

VISITORS' REGISTER
JOINT INSTITUTIONS SUBCOMMITTEE

BILL NO. _____

DATE January 10, 1985

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Sara Parker	Montana State Library	X	
Allen Chronister	Attorney General's Office	X	
JAMES R. REYNOLDS	HELENA, MT	X	
A. Williams	CONF		
Tom Prosser	ABPP		
Chuck Johnson	Great Falls Tribune		
Pam Sechler	LFA		
Brenda Schye	Mont. Arts Advocacy		
Marti Adrian	MSLA, Co. Comm.		
Anne MacIntyre	Montana Human Rights Comm		
Carroll Souta	Dist T, Helena		
Margaret Loutcher	Dept of Institutions		
Jan Hamber	" "		
Scott SIM	" "		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
INSTITUTIONS AND CULTURAL EDUCATION SUBCOMMITTEE
49TH LEGISLATIVE SESSION
January 10, 1985

Tape 4, Side B

The meeting of the Institutions and Cultural Education Subcommittee was called to order by Vice Chairman Esther Bengtson on January 10, 1985, at 8:00 a.m. in Room 129 of the Capitol Building.

ROLL CALL: All members except Chairman Waldron were present. Chairman Waldron was excused to testify on a bill in another committee and would join the hearing when he was finished. Also present were Pam Joehler of the Legislative Fiscal Analyst's Office (LFA), Tom Crosser of the Governor's Office of Budget and Program Planning (OBPP), and Sara Parker, State Librarian.

STATE LIBRARY COMMISSION SUPPLEMENTAL

Ms. Joehler handed out a breakdown of this supplemental request (Exhibit 1). Vice Chairman Bengtson reviewed Exhibit 1 for the committee. Jim Reynolds, attorney for Vivian Crabtree, noted that the attorney fees were based on a rate of \$40 per hour. Mr. Crosser said the OBPP had not reviewed the application of federal funds for this purpose and he could not assure the committee that this application was legal and proper. Also, the budget amendment was submitted in the budget amendment bill which had not been passed by the Legislature as of the date of this hearing.

(115) Ms. Parker explained how the \$204,231 would be spent. She said they did not want to spend the \$10,815 to pay for the Crabtree settlement. She felt the effect of doing so would be felt statewide in the library community.

Rep. Menahan wondered if the administrator who was discriminatory against Ms. Crabtree could be forced to pay the settlement. Allen Chronister of the Attorney General's Office said state employees were exempt from personal liability when they are acting in the scope of their jobs but not if they were acting outside the scope of their position.

There was a good deal of discussion regarding the funding and the use of federal funds to free up general fund money. Mr. Crosser said the OBPP supports the full supplemental but he felt the issue here was whether the \$10,815 of the federal money could be used to free up \$10,815 of the current appropriation that the library has. There was a lot of discussion regarding the interest rate. Anne MacIntyre,

administrator of the Montana Human Rights Commission, said the interest was calculated at 10% quarterly from the date of the settlement in October of 1981 until June 30, 1985. She noted that, if the settlement is paid before June 30, the estimated accrued interest would be less.

Vice Chairman Bengtson said the committee was getting ahead of itself in talking about the funding. She said we need to either accept or reject the supplemental. She asked that someone explain the settlement to the committee.

Ms. MacIntyre explained the lawsuit. She noted that, at the same time as Ms. Crabtree filed a district court action alleging a violation of the veterans' preference law, she also filed a complaint with the Human Rights Commission alleging discrimination because of her handicap. Mr. Reynolds noted later that Ms. Crabtree did not receive any monetary settlement from the court suit. This settlement is in response to her complaint filed with the Human Rights Commission.

The settlement was for \$36,000 in lost earnings. That back pay ended after October 31, 1983, and all interim earnings were deducted from the back pay calculation. Ms. MacIntyre handed out a summary sheet that shows what specifically went into the calculations (Exhibit 2). Ms. MacIntyre said the interest was compounded quarterly so it was actually more than 10%. When questioned why it was done quarterly, she responded that it was easier. The committee got copies of the settlement (Exhibit 3).

(475) Sen. Aklestad asked the Attorney General's representative if the Attorney General's Office agreed with this settlement and, if not, did the Attorney General's Office try to fight the settlement. Mr. Chronister said it was not appealed because there was no method to appeal. He explained that this was a settlement, not an order to pay. He noted that this was a fair settlement.

There was again a lot of discussion regarding the interest rate. It was noted that the 10% is established by statute.

Tape 5, Side A

Rep. Menahan felt the administrators of state agencies that bring on these kinds of lawsuits should be liable and held accountable for their actions. There was a lot of discussion on this subject.

EXECUTIVE ACTION: (128)

Rep. MENAHAN moved to send this supplemental to the full Appropriations Committee.

The motion PASSED unanimously.

Chairman Waldron returned to the hearing and resumed chairing the meeting. Present during this part of the hearing were Keith Wolcott, Legislative Fiscal Analyst (LFA), George Harris of the Governor's Office of Budget and Program Planning (OBPP), and Carroll South, Director of the Department of Institutions.

DIRECTOR'S OFFICE

(182) Mr. South talked about the IBM Systems 38. He noted that the needs of the department will just come to the capacity of the system. Chairman Waldron noted that the Department of Administration has signed off on this proposal as being acceptable to them.

(251) Mr. Wolcott handed out a breakdown of the differences in the LFA budget and the OBPP budget (Exhibit 4). The department has taken a .5 FTE administrative officer position from the Corrections Division and a .5 FTE data entry position which was vacant for the past year from Management Services and made the 1 FTE Management Analyst position for the Director's Office. Mr. Wolcott said the LFA does not believe this position is current level. This position would perform internal audits to strengthen internal control and would be a Grade 13.

EXECUTIVE ACTION: (319)

Sen. HIMSL moved to accept the request for a 1 FTE Management Analyst position from the Executive's budget request.

The motion PASSED unanimously.

Chairman Waldron suggested that they consider this position as current level.

Sen. BENGTON moved to consider the .5 FTE lawyer position from the Executive's budget request as current level and to accept this request.

The motion was PASSED by all members of the subcommittee except Sen. AKLESTAD.

Rep. MENAHAN moved to accept \$486 for each fiscal year for travel for the Management Analyst position.

The motion PASSED unanimously.

(410) There was some discussion regarding the LFA's method for calculating inflation. The House leadership agreed that the subcommittees should use the LFA inflation factors tentatively. They can be changed if the subcommittee so desires. Chairman Waldron said the subcommittee will have to accept the LFA's inflation method in order to be consistent with the other subcommittees. Sens. Aklestad and Bengtson do not approve of these figures. Chairman Waldron assured them that there will be ample opportunity to change these figures in the future. In calculating the cost of Personal Services, the subcommittee will use the LFA's methodology.

Rep. MENAHAN moved to accept the LFA recommendation with the addition of the 1 FTE Management Analyst, the .5 FTE lawyer, and the \$486 in each fiscal year for travel for the Management Analyst.

The motion PASSED unanimously.

MANAGEMENT SERVICES DIVISION

(500) The primary differences in the OBPP and the LFA budgets are:

1. The LFA deleted the .5 FTE Data Entry Operator position which was vacant last year.
2. The OBPP upgraded the job share position.
3. The LFA did not include \$25,208 in FY 86 and \$26,469 in FY 87 for data processing.
4. The LFA's figure for Equipment only provides for one typewriter instead of the OBPP's two typewriters.

EXECUTIVE ACTION: (659)

Sen. BENGTON moved to accept the LFA recommendation for Personal Services.

The motion PASSED unanimously.

DATA PROCESSING: (670) The committee discussed the data processing issue. The department was granted funds for the study of data processing. Mr. South said he would like to use these funds for the operation of the IBM Systems 38.

Tape 6, Side A

The LFA took out the data processing study money from the current level budget. Mr. South explained that, if the department used the Department of Administration's main frame computer for good-time computations, it would cost \$20,000 per month for operational costs. The alternative would be to purchase the Systems 38 which would cost \$180,000 department-wide. The department is calling the \$25,208 in FY 82 and \$26,469 in FY 87 current level and the LFA is not.

In three years, the department will own the Systems 38 and they will only have to pay for maintenance contracts. The department will have to maintain a hook-up with the main frame computer but that will only cost \$500 per month. That way, the department will still be able to access SBAS and personnel records.

The committee discussed the Department of Administration's main frame computer and the expense involved in keeping it alive. Rep. Francis Bardanouve said there should be a computer czar to keep things under control. The reason for this statement is the fact that some of the state agencies are getting their own computer systems and not utilizing the Department of Administration's computer which is costing a lot of money.

EXECUTIVE ACTION: (180)

Rep. MENAHAN moved to authorize \$25,208 in FY 86 and \$26,469 in FY 87 for data processing as a modified.

The motion PASSED unanimously.

Sen. BENGTON moved to accept the LFA recommendation for Equipment.

The motion PASSED unanimously.

To clarify, the committee accepted the LFA recommendation for Equipment and they also accepted the data processing which was a modified.

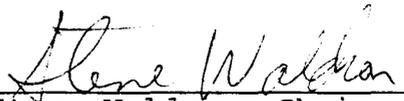
INSTITUTIONS AND CULTURAL EDUCATION SUBCOMMITTEE
January 10, 1985
Page 6

Sen. BENGTON moved to accept the LFA's current level recommendation for Operating Expenses.

The motion PASSED unanimously.

Being no further business to come before the committee, the meeting was adjourned at 10:10 a.m.

Respectfully Submitted:



Steve Waldron, Chairman

SW/lt

STATE LIBRARY SUPPLEMENTAL REQUEST

- A. The request is for the state to provide \$44,144 for the settlement of the Montana Supreme Court Crabtree Decision.
- B. Total Request = \$44,144
 1. \$1,764 attorney fees
 2. \$36,087 estimated compensation
 3. \$6,293 estimated accrued interest to 6/30/85
- C. Possible funding sources for settlement
 1. General fund supplemental as requested
 2. Agency operating budget
 - a) The agency is requesting a budget amendment of \$204,231 for additional federal funds which have become available since the 1983 session. The agency proposes spending it on grants. The LFA has identified \$16,815 of the request as being available for agency operations causing a general fund reversion of \$10,815. The legislature could direct the agency to use \$16,815 of the requested federal funds for agency operations. The general fund which would then become freed up could be used as partial payment for the settlement. An additional \$33,329 of general fund would be needed for the remaining amount of the settlement.

MONTANA HUMAN RIGHTS COMMISSION

Settlement - Proposed Settlement Information

Case Number HpE82-1736

Virginia Leptec v. Montana State Library

Date 1-10-85

AMOUNT ¹	INTEREST EARNINGS	SUB TOTAL	INTEREST	TOTAL
Current Quarter to :	-	-	+	
Previous Quarter to :	-	-	+	(2.5%)
Third Quarter to :	-	-	+	(5%)
Fourth Quarter to :	-	-	+	(7.5%)
Prior Period 10-1-81 to 10-31-83 :	\$36,241.00	\$5,223.00	\$21,018.00	+\$9,517.17 (10%) ²
TOTALS				\$40,535.07

The above figures are based on lost wages from October 1, 1981 through October 31, 1983. October 31, 1983 was determined to be the ending date for damages since the Charging Party did not apply for the reopened position. Interim earnings by the Charging Party are deducted from the lost wages. Interest at 10% per annum is added to the actual lost wages amount.

AMOUNT

Specify

Grade 12 per year

per year

per

per

per

per

per

does not include health benefits

PAY DIFFERENTIAL

BENEFITS

RENT

OTHER attorney fees

per

per

per

per

The above totals represent actual damages including interest calculated through December 31, 1984. An additional 10% interest is to be added from January 1, 1985 until the date of payment. \$1,764.00

²Per Annum

The Charging Party has contested the determination of the Human Rights Division that lost wage damages should cease on October 31, 1983 and has made a claim for damages for humiliation and embarrassment. The Charging Party abandoned these claims as a compromise in the negotiated settlement between the parties and they are not a part of the total amount represented in this agreement.



HUMAN RIGHTS COMMISSION

STATE OF MONTANA

TED SCHWINDEN, GOVERNOR
(406) 444-2884

ROOM C-317, COGSWELL BUILDING
HELENA, MONTANA 59620

December 28, 1984

Ms. Sara Parker
State Librarian
1515 East Sixth
Helena, Montana 59620

Re: Case No. HpE82-1736, Crabtree v. Montana State Library

Dear Ms. Parker:

Enclosed please find the finalized agreement in the above entitled case. This does conclude the proceedings of the Montana Human Rights Division. If applicable, the complaint filed with the federal Equal Employment Opportunity Commission or the federal Department of Housing and Urban Development will also be finalized if the agreement is accepted by EEOC or HUD.

It is our understanding that performance of the provisions of this agreement is contingent upon receipt of funding from the Legislature. If the Respondent is unable to perform its obligations under this agreement because the Legislature refuses to provide funding to settle this case, this case will be reopened and certified for hearing upon notification from the parties that the agreement cannot be performed.

Thank you for your cooperation in this matter. If you should need further information concerning this matter, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Anne L. MacIntyre".

Anne L. MacIntyre
Administrator
Human Rights Division

cc: John Maynard

Enclosure

SETTLEMENT AGREEMENT

IN THE MATTER OF:)

The Human Rights Commission)
of the State of Montana)

and,)

VIVIAN CRABTREE,)

Charging Party,)

vs.)

MONTANA STATE LIBRARY,)

Respondent,)

HRC CASE NO. HP82-1736

EEOC CHARGE NO. N/A

Charges were filed under Title 49, Chapters 2 and 3, MCA, the Montana Human Rights Act, ~~TITLE XVII OF THE CIVIL RIGHTS Act of 1964 the Age Discrimination in Employment Act and the Equal Pay Act.~~ To resolve this matter the parties agree as follows:

1. In exchange for the promise(s) made by Montana State Library hereinafter referred to as the "Respondent" in this agreement, Vivian Crabtree, hereinafter referred to as the "Charging Party", agrees not to initiate any new legal action or to continue any legal action already initiated under the Human Rights Act and Governmental Code of Fair Practices of the State of Montana, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, or the Equal Pay Act based on the above case number(s). The Human Rights Commission of the State of Montana also agrees to cease processing the charge(s).

2. In exchange for the promises of the Charging Party and the Human Rights Commission of the State of Montana, the Respondent agrees to:

- a) Pay to the Charging Party the sum of forty thousand, five hundred and thirty five dollars (\$40,535.00) plus 10% interest from January 1, 1985 until the date of payment and \$1,764.00 in attorney's fees.
- b) It is understood that the above payment is contingent upon approval of funding for this agreement by the legislature.

3. It is understood that this agreement does not constitute an admission by the Respondent of any violation of the Human Rights Act and Governmental Code of Fair Practices of the State of Montana, Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and the Equal Pay Act.
4. The Respondent agrees to provide written notice to the Administrator of the Human Rights Division within ten (10) days of satisfying each obligation contained in this agreement.
5. The Charging Party and the Respondent acknowledge that this settlement may be used as evidence in any subsequent proceeding in which one of the parties alleges a breach of this agreement.
6. The Human Rights Commission's and the Equal Employment Opportunity Commission's participation in this agreement does not reflect any judgment by either agency on the merits of the charge. Furthermore neither agency waives its right to process any other charge, including a Commission or Division charge against the Respondent.

Case No. HbE82-1736

EEOC No. N/A

SIGNATURE PAGE

Sara Parker
For Respondent
Sara Parker

December 11, 1984
Date

Vivian Crabtree
Charging Party
Vivian Crabtree

12-22-84
Date

I recommend approval of the Settlement Agreement:

Jerry Keck
Investigator Conciliator
Jerry Keck

12/26/84
Date

I concur in the above recommendation for approval of the Settlement Agreement and approve the agreement on behalf of the Human Rights Commission.

Anne L. MacIntyre
Anne L. MacIntyre

12/27/84
Date

DIRECTOR'S OFFICE

<u>Personal Services</u>	<u>Fiscal 1986</u>	<u>Fiscal 1987</u>
Executive	\$339,312	\$339,969
LFA Current Level	<u>304,217</u>	<u>304,864</u>
Difference	\$ 35,095	\$ 35,105
Issues:		
1. Lawyer .5 FTE	13,077	13,082
2. Management Analyst 1 FTE	22,186	22,195
<u>Operating Expenses</u>		
Executive	\$ 45,719	\$ 38,128
LFA Current Level	<u>45,646</u>	<u>39,210</u>
Difference	73	(1,082)
Issues:		
1. Management Analyst Travel	486	486
<u>Funding</u>		
Issue:		
1. None - All general fund.		

MANAGEMENT SERVICES DIVISION

	<u>Fiscal 1986</u>	<u>Fiscal 1987</u>
<u>Personal Services</u>		
Executive	\$689,390	\$690,464
LFA Current Level	<u>678,091</u>	<u>679,160</u>
Difference	\$ 11,299	\$ 11,304
Issues:		
1. Data Entry Operator .5 FTE	7,764	7,781
2. Job Share Position Increase	2,673	2,680
<u>Operating Expenses</u>		
Executive	\$239,931	\$207,274
LFA Current Level	<u>214,630</u>	<u>183,784</u>
Difference	\$ 25,301	\$ 23,490
Issues:		
1. Data Processing	\$ 25,208	\$ 26,469
<u>Equipment</u>		
Executive	\$ 1,664	\$ 1,172
LFA Current Level	<u>832</u>	<u>1,272</u>
Difference	832	(100)
Issues:		
1. Typewriter (1)	\$ 832	
<u>Funding</u>		
Issues:		
1. None - All general fund.		