendment would clarify language on lines 13 and 14. On the basis of the amendment, the university system is prepared to support the bill. **EXHIBIT 1**

Proponents' Testimony:

Leroy Schram, Legal Counsel, Montana University System, rose in support of the bill with the amendments. With the cooperation of the legislative auditor, they use the foundation to manage some of their funds, though they have ownership of the funds. The funds are transferred in some sense to the foundation even though the state ownership is kept. Without the amendments, it would call into question these activities. He said that university units are not in the practice of giving away money to foundations. Colleges and universities develop foundations with the purpose of raising money to provide services for the university. They are in agreement with the section of the bill that would prevent the university from giving or using state assets to run the foundation.

Gerald Berens, Missoula, said that he is in support of the bill as originally drafted. He has some concerns with the amendments. He agrees that the whole purpose of the foundation is to raise funds. He had a hard time understanding why funds are flowing from the university to a fundraising institution. The funds should flow from the foundation to the university and not the other way around. Why is a vehicle of the foundation needed to sell and trade land when there is a state lands board? Why couldn't the university just sell the land? In the past, universities have sold land and there was no necessity to trade with the foundation. The main concern is on page 1, line 14 where it says "unless full value is received." That allows the university to transfer land to foundations and will allow the foundation to sell that land. He would rather have the bill adopted as is.

Ross Best, Missoula, encouraged the committee to hold the universities accountable by requiring that foundations be held accountable. He has read and agreed with the published statement that no modern public university can survive without fundraising from private sources and is an essential function of a university. He believed that the foundations, for constitutional purposes, should be public. The foundations have been set up to circumvent accountability and to circumvent the legislature. He

encouraged the committee to scrutinize closely the relationship between the universities and foundations, and to answer the question if there is any justification for putting a public function into a set of private books.

Martin Onishuk, Missoula, submitted written testimony in support of HB 352. **EXHIBIT 2**

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. BILL REHBEIN asked **Mr. Best** to address the amendment. **Mr. Best** said he did have a concern. He believed that the university system should not be in the business to sell land. The state land board is the constitutional place for such sales to take place and the only logical place. The State Lands Board specializes in selling lands, the regents don't. He is concerned about the omission of the word "market" from the amendment.

REP. DICK SIMPKINS asked **Mr. Best** if Fort Missoula's land is a part of state lands and if the the money earned from the productivity of the land is to be put into the constitutional trust. **Mr. Best** said there are two categories of educational lands. Any lands that are given to higher education are subject to state protection, but not quite the same level of protection. If someone donates land to the state and doesn't specify the use of the land, the scrutiny will not be as high. The regents want educational lands to be subject to a lower level of scrutiny than highway lands or lands of no particular purpose associated to them.

REP. SIMPKINS asked **Mr. Schram** if it was correct that people who contribute money to the foundations could deduct income taxes up to \$500. **Mr. Schram** said that was correct, not only to the university foundations, but also to the foundations for Carroll College, College of Great Falls, and Rocky Mountain College.

REP. SIMPKINS said that practice is an indirect hit on the general fund. Because if a \$500 tax credit is claimed, that means the money is not going to the state. **Mr. Schram** said the tax credit is 10%. For example, last year the state granted \$86,000 in tax credits to people who claimed the credit, which generated contributions in the amount of \$860,000. There is a tax loss, but only if the amount received is very large, so he didn't agree that the state was losing money.

REP. DENNY asked if someone were to will land to the university, would they still be able to transfer the land to the foundation outside of the bill. **REP. PECK** said that was correct. There were two more bills that would address the issue of the land transfers in the other cases.

REP. VICKI COCCHIARELLA asked the same question of **Mr. Schram**. He said if someone gives a ranch to MSU and they, in turn, give it to the University of Montana, they cannot transfer that to the foundation without getting the fair market value in return. That is the reason for the amendments.

{Tape: 1; Side: B; Approx. Counter: 000; Comments: .}

REP. PEGGY ARNOTT asked **Gerald Berens** if he would address the concern that he has, based on what **Mr. Schram** said. **Mr. Berens** said the major concern is why the university system needs to transfer land to a foundation. There are other things that could be done with land rather than transfer to the foundation. On a parallel basis, the university system regularly transfers chairs and calculators to the surplus property bureau to sell. She asked if it works for personal property, why doesn't it work for land. **Mr. Berens** said they believe the foundation should exclusively direct its activities towards fundraising. The foundation should not be diverted from those activities to sell land and get involved in other procedures.

REP. ALVIN ELLIS asked **REP. PECK** if he has any problem putting "market" back on line 14. He said that was okay. **REP. ELLIS** asked why it was necessary to use the foundations for land sales. **REP. PECK** said that HB 350 and HB 351 deals with that question.

Closing by Sponsor:

REP. PECK said it is the committee's call to adopt the amendment or not. If it is not adopted by the committee, he will try to put it in on the floor. He felt that the bill is a good approach.

HEARING ON AMENDMENTS FOR HB 201

Opening Statement by Sponsor:

REP. ELLIS said that currently the state is managing forest lands to harvest approximately 34 million board feet. About 89% of state lands are owned and held in trust for the K-12 school equalization account. A little over 10% of the land is held in trust for Montana State University, the land grant college, Montana Tech, the School for the Deaf and Blind, and Pine Hills School. He felt the money should be used for technology for the schools. National studies show that schools should be spending in the neighborhood of 2% of their base budget technology. The amendment will allow the Superintendent of Public Instruction to make this money available through grants to schools.

Proponents' Testimony:

Jim Foster, Montana Rural Education Association, said that the bill does not require any new taxes and seems to maximize the

earnings from state lands resources. It would allow for all schools in the state to equally participate in the earnings from state lands. It would place a 2% cap on the district technology fund. The money would be used to move technology forward in Montana schools. He urged support of the bill.

Loran Frazier, School Administrators of Montana and the Montana School Boards Association, said that technology is very important and urged support of the bill.

Cary Hegreberg, executive vice-president of Montana Wood Products Association, said the bill would provide a legitimate source of funding for technology in Montana's public schools. The merits of the bill have already been debated in the House Natural Resources Committee, but the amendment assures that any additional revenue legitimately derived from forested state trust land will accrue to the legal beneficiary of those lands, and that beneficiary is the public school system of Montana. He has three children in public schools and would like them to be prepared for higher education opportunities and their careers. The bill as amended is a "win-win proposition" and he urged support.

Jim Tutwiler, Montana Chamber of Commerce, said they strongly supported the bill. He hoped the committee would give favorable consideration to the amendment. If the bill as amended generates a resource to build upon and enhance the skills of young people, they urge support.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: .}

Fred Maker, School Superintendent of Superior Schools, said that technology education is very important for the future and this would be one source of state support.

Dan Rasp, Superintendent of Schools, Jefferson and Boulder, said the bill presents equal opportunity for kids all across the state of Montana. He said they are on the "cutting edge of the new age" and he feels that all students ought to have the same opportunity with that age. The amendment to the bill will do that.

Opponents' Testimony:

Steve Kelly, Friends of the Wild Swan, submitted written testimony. **EXHIBIT 3** He objected to submitting the amendment after the hearing had already begun.

Janet Ellis, Montana Audubon Legislative Fund, said they opposed the bill in its current form. At a minimum, she recommended that lines 19 and 20 be removed from the bill.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: .}

Questions From Committee Members and Responses:

REP. DICK SIMPKINS asked **Bud Clinch, Commissioner, Department of State Lands**, about the 50 million board feet sustainable growth rate. **Commissioner Clinch** clarified that the sustainable yield number is a quantity number that is derived from doing an inventory on lands across Montana on the actual fiber production. It is subject to change in various years.

REP. SIMPKINS said it seemed to him that if they have one of the finest forestry schools that they should be able to determine whether or not clearcutting is the proper way to cut down lodgepole pine. He asked what the acceptable forestry practice when cutting down the forests.

Commissioner Clinch said there has been a considerable change in forestry procedures since he graduated from college. The accepted practice of extensive clearcutting that was predominant in the 1960s and '70s has, for the most part, been replaced across all ownerships of land, even on the industrial level. Currently on state land, clearcutting in the truest sense of the word, is done on only 5% of the acreage. Where seed trees are cut, seed trees are left behind.

Clearcutting used in a minor fashion is an appropriate tool in the proper place, for instance, when the trees have a need for space and sunlight, such as lodgepole pine. There is also the result of catastrophic fires and subsequently it is characteristic of pines to come back quickly.

REP. SIMPKINS asked how long they have been going through the process of debating whether or not they should clearcut the trees. **Commissioner Clinch** said that the debate has been going on for 20 years and he suggested that regardless what they perceive through the debate, it will continue into the future.

REP. SIMPKINS said that in the constitution, the school lands exist for one purpose and one purpose only and that is to raise money for the schools. It does not exist to feed the fish in the lake, it does not exist to provide skiers with a place to go, or for range management. He asked if the decisions being made by the land board are maximizing the return for the schools. **Commissioner Clinch** responded that the board is maximizing the revenue.

REP. SIMPKINS said that the constitution also states that the lands could be sold and more money may be available over the longrun for schools, than what is being permitted for harvesting or the use of fees. It seemed to him that the constitutional obligation would be to sell the lands. **Commissioner Clinch** said that his analogy was correct. He believed that there are some people that have computed the return investments if the lands were sold at a minimal value.

REP. SIMPKINS said the way he understands it, the U.S. Forest Service studies and evaluation and **Commissioner Clinch's** studies and evaluation show the sustainable yield to be at 50 million board feet or more. **Commissioner Clinch** said the initial study in the late 1970s revealed a biological sustainability of 50 million board feet. A subsequent evaluation that was done in 1987-1988 revealed a biological sustainability of 55 million board feet.

REP. DIANA WYATT asked **Commissioner Clinch** if the range was different from year to year. He answered that the amount harvested on a year-to-year basis is more reflective of specific sites. From a practical standpoint the amount is going to be slightly above and slightly below. When they look at the average over a long period of time in order to fulfill the sustainability requirement, they have to be within the average. There can be some peaks and valleys, and still stay within the scientific defensibility of sustainability.

REP. WYATT said the bill requires that they have to produce the annual sustainable yield of 50 million board feet. If that is not done in any one year based upon lack of staff or whatever the cause may be, what would the response be? **Commissioner Clinch** said in that instance they would be out of compliance with that particular law. The process of actually evaluating that would be complicated enough that it would be very difficult to argue over tenths or half of one million board feet. The estimates are going to be plus or minus two million board feet.

REP. GEORGE HEAVY RUNNER asked **Commissioner Clinch** in order to achieve this, would there be any change in the management strategies. **Bud Clinch** said yes, there would be some strategy changes in order to capture deficiencies, and in order to minimize fiscal impact of the number of employees. They would anticipate that some sales would be large, rather than having two or three sales scattered across multiple drainages where they would be doing two or three environmental analyses. There will be some subtle changes in management prescriptions, because there will be expansion into other areas and there will be some increases in clearcuts because they will be moving into some of the appropriate types of stand compositions that necessitate that. The lands will be managed in the fashion that they will continue to maintain their value for future uses.

REP. JACK HERRON asked **Commissioner Clinch** if a plus or a minus would be more appropriate in front of the 50 million board feet. **Commissioner Clinch** said he would be comfortable with the leeway that it gives from a practical standpoint.

REP. HEAVY RUNNER asked **Greg Groepper, Office of Public Instruction**, what kind of collaboration is going on with METNET with respect to the schools purchasing and utilizing equipment for the networking system. **Mr. Groepper** said currently METNET is allowing schools to talk to one another and allowing schools to

talk to the university system. The proposal allows school districts at the other end of the connection to acquire equipment to use in the classroom. METNET helps, but is not the total answer for schools.

{Tape: 3; Side: A; Approx. Counter: 000; Comments: .}

REP. VICKI COCCHIARELLA asked Loran Frazier if there were other sources of funding for technology, would he still be supportive of this proposal for cutting state lands. Mr. Frazier said this was just one avenue to get technology money. If they would give them technology from another source, they would be glad to take it as well.

Closing by Sponsor:

REP. ELLIS said the bill was not a clearcut bill, even though in the Natural Resources Committee it was called that. Commissioner Clinch said that the way they cut the timber depends on the timber and the situation in each provisional area. They are currently clearcutting about 40% of the harvest and it is anticipated that the figure will change. The Department of State Lands is now losing 27 million board feet per year due to death, blowdown and other natural losses. In the last two years, the state has cut 50 million board feet.

If this bill becomes law and is effective immediately, they will start marking forests. Commissioner Clinch said that with the current resources they could cut about 40 million board feet. In order to get above that level it would probably take more state lands resources. The Department of State Lands requires each bidder of the cut to do the cleanup work in the manner they see fit.

The reason for the amendment is to allow the educational community to leverage the money the most. Money spent here is most important right now. REP. ELLIS said if there were a way to fund this type of program and not have to put his fingerprints on some tax on somebody, he would do it.

HEARING ON HB 365

Opening Statement by Sponsor:

REP. JOHN COBB said the bill requires certain information by the Board of Regents on how well students are doing and how well the universities are doing. The state of Texas is starting to make the university systems document how many kids graduated and how many took remedial education. They use the information to reassess their budgets, instead of giving new increases and new equipment. EXHIBIT 4

Proponents' Testimony: None

Opponents' Testimony:

Jeff Baker, Commissioner of Higher Education, said that what is being portrayed and recommended are things they are already planning to do, and the bill addresses some of these things. The information on the number of students who receive academic and athletic scholarships has already been issued. The regents have set a rule of 170 hours maximum; once they reach 170 hours they have to pay out-of-state tuition. He hoped that they could work with **REP. COBB** and others to come up with some standards and ways to improve decision-making and ways to help the legislature understand how the decision-making is progressing.

Informational Testimony: None

Questions From Committee Members and Responses:

REP. NORM MILLS asked **Commissioner Baker** if they are heading in the direction of dropping the 170 hours down to a smaller figure. What is stopping them from doing it immediately? **Commissioner Baker** said what they have done has taken them a long time, and they are now to the point of having the data available.

REP. DICK SIMPKINS asked what the average number of units are. **Commissioner Baker** said that 128 was the minimum.

{Tape: 3; Side: B; Approx. Counter: 000; Comments: .}

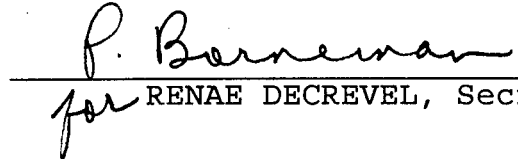
Closing by Sponsor:

REP. COBB said the bill was not a "criticism" bill. It is a bill about accountability. It's about finding out what they are doing wrong and finding out what can be done better. There are times they don't know how many kids are on scholarships and how many are in remedial classes. That is what the bill is doing, is trying to push them right away to document this information. Other states are doing this and it is not a bad idea.

ADJOURNMENT

Adjournment: 6:00 pm


ALVIN ELLIS JR., Chairman


for RENAE DECREVEL, Secretary

Note: These minutes were edited by Andrea Merrill and Patti Borneman.

AEJ/red

HOUSE OF REPRESENTATIVES

Education

ROLL CALL

DATE 2-3-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Alvin Ellis, Jr., Chairman	X		
Rep. Peggy Arnott, Vice Chairman, Majority	X		
Rep. Vicki Cocchiarella, Vice Chair, Minority	X		
Rep. Matt Denny	X		
Rep. Sonny Hanson	X		
Rep. Dan Harrington	X		
Rep. George Heavy Runner	X		
Rep. Jack Herron	X		
Rep. Joan Hurdle	X		
Rep. Bob Keenan			X
Rep. Sam Kitzenberg	X		
Rep. Gay Ann Masolo	X		
Rep. Norm Mills	X		
Rep. Bill Rehbein	X		
Rep. Sam Rose	X		
Rep. Debbie Shea	X		
Rep. Dick Simpkins	X		
Rep. Diana Wyatt	X		

Amendments to House Bill No. 352
First Reading Copy

Requested by Representative Peck
For the Committee on Education

Prepared by Greg Petesch
February 3, 1995

EXHIBIT 1
DATE 2-3-95
B 143 352

1. Page 1, line 13.

Following: "constitution,"

Insert: "ownership of"

2. Page 1, line 14.

Following: "system"

Insert: "unless full value is received for the transfer"

FEB 03 REC'D

EXHIBIT 2
DATE 2-3-95
B HB 352

Mr. Alvin Ellis, Jr., Chair
House Education Committee
State Capitol
Helena

Dear Mr. Ellis;

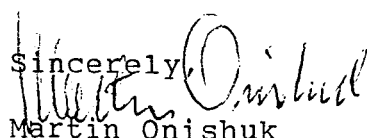
I urge you to support House Bill 352, which would prohibit the transfer of University System properties (including land) to so-called non-profit foundations.

We are still trying to find out how a tract at Fort Missoula, conservatively valued at \$8.5 million, was transferred to the University Foundation, and then sold to some developers for about \$480,000, with, as I understand it, \$10,000 earnest money. Actually, the tract cost them nothing because as soon as they obtained title, they could borrow millions using the tract as security. Some of the developers are rumored to be former members or contributors to the Foundation. I say "rumored" because the Foundation has stonewalled efforts to identify all the participants in this outrageous transaction.

Fort Missoula not only shows that the University System is vulnerable to "piratization," it is bound to discourage donations of real estate for fear that insiders will be back for more. It has certainly changed my attitude toward the University. I thought the U was a bastion of integrity and morality and was proud to be a graduate. Now I have my doubts. I'm sure others feel the same way.

I'm not alone in my beliefs. About 12,000 local folks signed a petition to stop the Fort Missoula transaction and these had to reside in the city. Had county residents been eligible, two or three times that number would have signed. The consensus was, "This is an inside deal and someone is getting paid off."

In addition to this bill, you ought to demand that the Attorney General investigate the fraudulent transfer of taxpayer assets at Fort Missoula.

Sincerely, 
Martin Onishuk

5855 Pinewood Ln
Missoula, MT 59803
February 2, 1995

cc: Peck
Cocchiarella
Denny

Friends of the Wild Swan
P.O. Box 5103
Swan Lake, Montana 59911

EXHIBIT 3
DATE 2-3-95
B. HB 201

Montana House Representative Alvin Ellis, Chairman
House Education Committee
State Capitol
Helena, Montana

February 3, 1995

Dear Chairman Ellis:

On behalf of Friends of the Wild Swan, a non-profit conservation group based in Swan Lake, please accept the following comments in opposition to H. B. 201.

H.B. 201 cannot solve the perceived financial crisis affecting Montana school districts. I suggest that you thin out the "dead wood" in our schools rather than look to school trust forests for a quick fix cash solution. No amount of money is ever enough.

A hard timber volume target, regardless of what that number is, will jeopardize the long-term productivity, and profitability, of school trust forests. A politically-produced target will break the back of another important trust, the trust the public has in professional forestry, and in Montana Department of State Lands (DSL).

If H.B. 201 is enacted into law, Montana stands to lose important public values that define who we are and why we live here. Forests help us overcome the day-to-day obstacles we face as citizens, as school districts, and as a state. Forests are part of our culture. We cannot build up our schools by cutting our forests down.

H.B. 201 fails to acknowledge vast differences between forest management and a tree farming. Tree farms do not provide big game winter range. Tree farms do not provide habitat for hundreds of other wildlife species that live in school trust forests. Tree farms do not protect water quality and fisheries. Tree farms do not account for the fact that there is such a thing as environmental capital. H.B. 201 spends this environmental capital as if there were no tomorrow.

We all share a vision of what makes this state special. That vision is part of our spirituality. Native fish, wildlife and forests are a large part of that vision. To destroy forests, full of life, for ready cash is foolhardy. I urge you to abandon this tree farm strategy before it bankrupts Montana's irreplaceable forest values, our culture, and ultimately bankrupts the ability of school trust forests to produce revenue.

H.B. 201 benefits lumber and pulp producers at taxpayer expense. H.B. 201 would

squander our children's forest inheritance for short-term corporate profit and cash for schools that avoids the root problems our schools face today.

Have you asked Montana's school children what they think? They know what ails our school systems. And, after hearing some of the previous testimony from various school administrators on this bill, I am more certain than ever that I know too. School kids know Montana's landscape is priceless. If given the choice, I believe you would find that ^{the} very students you think you are helping, would prefer to save our living forest, to stumps, clearcuts and pocket full of change for their schools.

Section 2(2) establishes a 50 million board feet annual cut that becomes a "requirement" (Section 3(1)) prior to a completed state-wide forest inventory and study. H.B. 201 promotes corporate welfare, not Montana schools.

A sustainable timber harvest target can be reasonably determined with a scientifically-based forest management plan. I believe the 55 million board feet per year (mmbf/yr) "biological capability" figure (See Exhibit A, Attached) presented by Commissioner Bud Clinch is deliberately inflated and misleading. It is highly likely that 55mmbf/yr is an inaccurate figure that deserves close public scrutiny and independent professional review. The figure was derived from U.S. Forest Service research, not from Department of State Lands' (DSL) own research. To base a multi-year, statewide timber harvest schedule on uncontested Forest Service data and analysis is asking for trouble.

Currently, DSL operates its timber program with no statewide standards and guidelines. In 1991, and again in 1994, DSL promised two separate Montana District Court Judges that a statewide, programmatic forest management plan and Environmental Impact Statement (EIS), with statewide standards and guidelines, will be produced. **Today, no plan exists.**

It is wrong to assume higher harvest volumes will generate a net revenue increase. A timber-only forest management strategy ignores the potential of sustaining other public values produced by school trust forests. A co-dominant relationship between timber and recreation is but one alternative that will produce greater long-term benefits for the school trust without destroying public forests. There are other viable management strategies that will also work better than simply clearcutting school trust forests as fast as you can.

DSL's annual cut averaged 28.5 mmbf/yr from 1957 through 1991. Only once, in 1987, did DSL cut 50 million board feet. Overcutting causes detrimental environmental effects that ultimately produce real clean-up costs to the State of Montana. Clean-up and habitat restoration costs often exceed the revenue generated by cutting down wild forests.

Page 3, Friends of the Wild Swan, H.B. 201

The H.B. 201 Fiscal Note states: "Approximately 40% of the total harvest will be from even-aged management, which may include some clearcutting." All even-aged management is clearcutting in various forms. Do not be fooled by this jargon. "Shelterwood" means a two-stage clearcut. "Seed-tree" means a two-stage clearcut. "Group selection" means smaller clearcuts. Even-aged management is tree farming, where all the trees are the same age, the same height, and often the same species. This is not the kind of forest management the public supports. It is not the kind of forest management that supports sustainable wildlife and fish populations.

In its current form, H.B. 201 represents a bill that cannot comply ... "with all existing state and federal laws". (Section 1). It is fiscally unsound and environmentally destructive. Friends of the Wild Swan supports the study (Section 2(1)) provision. We oppose, in the strongest terms, the mandatory annual cut level of 50 million board feet (Section 2(2)) **before** a proper study has provided the data and analysis necessary to determine a biologically-based, sustainable annual harvest level.

In addition, I strongly urge the House Education Committee to **take a hard look at the various bills that affect school trust lands as a package** to get a clearer picture of what the timber industry's agenda is really about. I have looked at these bills, and I believe this legislature is being duped by industry lobbyists, and by Governor Racicot's appointed Commissioner of State Lands, himself a former timber industry lobbyist. If you stay focused on what is best for school kids in the long-run, and keep that vision of what Montana means to the people you represent in mind, you cannot possibly support H.B. 201.

Thank you for the opportunity to comment on H.B.201.

Sincerely,



Steve Kelly
Friends of the Wild Swan

Exhibit A

B. SCHULTZ
1/17/95

Assumptions used in determining the biological capability from DSL lands to be 55 MMBF per year

- The 1988-89 inventory is an accurate estimate of the amount of timber on forested State-owned lands.
- Portions of our lands are not available for long term sustained yield timber management. Specific cases:
 - Steep slopes (+80%)
 - Unique management zones
 - Eagle nests
 - Wild & Scenic River (North Fork Flathead)
 - Indian Reservation restrictions (Jocko sacred grounds)
 - Grizzly Boy Scout Camp
 - Plains municipal watershed
 - Streamside Management Zones (SMZs)
 - SMZs comprise from 6-7% of the land base. 50% of the volume and area in SMZs is removed from the calculation.
 - Access: Legal access to many scattered tracts is not available. Some tracts are isolated and require extensive road construction.
- These factors result in the following amount of deferred area and volume by Land Office:

	<u>Area</u>	<u>Volume</u>
NWLO	22%	25%
SWLO	16%	17%
CLO	75%	84%

- The growth rates derived from inventory remeasurements and adjusted for known harvest levels are reasonable. The average annual net growth rates are:

NWLO	1.935%
SWLO	2.145%
CLO	2.630%

- A regeneration period of 10 years was used in the calculation.

Facts (not assumptions)

- The calculations do not include any volume or growth from the NELO, SLO, ELO.
- The calculations do not include considerations for temporal and spatial constraints associated with resource issues such as water quality, T&E species (other than eagle nests), big game, sensitive species and other wildlife issues, old growth and dependent species or any other similar issues.

1/30/95

Here is the memo I mentioned
that summarizes the assumptions
that went into biological capacity
calculations. Please call if you have
questions. Sincerely,

Panel OKs state forest logging bill

1/27/95
By BEN LONG
The Daily Inter Lake

A bill designed to boost logging on state forests coasted through the Montana House of Representatives Natural Resources Committee on a party-line vote.

The bill, HB 201, directs the Department of State Lands to determine its "biological sustained yield." Meanwhile, it sets logging at 50 million board feet of timber a year — substantially more than has been logged on state forests in recent years.

In the past five years, the state has sold an average of 23 mmbf. Volume sold ranged from 30 mmbf in 1990 to 15 mmbf in 1992. Last year, the state sold 28 mmbf.

Backers of the bill say it probably will take up to two years to determine the biological sustained yield.

The bill is sponsored Rep. Alvin Ellis, R-Red Lodge. The Montana Wood Products Association is a primary lobbyist for it.

Cary Hegreberg, executive vice president of the association, says the plan is feasible and will help both mills and state schools, which receive proceeds from state timber sales.

But critics, including environmental activist Steve Kelly, say setting a politically derived logging level is asking for overcutting and trouble later on.

The Natural Resources Committee sent the bill to the House floor with its approval. The vote was split along party lines, which disappointed Hegreberg. The bill deserves bipartisan support, although only Republicans voted for it, he said.

At the committee hearing, State Lands Commissioner Bud Clinch said the state could cut 50 mmbf a year, given adequate staffing.

A medium-sized mill churns through 40 mmbf of logs a year.

Hegreberg says state timber management should be measured on its productivity. Learning the biological sustained yield will maximize productivity, he says.

But Kelly says if the Legislature sets a logging target, the agency probably won't be able to meet it without breaking environmental laws.

"It's a carbon copy of what happened on the Flathead National Forest," Kelly said, pointing to a court rejection of Forest Service logging levels.

"It's going to produce a really irate public."

Boosting logging levels would require hiring more staff, in an era when the Legislature wants to pare down government, Kelly added.

Hegreberg said the bill probably would go to the House floor for a vote by the end of the week.

TARLETON STATE UNIVERSITY
(Continued)

Grand Total, TARLETON STATE UNIVERSITY	\$ 20,199,083	\$ 19,933,984
Method of Financing:		
General Revenue Fund	\$ 14,972,294	\$ 14,392,014
Estimated Other Educational and General Income	\$ 5,226,789	\$ 5,541,970
Total, Method of Financing	\$ 20,199,083	\$ 19,933,984

1. Informational Listing of Appropriated Funds. The appropriations made above for Educational and General State Support are subject to the special and general provisions of this Act and include the following amounts for the purposes indicated.

A. Goal: PROVIDE INSTRUCTION		
A.1. Objective:		
Conduct Teaching		
Outcomes:		
State licensure examination pass rate of nursing graduates	97.29%	97.24%
State pass rate of education EXCET exam	84.25%	84.21%
A.1.1. Strategy: FACULTY SALARIES	\$ 9,976,474	\$ 9,860,432
Efficiencies:		
Student enrollment on the last semester day as a percent of those enrolled on the twelfth class day	92.28%	92.23%
Retention rate of first-time, full-time, degree-seeking freshmen students after one academic year	59.89%	59.72%
Retention rate of TASP students requiring remediation education after one academic year	55.83%	55.67%
Percent of first-time, full-time, degree-seeking freshmen who earn a baccalaureate degree within six academic years	32.1%	32.08%
A.1.2. Strategy: DEPARTMENTAL OP EXPENSE	\$ 1,589,333	\$ 1,581,415
Departmental Operating Expense	\$ 11,565,807	\$ 11,441,847
Total, Objective A.1: Conduct Teaching		
A.2. Objective:		
Provide Academic Support		
A.2.1. Strategy: INSTRUCTIONAL ADMIN		
Instructional Administration	\$ 309,530	\$ 299,820
A.2.2. Strategy: LIBRARY	\$ 741,543	\$ 735,707
A.2.3. Strategy: ORGANIZED ACTIVITIES	\$ 335,000	\$ 335,000
Total, Objective A.2: Provide Academic Support	\$ 1,386,073	\$ 1,370,527
A.3. Objective:		
Provide Special Item Instructional Support		
A.3.1. Strategy: SCHOLARSHIPS	\$ 13,831	\$ 13,831
A.3.2. Strategy: NURSING PROGRAM	\$ 84,528	\$ 169,528
A.3.3. Strategy: PUBLIC EDUCATION GRANTS		
Texas Public Education Grants	\$ 681,266	\$ 727,547
Total, Objective A.3: Provide Special Item Instructional Support	\$ 779,625	\$ 910,906

TARLETON STATE UNIVERSITY
(Continued)

Total, Goal A: PROVIDE INSTRUCTION	\$ 13,731,505	\$ 13,723,280
B. Goal: CONDUCT RESEARCH		
B.1. Objective:		
Conduct Basic Research		
B.1.1. Strategy: RESEARCH ENHANCEMENT	\$ 75,135	\$ 72,805
Efficiencies:		
External or sponsored research funds as a percent of state appropriations	6%	6%
B.2. Objective:		
Conduct Special Item Directed Research		
B.2.1. Strategy: APPLIED ENVIRONMENTAL RES		
Institute for Applied Environmental Research	\$ 1,391,634	\$ 1,362,918
Total, Goal B: CONDUCT RESEARCH	\$ 1,466,769	\$ 1,435,723
C. Goal: INSTITUTION SUPPORT		
Provide Institutional Support and Ancillary Operations		
C.1. Objective:		
Provide Institutional Support		
C.1.1. Strategy: GEN ADMIN & STUDENT SERVS		
General Administration and Student Services	\$ 915,457	\$ 895,090
Efficiencies:		
Administrative cost as a percent of total institutional educational and general expenditures	7.88%	7.88%
C.1.2. Strategy: GENERAL INSTITUTIONAL EXP		
General Institutional Expense	\$ 261,801	\$ 284,617
C.1.3. Strategy: CAMPUS SECURITY	\$ 147,740	\$ 145,764
Total, Objective C.1: Provide Institutional Support	\$ 1,324,998	\$ 1,325,471
C.2. Objective:		
Provide Staff Benefits to Eligible Employees		
C.2.1. Strategy: STAFF GROUP INSURANCE		
Staff Group Insurance Premiums	\$ 335,743	\$ 369,027
C.2.2. Strategy: WORKERS' COMPENSATION INS		
Workers' Compensation Insurance	\$ 190,661	\$ 190,661
C.2.3. Strategy: UNEMPLOYMENT INSURANCE	\$ 4,427	\$ 4,427
Total, Objective C.2: Provide Staff Benefits to Eligible Employees	\$ 530,831	\$ 564,115
C.3. Objective:		
Provide Operation and Maintenance of Plant		
C.3.1. Strategy: PLANT SUPPORT SERVICES	\$ 270,786	\$ 267,628
C.3.2. Strategy: BUILDING MAINTENANCE	\$ 646,297	\$ 649,405
Efficiencies:		
Space utilization rate of classrooms	42.13%	42.1%
Space utilization rate of labs	29.09%	29.07%
C.3.3. Strategy: CUSTODIAL SERVICES	\$ 365,979	\$ 363,555
C.3.4. Strategy: GROUNDS MAINTENANCE	\$ 178,826	\$ 175,906
C.3.5. Strategy: UTILITIES	\$ 1,071,548	\$ 1,085,513

**SPECIAL PROVISIONS RELATING ONLY TO COMPONENTS OF
TEXAS STATE TECHNICAL COLLEGE**
(Continued)

hereby authorized to expend its remaining educational and general funds to meet contribution, contract, or grant-matching requirements only for the following purposes:

- a. planning and implementing a large-scale job-training program in conjunction with private business and other state agencies;
- b. planning and implementing a training program under Part 147, Federal Aviation Administration in Denton County, Texas;
- c. acquiring facilities and equipment to carry out a large-scale industrial training program in conjunction with a major employer; and
- d. major renovations.

2. **Financial Records.** The financial records and reports of the Texas State Technical College shall classify accounts in accordance with the recommendation of the National Committee on the Preparation of a Manual on College and University Business Administration, as set forth in Volume I of "College and University Business Administration," published by the American Council on Education with a copyright date of 1952, and subsequent published revisions with such modifications as may be developed and provided by the Comptroller of Public Accounts, or as may be required to conform with specific provisions of the Appropriation Acts of the Legislature. The accounts of the Texas State Technical College shall be maintained and audited in accordance with the approved reporting system. The Texas State Technical College shall deliver to the Texas Higher Education Coordinating Board, any such program reports as it may deem necessary in accordance with its rules and regulations.

3. **Enrollment Records and Reports.** To be eligible to receive the appropriations hereinabove, the Texas State Technical College shall maintain separately for each campus and each extension center such enrollment records and report such enrollment data as required by the Texas Higher Education Coordinating Board. These enrollment reports shall be submitted in the form and on the date required.

The above reports shall be certified to the Comptroller of Public Accounts no later than the date required by the Coordinating Board, and each term copies of the above certified enrollment reports shall be sent to the Coordinating Board, Legislative Budget Board, Governor, State Auditor and Legislative Reference Library.

The State Auditor shall verify the certified enrollment data submitted to the agencies listed above as part of the audit of the Texas State Technical College.

The Texas State Technical College shall offer only such courses as are economically justified in the considered judgment of the Board of Regents. The Board of Regents shall adopt policies specifying the conditions under which classes of less than 10 students by headcount are to be considered necessary and justifiable. The Board of Regents shall direct the chancellor or other officials to review enrollment data prior to the designated Coordinating Board census date and take all necessary actions to ensure that the small classes offered on each campus are only those that conform with established policies on small classes. Each school term, each campus shall prepare for submission to the Board of Regents a small class report showing the department, course number, title of course and the name of the instructor. The Board of Regents shall review enrollment reports certified to the Comptroller of Public Accounts, the campus small class reports and other enrollment records as necessary to ensure that the classes offered are economically justified and are in compliance with Board of Regents' policy.

**SPECIAL PROVISIONS RELATING ONLY TO COMPONENTS OF
TEXAS STATE TECHNICAL COLLEGE**
(Continued)

4. **Certification of Compliance.** Expenditure of the funds appropriated hereinabove is contingent upon annual certification by the chancellor of the Texas State Technical College to the Comptroller of Public Accounts that the Texas State Technical College is in compliance with these provisions regarding budgets, accounting procedures and enrollment.

5. **Approved Geographic Locations.** None of the funds appropriated above to the Texas State Technical College shall be expended in promoting, developing or creating a campus or extension center at any other location in the state except as specified in V.T.C.A., Education Code, Section 135.02.

6. **Temporary Special Courses.** The expenditure of funds appropriated by contact hour generation hereinabove to the Texas State Technical College in pre-apprenticeship, related training for apprentices and specialized training for journeymen and compensatory training for pre-apprenticeship and apprenticeship enrollees, and plant expansion and new plant start-up training program may be spent wherever the need exists within the state in conjunction with curriculum approval by the Texas Higher Education Coordinating Board. Such expenditure of funds for these special courses are temporary in nature and outside the provision of V.T.C.A., Education Code, Section 135.04.

7. **Aircraft Pilot Training Programs.** Funds may be used for the operation, maintenance or lease of aircraft for use in the Aircraft Pilot Training programs subject to the requirement that excess costs of flight instruction be recovered by an assessment of charge to student pilots. This income shall be separately accounted for and credited as a reduction in expenditure in the Aircraft Pilot Training Program.

8. **Construction and Renovation Funds.** Any specific line-item construction funds herein appropriated for new construction may be used for matching purposes; in the event the Texas State Technical College should acquire matching funds from any sources to be used in conjunction with the appropriated funds for building construction, the Board of Regents may use any of the appropriated funds for additional space and mechanical systems or renovation of existing buildings in accordance with the Campus Master Plans and subject to approval by the Texas Higher Education Coordinating Board.

9. **Approval of Plans by Foundations.** Any use of the Texas State Technical College's assets or facilities including, but not limited to, buildings, equipment or employees by existing foundations or for the promotion of foundations shall require prior approval of the Board of Regents. Approval is contingent upon receipt by the Board of Regents of a satisfactory annual plan of operation. At a minimum, this plan must specify the proposed use of any Texas State Technical College facilities, equipment, and personnel; payments made directly to Texas State Technical College personnel for services provided or expenses incurred; and donations of funds to the Texas State Technical College for designated purposes. All funds donated by foundations to the Texas State Technical College shall be received and accounted for in the same manner as all other Texas State Technical College funds. After Board of Regents approval, the plan shall be filed with the Legislative Budget Board.

10. **McAllen Extension Program.** Only those funds specified for the Harlingen Campus, McAllen Extension Center, shall be expended for the purpose of maintaining extension programs in McAllen. Funds appropriated to other items at Harlingen or other TSTC campuses shall not be transferred for this purpose.

11. **Ablene Extension Program.** Only those funds specified for the Sweetwater Campus, Abilene Extension Center, shall be expended for the purpose of maintaining extension programs in Abilene. Funds appropriated to other items at Sweetwater or other TSTC campuses shall not be transferred for this purpose.

SPECIAL PROVISIONS RELATING ONLY TO STATE AGENCIES OF HIGHER EDUCATION (Continued)

(1) The following information shall be reported by gender and ethnicity, by number and percentage:

- (a) student enrollment by freshman enrollment, sophomore enrollment, junior enrollment, senior enrollment, master's enrollment, doctoral enrollment, and special-professional enrollment of the institution;
- (b) graduates by baccalaureate, professional, master's, or doctoral degrees;
- (c) first-time, full-time freshmen who earn a baccalaureate degree from the institution not later than the sixth anniversary of the date the freshmen first enroll at the institution;
- (d) first-time, full-time freshmen retained after the first anniversary of the date the freshmen first enroll at the institution;
- (e) graduates of the institution who pass the engineering, law, medicine, nursing, pharmacy, veterinary, or EXCET licensing examinations, to the extent that this information is available;
- (f) public junior college transfer students who enroll at the institution;
- (g) public junior college transfer students who graduate from the institution;
- (h) students receiving financial aid by average amount of aid;
- (i) students receiving non-athletic scholarships by average amount of scholarship;
- (j) students receiving athletic scholarships by average amount of scholarship;
- (k) faculty members by rank and tenure status;
- (l) faculty salaries by rank and tenure status;
- (m) amount of educational and general, designated and restricted research funds awarded to faculty members employed by the institution;
- (n) members of the governing board; and,
- (o) non-faculty personnel broken down by the following categories:
 - (1) executive, administrative, or managerial;
 - (2) professional or nonfaculty;
 - (3) secretarial or clerical;
 - (4) technical or paraprofessional; and,
 - (5) service or crafts staff;

(2) The number of graduate and undergraduate degree programs and departments in gender studies and the number in ethnic studies; and,

(3) The number of incidents of sexual harassment and the number of incidents of racially offensive conduct recorded by the dean of students, and the number recorded by the personnel or human resources office, and their disposition.

SPECIAL PROVISIONS RELATING ONLY TO STATE AGENCIES OF HIGHER EDUCATION (Continued)

The Coordinating Board shall determine whether each institution has a section of library holdings on gender studies and ethnic studies.

The Coordinating Board may require new measures in addition to these essential measures, based on the availability of new information.

General academic teaching institutions shall report the information required by this section beginning with the 1992-1993 academic year. Information that is not being collected by institutions for 1992-1993 must be reported in subsequent years.

The Coordinating Board shall adopt rules to implement this section and ensure that general academic teaching institutions comply with this section.

No later than July 1 of each even numbered year, the Coordinating Board shall compile the information provided under this section and shall provide that report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the Legislature.

In the event that additional funds are not appropriated to the Coordinating Board for implementing fully the provisions of this section, the board shall only be required to compile and report items 1 (a), (b), (c), (d), (f), (g), (h), (i), (n) and (o). Additionally, the Coordinating Board shall report these items in the annual Statistical Report, and forward that report on an annual basis to all recipients as provided by this section.

Sec. 40. **One Biennium Hold-Harmless Transition Funding.** It is the intent of the Legislature that institutions and agencies of higher education benefiting from hold-harmless funding provisions contained in this Act undertake all necessary management and budgetary restructuring to implement the policies and directives from which the institutions are protected in 1994 and 1995. The applicable policies are conversion to statewide utilization of general revenue and educational and general income in setting the institutions' level of appropriation (All Funds Bill Pattern); setting of a 131 hour doctoral cap (Senate Bill 380); and semester credit hour enrollment declines and base period enrollment mix changes. The hold-harmless provisions contained herein are for the 1994-95 biennium only and institutions shall adjust their budgetary and personnel policies to make the need for hold-harmless provisions from legislatively instructed policies unnecessary in future funding periods.

Sec. 41. **Delay of Payment and Appropriations Disbursement for Public Education and Public Higher Education.** In accordance with Senate Bill 380, 73rd Legislature, Regular Session, the appropriations contained in Article III are subject to the following restrictions:

1. The payments to school districts from the foundation school fund for August 1995 shall be made by the Comptroller on September 1, 1995. The commissioner of education may, based upon a finding of fact as to extreme hardship, waive this delay provision.
2. One-twelfth of the fiscal year 1995 General Revenue Fund appropriations to institutions of higher education are not available for expenditure for obligations incurred for the 1995 fiscal year until September 1, 1995. The Comptroller and the Texas Higher Education Coordinating Board shall disburse the one-twelfth appropriations being held for community colleges on September 1, 1995.

EXHIBIT

DATE 2-3-95

HB 365

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Education COMMITTEE DATE 2-3-93
BILL NO. 201 SPONSOR(S) Rep Alvin Ellis Jr

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Steve Kelly	Friends of the Wild Swan		X
Janet Ellis	MT Audubon		X
Jim Tutwiler	MT CHAMBER	✓	
Cary Hegreberg	MT Wood Prod. Assoc.	✓	
Ron Fraz	STAm	✓	
Michael Peedy	MSBA	X	

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CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

COMMITTEE

DATE 2-3-95

SPONSOR(S)

SPONSOR(S) Rep. Kay Vack

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[illegible]

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