MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - 2nd SPECIAL SESSION

SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By **BERV KIMBERLEY, CHAIR.**, on July 6, 1992, at 1:45 P.M.

ROLL CALL

Members Present:
Rep. Berv Kimberley, Chair (D)
Sen. Esther Bengtson, Vice Chair (D)
Sen. Gerry Devlin (R)
Rep. Ed Grady (R)
Rep. Jerry Nisbet (D)
Sen. Cecil Weeding (D)

Members Excused: None

Members Absent: None

Staff Present: Roger Lloyd, Associate Fiscal Analyst (LFA)
Terri Perrigo, Associate Fiscal Analyst (LFA)
Carl Schweitzer, Budget Analyst (OBPP)
Bill Mandeville, Budget Analyst (OBPP)
Theda Rossberg, Secretary

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

Announcements/Discussion: **CHAIRMAN KIMBERLEY** announced they had just come from the full Appropriations Committee and the discussion which took place was all centered around cuts in the budget. If there was a program which the agencies could cut, this committee would prefer the agencies come up with a plan rather than this committee finding cuts for you.

We want to allow for agency flexibility and if each of you help this committee out, we will try and get the job done with the least amount of damage.

HEARING ON STATE LANDS

DENNIS CASEY, COMMISSIONER, STATE LANDS said the Governor had indicated no cuts in State Lands. We have already taken approximately an 8.2% cut. If you recall, our pay plan was under-funded in the 1991 session. Due to an error that was made, our pay plan was under-funded by $100,000 the first year and $173,000 the second year of the biennium, for a total of $273,000. That raises our total cuts to nearly 10%.

In regards to fire suppression, in January the Legislature provided us about $5.5 million in supplementals for fire suppression from July 1, 1991 to December 31, 1991. We used all but $50,000 in 1991. The $50,000 remaining, plus another $80,000 to $100,000 will be for a supplemental for the period of January through June of 1992.

This year the budget office is seeking approval for up to $5 million in supplementals for the period of July 1, 1992 through December 31, 1992. However, the potential fire danger has changed dramatically because of the rains and has shortened the fire danger season which will keep our costs down.

We are trying to work with the budget office so we won't have to have a special session for fire suppression costs. We have been working on this for about a month when the fire season looked worse than it is now. If the fire season changes between now and the end of the year, there may not be enough money available.

BOB KUCHENBROD, ADMINISTRATOR CENTRAL MANAGEMENT, DEPT. STATE LANDS will explain the item called "Other" on the agenda. See **EXHIBIT 1.**

This is a budget amendment where we are seeking a grant from the Department of Health to be used for the Forestry Division for their Best Management Practices, Education and Training Program. During the regular session we asked this committee for funds to support an FTE. **REP. GRADY** and **DON ARTLY, FORESTRY DIVISION** discussed it during the committee meeting in which **Mr. Artly** was asked whether or not there was federal money available. He said he would look into it but didn't expect there would be any. **REP. GRADY** indicated he would like this position funded with general funds and verbiage was put into the HB 2 that stated "if federal funds are received for this purpose, the general fund appropriation must be reduced by a like amount". See **EXHIBIT 1.** Through a budget amendment, the money we are receiving from the Department of Health could not be used for that FTE. We were told that the funds would be a grant to be used for education materials and not an FTE.

ROGER LLOYD, LEGISLATIVE FISCAL ANALYST explained, the department came up with $193200 in a budget amendment before the Legislative Finance Committee last month, which was to increase their spending authority because they received this grant from the Clean Water Act through the Department of Health. During testimony from the regular session, if they received federal funds they would be used to finance the budget modification for Best Management Practices and the general fund would be offset. The Finance Committee took no action and asked this subcommittee to clarify its intent to see if the money available can be used to offset the general fund for Best Management Practices budget modification. The Department of Health told the Department of State Lands that the funds could not be used to finance the FTE which is in this modification. The Department of Health said

there was no written policy to that effect and they did not provide us any verification that the U.S. government, in releasing this grant money, put a restriction that it could not be used to fund this FTE.

DAN FRAZER, CHIEF WATER QUALITY BUREAU said, we received federal funds from the EPA to address sources of pollution. This is one of those projects for production of the Forest Practices booklet, some exhibits and re-printing of a BMP booklet for a total of $19,320. We don't care whether or not the funds are used for an FTE if we can get the products we are seeking. If you decided on a different use of the funds, there may be a problem getting the EPA and Task Force approval.

SEN. BENGTSON asked, is there more money available than the $19,320? **Mr. Frazer** said, yes there are a number of programs which are funded through this program. I believe there is approximately $400,000 per year, of which, a large percentage of that goes to conservation districts.

SEN. BENGTSON asked, could that money be used to fund the FTE? **Mr, Frazer** said, assuming it went through the application and ranking process and was ranked high enough, it could be used. However, that process has been completed and this was one project that was selected and doesn't include the FTE.

REP. GRADY asked, what about long-term funding, how long would this program last if it is a grant? Would this FTE be temporary? **Mr. Kuchenbrod** said, we applied for funds last year and received $25,000 and the $19,320 is available.

REP. GRADY asked, would we have to go through the grant process on a yearly basis to fund this position? **Mr. Kuchenbrod** said, yes and the solution would be to use the original funds to support the FTE by giving us spending authority for the $19,320.

REP. GRADY asked, what will this position accomplish? **DON ARTLY, ADMINISTRATOR FORESTRY DIVISION** said, this position is for a field forester. His or her job is to seek applications from landowners who intend to have a timber sale on private land and to review their proposal and see if they should submit a water quality impact and if so, meet with that landowner or logger to discuss BMP's and explain how to apply these voluntary BMP's so as to avoid a water quality violation.

When we discussed with the Department of Health whether or not funding of this position was likely to be approved through the granting process, we were told no, their practice was not to fund full-time positions in agencies, but they would be interested in looking at any project that may be proposed. Therefore, the project we proposed involved contracted services and materials to develop materials that our foresters in the field can use. It is not a project that a field forester would do. If the money funds the forester we don't have the money to fund the project. The

project is contracted services.

REP. GRADY asked, are you unable to handle applications from private landowners now? **Mr. Artly** said, we are only able to service approximately 10% with the existing FTE's we have.

CARL SCHWEITZER, BUDGET ANALYST said, his recommendations would be to use the $19,320 as federal revenue to the Department of State Lands for materials and use the $24,400 general fund for the FTE.

SEN. DEVLIN asked, is the FTE on board now? **Mr. Schweitzer** said, yes, the FTE was approved in the last full session.

SEN. BENGTSON said, it is my understanding we could use federal funds to pay for the FTE if you would make another grant application. What would be the process to have the federal grant pay for that position?

Mr. Artly said, in order to get federal funding for this FTE you have to have this position provide the product envisioned in the grant process or go into the application process and go through the competitive process in order to be awarded those funds for the FTE.

SEN. WEEDING asked, when was this language put in? Did this committee put it in? **Mr. Kuchenbrod** said, "the language should have said, 'if we receive federal funds for an FTE then it should offset the general fund'. However, it does mention education and training materials. **Roger** and I went back and listened to the tapes and it dealt with the FTE".

REP. GRADY said, it looks like we are relying upon another department to fund this position in the future. This concerns me because there are numerous landowners selling timber and the prices are sky-high right now. There is a lot of logging going on and a lot of it isn't being done right. The landowners need help and I feel we need this position. It may save general fund money but may cost more in the long-run. I would like to see it funded out of the general fund.

CHAIR. KIMBERLEY asked, in regard to the fire suppression appropriation language, why couldn't this language have been in Section A in the governor's office? See **EXHIBIT 1.**

Mr. Schweitzer said, it probably could have, but since the money for fire fighting is paid by the Department of State Lands, we made the decision to put it in Section C. Because, if we get the appropriation we would set up an administration appropriation within the Department of State Lands so they will actually pay the costs.

SEN. WEEDING said, this was prepared when the fire season looked worse than now. What is a normal fire suppression cost? **Mr.**

Casey said, it is hard to estimate because our protection is far greater than it used to be.

SEN. WEEDING asked, do you have any internal funds you could use until the next session? **Mr, Casey** said, no.

SEN. WEEDING asked, what about the governor's disaster fund of $2 million? Would it be appropriate to use those funds until we meet again and pass on a supplemental?

Mr. Lloyd said, according to statute if the governor declared it a disaster or emergency, he would be able to appropriate the $2 million.

SEN. WEEDING asked, what is the fire situation now? **Mr. Casey** said, due to the recent rains we have had recently the fire situation is good. However, there is a lot of fuel in the forests and if it does dry out we could have a dangerous situation in late summer or early fall.

Mr. Schweitzer said, in regard to the governor's disaster fund, there has been a reluctance in the past to use that fund for fire suppression. This is a fund for other types of disasters. This is $5 million appropriated for fire suppression for fiscal 1993 and hopefully that will eliminate the need for another special session.

REP. NISBET asked, how much is already budgeted for fire suppression for fiscal 1993? **Mr. Casey** said, zero dollars. **Mr. Kuchenbrod** said, when we have fire costs we charge it to our regular budgeted department costs and reimburse that when we get our supplemental for the dollars used. That is the problem, we could use up to $3 million to $4 million in fire suppression and if we don't get our supplemental until April, we are in financial trouble.

SEN. DEVLIN asked, what did you spend in FY 92 for fire suppression? **Mr. Kuchenbrod** said, $5.5 million.

REP. NISBET said, in the LFA's budget analysis on Page 5, it says in Item No. 2. " $4.8 million in FY93 to be budgeted for fire suppression costs". Also, in Table 4. it says again, "$4.8 million budgeted for FY93 for fire suppression". Is there or is there not $4.8 million budgeted for fire suppression?

Mr. Lloyd said, there is nothing budgeted for fire suppression. That amount in the analysis is for an estimated supplemental which they will ask the Legislature to replace. At the time this was written, the executive had estimated $150,000 would have to be moved from the FY93 appropriation to FY92 to pay the costs. In addition, they figured there would be $4.8 million of fire costs in FY93, which the next legislative session would have to replace. Even though the department of forestry has approximately $6 million of general fund in their forestry budget, none is for

fire suppression. Therefore, when a fire occurs, they have to pay for it of their budget and ask the legislature for a supplemental to reimburse them.

SEN. WEEDING asked, if we were to do nothing and they incurred $3 million in fire suppression costs, why would it take until April to be reimbursed when we meet in January?

Mr. Schweitzer said, if they had $3 million in fire suppression costs you would have to replace that immediately when the session starts. If they had $4 million in costs, they wouldn't be able to meet their payroll and pay for the fires at the same time. Therefore, we recommended an additional $5 million appropriation to cover the fires and carry us until January.

Mr. Kuchenbrod said, sometimes the supplementals are approved by the end of January and sometimes not approved until April, which can be a problem.

SEN. DEVLIN said, when can we expect some serious cuts out of the Dept. of State Land such as 10% to 15%. **Mr. Casey** said, the cuts we have taken since 1991 including the error which occurred is nearly 10%. A one percent cut amounts to about $85,000 in the general fund budget. With a $20,000 to $30,000 cut we would start looking at letting people go or not replacing equipment. If a choice were to be made, I would keep the people. However, our fire fighting equipment is not in good shape and is always breaking down.

SEN. DEVLIN said, you have offices scattered all over the state, which you never used to have. Where is it going to end? **Mr. Casey** said, that can end when the legislature decides the services are no longer necessary. The things we are doing out there are mandated by law.

REP. GRADY said, we discussed this in appropriations and I feel we have to start looking at whole programs which will also mean people. Government is expanding too fast and the taxpayers have had it. If the departments don't tell us which programs to cut, we may have to cut them for you. I would like to see the departments do the prioritizing, because if we do it we may cut in the wrong place.

CHAIR. KIMBERLEY said, he attended the same meeting and realistically we could be back in 2 or 3 days telling everyone to make cuts in their departments.

Mr. Casey said, each department is different and some departments may be able to come up with a solution. The activities we do are required by law. If our agriculture leases were cash rather than percentages we could eliminate one or two FTE's because of the bookwork attached to the farm program. If we had been on a cash basis only, there would be a lot of lands which would not be leased. All of these things are tough political decisions. Most

farmers prefer not to cash lease.

SEN. DEVLIN said, the Glacier Park Company owns a lot of land in Eastern Montana and they handle it with about two people and they inspect the leases about twice a year. How many inspectors does State Lands have? **Mr. Casey** said, we have a budget of approximately $1 million for our lands division which brings in approximately $20 million. We make an evaluation of 5.2 million acres once every ten years. We have 4 million acres of grazing leases. If there is a problem we may get out more.

SEN. DEVLIN asked, what about the farm land you lease? How many people do you need for that and how often do you look at that program? **Mr. Casey** said, we could eliminate some FTE's if the law was changed, but at present we are required by law to look at these leases at least every ten years. We rely upon the lessee for the crop-share payment. We have no way of checking on their crop yield. We have regional offices in Miles City, Lewistown, Kalispell, Missoula, Billings and Helena.

REP. GRADY said, we may have to change the law and whatever it takes to get this state back on its feet. I cannot see why we can't eliminate programs now, in this special session. If I was the governor, instead of recommending no cuts in your budget, I would recommend all agencies look at programs to cut.

Mr. Casey said, he would provide the committee with a list of things in his department which are not required by law. We could probably eliminate or reduce the assistance we give to private foresters. There are costs involved with MEPA.

SEN. DEVLIN said, this committee agrees that we would rather have the department make the determination as to where to cut rather than this committee. Preferably a program rather than a cut in each program.

Mr. Casey said, he agreed in the philosophy of eliminating a program completely rather than taking across-the-board cuts in all the programs.

SEN. WEEDING asked, is the $6 million for fire suppression just for the forestry division? **Mr. Casey** said, under the County Cooperative Agreement the department furnishes equipment and training to the counties. In return, the counties are responsible for fire suppression. Normally that is not a cost to the department. However, occasionally those fires go beyond the resources of the county and we have to step in. When that happens it becomes a cost to the state.

In addition to the $6 million in the forestry division we have $1 million in lands, about $1 million in central management and approximately $.5 million in reclamation for a total of $8.5 million.

EXECUTIVE ACTION DEPARTMENT OF STATE LANDS

Motion: **SEN. WEEDING** moved to reduce the fire suppression amount from $5 million to $3 million since the fire season potential is not as bad as it was and use the governor's disaster fund in case of an emergency.

Discussion: **REP. GRADY** said, he agreed and the emergency fund could be used if necessary. I support the motion.

Vote: CARRIED UNANIMOUSLY

Mr. Lloyd said, in the second item, "replacing general funds with federal funds", there is a couple of ways to go. (1) you could reduce the general fund by the $19,320 and replace it with federal funds or (2) leave it as is and approve spending authority with no replacement of general fund. Another option would be, in the next session to have language requesting the federal funding for the FTE and if they approve, then replace it. You could also go back to the finance committee and have them go through the budget amendment process.

Motion: **REP. GRADY** moved that this subcommittee finds that the federal funds do not fit under the language in HB2 requiring replacing general fund if federal funds are received. I move to increase the Department of State Lands' federal spending authority by the $19,320 and direct **Roger Lloyd, LFA** to report to the finance committee that this subcommittee feels the general fund should not be replaced.

SEN. BENGTSON asked, has this program ever gotten off the ground and if this is the way we should handle the timber industry? Why can't some of the responsibilities be turned over to the agriculture experiment station? We have been talking about best management practices for 8 years and now we are going to fund a FTE out of the general fund. If this position is so important they can apply for a grant and let the feds pay for it. I am in opposition of **REP. GRADY'S** motion unless he can convince me this is a great program.

REP. GRADY said, I could take you on a tour and show you some logging practices that are going on that hasn't had any help from the Department of State Lands. I feel we shouldn't be relying upon another department to fund an FTE. We need a longer term program for this FTE.

SEN. WEEDING said, we decided this was the least costly alternative and I feel this is a good investment.

SEN. DEVLIN asked, how many FTE's does the department have in this program now?

Mr. Lloyd said, before this additional FTE was approved last session they had 2.25 FTE's and now they are up to 3.25 FTE's.

REP. NISBET asked, can any of this grant be used to fund any or part of this FTE?

Mr. Artly said, I don't know what would happen if you decided to fund the FTE with federal funds. The money comes from EPA and there is a good chance we wouldn't get the money for the Department of State Lands.

REP. NISBET asked, is it possible we could use part of it to fund the FTE, perhaps 40% which would be about $7,500 and the remaining of approximately $11,000 went to provide the training and materials?

Mr. Artly said, It would have to be approved by the EPA because it is federal funds and in my opinion if probably would not be approved.

SEN. DEVLIN asked, where are the funds, now? Does the department have it. **Mr. artly** said, no we do not have the funds yet. Congress hasn't appropriated the funds as yet. If we are looking at fiscal 1993, and is being considered in Congress now.

SEN. DEVLIN asked, what would happen to those funds if you didn't give it to the Department of State Lands? **Mr. Artly** said, I assume they would fund the next project on their list.

Vote: PASSED 4 - 2 (SEN. DEVLIN, SEN. BENGSTON voting no).

Mr. Casey said, I will continue all efforts to come back to this committee with some proposals.

Motion/Vote: **REP. GRADY** moved that all agencies furnish a prioritized list where probable areas can be cut. **PASSED UNANIMOUSLY.**

HEARING - DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

KAREN FAGG, DIRECTOR NATURAL RESOURCES AND CONSERVATION said, she agreed, that if there were to be more reductions in the budget the administrators would have to look at which areas to implement.

She reviewed the governor's proposed $72,212 budget reduction in DNRC. **EXHIBIT 1.** See **EXHIBIT 5** for a breakdown of the different areas of the general fund reductions.

She reviewed the 1992-1993 biennium general fund reductions with the subcommittee. See **EXHIBITS 2,3,4,5.**
The total FY92 reduction was 12.1% and FY93 was $7.4% in our department. With the governor's proposal of $72,212 reduction for FY93 makes the total reduction for FY93 8.9%. Therefore the actual average of reductions is 10.5%.

She reviewed the different areas where reductions of $878,094 (8.96%) in the general fund were made in the January 1992 Special Session. **EXHIBIT 4**.

CHAIR. KIMBERLEY asked, in regard to the Fair Labor Standards Act payout, is anyone else doing this? **Ms. Fagg** said, other agencies are doing it. This is a liability and we chose to pay it out today.

TERRY PERRIGO, LEGISLATIVE FISCAL ANALYST said, there were some other agencies that had this payout such as Department of Family Services, Department of Commerce and others.

K. COOL, DIRECTOR FISH, WILDLIFE AND PARKS said, they went through a complete evaluation of the duties of individuals and determined they had 54 employees that were misclassified and changed them from exempt to non-exempt. The payout for those was $130,000 and was accomplished with appropriation authority from FY91, FY92 and will not require a supplemental nor did it include any general fund money. It is not the end of the problem, however.

Ms. Fagg said, our department will develop a list of priorities for the areas we may be able to cut to help solve the general fund problem.

There is an area where this committee could consider as a way to solve some of the problem. There is $154,000 in the Water Rights Adjudication account. This account which contains all late filing fees has been set aside for the last 10 years. Some people missed the deadline so they chose to file a late-fee-filing, which they have been filing for the last 10 years to the present. There was a separate account established where those funds were deposited and were to be used if the state had to handle the process. There are 3,242 late filings at present.

About 6 weeks ago the Supreme Court made a determination on late-fee-filing that if they did not meet the statutory deadline they abandoned their water rights. Because of the ruling, this money is there to either refund those who lost their water rights claims or to be used as processing money if those claims were to develop. The refunding of the fees were not addressed and there could be a slight risk of using this money. I feel we would have a good legal right because we had already done some processing in just the filing of those late claims.

This is an area to be considered which could offset the general fund. I do not feel there is a very great risk in using the money from this account.

SEN. DEVLIN said, if there is about $154,000 left you must have charged off some of your filing expenses to that account because you have done some work on the process.

Ms. Fagg said, we did do some work on those late filing fees, but we did not charge that account in case we had to refund those funds. However, the Supreme Court did not make that ruling. Since we have done some processing on those late claims, the money should be available since the costs of the processing which was already done came out of the general fund.

SEN. WEEDING asked, would it take legislation to revert those funds back to the general fund? **Ms. Fagg** said, yes.

REP. GRADY asked, **Ms. Fagg** if she was suggesting we do this now?

Ms. Fagg said, we have taken our fair share of general fund reductions already. If we go forward with this offer, I would like this department to get credit for this added fund reduction rather than coming back and having this committee saying they want another 10% reduction from our department. I don't have a list of priorities, but this is an area we can consider.

SEN. WEEDING said, **Ms. Fagg** is to be commended for bringing this to our attention and I think we should use this fund.

SEN. DEVLIN asked, has this been appealed by the Supreme Court? **Ms. Fagg** said, it is Montana law.

SEN. BENGTSON asked, was there an issue in the Supreme Court ruling that there could be a claim by the late filers?

GARY FRITZ, ADMINISTRATOR WATER RESOURCES DIVISION said, it was not mentioned in the Supreme Court case at all. There could be minimal risk if an agency loses jurisdiction, and we have lost jurisdiction over these late claims. Usually when an agency loses jurisdiction over claims like these, the claimants are not eligible for a refund.

The water court has told us to process these late claims as we would any other claim. We have already spent some funds on some processing of these claims. Therefore, we are pretty confident there is minimal risk in using this fund.

REP. GRADY asked, if we decide to use that $154,000 are we still going to ask **Ms. Fagg** to come up with a priority list?

SEN. DEVLIN said, I think **MS. Fagg** should be on the alert in case we ask her to come back with a priority list of possible further reductions.

Ms. Perrigo reviewed the language issue, **EXHIBIT 1.**
The statewide RC&D Coordinator may be a topic this committee wishes to discuss.

SEN. BENGTSON asked, what does the language mean? **Ms. Fagg** said, in the last session there was a lot of discussion about this position. We were told by the action taken in the full

Appropriations Committee, that we had to reduce our general fund but we couldn't touch this position. Therefore, they took away the possibility of eliminating this position as a possible way for us to meet our target. Therefore, the executive is proposing to eliminate that language.

CHAIR. KIMBERLEY asked **Ms. Fagg** if that language change would have any affect on the budget reduction figure? **Ms. Fagg** said, no it will not.

RAY BECK, ADMINISTRATOR CONSERVATION AND RESOURCE DEVELOPMENT said, the soil conservation didn't require a 50-50 match for the coordinator position. They were willing to put in 60% and we are putting in 40% which is less than the 50% match.

Ms. Fagg said, she wasn't sure about the language in Item 4k which talks about the Treasure State Endowment. Does that have any affect on our budget?

Ms. Perrigo said, at the last special session there was $20,000 put in FY93, but it had the language saying it was contingent upon electoral approval. It was approved in June, so they are asking to strike this language because it is now irrelevant.

EXECUTIVE ACTION - DEPT. NATURAL RESOURCES & CONSERVATION

Motion/Vote: **SEN. DEVLIN** moved to strike the language concerning the Treasure State Endowment. **Vote:** **APPROVED UNANIMOUSLY.**

Motion: **SEN. WEEDING** moved that the additional $154,000 cut be approved contingent upon legislative passage.

Ms. Schweitzer suggested that language be prepared that says the $154,000 be transferred to the general fund.

Amended Motion/Vote: **SEN. DEVLIN** made an amended motion as follows: "language be prepared that says the $154,000 be transferred from DNRC to the general fund". **Vote:** **APPROVED UNANIMOUSLY.**

Ms. Fagg said, **JOHN ARMSTRONG ADMINISTRATOR CENTRALIZED SERVICES** pointed out a mistake in the language where it talks about Item 4K, Treasure State Endowment. That actually shows up in the wrong program so he is asking that we move the funds to Conservation Resource Development Division from Water Resources Division.

Mr. Armstrong said, in the last session $20,000 for that particular item in HB2 was amended to program 24. I was preparing to transfer that money from program 24 to program 23 where it belongs. If we made an amendment to HB2 now, it would be put it into the proper program.

Motion/Vote: **SEN. DEVLIN** moved to transfer $20,000 from Water Resources and put it into the Conservation Resource Development Division **PASSED UNANIMOUSLY.**

HEARING - DEPARTMENT OF COMMERCE

CHAIR. KIMBERLEY said, we may be asking you to come back again if we decide we may need another cut in your budget.

CHUCK BROOKE, DEPARTMENT OF COMMERCE reviewed the budget cuts with the committee. See **EXHIBIT 6.**

Mr. Brooke said, the governor's budget showed $2.9 million and it should be $2.6 million. The Transportation budget was transferred to Department of Transportation on July 1, 1991 which included part of our base budget.

In the January Special Session we were given credit for $189,933 in cuts. In our budget the legislature included an appropriation for $35,000 in the event the Treasure State Endowment was approved by the voters. That money was for working on administrative rules, etc. It is my understanding that the $35,000 has been added back in to our operation budget and has not been spent yet. We probably should wait to deal with this in the next session as we don't know which way it will go.

Our cuts so far are in excess of 10% as of the last special session. We will try and prioritize additional cuts, but it will be a difficult task.

SEN. DEVLIN asked, what about the Business Assistance Division? **Mr. Brooke** said, the total budget for that program is about $700,000. The majority of our small businesses are funded with federal match moneys.

CHAIR. KIMBERLEY asked **Mr. Brooke** to comment on the language issue. See **EXHIBIT 1.**

BILL MANDEVILLE, OFFICE OF BUDGET AND PROGRAM PLANNING said, the budget office was looking for language to limit management flexibility. If the department does receive any private funds, they should decide where the best place would be to expend those funds.

Mr. Brooke said, isn't there two sentences in the language? **Ms. Perrigo** said, yes the language in the first sentence reads as follows: "the department is authorized to seek and expend private or other funds to replace $77,921 of State Special Revenue included in the International Affairs Budget Modification. If the department is successful in securing private or other funds, the accommodations tax state special revenue account appropriation is reduced by $38,959 in fiscal 1992 and $38,962 in fiscal 1993". The executive is only planning on eliminating the

last sentence of that.

SEN. DEVLIN asked, what about the Pacific Rim trade offices? How much general fund is in that? **Ms Perrigo** said, $165,330 in FY93 and $166,000 in FY92 which included some audit fees.

SEN. DEVLIN asked, how much of that is expended? **Ms. Perrigo** said, I don't have that information at present, but I will find out.

Mr. Brooke suggested bringing in the appropriate staff who could talk to the committee about the Pacific Rim.

EXECUTIVE ACTION - DEPARTMENT OF COMMERCE

Motion/Vote: **SEN. BENGTSON** moved to accept the recommendation of the governor's office on the language change.

Discussion: **SEN. NISBET** said, if we are going to strike this part we may as well strike the rest of it. They aren't doing anything with it anyway.

Substitute Motion/Vote: **SEN. NISBET** moved that the budget language not be adopted. **PASSED 5 - 1** (**SEN. DEVLIN** voting no)

HEARING - DEPARTMENT PUBLIC SERVICE REGULATION

SEN. DEVLIN asked, what does that mean "minus $177,432" **EXHIBIT 1.** **Mr. Lloyd** explained the report concerning the PSC and the utility tax. **EXHIBIT 7.**

Mr. Lloyd said, when I researched this tax which is set by the Department of Revenue, I found in setting the FY93 rate they did not do it according to statute. The statute directs them to use the appropriated amount for FY93 for example, with some adjustment and that is from the previous year. If there were over-collections in the previous year, then they are to take that out of FY93 appropriations. In other words, try to keep a zero balance in the general fund. However, in setting the FY93 rate, they reduced the appropriation by $177,432. They went back to 1987 when the tax was enacted and added all the over and under collections since that time. If they had made an adjustment on the previous year's rate, there shouldn't have been any reduction at all.

REP. GRADY asked, **Ms. Cottrill** if she agreed with those figures?

MADELINE COTTRILL, ADMINISTRATOR CENTRALIZED SERVICES said, it is difficult because the way they were figured by the Department of Revenue and I will have to wait until the end of the fiscal year and see how close it is.

Mr. Mandeville said, two issues are addressed. First, if you take the letter of the law by which you apply the formula to establish the rate, their rate for FY93 will be $177,432 less than what they plan to spend. On the other hand, the intent of the legislature was that the Public Service Commission should charge no more nor less than what they spend. In spite of the deficit they have had over the last 2 years, they still have surplus revenue of over $400,000. So, for this reason the Department of Revenue didn't increase the rates.

TED MACY, COMMISSIONER said, it is really difficult to estimate what the revenue will be.

REP. GRADY said, your funding comes from the utilities and you pass it on to the consumer. If we reduce some of your costs, I would think we would be saving the taxpayers some costs.

DANNY OBERG, CHAIRMAN PUBLIC SERVICE COMMISSION said, reducing the appropriation for the commission will not reduce the general fund deficit. The commission is funded through a fee on regulated utilities and the fee is calculated to recover an amount equal to the commission budget. **EXHIBIT 8.**

HEARING - DEPT. OF FISH, WILDLIFE AND PARKS

Mr. Cool said, the liaison position to coordinate the Montana Conservation Corps with the Human Resource Development Council, has been filled. Therefore, this is probably a moot point at this time. See **EXHIBIT 1.**

The Parks Trust is on Page 19 of the governor's executive budget under the title Cash Management and Page 14 of the LFA report. Language taken from the governor's executive budget reads as follows: "the Parks and Arts Coal Tax Trust along with the general fund transfer of cash would establish what is called the general fund stabilization account. That new account would be used only if overall general fund revenues declined by more that 2.5%".

The initial source of funding for this stabilization account is $12.4 million of Parks Coal Trust, $6.5 million from the Arts Coal Trust and a general fund transfer of $23.6 for a total of $42.5 million.

Mr. Cool gave testimony on the governor's budget proposal to eliminate the parks coal tax trust account. **EXHHIBIT 9.**

I would like to point out that parks are facing about a $1 million shortfall in FY95. This proposal in the executive budget would provide for us a substantive reduction in that it would allow us to maintain parks and provide a $243,000 increase. The parks are a division of state government with a substantive

requirement to maintain the culture and history of this state and provide for outdoor recreational development and we do not have adequate revenues to accomplish that.

CHAIR. KIMBERLEY said, I don't know what action this committee would take on this transfer, but frankly people don't trust these transfers. They do love their parks and they will not buy this, is my feeling.

Mr. Mandeville said, **Mr. Cool** is correct in saying we are taking part of the parks financial infrastructure. The fund has an excellent rate of return with the interest going into the parks. Throughout the history of the program its' interest earnings have not been subject to legislative interference. We are cashing that fund in and replacing it with coal severance taxes and faith in the Legislature that they will remain committed to preserving our parks. The proposed funding sources are relatively stable. The Legislature could increase the park's portion of coal severance taxes by looking at programs that may have outlived their purpose or usefulness. The stewards of the parks will be in your hands rather than the board of investments.

SEN. WEEDING said, I don't think we should use this fund.

GEORGE KRUSHENSKY asked, what is the long-range plan for the parks? Are we going to have a spiraling of entry fees and camping fees going up and up or is it more appropriate to leave say one-third of the parks in a primitive state? These are policies which have to be developed and we are still waiting on this bill. It is embarrassing to not have any administrative rules on a piece of legislation. We will watch these trust funds disappear and we will flow a little further down the stream in the leaking innertube from the one-time source of income and then we are in deeper water.

CHAIR. KIMBERLEY asked, what the committee would like to do in regard to the language issue? See **EXHIBIT 1.**

REP. GRADY said, the FWP is recommending we go through with this liaison position.

WAYNE CURST from Libby said, I urge keeping this trust fund for protection for our long-term assets.

EXECUTIVE ACTION - FISH, WILDLIFE AND PARKS

Motion/Vote: **REP. NISBET** moved to not approve the language issue for the liaison coordinator. **PASSED 5 - 1** (**SEN. DEVLIN** voting no)

HEARING - DEPARTMENT OF LIVESTOCK

Mr. Lloyd said, there was a correction in the second sentence in **EXHIBIT 1,** the cut the executive said the department took in FY93 should read 3.82% instead of 3.25%.

BILL FRAZER, EXECUTIVE SECRETARY DEPARTMENT OF LIVESTOCK said, we were urged by the 1987 legislature to increase our emphasis on the meat industry in the State of Montana. We have received permission for supplements for 4 FTE. We have filled 2 FTE and we will be returning approximately $100,000 of authority back of which, $50,000 of that will be general fund.

REP. GRADY said, I think this department should come up with a priority list the same as the other departments. We could look at possibly increasing some fees or charging some fees within a department.

Mr. Frazer said, what we use general fund for is primarily the activities associated with human health factors, which is milk and egg inspection, meat inspection and rabies control. We have cut back on our rabies control which we may have to do more as we now have 17 counties quarantined. We probably could charge milk inspections fees as the state has provided this service for free. However, it would take legislation to do this.

SEN. WEEDING asked, is their a fee for meat inspection? **Mr. Frazer** said, general fund pays for this, but the 50% coop is paid for by the federal government.

SEN. WEEDING said, maybe we should look into both. The people in my area want more state involvement and less federal for meat inspection. Is there a federal fee for inspection? **Mr. Fraser** said, there is no federal inspection fee. We sent one of our people to Boise to train as a federal meat inspector which should help the people in our state. It is necessary to have a federal meat inspector for intrastate shipments, which we are checking on now.

SEN. WEEDING asked, is there a way we could bargain with the feds? **Mr. Frazer** said, I am not sure, I'll have to check on that. We are checking to see if we may qualify for interstate meat shipments which would help toward the goal that the 1987 legislature had asked us to fulfill.

SEN. WEEDING asked, is it possible we could bargain with the feds to keep those federal funds coming in if we took over the entire program? **Mr. Frazer** said, he wasn't sure but he would check on that and get back to you. There are certain requirements in order to receive the 50% coop funds.

SEN. DEVLIN said, there must be something that prohibits the state from charging any inspection fees. **Mr. Frazer** said, we

cannot charge a inspection fee and get reimbursement from the feds.

REP. GRADY said, anything that goes out of state has to be inspected by the feds, doesn't it? **Mr. Frazer** said, it requires a federal stamp for interstate shipments.

REP. GRADY asked, what about milk, is there any federal money in the milk program? **Mr. John Skufka, Administrator Centralized services** said, there is a small federal reimbursement in the milk inspection program which is approximately $25,000 to $30,000 per year.

REP. GRADY asked, if the department would follow up on this and see if you can charge fees for milk inspection.

HEARING - DEPARTMENT OF AGRICULTURE

CHAIR. KIMBERLEY said, the governor recommended no cuts in the Department of Agriculture, so if you could identify any hidden funds you may have in this department, please let us know.

Everett Snortland, Director Department of Agriculture said, the department doesn't have any extra funds. We have looked into this and there just isn't any place we could cut without cutting programs.

CHAIR. KIMBERLEY said, we have told the other departments, if we have to meet again with an amount your department has to be cut; we would rather you identify those areas than this committee. The general consensus is, it should be complete programs rather than taking cuts from each program.

REP. GRADY said, there may be areas you might be able to charge fees for services.

Mr. Snortland said, about 12% of our budget now is general fund. Some of our fees do go into the general funds. If we do raise fees, I wouldn't want the funds earmarked. If we don't provide the services the fees were raised for, people become very upset. For instance, pesticide fees, potato harvest, the cherry harvest, etc. Most of our activity this year has been the use of the hotline because of the drought. You might want an update on the Council and Mediation program.

Mike Murphy, Administrator Agriculture Development gave an update on Counsel and Mediation.

It basically involves a three part program which is financial consulting, mediation and peer counsel. We try to help an individual in some cases, work out of agriculture which is why we have peer counseling. If it looks like it is a salvageable

situation we may try to bring in a financial consultant to look at cash flow, etc. Mediation has been the primary emphasis of the program of which an individual would have to go through mediation before turning over the farm. Therefore, the mediation has been the busiest aspect of the program. Foreclosure activities have been down about 50%. The primary use of the hotline the past month and a half with over 400 calls were from producers looking for hay and pasture. We have one individual looking for pasture for about 35,000 head.

SEN. BENGTSON said, what is your case-load at this time? **Mr. Murphy** said, to date, there have been 726 requests for mediation and 603 requests for peer counseling assistance. In June there were 7 requests for financial consulting or mediation and 7 requests for peer counseling. We also had calls looking for general information and some legal requests, etc. Six months ago the numbers were about 14 and 14.

REP. GRADY asked, what is the amount of dollars for that? **Mr. Murphy** said, approximately $47,000 general fund to match federal funds on a one to one basis.

Mr. Murphy said, we do charge some fees for financial assistance and mediation which help fund the program.

CHAIR. KIMBERLEY asked, if we were to ask you to eliminate a program right now, would that be one you would consider? **Mr. Murphy** said, I really don't want to pin point a program, but this could be taken over by the private sector. We have started the new fiscal year, so I'm not sure how much is left in there.

SEN. WEEDING asked, do the fees come back into the program? **Mr. Snortland** said, yes, by statute we have to spend the fees first before the general fund. The program at this time is operating at a break-even for funds available.

ADJOURNMENT

Adjournment: 5:05 P.M.

Berv Kimberley
BERV KIMBERLEY, Chair

Theda Rossberg
THEDA ROSSBERG, Secretary

BK/tr

HOUSE OF REPRESENTATIVES

NATURAL RESOURCES SUBCOMMITTEE

ROLL CALL DATE 7/6/92

NAME	PRESENT	ABSENT	EXCUSED
SEN. ESTHER BENGTSON, VICE-CHAIR	✓		
REP. ED GRADY	✓		
REP. JERRY NISBET	✓		
SEN. GERRY DEVLIN	✓		
SEN. CECIL WEEDING	✓		
REP. "BERV" KIMBERLEY, CHAIRMAN	✓		

EXHIBIT 1
DATE 7/6/92
HB

Second Special Legislative Session
NATURAL RESOURCES APPROPRIATIONS SUBCOMMITTEE
July 6, 1992

Department of State Lands

Budget Cuts - None

Language - The Executive proposes to insert, "There is appropriated to the office of budget and program planning from the general fund up to $5 million for fiscal 1993 to be used to pay authorized fire suppression costs incurred by the department of state lands. When the department presents the office of budget and program planning with authorized fire suppression costs, an administrative appropriation of up to $5 million may be established within the department to pay the authorized costs. The office of budget and program planning shall transfer to the department the necessary funds to pay the fire suppression costs."

Other - It was the subcommittee's intent in House Bill 2 language that the Department of State Lands reduce the general fund appropriation for the Best Management Practices Work budget modification if it received federal funding for that purpose. House Bill 2 language states, "Item 4 contains $24,400 a year from the general fund to provide training and materials on best management practices to loggers and forest landowners. If federal funds are received for this purposed, the general fund appropriation must be reduced by a like amount". The department has received the federal grant funds mentioned in testimony to the subcommittee, but has submitted a budget amendment to **increase** their funding instead of **decreasing** general fund. The Legislative Finance Committee heard the budget amendment request and did not take any action. It directed the department to seek clarification of the subcommittee's intent on this matter.

Department of Natural Resources and Conservation

Budget Cuts - The Executive proposes general budget reductions of $72,212.

Language - The Executive proposes to strike the following language in House Bill 2, "The general fund appropriation in items 3a and 3b (statewide resource conservation and development coordinator and operating expenses) may be expended only as a match for an equal amount of federal funds", "Item 4k (Treasure State Endowment -- HB19) is to implement House Bill No. 19 and is contingent on passage of House Bill No. 19 and on electoral approval", and "The department may not reduce general fund appropriations for the statewide resource conservation and development coordinator or the statewide resource conservation and development operating expenses as shown in items 3a and 3b."

EXHIBIT 1
DATE 7/6/92
HB

Commerce

Budget Cuts - None

Language - The Executive proposes to strike the following language in House Bill 2 concerning the International Affairs Coordinator, "If the department is successful in securing private or other funds, the accommodations tax state special revenue account appropriation is reduced by $38,959 in fiscal 1992 and $38,962 in fiscal 1993".

Department of Public Service Regulation

Budget Cuts - None

Other - The Legislative Fiscal Analyst recently presented a report to the Legislative Finance Committee on the utility tax used to fund the department. It was found that since the tax was enacted in 1987, collections have exceeded expenditures by $352,660. It was also found that in setting the fiscal 1993 rate, the Department of Revenue did not make adjustments from the past year over-collections as required by statute, but estimated over-collections from 1987 through 1992. The "target" revenue was based on PSR's fiscal 1993 appropriation **minus $177,432**, despite the fact that the previous year's collections were $601,089 less than expenditures. Thus, general fund collections will be $177,432 less than required by statute.

Department of Fish, Wildlife and Parks

Budget Cuts - None

Language - The Executive proposes to strike the following language in House Bill 2 concerning the Montana Conservation Corps, "It is the intent of the legislature that the department provide a liaison position to coordinate this program with the human resource development council."

Parks Trust - The Executive proposes to break the Parks Acquisition and the Arts Protection trusts and deposit the balances ($19.2 million) into a newly created General Fund Stabilization Account. Since interest from the trust funds would no longer be available to fund the programs, the Executive proposes to increase the coal tax allocation for Parks from 1.267 percent to 4.815 percent and the allocation for Arts from 0.633 percent to 1.645 percent. The general fund allocation will be reduced from 15.39 percent to 10.83 percent. Current funding of the programs with interest from the trusts provides a more stable, identifiable, and increasing source of revenue than the proposed Executive funding source which would be subject to variations in the coal tax revenue. Long-term investments in the Parks trust averaged 10.052 percent in fiscal 1992 with some of the funds earning 12.5 percent. Under the Executive proposal, these funds would be deposited in an account earning the current STIP rate of 4.16 percent.

Department of Livestock

Budget Cuts - None

Other - The Executive Budget states that even though budget cuts in the department since the 1991 session were only 3.~~52~~93 percent, the budget is not being reduced because of "the fact that the department is financing, with existing general fund appropriations, an expansion of the Meat and Poultry Inspection Program." This program expansion was reviewed by the 1991 legislature as a budget modification and subsequently not approved. On September 18, 1991 the Governor declared that a "potential economic emergency" existed with necessitated a transfer from the Meat and Poultry Inspection program's fiscal 1993 appropriation to fiscal 1992. The transfer totaled $65,512 general fund and $62,512 federal funds to fund the 4.0 FTE not approved by the legislature. Funding for these positions will become part of the department's funding in the 1995 biennium only with legislative approval through the supplemental bill or a budget modification. Since the appropriation transfer occurred before enactment of Senate Bill 4 passed in the January special session, it was not reviewed by the Legislative Finance Committee as stated in the Executive Budget.

Department of Agriculture

Budget Cuts - None

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EXHIBIT 2
DATE 7/6/92
HB

Department of Natural Resources and Conservation

1992–93 Biennium General Fund Reductions

	Original G.F. Approp.	G.F. Vacancy Savings (4%)	G.F. Unfunded Pay Plan	G.F. Unfunded Pay Exceptions	Special Session I G.F. Reductions	FLSA G.F. Payout	Subtotal G.F. Reductions	% of Original Approp.	Special Session II G.F. Reductions	Total G.F. Reductions	% of Original Approp.
FY 92	4,878,965	142,940	22,995	8,184	382,228	36,246	592,593	12.1%	—	592,593	12.1%
FY 93	4,925,697	142,693	51,903	8,168	162,816	—	365,580	7.4%	72,212	437,792	8.9%
TOTAL	9,804,662	285,633	74,898	16,352	545,044*	36,246	958,173	9.8%	72,212	1,030,385	10.5%

* In addition to general fund cuts of $545,044, DNRC also reduced general fund spending by $333,050 through delayed implementation of programs and user fee increases. This is an additional 3.4% decrease in DNRC's original general fund appropriation.

EXHIBIT 3
DATE 7/6/92
HB

Office of Legislative Fiscal Analyst
Budget Worksheet

Natural Resources & Conservation		Executive Budget Proposal			Legislative Budget Action			Difference (Leg. – Exec.)		
		Fiscal 1993			Fiscal 1993			Fiscal 1993		
Description	Pg	General Fund	Other Funds	Total Funds	General Fund	Other Funds	Total Funds	General Fund	Other Funds	Total Funds
House Bill 2										
1 General Budget Reduction	00	($72,212)		($72,212)				72,212	No Change	72,212
Totals		($72,212)	$0	($72,212)	$0	$0	$0	$72,212	$0	$72,212

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EXHIBIT I
DATE 7/6/92
HB

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
GENERAL FUND REDUCTION
JANUARY 1992 SPECIAL SESSION

7/1/92

General fund reductions in the DNRC for the biennium were mandated in the following ways by the January 1992 session of the Legislature.

Vacant Positions $358,044

General fund reductions will require that the DNRC reduce Personal Services by $358,044 in addition to current vacancy savings, unfunded pay exceptions, payplan shortfall, and unfunded reclassifications. The additional reduction will require that the equivalent of about 6 FTEs be left vacant the entire biennium.

Expired Reclamation And Development and Water Development Grants $133,050

One water development and four reclamation development contracts, authorized in 1987 have either not been contracted for or the contract has expired. The state special revenues which financed the contracts, replaces a like amount of general fund monies.

Missouri River Reservations $ 30,000

Replace $30,000 of water development funds with federal revenue for the contested case hearings on applications for Missouri Basin water reservations. The water development funds would then be used to replace general fund monies.

Water Right Fees $ 80,000

Replace $80,000 of general fund monies with increased water rights state special revenue.

Water Court $ 30,000

A reduction in the Water Court budget of $30,000 in water development funds is used in the DNRC budget to replace a like amount of general fund monies

Nevada Creek Dam Feasibility Study $100,000

Replace $87,000 of general fund monies with water development funds which finance the Lower Missouri River EIS. This action will require regular session legislation to extend the December 31, 1993 deadline for reservation decisions in the lower basin.

Lower Missouri EIS $ 87,000

Replace $87,000 of general fund monies with water development funds which finance the Lower Missouri River EIS. This action will require regular session legislation to extend the December 31, 1993 deadline for reservation decisions in the lower basin.

MFSA/MEPA $ 60,000

Redirect staff priorities by cutting or eliminating rulemaking changes needed to make the Administrative rules consistent with recent amendments to MFSA and substituting additional project specific environmental assessment work that would be paid with fees.

TOTAL: $878,094 (8.96%)

EXHIBIT 5
DATE 7/6/92
HB

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
GENERAL FUND REDUCTIONS
JULY 1992 SPECIAL SESSION

General fund reductions of $72,212 have been proposed in the Governor's revised budget for DNRC for the remainder of the biennium. This reduction is in addition to the 4 percent vacancy savings and partially funded pay plan and pay exceptions reductions in the 1991 regular session. DNRC provided an additional $878,094 (8.96% of the general fund budget) to the general fund during the January 1992 Special Session. The proposed cuts will be accomplished by the following measures:

Continued and Additional Vacancy Savings

Water Resources Division Water Rights Adjudication Spec.	$24,000
Reserved Water Rights Compact Commission Continued Vacant Grade 14 position	$ 4,172
Conservation and Resource Development Admin. Assistant (continued vacancy)	$ 5,000
Energy Division Will eliminate support for Department of Administration on gas purchasing	$ 7,871
Centralized Services Division Would require moving a full time position to 1/2 time, or elimination of a 1/2 time position	$ 8,225

Additional Operating Expenses Cuts

Water Resources Division Equipment	$16,944
Centralized Services Division Travel, supplies, misc.	$ 6,000
Total	$72,212

EXHIBIT 6
DATE 2/6/92
HB

DEPARTMENT OF COMMERCE
GENERAL FUND
PROPOSED 5% (FY92) AND 8% (FY93) CUT

PROGRAM	FY 92	FY 93	COMMENTS
CONSUMER AFFAIRS	(11,000)	(11,000)	MOVE .25 FTE - LEGAL COUNCIL TO THE FINANCIAL DIVISIØN
SCIENCE & TECHNOLOGY VACANY SAVINGS	(40,000)	0	TWO INVESTMENT OFFICER POSITIONS NOT FILLED FOR A HALF YEAR.
"GENERAL OPERATING REDUCTIONS"			
WEIGHTS & MEASURES	(4,000)	(2,500)	BUDGETS ARE EXTREMELY LEAN. THE DEPARTMENT WILL DIRECT THE ADMINISTATOR OF EACH DIVISION TO FIND THE SAVINGS.
LGS - AUDIT	(3,000)	(5,000)	
LGS - SYSTEMS	(3,000)	(5,000)	
INDIAN AFFAIRS	(2,000)	(5,000)	
ORIS EQUIPMENT	0	(12,000)	NOT PURCHASE EQUIPMENT RELATED TO THE 1990 CENSUS INCLUDING LIBRARY SHELVING, PORTABLE COMPUTER & MICROFICHE PRINTER.
ORIS COUNTY PROFILES	(5,000)	(29,167)	ELIMINATE PRINTING OF COUNTY PROFILES & REDUCE CONT.SERV.
BUSINESS DEVELOPMENT	(34,100)	(54,416)	ELIMINATE CERTIFIED COMMUNITIES PROGRAM. PROGRAM PROVIDES BUSINESS DEVELOPMENT PLANNING ASSISTANCE TO 44 COMMUNITIES.
	(2,000)	(7,500)	INTERNATIONAL TRADE
SCIENCE & TECHNOLOGY SCIENCE PLAN	(41,127)	(75,000)	MAJOR REDUCTIONS IN IMPLEMENTATIO OF THE SCIENCE PLAN.
WEIGHTS & MEASURES EQUIPMENT REDUCTION	0	(24,353)	NOT PURCHASE A 1/2 & 3/4 TON PICKUP. PROJECTED MILEAGE FOR TW VEHICLES IS IN EXCESS OF 150,000 MILES EACH.
TOTAL	(145,227)	(230,936)	
LEWIS & CLARK INTERPRETIVE CENTER	(56,000)	0	REDUCE APPROPRIATION BY 8% PRIVATE SECTOR WILL HAVE TO INCREASE THEIR CONTRIBUTION
COAL BOARD	(500,000)	(1,635,363)	
TOTAL COMMERCE CUTS	(701,227)	(1,866,299)	

STATE OF MONTANA
Office of the Legislative Fiscal Analyst
STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

TERESA OLCOTT COHEA
LEGISLATIVE FISCAL ANALYST

EXHIBIT 7
DATE 7/6/92
HB

June 17, 1992

TO: Legislative Finance Committee

FROM: Roger Lloyd
Associate Fiscal Analyst

Roger Lloyd

RE: Department of Public Service Regulation's Statutorily Required Budget Review

PURPOSE

Section 69-1-404, M.C.A. directs the Legislative Finance Committee (LFC) to report to the legislature on its review of the Department of Public Service Regulation's (PSR) budget and the calculations for determining the public utility tax used to fund the PSR. Section 5-11-210, M.C.A (enacted by House Bill 231 in the 1991 legislature) established a procedure for state agencies to report to the legislature. This memorandum is designed to assist the LFC in fulfilling these statutory requirements.

A copy of the Department of Revenue's response to this report is attached.

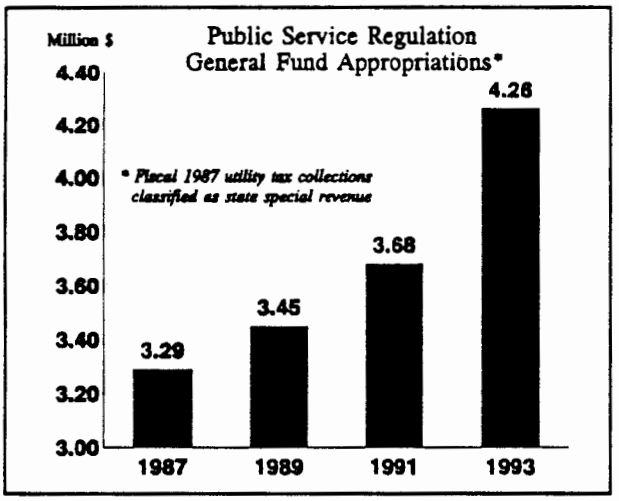
HOUSE BILL 231

House Bill 231 (1991 session) requires any state agency that has a statutory duty to provide a report to the legislature to submit the following to the Legislative Council by September 1st prior to a legislative session: 1) the title of the report; 2) an abstract (description) of the report; 3) an estimate of the number of copies it plans to provide to the legislature and the reason for the estimate; 4) estimated cost of each copy; and 5) the date the final copy of the report will be ready. The Legislative Council will send a list of titles and abstracts to each legislator along with a form to indicate which reports are desired. The Legislative Council will then direct the state agency to furnish the required number of copies and either mail them to the legislators or deliver them during the first week of the session.

UTILITY TAX

Legislation enacted in the June 1986 special session eliminated the general fund in the PSR's fiscal 1987 budget and replaced it with state special revenue generated by a tax levied on the gross operating revenue of public utilities regulated by the PSR (excluding motor carriers). The legislation also required the Legislative Finance Committee (LFC) to annually review the PSR's budget and the calculations of the tax.

The tax was scheduled to sunset after one year (fiscal 1987). However, 1987 legislation eliminated the sunset provision, excluded sales to other regulated utilities from gross revenues, directed the fees collected be deposited in the general fund, and approved a general fund appropriation for the PSR. The requirement for an annual review of the PSR budget and tax by the LFC was continued.



The figure to the left shows the PSR's general fund appropriation for each biennium since the utility tax was enacted in fiscal 1987. PSR's general fund appropriations have grown at an average biennial rate of 9.0 percent. (Although the utility tax revenue and appropriation were classified as state special revenue in fiscal 1987, the figure includes it as general fund for comparison purposes.)

By statute, the tax for the first fiscal year of the biennium is to be set by the Department of Revenue (DOR) within 30 days after enactment of the legislative appropriation for the PSR. The tax for the second fiscal year of the biennium must be set by May 30th of the first fiscal year. The tax is applied to gross operating revenue (which must be reported to the DOR and the PSR on a quarterly basis[1]) of regulated utilities and must, according to section 69-1-224, be sufficient to produce an amount equal to the PSR's general fund appropriation[2]. Regulated utilities are required to pay the tax within 90 days after the end of each quarter.

If revenues collected in a fiscal year exceed expenditures, statute requires that the next fiscal year's appropriation be decreased by the excess before calculating

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[1] Revenue earned by motor carriers is exempt from the tax. Revenue from sales to other regulated companies for resale is excluded from gross revenue and is not taxed.

[2] No municipal corporation can be required to pay an amount in excess of .0006 of its gross operating revenue.

EXHIBIT 7
DATE 7/6/92
HB

the tax. However, when revenue collections are less than expenditures, the statute does not provide a similar adjustment to repay the general fund. The DOR is required to adjust the percentage rate quarterly if it "considers a change necessary to meet or to not exceed the amount to be raised".

Since regulated municipal utilities' tax cannot exceed 0.06 percent, rate calculations must be separate for municipal and non-municipal utilities. By statute, the tax percentage and estimated revenue is determined by the following formulas:

Municipal Utilities
Tax % = Maximum of .06
Tax Revenue = Tax % x (Gross Revenue - Sales to Regulated Companies for Resale)

Other Regulated Utilities
Tax % = [Appropriated Amount - (Previous Year's Collections - Previous Year's Expenditures)] ÷ (Previous Year's Gross Revenues - Sales to Regulated Companies for Resale)

Tax Revenue = Tax %, x (Gross Revenue - Sales to Regulated Companies for Resale)

The tax paid by a regulated company is immediately recoverable in its charges to consumers. Statute directs the PSR to authorize, under separate order, each company to fully recover the tax through rate increases. In PSR's most recent order (fiscal 1992), it approved the filing of additional tariffs through August 28, 1992 to recover the amount of the tax. It notes that since the regulated municipal utility tax rate has remained constant, no tariff changes would be required. For other regulated utilities, it was the PSR's intent that the tax rate be reflected in their revenue requirements beginning August 29, 1991. This would allow coordination with the existing annual recovery period for the tax and avoid multiple rate variations and administrative expense.

In its order, PSR notes that filing of the tariffs authorized by the PSR is permissive and not mandatory. For example, a regulated company may choose to implement the increased tariff at a later date to coincide with other tariff changes or, if the utility considers the tax relatively small in comparison to its overall charges, it may choose not to file an additional tariff.

ANALYSIS OF THE RATE CALCULATIONS

Fiscal 1992 and Before

The following table shows historical data on the public utility tax.

TABLE 1 Public Service Regulation Utility Tax						
Fiscal Year	General Fund Appropriation*	Expenditures	Target Revenue	Tax Percentage	Tax Collected	Reversions
1993	$2,081,711	NA	$1,904,339	0.24%	NA	NA
1992	$2,179,182	NA	1,918,019	0.24%	NA	NA
1991	$1,819,055	1,807,976	1,271,059	0.16%	1,206,887	(601,089)
1990	$1,861,764	1,683,402	1,433,645	0.18%	1,571,594	(111,808)
1989	$1,679,762	1,662,823	Unknown	0.30%	2,224,352	561,529
1988	$1,769,497	1,645,494	Unknown	0.30%	2,085,218	439,724
1987	$1,637,319-	1,584,989	Unknown	0.225%—	1,649,293	64,304

* Biennial appropriations appear in the first year of the biennium.
\- State special revenue appropriation since fees were deposited into the special revenue fund in the first year of tax collections.
— Annualized rate based on the DOR's nine month rate of .30 percent.

Under statute, DOR is required to set the tax rate based on the appropriated amount less any excess of collections over expenditures in the previous fiscal year. This is the "target revenue" shown in Table 1. Current statute does not provide any mechanism for increasing the "target" revenue (and therefore the tax rate) in the next year if collections were less than expenditures.

Because statute directs the tax be set prior to the end of the fiscal year, the data used in setting the tax rate is dated. For example, in setting the fiscal 1992 tax rate, fiscal 1990 tax collection and expenditure data were used for the adjustment to the fiscal 1992 appropriation and fiscal 1990 gross operating revenue data were used to determine the tax percentage. As a result, wide variations between collections and expenditures have occurred. As Table 1 shows, collections exceeded expenditures in fiscal years 1987 through 1989. However, in fiscal years 1990 and 1991, expenditures were greater than collections, resulting in a net loss to the general fund in these years. This under-collection is likely to occur again in fiscal 1992. If the statutory deadlines for setting the tax were extended so the previous fiscal year's data were available to set the rate, there may be less variation.

Some of the variation is due to the methodology DOR has used to set the tax rate:

1) In fiscal 1988 and 1989, rates were set at 0.30 percent, which resulted in substantial over-collections. If the methodology required by statute had been followed, the tax rates should have been 0.26 percent and 0.23 percent, respectively.

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2) In fiscal 1990-92, DOR used a two-step process to determine the adjustment to the "target" revenue. It:

a) subtracted expenditures from appropriations; and
b) subtracted appropriations from the revenue collections.

TABLE 2		
	Fiscal 1990	Fiscal 1991
Appropriation	$1,862,369	$1,819,005
Expenditure	1,683,402	1,807,976
Difference	$ 178,967	$ 11,029
Revenue	1,571,595	1,206,887
Appropriation	1,862,369	1,819,005
Difference	(290,774)	(612,118)

In this methodology, if one of these differences was negative, DOR discarded it. For example, Table 2 shows that the downward adjustment for the fiscal 1992 "target" revenue (based on fiscal 1990 data) was $178,967 even though fiscal 1990 collections had been less than expenditures. Therefore, the general fund will receive less revenue in fiscal 1992 than it would have if the rate had been set according to statute.

3) In fiscal 1992, the tax rate calculation was based on the general appropriations act and did not include appropriations from other legislation. For example, the $82,196 pay plan allocation (House Bill 509) was not included. As a result, the fiscal 1992 tax rate is not set high enough to collect the revenue necessary to fund PSR's total general fund appropriation. General fund will pay any difference of expenditures over collections.

Fiscal 1993

To determine the fiscal 1993 rate, DOR used a different approach than in previous years in an effort to compensate for past over-collections. Based on estimated expenditures, estimated fiscal 1992 tax revenue, estimated gross revenues of regulated utilities, and correction for the pay plan omission in fiscal 1992, it projects that from fiscal years 1987 through 1992, $177,432 more tax revenue will have been deposited in the general fund than used to fund the PSR. On May 31, 1992, DOR set the fiscal 1993 "target" revenue based on PSR's fiscal 1993 appropriation **minus $177,432**, despite the fact that fiscal 1991 collections were $601,089 less than fiscal 1991 expenditures (Table 2).

There is no statutory basis for including six years' data in this calculation. Section 69-1-224(4) provides that the previous year's over-collection be subtracted from the current year's appropriation in determining the target amount. DOR's use of net over-collections during the entire six year period will result in a **$177,432 decrease** in revenue to the general fund during fiscal 1993. As Table 1 shows, the over-collection occurred in fiscal 1987-89. Collections have been less than expenditures in fiscal 1990 and 1991 and are projected to be less again in fiscal 1992.

In the past six years, DOR has not adjusted the tax rate on a quarterly basis as permitted by statute to better match revenue with the "target" revenue. Department staff state the reasons for this failure to adjust the rate quarterly are: 1) a desire to present a stable tax rate to taxpayers; 2) administrative expense and logistics of notifying taxpayers on a quarterly basis; and 3) the time lag between the tax change and actual revenue collections.

COMMITTEE ACTION

Options for committee action include:

Option A — Approve DOR's utility tax calculation methods for fiscal 1992 and 1993.

Option B — Recommend the DOR:

1) recalculate the fiscal 1993 tax rate to comply with current law regarding subtraction of over-collection during the previous year only; and

2) make the following changes in calculating the tax rate for fiscal 1994 and beyond:

a. include all general fund appropriations to the PSR in its tax rate calculations;

b. subtract the entire difference between revenue and expenditures for the previous fiscal year from the appropriation for the fiscal year being considered in calculating the tax rate;

c. change the tax rate quarterly so revenues better match "targets";

d. seek legislation clarifying statutes to require the rate be set within 30 days of the <u>effective date</u> of legislation setting the PSR's appropriation for the first fiscal year of the biennium and by July 31 of the second year of the biennium; and

e. seek legislation allowing the tax rate to be increased if expenditures exceeded revenue collected during the previous fiscal year.

Option C — Sponsor a committee bill directing the DOR and PSR to report annually to the LFC on tax revenues and expenditures, explanations of any differences, and remedies to correct the differences.

Option D — Direct the Legislative Fiscal Analyst to transmit this report to the legislature in compliance with House Bill 231.

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State of Montana

Stan Stephens, Governor

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Department of Revenue
Denis Adams, Director

Room 455, Sam W. Mitchell Building
Helena, Montana 59620

June 17, 1992

TO: Legislative Finance Committee

FROM: Denis Adams, Director Denis Adams

SUBJECT: Rate Setting Process for Public Service Commission Fee

PURPOSE

The Legislative Finance Committee is to annually review the Department of Public Service Regulation's budget and the calculations made by the Department of Revenue to determine the fee necessary to fund the appropriation made by the legislature. The law was changed in 1991 to require the Legislative Finance Committee to report the results of the Committee's review to the Legislature under the new Legislative Counsel report requirements.

This report was prepared to show the results of an internal Department of Revenue review of the rate calculation, changes the Department of Revenue made in the fee calculation for fiscal 1993 as a result of the internal review, and the Department's recommendations for statute improvement.

INTERNAL REVIEW PROCESS

In November of 1991, the Department of Revenue noted that a significant fund balance existed in the Consumer Counsel special revenue account. Under the law for setting both the Consumer Counsel and the Public Service Commission rates, there should never be funds collected in excess of the appropriation nor retained in excess of the actual expenditures. Therefore, an internal review was scheduled to take place before the next rate calculation to determine the cause of the fund balance.

Staff from the Income and Miscellaneous Tax Division and the Office of Research and Information conducted an internal review process to identify existing problems and possible solutions with the rate setting process for the Public Service Commission and Consumer Counsel. Two problems with the rate setting process were identified: human error and timing.

Human Error

There were two human errors: using an approximate rate rather than looking for data to calculate the actual rate needed for the first two years in which the Public Service Regulation Fee was deposited into the General Fund; and incorrectly calculating the difference between actual revenue collected and actual expenditures made.

It is unknown how the person who set the rate for fiscal 1987 and 1988 established the .30 percent rate. The revenue collected for fiscal 1987 was slightly less, $13,849, than the appropriation; therefore, the .30 percent rate was fine as actual expenditures were less than the appropriation by $77,749. In fiscal 1988 the fee was kept at .30 percent as the revenue collections were very close to the amount needed in fiscal 1987 and 1988. At the end of fiscal 1988 the general fund had received $503,624 more public service regulation fees than were expended during fiscal 1987 and 1988, as shown in Table 1. This included $63,900 from fiscal 1987 and $439,724 from fiscal 1988.

TABLE 1
Comparison of Public Service Regulation Fees to Expenditures
Fiscal 1987 and 1988

	Fiscal 1987	Fiscal 1988
Revenue	$1,648,889	$2,085,218
Expenditures	$1,584,989	$1,645,494
Excess Revenue	$63,900	$439,724

By law, the Public Service Regulation Fee is calculated under the statute for determining the Consumer Counsel Fee. Section 69-1-224(4), MCA reads:

> In the event the fee charged in one year is in excess of the amount actually expended in that year, the excess shall be deducted from the amount required to be raised by the fee for the next year before the determination required by subsection (1) is made. **Money remaining unspent at the close of a fiscal year shall be used to reduce the percentage calculated in 69-1-224 in a subsequent fiscal year.**

Basically, the fee ratio is determined by dividing the appropriation **minus any money remaining unspent at the close of a fiscal year** by the previous year's gross operating revenues generated for all regulated companies. When the next person calculated the rate, this person calculated the difference between actual revenue and expenditures in two steps as shown in Table 2.

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TABLE 2
Public Service Commission
Rate Setting Methodology for Fiscal 1989 to 1992

	FY87	FY88	FY89	FY90
Appropriation	$1,662,738	$1,769,247	$1,679,762	$1,862,369
Expenditures	$1,584,989	$1,645,494	$1,676,406	$1,683,402
Unspent Budget Auth.	$77,749	$123,753	$3,356	$178,967
Revenue	$1,648,889	$2,085,218	$2,224,352	$1,571,595
Appropriation	$1,662,738	$1,769,247	$1,679,762	$1,862,269
Excess Revenue	($13,849)	$315,971	$544,590	($290,774)

- - - - - - - - - - Rate Calculation - - - - - - - - - -

	FY89	FY90	FY91	FY92
Coming Year Approp.	$1,679,762	$1,862,369	$1,819,005	$2,096,986
PY Unspent Budget Auth.	77,749	123,753	3,356	178,967
PY Excess Revenue	0	315,971	544,590	0
Revenue Requirement	$1,602,013	$1,422,645	$1,271,059	$1,918,019
÷ Prior Year Gross Rev.	690,207,096	728,032,795	794,094,371	787,621,809
Equals Fee Ratio	0.23%	0.20%	0.16%	0.24%

In the internal review, two problems were noted with the methodology. First, the fiscal 1989 rate was set on fiscal 1987 data. This is due to the year in which the rate is set (1988) for fiscal 1989 not being complete; therefore, to use the current year would require estimating the month of May and June to determine the year end figures.

Second, the person used two steps to net the revenue and expenditures. This would have worked fine if in the rate computation the person had consistently used both the unspent budget authority and the excess revenue. However, the person used the excess revenue only if it was positive or in other words exceeded the appropriation. This did not result in an accurate rate adjustment to keep revenue equal to expenditures. Under this methodology no rate adjustment is made to keep revenue equal to expenditures if the revenue is less than the appropriation. Over

time the general fund would absorb any revenue shortfall. For example, in calculating the rate for fiscal 1989 revenue collections were $13,849 below the appropriation, but this was not netted against the $77,749 of unused budget authority. Therefore, the next year's revenue requirement was reduced $77,749 when it should have only been reduced $63,900 ($77,749 - 13,849). And again in setting the fiscal 1992 rate, the next year's revenue requirement was reduced for the $178,967 unspent budget authority of fiscal 1990, but no adjustment was made for the revenue being $290,774 below the appropriation level.

Although there is a time lag due to using the last fiscal year for which actual data was available, this rate setting methodology would have worked, with a one year time lag, if both the unspent budget authority and the excess revenue numbers were used. It is unknown why the rate calculator did not use both numbers.

The internal review showed that the human errors since fiscal 1988 resulted in the regulated companies paying an estimated $177,432 more to the general fund than was expended by the Public Service Commission. This is shown in Table 3.

TABLE 3
Public Utility Tax Collected and Expended for the Public Service Commission
Fiscal 1987 to 1992 estimated

	FY87	FY88	FY89	FY90	FY91	FY92	Total FY87-92
Rev.	$1,648,889	$2,085,218	$2,224,352	$1,571,595	$1,206,887	$1,888,757	$10,625,698
Exp.	$1,584,989	$1,645,494	$1,676,406	$1,683,402	$1,807,975	$2,050,000	$10,448,266
Diff.	$63,900	$439,724	$547,946	($111,807)	($601,088)	($161,243)	$ 177,432

Timing

The timing of the rate setting process and collection of information is not conducive to calculating an accurate rate. Prior to May 30 of the current fiscal year, the department is required to set the rate to raise sufficient revenue when combined with any excess revenue from prior years to fund the appropriation during the coming fiscal year. In order to equalize expenditures and revenue, the department is instructed to deduct from the coming year appropriation the excess of revenue over expenditures from the previous fiscal year. As a tax base for the fee, the department is to use the gross operating revenues (minus resales) of regulated utilities during the previous fiscal year. Due to the timing of setting the coming fiscal year's rate based upon the previous years information, the data used in the rate calculation is either two

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years old or estimated for the current year.

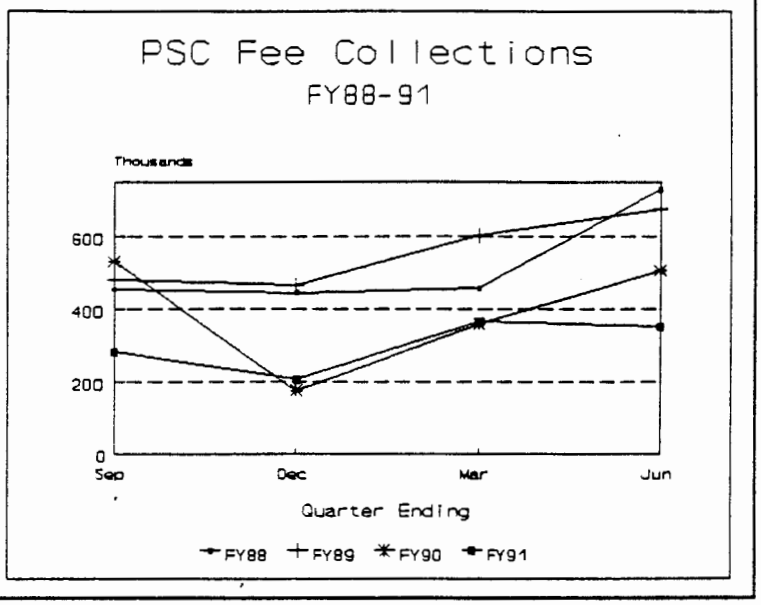
Also, the law says the Department is to adjust the rate quarterly if a change is necessary to meet or not to exceed the amount to be raised by the fee because of fluctuations in gross operating revenues or the approval of a budget amendment. Since implementation of the fee, the Department has not used a quarterly rate adjustment because the mechanism allowed in the statute for adjusting collections up or down quarterly is ineffective. As Table 4 illustrates, its ineffectiveness stems from the timing of payments and reporting of the tax base information. Taxpayers are required to pay the fee within 90 days following the quarter in which liability was incurred. For example, payment for the July through September 1993 quarter will be reported in SBAS in December 1992/January 1993. If this payment is less than expected and the Department decides to change the rate, 30 days notice of a rate change must be given to the taxpayers. Therefore, the adjusted rate will become effective for gross operating revenues starting after April 1, 1993. But, the first payment including revenue from the adjustment will not be received until September of 1993, the next fiscal year.

TABLE 4
Timing Lag for Public Service Commission Fee Setting and Collection

Liability	Payment	Change Effective	1st Payment w/ Rate Change
Jul/Aug/Sep 92	Dec 92	Apr 93	Sep 93
Oct/Nov/Dec 92	Mar 93	Jul 93	Dec 93
Jan/Feb/Mar 93	Jun 93	Oct 93	Mar 94
Apr/May/Jun 93	Sep 93	Jan 94	Jun 94

Furthermore, the liability incurred during the January-February-March quarter is not paid until June. This payment is typically the largest of the year (averaging 35 percent of the annual total) due to increases in energy consumption during the winter months. However, the June payment is also highly variable depending upon the severity of winter weather. Figure 1 effectively demonstrates both the size and variation of the June payment. The end result is the department does not receive the largest payment until the close of the fiscal year and cannot recognize a revenue shortfall until after the close of the fiscal year.

FIGURE 1



CORRECT RATE CALCULATION

Having discovered the human errors and timing problems in setting the public utility tax rate, and determining the result was approximately an $177,432 over-collection of tax, a careful analysis of the rate setting law was done. In essence, the law requires the Public Service Commission rate to be set under the Consumer Counsel statute. The Consumer Counsel has a special revenue fund. The Public Service Commission was general funded until 1987 when it was determined that a fee would be charged; however, revenue and expenditures could be balanced using the general fund account and the Consumer Counsel statute for calculating the rate. Therefore, it was necessary to determine how the Consumer Counsel law could most logically be applied to the Public Service Commission.

The Consumer Counsel statute is very clear that the intent is to charge a rate which will fully cover the program expenditures and nothing more. Section 69-1-224(3)(a) states:

> The department of revenue shall adjust the percentage multiplier quarterly if the department considers a change necessary to meet or to not exceed the amount to be raised by the fee because of: ....

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Section 69-1-224 (4) reads:

> In the event the fee charged in one year is in excess of the amount actually expended in that year, the excess shall be deducted from the amount required to be raised by the fee for the next year before the determination required by subsection (1) is made. **Money remaining unspent at the close of a fiscal year shall be used to reduce the percentage calculated in 69-1-224 in the subsequent fiscal year.**

Section 69-1-224(4) has two procedures so that no excess money is maintained. One refers to the yearly revenue in excess of the expenditures being used to reduce the next year's rate and the second requires that if any money remains unspent in the account it is to be used to reduce the next year's rate. Revenue may not exceed expenditures and yet unspent funds may be available in the account.

This is illustrated in a simple example in Table 5. The $100 of revenue did not exceed the $105 of expenses. Yet there was a $5 unspent balance due to a beginning fund balance. Therefore, revenue collections were less than expenditures, as required because there was a beginning balance or "**money remaining unspent at the close of a fiscal year**" which by law is to be used to reduce the rate and thus make revenue collections for the coming year less than the appropriation.

TABLE 5
Illustration of Section 69-1-224(4)

	Fiscal XY	Fiscal XY
Beginning Balance	$ 10	$ 5
Revenue	100	103
Funds Available	$110	$108
Expenditures/Approp.	105	108
End Balance	$ 5	$ 0

Since the Consumer Counsel is in a special revenue account, there is no question that all the money collected in excess of that expended for the Consumer Counsel will be returned to the utility user through reduced rates for the future. It is also clear that if insufficient revenue is being collected, the rate is to be adjusted to meet the amount which is to be raised and the law allows the rate to be adjusted every quarter.

The same application of the law was applied to the Public Service Commission. At the end of fiscal 1992, it is projected that there will be $177,432 collected from utility customers in excess of the revenue needed since 1987. In compliance with the law, money remaining unspent in the account (general fund) for the Public Service Commission Program was used to reduce the rate calculated for fiscal 1993, the subsequent year. Table 6 shows the rate calculation for fiscal 1993.

TABLE 6
Public Service Commission Rate Calculation for Fiscal 1993

	Fiscal 1993
Fiscal 1993 Appropriation	$2,081,771
Funds Unspent FYE 1992	177,432
Revenue Required	$ 1,904,339
÷ Fiscal 1992 Gross Rev.	$791,975,227
Equals Fee Ratio	0.24%

STATUTE REFINEMENTS

There are three statute refinements which the Department of Revenue has identified which could be made. In the Department's view they are not critical unless the Legislative intent is to retain money collected in excess of that needed to fund the Public Service Commission from the public utility tax. The three areas of refinement are:

1. Clarifying that a yearly rate adjustment which provides sufficient funds to meet or not to exceed the revenue requirement will be sufficient unless extenuating circumstances require a quarterly adjustment.

2. Clarifying that if the fee charged in one year is insufficient to meet the revenue requirement, the insufficient amount shall be added to the amount required to be raised by the fee for the next year.

3. Clearly stating that the intent of the law is that over time the fees received are to equal the expenditures made; thus there is to be no general fund gain or loss from the the Public Utility Tax.

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BEFORE THE SUBCOMMITTEE ON NATURAL RESOURCES

Rep. "Berv" Kimberly (Chair)
Rep. Ed Grady
Rep. Jerry Nisbet

Sen. Esther Bengtson (Vice Chair)
Sen. Cecil Weeding
Sen. Gerry Devlin

STATEMENT OF DANNY OBERG, CHAIRMAN,
MONTANA PUBLIC SERVICE COMMISSION

Good afternoon Chairman Kimberly, members of the Committee, my name is Danny Oberg, I am Chairman of the Public Service Commission. I appreciate the opportunity to appear before you this afternoon to say a few words about the Commission budget and to answer any questions you might have.

I would like to emphasize at the outset that reducing the appropriation for the Commission will not help reduce the general fund deficit. As you know the Commission is funded through a fee on regulated utilities. The fee is calculated to recover an amount equal to the Commission budget as established by the legislature. The fee is collected by the Department of Revenue and is based on the gross revenues of the utilities. It is adjusted each year by the DOR to account for any over or under collections. While the fees collected are deposited in the general fund, and appropriations to the Commission are paid from the general fund, the Commission is not funded from general fund tax dollars. Consequently, reducing the appropriation for the Commission, whether through imposing vacancy savings, hiring freezes, or other reductions, does not help to reduce the general fund deficit. It was for this reason that the Commission was not included in the Governor's Executive Order No. 28-91 reducing general fund appropriations. And it is for this reason that the Commission asks this subcommittee and the legislature to leave the Commission budget as it was appropriated by the fifty-second regular session for the 1993 biennium.

Thank you very much. I would be happy to try to answer any questions.

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SUMMARY OF THE GOVERNORS BUDGET PROPOSAL
ELIMINATION OF THE PARKS COAL TAX TRUST ACCOUNT

-The proposal is found beginning on page 17 in the Governor's Executive Budget under the title of "Cash Management" and on page 14 in the LFA Budget Analysis.

-The Parks and Arts Coal Tax Trusts along with a general fund transfer of cash would establish what is called the "General Fund Stabilization Account". This new account would be used only if overall general fund revenues decline by more than 2 1/2%.

-The initial source of funds for the General Fund Stabilization Account are:

Parks Coal Trust	$12.4 Million
Arts Coal Trust	$ 6.5 Million
General Fund Transfer	$23.6 Million
Total	$42.5 million

-The Parks Coal Trust was first capped beginning July 1, 1986 and continuing until June 30, 1989. During this time, approximately $2.9 million was diverted to the general fund. Beginning July 1, 1989, the cap was removed for two years resulting in growth in the Parks trust of approximately $1.5 million.

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Under HB1008, passed by the 1991 Legislature, the Parks Trust was once again capped for a two year period beginning July 1, 1991. However, this time the money was not diverted to the general fund but into parks capital development to stabilize and save resources like Bannick, Fort Owens, etc.. The first year resulted in $557,000 being diverted from the trust to pay for these cultural and historic park improvements.

-The Parks also spends the interest earnings that accrue on the $12.4 million trust. In FY92 the trust earned an estimated $1.3 million.

-In order to keep the Parks program whole, Governor Stephens proposes increasing the amount of distributable coal tax dedicated to Parks from 3.33% to 12.67%. Using the Governor's revenue estimate for total coal tax collections, this would generate about $2.1 million each year for Parks.

-Pro's and Con's of the Governor's proposal

Con's

-Interest earnings on the trust is a guarantee in perpetuity. Under the Executive's proposal, the amount of dollars for parks is based upon the amount of coal tax collected. This is influenced by two factors: the amount of coal mined and the prevailing tax rate.

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-The Governor's proposal will likely require liquidating the investments in the trust in order to make cash available for the general fund. Overall the trust is returning 10%. The Investment Officer for the trust views this as one of the best returns in all of state government.

-There was previous internal discussion about using the trust for financing park infrastructure improvements. This option would be eliminated.

Pro's

-As compared to FY92, the short term effect of the Governor's proposal is more dollars for Parks.

Estimated $ under proposal	$2,100,000
Less:	
FY92 earnings on the Trust	$1,300,000
HB1008	$ 557,000
Net Increase	243,000

-Park's 12.67% share of the coal tax is locked or earmarked into law avoiding direct competition from other priorities in government.

ctanaly

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VISITOR REGISTER

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