

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - 1st SPECIAL SESSION

SUBCOMMITTEE ON GENERAL GOVERNMENT & HIGHWAYS

Call to Order: By JOE QUILICI, CHAIR, on January 6, 1992, at
2:45 p.m.

ROLL CALL

Members Present:

Rep. Joe Quilici, Chairman (D)
Sen. Larry Stimatz, Vice Chairman (D)
Sen. Harry Fritz (D)
Rep. Mary Lou Peterson (R)
Sen. Larry Tveit (R)
Rep. Tom Zook (R)

Staff Present: Clayton Schenck, Senior Fiscal Analyst (LFA)
Lois Steinbeck, Associate Fiscal Analyst (LFA)
Dan Gengler, Budget Analyst (OBPP)
Bill Mandeville, Budget Analyst (OBPP)
John Patrick, Budget Analyst (OBPP)
Lois O'Connor, Secretary

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

Announcements/Discussion: REP. QUILICI stated that the
Legislative leadership met to look at the revenue
projections and the amount of cuts that the various
Committees have made. We will not come out of the trouble
that we are in if added cuts are not made. He told the
Committee and all interested persons that the hearing would
recess to give the agencies enough time to look at their
budgets to see where added cuts could be made.

Legislative Fiscal Analyst:

Teresa Cohea, Legislative Fiscal Analyst, stated the Committee
endorsed a 5.7 percent decrease for FY 92 and a 5 percent
decrease in FY 93. These are absolute cuts. They have no fund
balance transfers.

Environmental Quality Council:

Deborah Schmidt, Executive Director, stated they are a small
agency and 80 percent of its budget is in personal services. The
changes already made by the Committee enables them to make some
reductions without reducing its staff.

Committee of Political Practice:

Dorothy Colburg, Commissioner, stated the budget office had adjusted a reduction of \$17,156 for this agency. They have three FTEs, and the only other place they could get more money would be for the .25 FTE that was approved by the Committee in 1991. She suggested that if more money were needed, the Committee might as well take the entire \$10,600.

Department of Transportation:

REP. QUILICI said that the Department of Transportation has no general fund money; and what transfers the Committee could make, were made. They took the full 8 percent cut.

Secretary of State:

Doug Mitchell, Chief Deputy, stated the Committee voted the full budget cuts as requested by the Governor. The only issue left was a \$25,000 - 1993 appropriation for the microfilm project, and they could do without this. Any cuts above that level will mean severe reductions in service.

Judiciary:

Jim Oppedahl, Administrator, said that Judiciary came out of the 1991 Legislature with a bare-bones budget that included no market adjustment for the pay plan. The Committee has given a 5 percent decrease in most of the programs. They have no excess baggage to get rid of and cannot afford more than the 5 percent reductions.

SEN. FRITZ said that judges' salaries could not be cut, but salary increases were pegged in at six month intervals. He asked Mr. Oppedahl if his budget proposal has stopped this process and limited the raises to the first six months. Mr. Oppedahl responded that the salary increases phase in once every six months and two have already happened. There are two more increases coming up in July 1992 and January 1993 which would require a change in statute and the Legislature to decide not to use the revenue that is raised in district court fees to pay for it.

Department of Revenue:

Jack Ellery, Deputy Director of Operations, said the DOR could take some added cuts in the administration areas but other things must be taken into consideration. There is \$10 million of additional revenue in the Governor's budget that have not yet been adopted in revenue estimates. The only fall back left is in the property reassessment area where half of the budget for the entire Department resides. If cuts are taken here, property reappraisal will be severely jeopardized.

Department of Administration:

Bob Marks, Director, stated he had no suggestions for the Committee at this time but would have at 6:00 p.m. He added that if the Committee takes the Governor's reductions and deduct the pay plan increases, the Department is where it was in the 1989 biennium. They have already achieved an 8 percent reduction.

Bob Kelleher, Butte-Billings Attorney, provided written testimony. EXHIBIT 1

Department of Military Affairs:

Doug Booker, Centralized Services Administrator, said he would have some suggestions at 6:00 p.m. He asked for clarification from the Committee. He stated the Department did help out the general fund by \$253,000 and the LFA figures did not show it. Lois Steinbeck said the decision was made to show true reductions. There are agencies such as Military Affairs who could make fund balance transfers. They are given credit toward their goal by the Governor. This indicates which agencies are taking pure cuts and will not include funding switches. The sheet is prepared this way so the Legislature can evaluate true reductions.

Governor's Office:

John Kinna, stated he did not have a fall back position. Mary Jo Murray, Chief Accountant, Governor's Office, stated they took a 4 percent cut in vacancy savings and a 1/2 percent cut in general fund in the last session. Positions are being left vacant to make up the vacancy savings and they have given up all of their modifications. Additional cuts would mean eliminating whole functions that aren't in statute such as the Citizen's Advocate Office.

Board of Crime Control:

Edwin Hall, Administrator, pointed out that the Board had 8 percent in FY 92 and 8 percent in FY 93 part of which was not considered because it was considered a fund transfer. He added that the Board is reaching the point where giving up more general fund money jeopardizes their matching federal dollars. He reminded the Committee of the \$300,000 in the state special revenue that could be transferred from the Crime Victim's Fund.

Highway Traffic Safety:

Albert Goke, Administrator, said the cuts included in their budget were at the 8 percent level. Clayton Schenck said that 8 percent was taken and the only general fund they have is pass through funds to local government.

Department of Justice:

Mick Robinson, Centralized Services Administrator, stated the Department cannot accept across-the-board reductions because it means program eliminations.

SEN. FRITZ said according to the general fund reductions, it takes \$795,000 from this budget already. He asked how many additional dollars it would take to get from the 5.94 percent up to 8 percent. **Mr. Robinson** said the 8 percent per year was over \$900,000. The fiscal 1991 combination of funding switches, transfers, and reductions amounted to over \$1 million. Fiscal 1992 was \$600,000 which is 6%. Fiscal 1993 reached and exceeded the 8 percent cut.

John Patrick, Budget Analyst, OBPP, stated in the interest of fairness, all agencies must be treated equitably. The point has been made that the Committee must consider funding transfers, funding switches, deposits to the general fund, and vacancy savings of all the agencies.

REP. QUILICI recessed the meeting to give the Agencies time to find an alternative proposal. The meeting convened at 6:00 p.m. **Lois Steinbeck, Associate Fiscal Analyst, LFA**, provided handouts for the committee. One was from the LFA; the other from the Budget Office. **EXHIBITS 2,3**

Ms. Steinbeck told the Committee that the LFA handout (Exhibit 2) listed all the agencies and the amount the Subcommittee cut from their budget to date. These are true cuts; they do not include fund balance transfers or funding switches. The middle two columns show what the reduction would be if a 3.7 percent cut were taken. The last two columns show the difference between Legislative action and the amount that would be needed to cut to get a full 3.7 percent from each agency. The zeros in the columns indicate that more than 3.7 percent was cut from the agencies within that year.

She explained the handout from the OBPP. She stated they took most of the figures the LFA ran for the "fully-funded op plan" with some elected official salaries remaining. They then showed the vacancy savings imposed by HB 2 and the Subcommittee action for totals cuts in each fiscal year. This was taken as a percent of HB 2 and HB 509 pay plan to show how much has been reduced.

HEARING - DEPARTMENT OF ADMINISTRATION

Chuck Virag, Administrator, Accounting and Management Support Division, provided written testimony. **EXHIBIT 4**

REP. ZOOK referred to Exhibit 4 and asked if the other adjustments have already taken place, plus the \$50,000 that Long-Range took, plus the money the Subcommittee cut and was answered yes. Bob Marks, Director, stated the Long-Range Building Committee took two \$50,000 hits on their budget. He added that another option would be to offer their equipment budget for the entire year which would amount to \$19,642 in FY 92 and \$5,125 in FY 93. In addition, they have some reduction in operations and a funding switch in the Personnel Division which provided that the Committee could allocate funding to the benefits program instead of the general fund. There should also be a \$9,000 balance after the new pay plan computer program is set up. This is their entire equipment budget.

REP. PETERSON asked if the \$9,000 was a one year amount. Laurie Ekanger, Director of Administration Personnel, explained the first phase of HB 509 has been completed and came in \$9,000 under what was estimated. This is money that was left over from phase one.

SEN. TVEIT asked how much of the equipment budget the proposal would take. Mr. Marks said it would take the equipment budget for the rest of 1992 and all of it for 1993.

REP. ZOOK asked when an agency takes vacancy savings, are they general fund dollars and don't they help the general fund; and was told yes. He asked if it helps the general fund, why can't the Committee take this into consideration. REP. TVEIT said because it is money the agencies never received. SEN. FRITZ added the Department has already given up a great deal of its revenue in terms of fund balance switches and general fund reductions.

EXECUTIVE ACTION - DEPARTMENT OF ADMINISTRATION

Tape 2, Side A, 881

Motion/Vote: SEN. FRITZ made the motion to cut the Department's budget by \$26,808 in FY 92 and \$29,236 in FY 93 which is the LFA's 3.7 percent general fund numbers. MOTION FAILED ON A 3 TO 3 TIE ROLL CALL VOTE. EXHIBIT 5

Tape 2, Side A, 946

Motion/Vote: SEN. FRITZ made the motion to cut the Department's budget \$93,000 in FY 93 and -0- in FY 92. MOTION FAILED ON A 3 TO 3 TIE ROLL CALL VOTE. EXHIBIT 6

Tape 2, Side A, 1344

Motion/Vote: SEN. FRITZ made the motion to accept the Department's alternative proposal of \$19,642 in FY 92 and \$13,000 and \$9,000 in FY 93. MOTION CARRIED 5 TO 1 ON A ROLL CALL VOTE. EXHIBIT 7

HEARING - DEPARTMENT OF REVENUE

Jack Ellery, Deputy Director, gave the Committee two options. Option 1 would be delaying the statewide property reappraisal, and Option 2 would revert what remains of the budget modifications approved in the last session. He added that if Option 2 is adopted there will be significant revenue shortfalls.
EXHIBIT 8

SEN. TVEIT said it is clear that if the Committee saves a dollar today, it's going to cost the state tomorrow. SEN. FRITZ reminded the Committee that the Department still has the smallest percentage decrease of any other agency.

EXECUTIVE ACTION - DEPARTMENT OF REVENUE

Tape 2, Side B, 264

Motion/Vote: SEN. FRITZ made the motion to adopt the LFA's 3.7 percent figures and reduce the Department's budget by \$410,000 in FY 92 and \$415,000 in FY 93. **MOTION FAILED ON A 3 TO 3 TIE ROLL CALL VOTE. EXHIBIT 9**

HEARING - DEPARTMENT OF MILITARY AFFAIRS

REP. QUILICI informed the Committee that it would be foolish to reduce their budget any more because all it will do is lose federal matching funds. **NO ACTION WAS TAKEN ON THE DEPARTMENT OF MILITARY AFFAIRS.**

HEARING - SECRETARY OF STATE

Doug Mitchell, Chief Deputy, gave the Committee three options. Option 1 is the reduction in microfilming for FY 93 for \$25,000. The \$25,000 added to the \$40,000 budget reversions from their special revenue will bring the total to \$65,000. Option 2 is to completely eliminate the office from the general fund and replace it as a special revenue or proprietary account. Option 3 is a revenue option. It would raise annual report fees from the existing \$10.00 fee to \$15.00 and would raise \$100,000 in general fund every year beginning in FY 93.

EXECUTIVE ACTION - SECRETARY OF STATE

Tape 2, Side B, 561

Motion/Vote: SEN. FRITZ made the motion to adopt the LFA's 3.7 percent figure of \$36,349 in FY 93 and -0- in FY 92. **MOTION FAILED 2 TO 4 ON A ROLL CALL VOTE. EXHIBIT 10**

Tape 2, Side B, 617

Motion/Vote: SEN. FRITZ made the motion to accept the \$25,000 reduction in FY 93. MOTION CARRIED 5 TO 1 ON A ROLL CALL VOTE. EXHIBIT 11

HEARING - GOVERNOR'S OFFICE

Mary Jo Murray, Chief Accountant, stated that in looking at the LFA figures, the Governor's Office reduced its budget by \$75,000 in FY 92 and \$112,000 in FY 91 for a biennial total of \$187, 881; 3.7 percent over the biennium would be \$190,000 for a difference of \$2,387. They are not given credit for the amount that is over the cuts in FY 93. She added that the Governor's Office could take the \$2,387 out of additional vacancy savings. The \$22,000 would cut deeply into their personal services budget. It would mean the elimination of the Citizen's Advocate Office which would reduce \$4,000 in FY 92 and \$70,000 in FY 93.

EXECUTIVE ACTION - GOVERNOR'S OFFICE

Tape 2, Side B, 868

Motion/Vote: SEN. FRITZ made the motion to adopt the LFA's proposal of \$59,000 in FY 92 and \$15,000 in FY 93 or a 5 percent cut. MOTION FAILED 2 TO 4 ON A ROLL CALL VOTE. EXHIBIT 12

Tape 2, Side B, 997

Motion/Vote: SEN. FRITZ made the motion to adopt the LFA's 3.7 percent proposal of \$22,141 in FY 92. MOTION FAILED ON A 3 TO 3 TIE ROLL CALL VOTE. EXHIBIT 13

Tape 2, Side B, 1165

Motion/Vote: SEN. FRITZ made the motion to accept the Governor's Office proposal of \$4,000 in FY 92 and \$70,000 in FY 93. MOTION FAILED 2 TO 4 ON A ROLL CALL VOTE. EXHIBIT 14

HEARING - DEPARTMENT OF JUSTICE

Mark Racicot, Attorney General, told the Committee that he had no answers or alternative proposals other than cutting programs. If the Committee is looking for another \$405,000 in FY 93 on top of the reductions that have already been levied, he does not know what to suggest. He added that he cannot represent to the public a program that may cosmetically exist; but in reality, the Department will not be able to respond to their needs. If the

Committee wanted him to eliminate programs, he would; but he could not recommend anything else in the budget. He realized the tremendous situation the Committee was in, but he added that they would not have to deal with the angry public after they are gone. He wanted the Committee to tell him what to do, and he would do it.

SEN. FRITZ said the fact remains that the Department is way below the recommended cuts in the budget. It is not the Committee's job to ask the Justice Department to cut a program. He suggested they cut the budget and see what program the Attorney General lays on the board. Mr. Racicot said that he would cut programs, but the legislature must go through the statutes and eliminate the responsibility.

EXECUTIVE ACTION - DEPARTMENT OF JUSTICE

Tape 3, Side A, 281

Motion/Vote: SEN. FRITZ made the motion at an additional \$319,000 be reduced in FY 93 the 3.7 percent LFA suggested reduction. MOTION FAILED ON A 3 TO 3 TIE ROLL CALL VOTE. EXHIBIT 15

NO FURTHER ACTION WAS TAKEN.

HEARING - JUDICIARY

Jim Oppedahl, Administrator Supreme Court, stated that their budget as it exists at 5 percent cut is as much as they can stand.

EXECUTIVE ACTION - JUDICIARY

Tape 3, Side A, 456

Motion/Vote: SEN. FRITZ made the motion to reduce \$5,729 in FY 93 from the Judiciary budget. MOTION CARRIED 4 TO 2 ON A ROLL CALL VOTE. EXHIBIT 16

HEARING - STATE AUDITOR

Dennis Sheehy, Deputy Director, stated the citizens of Montana would be negatively impacted with the 3.7 percent reduction per year. It will be impossible to retain the Insurance Compliance Division which is the only division in the Auditor's Office that is not mandated by law. He asked the Committee to consider the impact to the office.

REP. ZOOK asked if there was a fee that the Auditor's Office was

REP. ZOOK asked if there was a fee that the Auditor's Office was suppose to be levying, but they haven't been doing it. Mr. Sheehy said this came up as the result of a Legislative audit. There was a fee being charged on one side but not on the other. It has since been collected and has asked the Legislature for clarification of the law. REP. QUILICI asked if the fee went into the general fund and was answered yes.

EXECUTIVE ACTION - STATE AUDITOR

Tape 3, Side A, 923

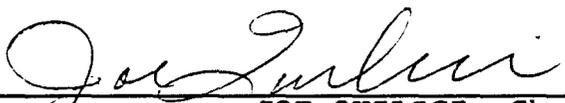
Motion/Vote: SEN. FRITZ made the motion to reduce the State Auditor budget by \$18,490 in FY 1992 which would be a 3.7 percent reduction. MOTION CARRIED 4 TO 2 ON A ROLL CALL VOTE. EXHIBIT 17

HEARING - BOARD OF CRIME CONTROL

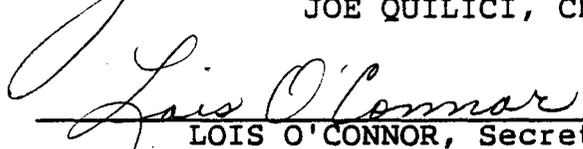
REP. QUILICI said that the Committee wants \$250,000 out of the victims of crime fund. It will have to be by statute in bill form. NO ACTION WAS TAKEN ON THE BOARD OF CRIME CONTROL

ADJOURNMENT

Adjournment: 8:32 p.m.



JOE QUILICI, Chair



LOIS O'CONNOR, Secretary

JQ/LOC

HOUSE OF REPRESENTATIVES

GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL ~~VOYE~~

DATE 1-6-92 AGENCY _____ NUMBER _____

MOTION: _____

Present Absent

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN	X	
REP. TOM ZOOK	X	
SEN. LARRY TVEIT	X	
REP. MARY LOU PETERSON	X	
SEN. HARRY FRITZ	X	
TOTAL		

Tort Claims

EXHIBIT 1
DATE 1-16-92
HB SubCom Gen
Gov + Trans
Special
Session

BEFORE GENERAL GOVERNMENT COMMITTEE
Friday, 3 January 1992
1 P.M.
Testimony of Bob Kelleher, Sr., Butte-Billings attorney.
33 W. Park, Butte
(406) 782-7408 or 782-7447

My name is Bob Kelleher. My Butte law office address is 33 W. Park, and my Billings office address is 230 Grand Ave.

In order to help balance the budget this and in coming years, about \$3 million can be saved by requiring all agencies of government to use their own **lawyers and experts** for court-room work at a cost of \$35 an hour rather than pay private lawyers \$125 an hour for the **identical** work. In short, the work of the Tort Claims Division could be done by lawyers within the several agencies instead of hiring outside lawyers.

In personal injury cases, rather than hire outside economists and voc rehab experts, this expertise can be found in the Department of Labor and in SRS at an estimated savings of \$4,000 per case.

SUMMARY OF TESTIMONY

For the past 7 years I have represented some 30¹ former employees of the Great Western Sugar Co. factory in Billings. GW was large enough to qualify since 1917 as a self-insured workers comp employer. In the late 70's the Hunt Brothers of Texas bought GW factories in Colorado, Kansas, Illinois, Nebraska and Ohio and the Billings factory in an effort to corner the sugar market as it tried to corner the silver market.

Workers comp administrators in the other 5 states required GW to file cash bonds or other securities to protect injured workers in those states. Montana did nothing. In February, 1985 our GW clients told us their checks were bouncing and medical bills not paid. On 7 March 1985 while I was in federal court trying to get an injunction against the sale of the Billings factory, GW filed bankruptcy in Texas. The next day, a lawyer for the Division came to Billings, took testimony from adjusters in the State Fund, and ordered GW to post a bond of \$1.2 million dollars or shut its doors, which, of course, had already been shut by the Texas bankruptcy court.

My office sued in state and federal courts going twice to the

¹To date negotiations have been done on the basis of only 23 cases. The exact number of compensable cases will not be known until after the liability case is completed.

Ninth Circuit and twice to the Montana Supreme Court.

A trial was finally set for next July. The state has admitted negligence, but denies proximate cause. If the jury finds for these injured workers in July on the issue of liability, it will be necessary to try each of the 30 or so cases on damages one by one at an estimated cost to my office of \$6,000 to \$8,000 for economic, voc rehab and medical testimony plus court reporter fees.

It will take two to three days to try each of the 30 cases. Not counting the time for preparation for trial of each case (which is usually 4 hours for each hour in the courtroom), it will take about 1,920 hours to try these damage cases.

When the state was represented by a salaried lawyer, the state made an offer of settlement. He was then making \$35 an hour. A very competent, conscientious and highly ethical lawyer, he went into private practice and is now working for the Tort Claims Division on this same case for \$125 an hour. When an offer in the approximate amount of the state's admitted liability was made by my office, no counter-offer was made by the state. The state now refuses to make any offer of settlement and the case must be tried.

If I win the case on liability next July, the tort claims division will have to pay an estimated \$6,000 per case (\$180,000) plus an estimated \$125 an hour for some 1,920 hours (\$240,000), or a total of \$420,000 in attorney fees and costs plus the amount of the 30 or so judgments. This does not count the costs for the liability trial. My CPA is charging me \$150 an hour and has not testified yet. Another expert in Florida is costing me \$400 an hour.

Mr. Chairman and members of the committee, I respectfully request the committee recommend the legislature either appropriate another half-million dollars for the tort claims division, or, in the alternative have a government salaried lawyer try this and all other cases against the state rather than hire outside lawyers.

DETAILED TESTIMONY OF BOB KELLEHER, BUTTE

For the past 30 years I have earned my living defending injured workers and as a personal injury lawyer.

One of my injured worker cases - a class action against the Division of Workers Compensation - involves some 30 former employees of Great Western Sugar Co. in Billings. This case is now 7 years old.

In the late seventies the Hunt Brothers, who hoped to corner the sugar market as they cornered the silver market, bought Great Western Sugar Co. GW had factories in Billings and in Colorado, Kansas, Illinois, Nebraska and Ohio. GW was a self-insured

employer. This meant it did not have insurance to cover its injured employees.

By 1983 and 1984 workers comp administrators in every state **except Montana** realized the Hunt Brothers were in deep financial trouble. These other administrators knew this from reading NEWSWEEK, TIME magazine, the Wall Street Journal as well as from financial reports prepared on the Hunt Brothers and GW by the accounting firm of Peat, Marwick. Workers comp administrators in these 5 other states required GW and the Hunt Brothers to post bonds adequate to cover the injured workers in their five states.

Montana did nothing. The head of the Division of Workers Compensation had no insurance experience before being appointed to that job.²

In February, 1985 our GW clients complained to us their GW workers comp checks were bouncing and that their medical and hospital bills were not being paid.

On 7 March 1985 while I was trying to persuade a federal District Judge to stop the Hunt Brothers from selling the Billings GW factory, we were told GW had gone bankrupt.

On 8 March 1985 the lawyer for the Division flew to Billings from Helena, took testimony from Division adjusters, and issued an order finding GW's estimated liability **conservatively** at \$1.2 million. He ordered the now bankrupt GW to post a bond in that amount or to close its doors. Of course, the day before the bankrupt GW had already closed its doors.

To protect these injured workers my office filed suit against the Division of Workers Compensation in both state³ and federal⁴ courts.

Since then this matter has been through the federal district court of Montana, the Ninth Circuit Court of Appeals and the state district court for Yellowstone County and up to the Montana Supreme Court twice. After seven years of litigating we will finally go to trial on 6 July of this year.

²Another argument why department heads should be members of the legislature knowledgeable about the affairs of these agencies and not some one appointed by the governor for past political favors.

³On grounds the Division was grossly negligent for failing to read the Peat, Marwick reports showing the Hunt Brothers and GW in serious financial troubles with their creditors including IRS and because of multi-million dollar judgments pending against them.

⁴Under 42 U S Code 1983.

To date my office has incurred out-of-pocket expenses of about \$40,000 including \$4,000 to a Billings CPA who has not even testified yet. My clients are poor or impoverished. They cannot finance this kind of litigation.

I have no knowledge as to what the state has paid its lawyer.

What has all of this to do with the Tort Claims Division and balancing the budget?

Back in 1985 the Division was very well represented by a lawyer in the attorney general's office. In the summer of 1988 that lawyer made an offer of settlement of \$340,000 (plus \$100,000 from the GW bankruptcy) which the injured workers rejected. They made a counter-offer to which no response was made. Then the lawyer for the state went into private practice, where he is now being paid by the state about \$125 an hour instead of \$35 an hour.

He is the same competent, intelligent, hard working lawyer today at \$125 an hour that he was at \$35 an hour.

Last August this \$125 an hour lawyer asked me to submit another offer to the state. I made an offer similar to my last offer of settlement. It amounted almost to the dollar to what the Division's lawyer had found was owing on 8 March 1985 when he came to Billings the day after the bankruptcy.

To date no counter-offer has been made by the state's lawyer, nor is one expected. The case will have to be tried at additional expense to both myself and the state.

State lawyers received a salary. Private lawyers are paid by the hour.

HIGH QUALITY OF STATE LAWYERS

On 9 October 1991 I attended a legal seminar in Helena on Mediation & Settlement. One of my working mates on a sample law suit was a lady lawyer with the Dept of She is a former hearings officer. She is sharp. She would make an excellent litigator.

A lawyer in the Department of that I used to know in Billings is sharp and competent. He now serves as a hearings officer. He would make a fine, hard working litigator.

The tort claims section in the Department of Administration asked the legislature for \$3 million last January to hire outside lawyers (and expert witnesses). The legislature appropriated \$2.2

Ex. 1

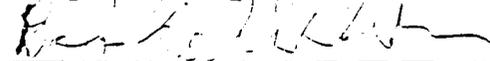
1-6-92

million. The state has well educated officials who are experts in their various fields. The state does not need to hire outside experts.

More importantly, the state does not need to hire outside lawyers. A member of the House told me that in 1989 the firm of a lawyer-legislator collected \$331,000 in legal fees from the state of Montana. In view of the fact this state is almost bankrupt, such payments to outside lawyers would not seem to be justified.

Dated at Butte, Montana, this 3rd day of January.

Respectfully submitted,



Bob Kelleher
Box 397
Butte, MT 59703

housecom.adm

DATE 1-6-92
#15 DeleCom St
Gov + Trans
Special Sess

Solutions

From Page 4A

By BOS KELLEHER
Democrat

1. Problem: Workers' comp. When Ted Schwinden defeated Tom Judge in 1980, the state workers comp fund was \$70 million in the black. In 1983 Ted's labor department director told Ted if he wanted to be re-elected, it would be actuarially sound but politically unwise to raise premiums. Laurie Lewis, the workers comp director, would not freeze rates. Ted appointed a new director with no insurance experience but who was more amenable.



Kelleher
Democrat

Sec. 2-15-111, MCA requires the "governor select a director on the basis of his professional and administrative knowledge and experience.") Governors commonly put at the head of state agencies politicians unfamiliar with the agency.

Actuaries estimate the State Fund's unfunded liability at \$308 up to \$433 million. (The \$141 million bond issue will be used up by November, 1992.)

Stan's Solution: Last January Stan asked Pat Sweeney, state fund chief, to freeze rates. Pat refused and called a press conference. Stan said Pat misunderstood.

My Solution: (a) we can "eat" the unfunded liability by a one-time payment of \$225 million. A two-year, 10 percent income surcharge will pay for this "mistake."

(b) To protect us in the future from such mistakes we should rely on the persons most knowledgeable about state agencies, to-wit, members of the Legislature who oversee and draft their budgets. The most qualified person to head an agency is its legislative mentor. I will ask voters to approve a one-house Legislature with the 20 department heads to be members of the majority in the Legislature. If the head of workers comp is elected s/he will not allow the governor to "put the heat on."

Estimated annual savings — 1,000,000

2. Problem: not enough money to run university system and state government.

Stan's Solution: (a) tax college students \$4.7 million (tuition raise), (b) tax pensioners \$15 million, (c) reduce coal tax to 15 percent, and (d) levy a sales tax against the middle class

My Solution: (a) elected in 1972 as a delegate from Yellowstone County to the Constitutional Convention, I said the only vote I am sorry for is that creating the Board of Regents and the Commissioner of Higher Education." The Board became the third house of an already wasteful two-house Legislature. The commissioner's budget has grown to \$7 million a year. I will ask the voters to replace the Board of Regents, six presidents (WMC at Dillon has a provost making \$71,000 a year) and vice-presidents and commissioner of education with one president of the Montana University System and terminate out-of-state recruiting; est. savings — 10,000,000

Limit federal income tax deduction to \$2,500 single (\$4,000 joint) 90 percent of this new revenue would come from families grossing over \$48,000 a year; new revenue — \$4,000,000

Eliminate tax indexing which this year cost Montana taxpayers \$48,600,000

Return coal tax to 30 percent (Montana's low sulphur coal meets EPA "compliance" standards set for eastern utilities, and the 15 percent rate did not produce new jobs); \$38,600,000

Retain exemption for small hard rock mineral operators, but substitute former gross tax for net tax; increase — \$1,800,000

Use state lawyers (rather than private lawyers at \$125 an hour) to fight citizens' claims against state \$2,200,000

Tax income of insurance industry \$12,000,000

Annual savings and new revenue — \$158,200,000

EXHIBIT 2
 DATE 1-6-92
 HE SubCom Gen
Gov + trans
Special Session

Agency	Legislative Cut 1992	Legislative Cut 1993	3.7% Cut FY 1992	3.7% Cut FY 1993	3.7% Cut FY 1992	3.7% Cut FY 1993	Additional Cut	Additional Cut
Department of Transportation	47,814	31,353	22,114	14,501	0	0	0	0
Legislative Council	139,584	108,608	80,263	80,370	0	0	0	0
Legislative Fiscal Analyst	48,364	47,156	33,078	34,136	0	0	0	0
Crime Control Division	40,547	13,400	18,753	19,875	0	6,475	0	0
Office of the Governor	75,000	112,881	97,141	93,126	22,141	0	0	0
State Auditor's Office	69,000	96,000	87,490	83,732	18,490	0	0	0
Secretary of State	70,000	0	38,191	36,349	0	36,349	0	0
Legislative Auditor	78,481	3,211	47,076	48,147	0	13,530	0	0
Department of Administration	105,514	104,539	132,322	133,775	26,808	29,236	0	0
Department of Justice	428,942	86,376	402,451	405,909	0	319,533	0	0
Department of Military Affairs	72,725	17,600	83,993	77,931	11,268	60,331	0	0
Judiciary	99,716	86,183	90,342	91,912	0	5,729	0	0
Department of Revenue	260,300	375,495	670,579	691,136	410,279	315,641	0	0
Highway Traffic Safety	0	0	0	0	0	0	0	0
Total	1,535,987	1,082,802	1,803,794	1,810,898	488,986	786,824		

Ex. 1

1-6-92

million. The state has well educated officials who are experts in their various fields. The state does not need to hire outside experts.

More importantly, the state does not need to hire outside lawyers. A member of the House told me that in 1989 the firm of a lawyer-legislator collected \$331,000 in legal fees from the state of Montana. In view of the fact this state is almost bankrupt, such payments to outside lawyers would not seem to be justified.

Dated at Butte, Montana, this 3rd day of January.

Respectfully submitted,



Bob Kelleher
Box 397
Butte, MT 59703

housecom.adm

EXHIBIT 3
 DATE 1-6-92
 HB Seale Com Gen
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AGENCY	*FULLY-FUNDED* OP PLAN	HB02 VAC SAVINGS	SUBCOMM ACTION	TOTAL CUTS	DIFF %	*FULLY-FUNDED* OP PLAN	HB02 VAC SAVINGS	SUBCOMM ACTION	TOTAL CUTS	DIFF %
1101 LEG AUDITOR	1,277,986	(5,668)	(78,481)	(84,149)	-6.58%	1,301,260	(5,637)	(3,211)	(8,848)	-0.68%
1102 LEG FISCAL ANALYST	898,224	(4,221)	(48,364)	(52,585)	-5.85%	926,863	(4,260)	(47,156)	(51,416)	-5.55%
1104 LEG COUNCIL	2,180,200	(10,918)	(139,584)	(150,502)	-6.90%	2,182,005	(9,852)	(108,608)	(118,460)	-5.43%
1111 E.Q.C.	298,646	(1,410)	(6,900)	(8,310)	-2.78%	303,285	(1,390)	(7,400)	(8,790)	-2.90%
2110 JUDICIARY	2,508,596	(25,856)	(99,716)	(125,572)	-5.01%	2,550,859	(25,781)	(86,183)	(111,964)	-4.39%
3101 GOVERNOR'S OFFICE	2,770,912	(85,069)	(75,000)	(160,069)	-5.78%	2,661,415	(84,216)	(112,881)	(197,097)	-7.41%
3201 SECRETARY OF STATE	1,079,369	(15,506)	(70,000)	(85,506)	-7.92%	1,029,396	(15,394)	0	(15,394)	-1.50%
3202 COMM OF POL PRACTICE	175,712	(627)	(17,156)	(17,783)	-10.12%	122,672	(591)	0	(591)	-0.48%
3401 STATE AUDITOR	2,480,237	(75,094)	(69,000)	(144,094)	-5.81%	2,376,911	(73,457)	(96,000)	(169,457)	-7.13%
4107 CRIME CONTROL	509,250	(2,112)	(40,547)	(42,659)	-8.44%	539,679	(2,522)	(13,400)	(15,922)	-2.95%
4110 JUSTICE	11,287,838	(362,069)	(428,942)	(791,011)	-7.01%	11,390,441	(371,405)	(86,376)	(457,781)	-4.02%
5401 TRANSPORTATION	615,798	(18,126)	(47,814)	(65,940)	-10.71%	410,011	(18,100)	(31,353)	(49,453)	-12.06%
5801 REVENUE	18,866,463	(630,786)	(260,300)	(891,086)	-4.72%	19,489,085	(631,475)	(375,495)	(1,006,970)	-5.17%
6101 ADMINISTRATION	3,691,687	(115,429)	(105,514)	(220,943)	-5.98%	3,730,690	(115,157)	(104,539)	(219,696)	-5.89%
6301 MILITARY AFFAIRS	2,322,943	(52,857)	(72,725)	(125,582)	-5.41%	2,158,042	(51,789)	(17,600)	(69,389)	-3.22%

EXHIBIT 4DATE 1-6-92~~HB SubCom Gen~~

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Special Session

Department of Administration & Attached-To Agencies
1992-1993 Biennium
General Fund Budget Adjustments

<u>Program</u>	<u>Proposed Budget Adjustment</u>	<u>FY 1992</u>	<u>FY 1993</u>
PROPOSED EXECUTIVE BUDGET REDUCTIONS			
Accounting & Management Support			
	Eliminate use of daytime I/O operator and eliminate the printing of select reports.	\$12,390	\$15,710
Procurement & Printing	Vacancy Savings	\$10,100	\$6,541
General Services	Reduce Capitol Security and Maintenance	\$30,000	\$30,000
	Reduce Parking Lot Maintenance (Transfer from Capitol Land Grant Account)	\$50,000	
State Tax Appeal Board	Reduce County Tax Appeal Boards' Contingency Budgets	\$53,024	\$52,288
TOTAL		\$155,514	\$104,539
OTHER ADJUSTMENTS			
Procurement & Printing	Cash Transfer from P&G	\$46,000	\$46,000
Information Services	Cash Transfer	\$100,000	
Personnel	Proprietary Fund/General Fund Switch	\$30,000	\$45,273
Public Employees' Retirement			
	Transfer from Social Security Contribution Acct.	\$110,964	\$28,000
TOTAL		\$286,964	\$119,273

SUBCOMMITTEE ACTION

General Services	Reduce Parking Lot Maint.	\$50,000	
Appellate Defender	Reduce Funding 50%	\$50,000	

ADDITIONAL AGENCY PROPOSALS

Appellate Defender	Defer Implementation- Eliminate Budget	\$50,000	\$100,000
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EXHIBIT 5
 DATE 1-6-92
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HOUSE OF REPRESENTATIVES
 GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-6-92 AGENCY _____ NUMBER _____

MOTION: Limit Dept of Administrations
budget \$36,808 in fiscal year 92 and
\$29,236 in fiscal year 93

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN	X	
REP. TOM ZOOK		X
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON		X
SEN. HARRY FRITZ	X	
TOTAL	3	3

EXHIBIT 6
DATE 1-6-92
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HOUSE OF REPRESENTATIVES
GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-6-92 AGENCY _____ NUMBER _____

MOTION: Part. Dept of Administration
budget \$93,000 for FY-93 -- none
in FY-92

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN	X	
REP. TOM ZOOK		X
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON		X
SEN. HARRY FRITZ	X	
TOTAL	3	3

DATE 1-6-92
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Option 1

Delay Statewide Property Reappraisal

	FY92	FY93	Total
Reduced Spending:	\$645,900	\$558,500	\$1,204,400

Option 2

	FY92	FY93	Total
A. Revert Remaining of the Cobb Amendment (Revenue Agent Mod):	\$43,400	\$78,400	\$121,800
B. Revert Remaining Accounts Receivables Mod:	\$57,000	\$80,700	\$137,700
C. Revert Remaining of the Corporation Tax Audit - Program Transfers	\$60,000	\$114,100	\$174,100
D. Seriously Jeopardize Statewide Reappraisal:	\$485,500	\$285,300	\$770,800
Total	\$645,900	\$558,500	\$1,204,400

Revenue Loss:

Cobb Amendment Revenue Estimate:	\$750,000	\$750,000	\$1,500,000
Less - Year To Date Revenue:	\$340,000	\$0	\$340,000
Net Revenue Loss:	\$410,000	\$750,000	\$1,160,000
Account Receivables Modification:	\$1,008,000	\$1,600,000	\$2,608,000
Less - Year To Date Revenue:	\$400,000	\$0	\$400,000
Net Revenue Loss:	\$608,000	\$1,600,000	\$2,208,000
Corporate Tax Audit Revenue Estimate:	\$1,900,000	\$3,083,000	\$4,983,000
Less - Year To Date Revenue:	\$0	\$0	\$0
Net Revenue Loss:	\$1,900,000	\$3,083,000	\$4,983,000

Total Net Revenue Loss:	\$2,918,000	\$5,433,000	\$8,351,000
Total Expenditure Savings			
Income and Corporation Tax Only	\$160,400	\$273,200	\$433,600
Every Dollar Saved Reduces Revenue By:	\$18.19	\$19.89	\$19.26

EXHIBIT 9

DATE 1-6-92

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HOUSE OF REPRESENTATIVES

GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-6-92 AGENCY _____ NUMBER _____

MOTION: To adopt LFA figure of 3.7%
(#410,000 in FY92 - #415,000 in
FY93)

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN	X	
REP. TOM ZOOK		X
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON		X
SEN. HARRY FRITZ	X	
TOTAL	3	3

EMIT 10

1-6-92

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HOUSE OF REPRESENTATIVES
GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-6-92 AGENCY _____ NUMBER _____

MOTION: Adopt LEA's 2.7% figure
of #26, 349 cut in FY-93 - 20 in
FY 92 (Sec of State)

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN		X
REP. TOM ZOOK		X
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON		X
SEN. HARRY FRITZ	X	
TOTAL	2	4

EXHIBIT 11

DATE 1-6-92

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HOUSE OF REPRESENTATIVES
GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-6-93 AGENCY _____ NUMBER _____

MOTION: _____
to accept the \$25,000 in FY 1993
(Sec. of State)

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN	X	
REP. TOM ZOOK	X	
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON	X	
SEN. HARRY FRITZ	X	
TOTAL	5	1

EXHIBIT 12

DATE 01-6-92

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HOUSE OF REPRESENTATIVES

GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-6-92 AGENCY _____ NUMBER _____

MOTION: adopt LFA proposal of
\$59,000 in FY 92 and \$15,000
in FY 93. (Governors office)

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN		X
REP. TOM ZOOK		X
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON		X
SEN. HARRY FRITZ	X	
TOTAL	3	4

DATE 1-6-92
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HOUSE OF REPRESENTATIVES
 GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-9-92 AGENCY _____ NUMBER _____

MOTION: adopt LEA proposal # 3790
(#32,141) in FY 92 (Governors Office)

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN	X	
REP. TOM ZOOK		X
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON		X
SEN. HARRY FRITZ	X	
TOTAL	3	3

EXHIBIT 14

DATE 1-6-92

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HOUSE OF REPRESENTATIVES

GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-6-92 AGENCY _____ NUMBER _____

MOTION: accept Governor's office offer
of \$2.000 per FY92 and \$70,000
per FY-93 ~~and \$20,000~~

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN		X
REP. TOM ZOOK		X
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON		X
SEN. HARRY FRITZ	X	
TOTAL	3	4

EXHIBIT 15

DATE 1-6-92

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HOUSE OF REPRESENTATIVES

GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-9-92 AGENCY _____ NUMBER _____

MOTION: to take \$319,000 (LEA 3.790
recommendation) in FY 93 from
Dept of Justice
10

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN	X	
REP. TOM ZOOK		X
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON		X
SEN. HARRY FRITZ	X	
TOTAL	3	3

EXHIBIT 16
1-6-92

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HOUSE OF REPRESENTATIVES
GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-9-92 AGENCY _____ NUMBER _____

MOTION: to cut \$5,739 in FY93
from judiciary budgets

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN		X
SEN. LARRY STIMATZ, VICE-CHAIRMAN	X	
REP. TOM ZOOK	X	
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON	X	
SEN. HARRY FRITZ	X	
TOTAL	4	2

NO. 17

DATE 1-6-92

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HOUSE OF REPRESENTATIVES

GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL VOTE

DATE 1-6-92 AGENCY _____ NUMBER _____

MOTION: to cut \$18,490 out (3.7%) out
of State Auditor's budget in FY92

NAME	AYE	NO
REP. JOE QUILICI, CHAIRMAN	X	
SEN. LARRY STIMATZ, VICE-CHAIRMAN	X	
REP. TOM ZOOK	X	
SEN. LARRY TVEIT		X
REP. MARY LOU PETERSON		X
SEN. HARRY FRITZ	X	
TOTAL	4	2