

MINUTES OF THE MEETING OF THE APPROPRIATIONS SUB-COMMITTEE ON
ELECTED OFFICIALS AND HIGHWAYS

January 11, 1983

(Tape 5, Tape 6 and
Tape 7)

The Appropriations Sub-committee on Elected Officials and Highways met at 7:00 a.m. on January 11, 1983 in Room 437 with Chairman Quilici presiding. The following members were present:

Chairman Quilici	Senator Dover
Rep. Connelly	Senator Keating
Rep. Lory	Senator Stimatz
	Senator Van Valkenburg

Also present: Cliff Roessner, LFA, and JanDee May, OBPP.

Representing the Department of Justice: Mike Greely, Attorney General; Pat Driscoll, Bob Kuchenbrod, Susan Hansen, Mark Murphy and Dennis Moreen.

HEARINGS

DEPARTMENT OF JUSTICE

Legal Services Division

Attorney General Mike Greely addressed the committee. He said this division is actually the personal staff of the Attorney General. This division is broken down into three programs: (1) The Legal Services Division contains attorneys in the Attorney General's office who function as legal advisers to the state. (2) Agency Legal Services Bureau is a new bureau that was developed prior to the last legislative session which is essentially to have a law firm for the state of Montana. Many agencies were going outside for private counsel at great cost to the state and so they developed a core of specialized attorneys to handle cases when state agencies were unable to use their in-house legal counsel. (3) The County Prosecutors Services Bureau was initiated by Attorney General Greely when he first became Attorney General. The concept here was to take the Training Coordinator for the County Attorneys, who had served as an information officer to county attorneys about state-wide law enforcement problems, and turn this into an active prosecutors' bureau to assist the county attorneys, especially in the smaller counties, who had serious homicide or felony cases that they had to try. Most of these smaller counties have part-time county attorneys working by themselves without additional staff. This has proved to be an excellent program.

Attorney General Greely said he would like to call the committee's attention to the Indian Jurisdiction Budget. This program originated in the Governor's office and has been there since its origin. The Governor has requested that this be transferred to the Department of Justice. The Attorney General said he did not have any objection to that. He said this budget would be presented by the Governor's office.

In answer to a question by the Chairman, Attorney General Greely said that the supplemental of \$149,000 requested by the Governor's office would be for expenses incurred while this program was in the Governor's office and is an expense that is incurred because of two cases in litigation at the present time. He said he is arguing one of the cases and also one of his staff attorneys has assisted the Governor's office. The staff attorney's time is charged out to the Governor's office in the same manner that other agencies are charged for services of the Attorney General's staff. He said the money is needed to pursue these two cases on a supplemental basis.

Attorney General Greely introduced Pat Driscoll, Chief Assistant Attorney General, to the committee and said Mr. Driscoll would present the budget for the Legal Services Division. (69)

Mr. Driscoll: "The Legal Services Division Program is composed of attorneys, administrative and clerical personnel who assist the Attorney General in his dual capacity as Chief Legal Officer of the State and Director of the Department of Justice. Most of our work is trial and appellate litigation and legal opinion research and writing. The Assistant Attorneys General of the division represent the state in criminal appeals before the Montana Supreme Court, the U.S. Court of Appeals, and the U.S. Supreme Court. There is also considerable work in answering and arguing state post conviction and federal habeas corpus petitions. Division attorneys and paralegal personnel provide assistance to local governments in bond proceedings and other matters. The division provides enforcement and recovery actions under abandoned property statutes as well as recovery of escheated estates. These recoveries benefit the School Trust Fund."

The Legal Services Division, through a cooperative arrangement with the Motor Vehicles Division and the Highway Patrol Division, provides each of those divisions with legal counsel. Mr. Driscoll explained that these two divisions created two aggregate positions out of 1.4 FTE from Legal Services Division and a .6 FTE from the Highway Patrol Division. The .4 FTE from the Legal Services Division was transferred into the Motor Vehicles Division to provide legal services for this division. The reason for this aggregate approach is that they were then able to have one attorney who spends 40% of her time on Motor Vehicle matters and another attorney who spends 60% of his time on Highway Patrol matters. The remainder of each of those attorneys' time is spent on general legal services matters such as criminal appeals and opinion research. Mr. Driscoll said they felt this was the most cost effective way to provide a partial FTE attorney to each of those divisions. They also felt it was important to avoid over-specialization in the interests of recruitment and retention of attorneys for those two positions.

Mr. Driscoll told the committee that if the committee cuts the .4 FTE in Motor Vehicles Division, this whole cooperative arrangement would collapse. He said they feel very strongly that the

Motor Vehicles Division needs that legal counsel. They estimate that these services are costing the Motor Vehicles Division about \$12,000. The same number of hours would cost \$28,000 under a contracted services arrangement.

Mr. Driscoll said he would like to address the issues listed at the bottom of Exhibit 1. (135)

Mr. Driscoll said they are requesting that the committee restore an FTE in the Legal Services Division that was recommended to be cut by the LFA. Mr. Driscoll explained that the last Legislature eliminated the Anti-trust Program which had previously been funded by federal funds and transferred the duties of this program into the Legal Services Program. The transfer was made with the transfer of 2 FTE's, \$83,500 in salary and \$16,500 that was earmarked for costs in multi-district litigation, in which the state is a party. In order to absorb the duties of this program which the Legal Services Division inherited, they reorganized the division.

Mr. Driscoll explained that the elimination of this FTE by the LFA is based on two mistaken assumptions. One is that there were three positions dedicated to anti-trust; there are only two. Secondly, one of those positions has been used for other duties by the division. Actually what has happened is that the division, during the reorganization, changed position control numbers but they still have two positions that are dedicated to anti-trust enforcement matters. One attorney and one secretary are both used for anti-trust. Mr. Driscoll said that the anti-trust has required two positions in the past and they currently require these two positions. In addition, they need back-up from the word processing pool.

The Legal Services Division was also required to spend an additional \$18,000 over and above the \$100,000 that was appropriated for that specific function because of unanticipated costs in the gas price-fixing case which is currently pending in federal court in Great Falls. Those costs were primarily for economic analysis and computer services that were required to present the state's evidence in that case.

Mr. Driscoll requested that the committee restore the FTE which the LFA recommended to be deleted since this was based on inaccurate information.

Mr. Driscoll told the committee when the FTE level is not appropriately funded, the tendency, for professionals, is to run up a good deal of over-time which results in an excess of comp time. Thus, when an employee terminates he has to be paid the maximum amount of vacation time and this impacts an agency's budget enormously with these severance costs because they are an unfunded liability.

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Mr. Driscoll said the division requests the restoration of \$4,259 in FY84 and \$9,120 in FY85 in "Contracted Services". This is to provide Westlaw research services to the attorneys in the division. The Law Library Program has requested funding to provide the service. They would bill agencies on an hourly basis for the use of computerized legal research. Mr. Driscoll said the use of this service would allow them to absorb workload increases without requesting additional attorneys.

In answer to a question from the Chairman, Mr. Driscoll explained that Westlaw has developed programs and a data base which is a computerized equivalent of what an attorney does when he is trying to research the law. The principal advantage of Westlaw is that it is more accurate, faster and saves expensive attorney hours.

Mr. Driscoll also requested that the "Rent" figures be adjusted to reflect the Department of Administration's square footage rent costs when that is finally determined.

Mr. Driscoll asked that the Attorney General's vehicle be replaced based on their belief that the maintenance record of the car indicates that it is a "lemon". He said it would be less costly to replace the vehicle in FY84 than in FY85 as recommended by the LFA.

Mr. Driscoll said they would request that "case travel" be augmented by \$4,800 in FY84 and \$5,088 in FY85 and be line-itemed as it was last session. Mr. Driscoll cautioned against cutting this figure too low because they anticipate higher activity in the U. S. Supreme Court. They would anticipate an expense of \$10,000 which would require these additional amounts to the base in the "Travel" category.

Mr. Driscoll said the LFA has suggested that the committee might consider eliminating the anti-trust funding and function from the Attorney General's budget. He distributed Exhibit 2 to the committee which would explain what the anti-trust activity has been and the nature of the reorganization. Mr. Driscoll went through the 8-page report (Exhibit 2) and explained to the committee the activities included in that report.

Mr. Driscoll concluded that to require any law enforcement program to be self-supporting before it is allowed to exist seems to be ill advised in terms of public policy. Our interest should be to enforce and inform the public and the business community of what their obligations are and the protections they have from the anti-trust laws.

In answer to a question from Chairman Bardanouve of the full Appropriations Committee, Mr. Driscoll said they were already in the "first phase" of Westlaw. They are training people on the system as it exists in the Library Program. Chairman Bardanouve expressed concern about beginning a "first phase" as these programs

tend to escalate into millions of dollars further down the road.

Mr. Driscoll responded that he felt the Westlaw rates would be going down. He said Ms. Engels had indicated that the hourly rate would be going down rather than up.

In answer to a question from Senator Van Valkenburg who noted that the request for Westlaw is almost doubled in the second year of the biennium, Mr. Driscoll said that he would strongly encourage the use of the system because it is cost effective in terms of attorney time vs. the search time.

Senator Van Valkenburg asked if he would anticipate an FTE reduction. Mr. Driscoll said he felt they didn't have enough information to suggest that. He said that with the increase in the workload he would suggest that they will be able to avoid increasing the attorney FTE's or possibly lowering them.

In answer to a question from Senator Van Valkenburg, Mr. Driscoll said they started the program with 20.4 FTE's. Senator Van Valkenburg noted that during the biennium, .4 FTE was transferred to the Motor Vehicle Administrator's program. He asked Mr. Driscoll if that meant that the current level of FTE would therefore be 20. Mr. Driscoll said that was correct.

Senator Van Valkenburg asked Mr. Roessner how the LFA got the 3 FTE level. Mr. Roessner said the program was authorized by the House Appropriations Committee for 3 FTE. Subsequent to that there was a Conference Committee after Senate action which reduced the program to 2 FTE, which he missed during his analysis. Mr. Roessner said that he recalled that the two positions were an attorney position and an investigator position. Mr. Driscoll said that could be true; they used that position for a secretary position because they had no secretarial support. Mr. Roessner said he based his deletion of the FTE on the fact that the investigator position was reclassified as an attorney position. He felt the committee should examine that reclassification.

Senator Van Valkenburg asked Mr. Roessner if he concurred that they started the biennium with 20.4 FTE. Mr. Roessner said that he did.

In answer to a question from Senator Keating regarding "Travel", Mr. Driscoll and Mr. Roessner agreed that there was a reversion. Mr. Driscoll said that the line-itemed amount for last year was \$12,000 and they were requesting \$10,000 this year. This would be a \$4,800 increase over the \$5,288 that is currently in there.

In answer to a question from Rep. Lory, Mr. Driscoll said that they asked for \$4,800 and that \$10,000 of the travel figure be earmarked for "case-related travel".

County Prosecutor Services

Marc Racicot, Bureau Chief of County Prosecutor Services,
was introduced to the committee.

Attorney General Greely pointed out to the committee that Mr. Racicot has prosecuted 30 cases. He is called in on the tougher cases and he has only lost two of these cases. He felt this was an impressive record and that most county attorneys do not have this kind of record. (575)

Mr. Racicot distributed the budget sheet to the committee for this program. (Exhibit 3) He said the only recommendation he had to make to the committee regarding the LFA's budget is to decrease "Personal Services" in FY84 by \$4,900. They will not need this amount because this amount will be paid out to the injured employee as severance cost in the current biennium.

He said he understood that the "Personal Services" difference between the OBPP and the LFA will be worked out and that this \$4,900 could be deleted from FY84.

Mr. Racicot said there was a suggestion by the LFA that the travel associated with their operation be assumed by the counties. He said this program began in 1977; it was expanded from the remnant of what was known as the County Attorney Training Coordinator which was begun with a federal grant. This included two attorneys and one secretary which is currently the way it operates. During the last five and a half years they have essentially responded to two main functions: a prosecutor training function and a special prosecution function. They arrange for all the training of county attorney prosecutors throughout the State of Montana and also coordinate their legislative and liaison function with state government. In addition to that they perform special prosecution duties whenever it is requested, either because it is a massive case or there is a conflict of interest. Prior to this arrangement the counties had to hire outside counsel at a considerable expense. This program charged, in 1977, \$25 and this was raised to \$30 by the last Legislature for each hour of personal service including travel time.

Mr. Racicot said this shows that the travel costs being assumed by the counties would be a mistake. In most cases these are part-time attorneys in a sparsely populated area with small budgets. He felt this would be too much of a burden on these smaller counties.

Mr. Racicot said in 1982 they collected approximately \$10,000 in revenues. In FY83 they have billed out, at this point, about \$21,500. Mr. Racicot said, as discussed last session, the billing procedure and the case flow are somewhat erratic. He told the committee that they don't bill until the case is completed and this reflects in a carry-over from one year to the next. Over a

three-year period they raised about \$75,000. However, one year they billed \$13,000 and another year \$38,000. (Tape 5, Side B)

In answer to a question from the Chairman, Mr. Racicot told the committee about some specific cases which his office has handled.

In answer to a question from Chairman Bardanouve, Mr. Racicot said the money collected from these fees goes into the general fund.

In answer to a question from Chairman Bardanouve, Mr. Racicot said his political campaign was handled on his own time, on vacation time.

In answer to a question from Chairman Quilici, Mr. Racicot said the three FTE's are two attorneys and one secretary.

In answer to a question from Senator Van Valkenburg regarding the amount of the hourly fee charged, Mr. Racicot said they would charge whatever is decided by the committee. He said House Bill 10 will formalize their function. In that legislation it says that they "shall charge a reasonable hourly fee set by the department". There were no other questions from the committee.

Agency Legal Services (44)

Denny Moreen, Chief of Agency Legal Services Bureau, distributed to the committee the worksheets for his bureau. (Exhibit 4) Mr. Moreen explained that his bureau provides legal services to other agencies of state government. There was an interim study in 1978 of legal services which indicated that large amounts of money were being spent on private legal counsel by state agencies. There was no accountability for that but there was an estimate that on a yearly basis it was more than \$3 million. As a result of that study, this program was created.

Mr. Moreen said they provide legal services on a contracted basis to state agencies, just as if they were contracting with private attorneys. They are presently charged \$35 an hour for attorney time. This program has five attorneys and two secretaries. He said this program receives no general fund money. They survive on the income they produce by billing their attorneys' hourly time to the agencies.

Mr. Moreen said they have provided, since the program's inception, legal services to every agency in state government. He told the committee of the various kinds of legal assistance they have provided for the agencies. Mr. Moreen said, since 1980 when the program started, they feel the program has been generally successful and their clients are satisfied with the program and its services.

Mr. Moreen said he would like to discuss with the committee the adjustments to the budget which are listed at the bottom of the

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page of Exhibit 4. (85)

Mr. Moreen said it was his understanding that the OBPP and the LFA would get together to discuss the differences in "Personal Services".

Mr. Moreen said he felt that regarding "vacancy savings" this would be a misnomer for this program which doesn't have general fund money but is self-sustaining. He said if they have a vacancy there is no savings produced. This means they are short an attorney who is not billing time. This would mean a vacancy loss instead of a vacancy saving. He told the committee if they do not have an attorney to service the agency that means the agency has to hire private counsel which is generally at higher cost.

Mr. Moreen said the LFA budget reflects a 7% vacancy savings. He said that, in fact, when a senior attorney was going to retire, he was transferred into the Legal Services Division because he had a large amount of comp time and vacation time. They also had high operating costs at this time and their budget was really tight. Mr. Moreen said that this didn't create a vacancy savings it actually created a vacancy loss. Mr. Moreen said if a vacancy savings is forced upon them at this time it is going to compound the problem with operating expenses and it will reduce their spending authority. He said for their program vacancy savings doesn't seem applicable or logical because they don't receive general fund money.

Mr. Moreen said that the LFA is apparently reflecting the vacancy savings under "Contracted Services" with over \$8,000 deleted in each year. He said they are saving money for the State of Montana by providing legal services at less expense and they are providing a record of the cost of legal services for agencies which has never been done before. He said if they don't have the spending authority and they have to contract for legal services for particular litigation that would mean the agency would have to cover the cost. He said the purpose of the spending authority in "Contracted Services" in their program is so they can hire people like expert witnesses in the litigation and cover other extraordinary litigation expenses.

Mr. Moreen said the other category listed on Exhibit 4 at the bottom of the page is "Rent". He said it was his understanding that this would be adjusted to reflect the actual cost for space allocation.

Mr. Moreen said he would like to address the Budget Modification (Page 2 of Exhibit 4) which is a request for an increase in staff of two additional attorneys. He said they are not requesting additional clerical staff because they feel with the present word processing system in the Attorney General's office they can absorb the additional work. He said the reason for the request for additional attorneys is to save the state money. He said the agencies

which hire their services pay less than if they had to hire private attorneys. The agencies currently pay \$35 for the services of the Agency Legal Services Division. Mr. Moreen said that the private attorneys' fees run from \$50 to \$100 per hour. He said they are presently turning down work from agencies because of their workload.

Mr. Moreen said that the LFA had documentation that this bureau has worked some 400 hours of overtime. He explained that this figure was extrapolated from the amount they billed for FY82. He said they have gone through the time sheets and his staff has accumulated 732 hours of overtime in FY82.

Mr. Moreen told the committee that this bureau is having difficulty from month to month because there is a lag time between the billing time and the income that is paid to them by the agencies. He said this demonstrates that they are not over-charging the agencies. They have built up no reserves of funds. He said they do have trouble paying the bills. A possible solution might be to put some general fund reserve in the base. Provision could be made that any reserves left at the end of the fiscal year could revert back into the general fund.

Mr. Moreen said that with the additional two attorneys they could get their workload down to a manageable level and provide as full services as possible to the agencies.

Mr. Moreen said he would like to discuss the \$35 hourly rate charged by his staff. They need some flexibility to meet costs. Any excess that might be built up would eventually revert to the general fund. He said they can't be a discount warehouse; they have to be able to provide good legal services. This is the basis of their program. They cannot do major cases with junior attorneys. He felt the \$35 ceiling is going to mean that they will someday have to cut back and not have senior attorneys. This would cut into the fidelity of the program. Mr. Moreen said that since they don't have general funds he doesn't understand what logical purpose the ceiling would have.

In answer to questions from Senator Van Valkenburg, Mr. Moreen said he felt most agencies came to his bureau first before seeking private counsel.

The Attorney General asked Mr. Moreen to explain to the committee that they have a Screening Committee. Mr. Moreen said there is an Executive Order from the Governor's office that requires all executive branch agencies to present their proposals for hiring private counsel to a Legal Services Review Committee. This committee is made up of the Budget Director, the attorney for the Governor, and a representative of the Attorney General (Mr. Moreen is that representative). All requests for hiring private counsel go through that committee before they are approved. Attorney General Greely added that this is designed to control outside contracted services.

Rep. Lory pointed out to the committee that without general fund money in this program, there is really no cost to the state if they have 5 attorneys or 7 attorneys because they are self-supporting. Mr. Moreen replied that if they don't have the work they don't keep the attorneys.

In answer to a question from Rep. Lory, Mr. Kuchenbrod said that any money left over in an earmarked account is carried over to the next year as a cash balance.

In answer to a question from Rep. Lory, Mr. Moreen said he thought the hourly fee should be flexible so the department could change the fee if they felt it was necessary.

Attorney General Greely told the committee that this problem was two-fold: not having the flexibility to charge the amount needed to cover the costs and still staying below the outside counsel cost. There is no profit motive involved here. He said he couldn't foresee in the next biennium that they would raise their fees to \$50 which is outside hourly rate for junior counsel in downtown Helena.

Discussion by the committee of agency use of this bureau and the screening committee's functions. Senator Keating expressed concern of possible over-use of this bureau by agencies who really don't need to use this attorney time. Mr. Moreen said they have, in the screening committee, turned down many requests for attorneys by agencies who felt they needed additional legal services. Senator Keating also noted that these revolving funds come out of general fund someplace and even though this bureau does not have general fund money, the agencies who support this bureau have general fund money. His concern was that the state pays for it regardless of what fund it comes out of and he questioned the wisdom of adding more attorneys that may generate more activity by the agencies.

Mr. Moreen asked to respond. He said the reason they requested the additional two attorneys is because they felt the demand has been there. He said they have tried to service the agencies the best way they could but that they could not do it with five attorneys. He said if you don't want the program to expand the program will not expand. The question is, if those services the agencies are demanding are justified, how are they going to be provided. If it is provided by outside counsel it will cost more than if it is provided by this program.

Senator Keating asked Mr. Moreen if there were many instances where his agency would not take the job because his staff didn't have the expertise. Mr. Moreen said he didn't have any figures on that but on a regular basis that would be true.

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As a practical matter, Mr. Moreen said that in the last three years the requests for approval of outside legal services that have gone through the steering committee has gone to a trickle. They have gone two months without such a request. When they first began they had a meeting every week.

Senator Keating noted that there would be some cases where they would need certain expertise of outside counsel.

In answer to a question from the Chairman regarding the legal expenses of the Department of Revenue, Mr. Moreen said that other expenses of litigation outside his bureau's lawyer time was being paid out of a specific appropriation that the Department of Revenue had for this litigation.

In answer to a question from Senator Keating, Mr. Moreen gave several examples of the types of cases his staff is responsible to defend.

(Tape 6, Side A)

In answer to a question from Senator Stimatz, Mr. Moreen said he would furnish the Senator with a list of cases and billable hours showing which agencies the bureau is representing.

In answer to a question from Rep. Connelly, Mr. Moreen gave several examples of the types of cases that the agency attorneys would not have the expertise to handel.

Rep. Lory said he was not opposed to authorizing two more attorneys because if they don't have the work they won't be able to pay for the attorneys' salaries.

Attorney General Greely agreed and said if the attorneys are authorized and the work dries up, they will not hire additional attorneys.

Senator Van Valkenburg noted that the Attorney General already has the authority to put in a budget amendment and hire the attorneys. He could have done that in the last biennium and he could do that after the Legislature is adjourned. Mr. Greely said that was correct but that he preferred to have the authorization through the Legislature. He said this need did not just develop all at once and that they recognized they needed additional attorneys. However, since it was close to the time the Legislature would meet, they had decided to wait and approach the Legislature with this request.

Chairman Bardanouve, of the full Appropriations Committee, said he appreciated the fact that the Attorney General has taken this position and said it was commendable position.

Mr. Moreen said it was their position since the program began they would not expand the program without the approval of this

committee. In fact, the Legal Services Review Committee has suggested to him on several occasions that they should put in a budget amendment and hire another attorney. He said their position has been that they wanted to present this to the committee.

The committee recessed briefly. (103)

WORK SESSION

DEPARTMENT OF JUSTICE

Motor Vehicle Administration (130) (Exhibit 5)

The committee reconvened at 9:00 a.m.

Mr. Roessner told the committee one of the issues in this budget is the .9 FTE consisting of a .5 FTE secretary and a .4 FTE attorney. At the last session the Legislature gave this program the .5 FTE secretary to help administer the transfer of the hearings for car dealers from Business Regulations to Motor Vehicle. This transfer didn't take place until after September of 1981 because of the law that requires that bills become effective on October 30 unless otherwise stated. Even after that transfer there was very little activity in the Motor Vehicle Division for that function and the secretary's salary was used to fund the .4 FTE attorney that was transferred along with the functions of legal services for that division. The secretary was added in March of 1982 and is being used primarily as a secretary for this division. The division has said that the attorney is doing more than acting as a hearings officer; as a matter of fact there have been no hearings conducted. There was an agreement between Mr. Majerus and the Attorney General's Legal Services Division that when the Motor Vehicle Administration split off from the Highway Patrol, he still needed the services of a lawyer. The .4 attorney was to compensate for his loss of legal services that he had enjoyed with the Highway Patrol.

In answer to a question from Senator Van Valkenburg, Mr. Roessner said that documentation in the Budget Office's file indicates that \$5,000 of that was line-itemed for hearing fees within the Department of Justice for the transfer of the program from the Department of Commerce into Motor Vehicles. That \$5,000 was to be used to contract for a hearings officer. The department put through a budget amendment moving that "Contracted Services" into "Personal Services" and the budget amendment document indicated that this attorney was to be used for the hearings officer. It didn't indicate that the attorney was to be used for any other function. Based on that documentation Mr. Roessner deleted that position.

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Senator Van Valkenburg noted that the .5 secretary was hired to assist with the hearings and there have been no hearings. This secretary was then used for other duties in the administrator's office.

Pat Driscoll, Chief Assistant Attorney General, told the committee that the demand for secretarial services was high and the administrator was picking up any secretarial help he could find in the various programs. Discussion by the committee.

In answer to a question from Mr. Roessner, Mr. Kuchenbrod said the \$5,000 for a hearings officer is under "Contracted Services". The Chairman noted that there is still \$5,000 difference.

Senator Van Valkenburg said he felt they should have the .4 attorney because that had been in the current level budget in the Legal Services Program before this budget was put together. He said he was concerned about the half-time secretary as that appears to be an addition of an FTE but that he felt since the reorganization they were utilizing that position.

Senator Van Valkenburg made a MOTION that the committee approve the FTE level for this agency at 2.9 which includes both the .4 attorney and the .5 secretary and the "Personal Services" portion of the budget in the Motor Vehicle Administration.

Discussion. Mr. Driscoll said that for the same number of attorney hours, if they contracted through "Contracted Services", it would cost \$28,000 and under this arrangement it will cost approximately \$12,000. They felt this was more cost effective. Discussion by the committee.

Mr. Majerus told the committee that he assumes that "Operating Costs" of \$10,800 does not include the \$5,000. In 1983 that \$5,000 is included in that amount and it is a line-itemed amount. If this is not used, it reverts.

JanDee May told the committee that in looking at a comparison between 1982 and 1983 it appears that there is approximately \$8,700 that is presently appropriated for "Contracted Services", \$5,000 of which is the hearings officer and the other \$3,700 she didn't know what that was for. There is no hearings officer request for this biennium.

Mr. Majerus said that there was no need for a hearings officer at this time and if there is a need for a hearings officer they would request that the .4 attorney do that work.

Ms. May said that in programs where the LFA and Budget Office have identical FTE's they are consistently off on salaries and benefits. She asked that the committee allow the two offices to work out these differences. If the committee would work out the FTE's the two offices would come to a common agreement on

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salary and benefits. Rather than take a salary amount represented on the sheets, the committee could allow them to work out actual salaries and actual benefits. The Chairman agreed.

Question being called for the motion carried.

Senator Himsl asked Ms. May why there is such a difference in "Personal Services". He noted that the sub-committees will be having difficulty when they have two different tables of personnel costs.

Ms. May said the LFA allowed upgrades to a certain extent. She said they have people in the office trying to work out these problems. She said there are a variety of bugs that are throwing these two numbers off. They are working hard to correct it.

Senator Himsl replied that the sub-committees are going to have real difficulty in trying to work with this situation. Ms. May said it will take a lot of work. Senator Himsl said he felt the sub-committees should not delegate to sub-agencies the responsibility of dollar amounts and he noted that the personnel costs are the big item through all the budgets. Ms. May said that at any time the budget office can provide detailed information about any position. She said that they are confident in their numbers and at this time they are trying to identify where these differences are.

Senator Van Valkenburg said that the sub-committee has to delegate some of this to the LFA and to the Budget Office. He felt that the committee's job is essentially to set policy and that the sub-committee will be here forever if they concern themselves with every dollar amount. Senator Van Valkenburg said the committee has to deal with millions of dollars and that these two offices should be able to work out what he feels are minor differences.

Senator Keating said that when we get involved with multiple FTE's the committee should have a breakdown while they are going through the budgets.

Senator Dover asked Mr. Roessner if they could get these figures straightened out before it comes to the committee.

Discussion by the committee.

Senator Himsl reiterated his position on getting this information straightened out before the committees have to work on the "Personal Services" portions of the budget.

Senator Dover felt this should be all worked out before the committee has to address the "Personal Services" portion of the budgets.

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Rep. Lory said he felt the budgets were received late and that they can work this out.

The Chairman noted that the LFA office and the Budget Office are both aware of this problem and have been working on it.

(Tape 6, Side B)

Discussion.

Senator Van Valkenburg made a MOTION that the committee adopt the "Operating Expenses" set forth in the Executive Budget, \$95,100 in the first year of the biennium and the "Equipment" level and the corresponding figures in the second year of the biennium.

JanDee May told the committee that the "Rent" figures in all the budgets would have to be changed to reflect the committee's decision (when it is made) on the square footage. Senator Van Valkenburg said that, as the committee did last session, he felt that when the Department of Administration's budget is heard and the square footage is decided, then the committee would make a motion to cover all the rent categories in all the budgets and the change would be made at that time.

The motion was seconded by Senator Keating. Discussion.
Motion carried.

Discussion.

Drivers Licensing Program (Exhibit 6)

Ms. May explained that the .5 position which appears in the Motor Vehicle Administration budget created a .5 vacancy in the Drivers Licensing Program. There is also an additional vacancy in clerical positions of .5 FTE. There is actually a transfer of .5 FTE here and the other .5 is due to vacancies.

Senator Dover made a MOTION that the committee accept the 80.3 FTE level of the Executive budget. Discussion.

Mr. Roessner explained that the LFA recognized that there was a vacancy savings in this program and instead of deleting that FTE they recommended a 3.5% vacancy savings be applied to the program.

Senator Van Valkenburg told the committee that the LFA's office has provided an FTE level which they attempt to determine is current level and then determine a vacancy savings rate. He said it is extremely important for the entire budget process because the Governor's budget proposes to fund employee pay raises that may be allowed by this Legislature, through the course of the biennium, through vacancy savings and not through

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any appropriation that the Legislature makes. The only way he can see that this will work is if the sub-committees attempt to determine what a vacancy savings rate is for an agency and leave that money in the budget in "Personal Services" so that money will be available there. In this instance, we need to leave the FTE level at 81.3 because this figure recognizes the vacancy savings rate that the LFA's office has identified if we're going to provide even a 3.5% pay increase for employees.

After some discussion Ms. May explained that if the committee took a .5 FTE out of this budget you would still have the 3.5% vacancy savings available.

Rep. Lory made a SUBSTITUTE MOTION that the committee accept the FTE level of 80.8 for the Drivers Licensing Program. Senator Van Valkenburg seconded the motion.

Discussion of the vacancy savings rate for different agencies and the methods for each agency or each department. It was noted by members of the committee that there will be a wide range of disparity in applying a 3.5% vacancy savings to a small division as compared with a large department.

Discussion. The Substitute Motion carried.

(Senator Dover assumed the chair.)

Discussion of "Operating Expenses".

Senator Van Valkenburg made a MOTION that the committee approve the LFA level of expenditure for "Operating Expenses" in both years of the biennium with the addition of \$3,042 in FY84 and \$3,217 in FY85 in the category of "Supplies and Materials". Rep. Lory seconded the motion. Discussion. Motion carried.

Discussion of "Equipment" category. The Executive budget calls for six vehicles, the LFA's recommendation is 4 and the agency request is for 9. Discussion by the committee.

Senator Van Valkenburg made a MOTION that the committee approve the Executive request with respect to "Equipment" of \$32,470 in the first year and \$34,060 in the second year. (This would be three vehicles for each year of the biennium.) Discussion. Motion carried.

Senator Van Valkenburg said there were significant differences between the LFA and the Executive budget regarding the funding of the program. Discussion.

Senator Van Valkenburg made a MOTION that, at this point, the committee adopt the LFA funding split between General Fund and Other Funds taking into account our earlier action with respect to "Personal Services", "Operating Expenses" and "Equipment".

Discussion. Senator Van Valkenburg told the committee that there is a substantial fund balance now in the Motor Vehicle Account. Present law says that at the end of the biennium that will revert to the General Fund. The Executive is proposing a bill that would change that law and allow it to carry over into the next biennium but since that bill has not been enacted into law yet it is more appropriate that we appropriate the money out of general fund. Motion carried.

Vehicle Registration (Exhibit 7)

Rep. Lory made a MOTION that the committee approve 70 FTE's in Vehicle Registration. Senator Van Valkenburg seconded the motion. Motion carried.

Rep. Lory made a MOTION that the committee approve the LFA budget plus \$20,000 in FY84 and \$23,200 in FY85 under "Contracted Services". Senator Van Valkenburg seconded the motion. Motion carried.

Rep. Lory noted that under "Rent" that money is for the Series One which is under contract.

Mr. Majerus explained that the Series One was the computer that allows the host to communicate with the counties. Discussion.

Rep. Lory made a MOTION that the committee accept the LFA budget plus \$46,068 each year on "Rent" plus \$68,070 for both years on "Repair and Maintenance". Senator Keating seconded the motion. Motion carried.

(Chairman Quillici resumed the chair.)

Discussion of "Equipment". There are two microfilm readers which are not in the Governor's budget; there is also a van included. Discussion.

Senator Dover made a MOTION that the committee approve the \$8,000 for the van. Rep. Lory seconded the motion.

Discussion. The committee discussed the purposes for which the van would be used. Senator Keating noted that if the data processing equipment which the van hauls would have to be protected, then they would need a van as opposed to a pickup. Mr. Majerus also said that the weight which they haul around is quite heavy. Mr. Majerus corrected his testimony of yesterday in which he said this was a 3/4 ton van, it is a ton van. There had been some discussion of replacing this van with a station wagon from the Attorney General's office and the committee discussed the possibilities of different vehicles to be used under this division.
(Tape 7, Side A)

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Mr. Majerus explained that the only vehicle they have is the van. It was the recommendation of the Budget Office that they replace this with the Attorney General's station wagon, which the Attorney General refers to as "a lemon", and use it to replace the van. Discussion by the committee. The van has 80,000 miles on it. Mr. Roessner noted that in the LFA budget they allocated \$7,770 for the van which is the price figure supplied by the Budget Office. The committee expressed confusion as to what is in this budget and what is not.

Mr. Roessner explained to the committee that in the LFA budget they have \$7,770 for the van, \$3,600 for the microfiche. They did not include \$25,990 in "Equipment" which is for the purchase agreement for the Series One. This was on the revised request which the LFA did not receive. Discussion.

Senator Dover made a SUBSTITUTE MOTION that the committee accept the Executive Budget of \$27,790 plus \$7,770 for the vehicle in the first year and \$27,790 for the second year. Senator Keating seconded the motion.

Discussion of microfiche readers and their usage. Rep. Lory suggested that the agency be given one reader the first year and two readers the second year.

Senator Dover AMENDED his SUBSTITUTE MOTION to add \$1,800 for the readers in the second year.

Question. The Amended Substitute Motion carried.

Senator Dover made a MOTION that the committee accept the total Vehicle Registration Budget as amended. Question. Motion carried.

Senator Dover, to set the record straight, made a MOTION that the Drivers Licensing Program budget and the Motor Vehicle Administration budget be approved as amended. Motion carried.

County Prosecutors (Exhibit 8)

Rep. Lory made a MOTION that the committee approve the Executive Budget. Motion seconded by Senator Van Valkenburg. Discussion. Motion carried.

Agency Legal Services (Exhibit 4)

The committee discussed the possibility of getting information from Legal Services as to what agencies are requesting services and the amount of time and money which is spent by each agency for legal services. Mr. Roessner said this would have to be done by pulling each agency's budget. Senator Keating expressed concern about getting information on the demand for the services of these attorneys since they are requesting two more attorneys. Rep. Lory noted that the agencies have to pay for the services out of their budgets and since there is a Screening Committee to

look at these requests, he didn't feel the agencies would be trying cases that would not be cost effective to the agencies. Senator Keating also brought up the fact that a lot of these cases are for the defense of the agencies.

Rep. Lory made a MOTION that the committee approve the 9 FTE's. Senator Dover seconded the motion.

Discussion. The Chairman noted that this included the 7 FTE's in the original request and the 2 FTE's in the Modified.

Discussion.

Senator Van Valkenburg said that one of the advantages of the committee taking this action now is that when the other sub-committees, including ourselves, know that Agency Legal Services is likely to have additional personnel to handle their legal problems, maybe "Contracted Services" can be cut in other areas where they have been utilizing outside counsel. These services should be available at a lower cost than outside counsel.

Question being called for, the Motion carried. Senator Keating voted "no".

Senator Van Valkenburg made a MOTION that the committee approve the agency request for "Operating Expenses" in this program.

Senator Van Valkenburg explained his motion. He said that this is a different type of operation than a general fund operation. He said that the LFA's recommendation does not recognize the need to have additional "Operating Expenses" with respect to expert witnesses and case-related expenses. He said it is the ability to hire these people that generates the demand for the service which pays for itself. He said it would be more appropriate here to go with the agency request for "Operating Expenses" because this is a revolving fund operation. Rep. Lory seconded the motion. Senator Van Valkenburg said his motion would include the budget modification as part of the agency request.

Senator Van Valkenburg further CLARIFIED his MOTION by saying that his motion would include adding the additional "Operating Expenses" listed on the modification.

Discussion.

In response to Senator Keating's concern that the agency could use money out of this fund for expert witnesses in other categories of their budget, Senator Van Valkenburg said that this agency has demonstrated good management in the past few years and he felt they should have the flexibility to use their management expertise and not tie their hands. He noted that the committee cannot know the agency's precise needs six months from now. He also said the agency should be rewarded for their good management by providing them with some flexibility.

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The Chairman asked Mr. Driscoll what he would do if there wasn't the demand for these additional FTE's. Mr. Driscoll replied that they wouldn't keep them on the payroll because if there wasn't the demand, they wouldn't have the money to pay them. He also said they have been aware of the cash flow problem in this regard and have hired only when the workload indicated the need.

In answer to a question from Senator Dover, Mr. Driscoll said that these figures were directly related to the number of attorney hours by adding these attorneys. The \$35 figure is quite tight at this point. In answer to a question from Senator Dover, Mr. Driscoll said that adding the two attorneys should keep the cost of the fees down because they have fixed expenses. He requested that the agency be given the authority to set the figure. He said that in the past the committee has had language to put a ceiling on the fee. He felt the agency should be able to set the figure commensurate with the real costs. He said they would keep the fee as low as possible while still keeping it high enough to cover the costs.

Rep. Lory said he felt there was a self-governing aspect to setting the fee.

Senator Van Valkenburg said that the real advantage of putting a ceiling on the hourly rate they can charge and try to keep this as close as possible is that it forces them to maximize their billable hours. He said that 5.5 billable hours per day is good and that 6 billable hours per day would probably be the maximum they could attain.

The Chairman indicated that he felt there should be a limit on the fees. Discussion.

In answer to a question from Senator Keating about why there is such a difference in the budgets under "Contracted Services" Mr. Roessner told the committee that in the write-up of the LFA it shows that the agency had vacancy savings. They used vacancy savings to fund "Operating Expenses". It is the LFA's policy that they not allow the use of "Personal Services" funds to incur expenses within the "Operating Expenses" category.

Discussion. Chairman Bardanoue of the full Appropriations Committee expressed concern with fund balances that get built up and felt that the committee should consider putting a lid on the fees. He said he was not concerned about this particular agency but he expressed concern about these types of funds and the fact that there is not a ceiling on the fees. Chairman Quilici agreed.

Question being called for, the motion carried. Senator Keating voted "no".

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After some discussion, Senator Van Valkenburg said he would like to tell the agency that the committee would prefer to set the maximum amount that they are going to charge and have the agency make a request of what that maximum amount should be to give the committee some documentation as to what this fee should be. Discussion.

Rep. Lory made a MOTION that the committee request the agency to come in with a recommendation on the fee setting. Seconded by Senator Dover.

Discussion. (Tape 7, Side B) Mr. Driscoll said they would give the committee a ball-park figure. Discussion. Motion carried.

Senator Dover made a MOTION that the committee accept the Agency Legal Services budget as amended. Motion carried.

It was noted that the matter of setting the fees will be handled outside the budget as a separate issue.

The meeting adjourned at 11:15 a.m.


Joe Quilici, Chairman

dm

DEPARTMENT OF JUSTICE
PROGRAM: Legal Services

CURRENT LEVEL SERVICES

1984 REQUEST

1985 REQUEST

	1984 REQUEST		1985 REQUEST		LFA-Ex Diff.
	Agency Request	Exec. Budget	Agency Request	Exec. Budget	
F.T.E.	20	20	19	20	(1)
Personal Services					
Salaries	547,664	547,664	547,195	547,195	
Employee Ben.	94,668	94,668	95,534	95,534	
Subtotal	<u>642,332</u>	<u>642,332</u>	<u>642,729</u>	<u>642,729</u>	613,694 (29,035)
Operating Expenses					
Contracted Svs.	58,162	51,123	59,297	47,275	50,175 2,900
Supplies & Mat.	25,445	23,547	27,059	25,043	27,042 1,999
Communications	17,764	17,597	20,557	20,380	20,334 (46)
Travel ^{7,480}	15,988	15,988	16,602	16,602	16,656 54
Rent	42,528	41,141	45,080	44,860	42,004 (2,856)
Utilities	-	-	-	-	-
Rep. & Maint.	2,789	1,442	2,957	1,528	2,948 1,420
Other Exp.	6,346	6,346	6,727	6,727	6,717 (10)
Subtotal	<u>169,022</u>	<u>157,184</u>	<u>178,279</u>	<u>162,415</u>	<u>165,876</u> 3,461
Equipment	13,444	13,444	3,444	3,444	11,464 8,020
Total Program	824,798	812,960	779,027	808,588	791,034 (17,544)
Funding					
General Fund	805,538	794,683	814,314	789,479	770,342 (19,137)
Escheated Est.	19,260	18,277	19,567	19,109	20,692 1,583
TOTAL	824,798	812,960	833,881	808,588	791,034 (17,544)

ADJUSTMENTS TO LFA BUDGET RECOMMENDATIONS:

1. FTE - Restore FTE. Legal Services program was reorganized to perform antitrust function which still requires 2 FTE.
2. Contracted Services - Increase LFA FY84 budget \$4,259. Increase LFA FY85 budget \$9,120. Westlaw charges. Opposing counsel has this services in major cases.
3. Rent - The appropriation for rent must be adjusted to meet Department of Administration's charges for space.
4. Equipment - Increase LFA FY84 budget \$10,000 to purchase replacement vehicle. Decrease LFA FY85 budget \$8,020. Vehicle should be replaced because of high maintenance costs.
5. Travel - Increase LFA FY84 budget \$4,800. Increase LFA FY85 budget \$5,088. Line item for case related travel.

Exhibit 1, 1-11-83

1981-1982
BIENNIAL REPORT OF THE
ANTITRUST/WHITE COLLAR CRIME UNIT
LEGAL SERVICES DIVISION
MONTANA DEPARTMENT OF JUSTICE

By

JEROME J. CATE
Special Assistant Attorney General

MIKE GREELY
Attorney General
State of Montana

INTRODUCTION

The Antitrust/White Collar Crime Unit (AWCCU) of the Legal Services Division, Montana Department of Justice, is the commercial crime enforcement arm of the Department of Justice. It is responsible for enforcement of state and federal laws against bid rigging, price fixing, kick-backs, bribery, restraint of trade and similar provisions of law designed to promote competition of free enterprise in business and prevent corruption. More specifically, it is charged with the responsibility of enforcing the Montana Unfair Trade Practices and Consumer Protection Act in Title 30, Montana Code Annotated, certain criminal provisions in the Montana Criminal Code, and federal antitrust laws contained under Title 15 of the United States Code including the Sherman Act, the Clayton Act, and the Hart-Scott-Rodino Antitrust Improvements Act. It also represents the State of Montana in civil litigation in antitrust collection actions in federal district courts across the country.

The unit was created in 1981 by the Montana Legislature. It superseded the Antitrust Enforcement Bureau created by Attorney General Mike Greely in June, 1978. Prior to that date Montana had no white collar crime or antitrust enforcement unit.

Prior to 1981, the Antitrust Bureau consisted of six FTE's: two attorneys, one investigator, a full-time

secretary and two interns. The 1981 Legislature reduced the authorized FTE's to two, and since that time the AWCCU has consisted of one attorney and a part-time secretary. In addition to reducing the authorized staff, the 1981 Legislature declined to authorize the requested budget for operations of the bureau and line-itemed a significant amount of the monies it did appropriate for payment of costs previously incurred and assessed in ongoing multidistrict cases. As a consequence of those legislative actions, the AWCCU has had neither the staff nor the funds to pursue all the cases coming to its attention, but did continue its ongoing litigation.

From 1978 through 1981 the Bureau and Unit utilized interns from the graduate school of economics at the University of Montana in Missoula, and Carroll College in Helena. In 1982 this program was abandoned due to lack of funds, which curtailed the activities of the unit.

FEDERAL MULTIDISTRICT TRIPLE DAMAGE ACTIONS

The State of Montana was represented during 1981 and 1982 by the AWCCU in a number of federal multidistrict antitrust cases involving the cement, fertilizer, fine paper, chicken and drug industries. A substantial portion of the AWCCU attorney's time during this period was spent in keeping the State of Montana current in these voluminous cases. The Drug and Chicken

cases were settled with distribution being made. The Fine Paper Case was partially settled and partially tried. The trial portion is presently on appeal to the U.S. Supreme Court. The Fertilizer Case is ongoing with a trial date of September 1983. The Cement Case is also ongoing, but is presently without a judge. Some \$32 million in settlements have been made in that case to date, which constitutes about 10% of the market. Montana will share in those and any additional settlements.

LOCAL FEDERAL ANTITRUST ACTIONS

In March of 1979, the State of Montana charged 13 retail gasoline dealers in Missoula, Montana, with violations of the Sherman Act consisting of fixing gasoline prices in Missoula over an extended period. Twelve of the defendants settled and one defendant Ashland Oil Company d/b/a SuperAmerica, did not. The case was brought to trial in federal court in Great Falls in the summer of 1982. Post-trial briefs have been filed and the case is waiting the Court's final judgment. This case required the use of an economic expert and staff from the University of Montana at Missoula for fee on a contracted basis. As a result, all the available financial resources of the AWCCU for litigation were exhausted in 1981 and 1982 by this litigation. The majority of the AWCCU attorney's time

in 1981-1982 was spent preparing this case for trial, actually trying the case, and in post-trial matters.

AMICUS CASES

The AWCCU has in the last two years participated in the preparation of Amicus briefs in the following cases:

Arizona v. Maricopa Co. Medical Society
Catalano, Inc. v. Target Sales
South v. Toyota
B.F. Goodrich
Reiter v. Sonotone
USA v. Colonial Chevrolet Corp.
Petroleum Products Antitrust Litigation
Illinois v. Sangamo Construction
U.S. v. Columbia Pictures
In Re Illinois Petition re Grand Jury Material
Community Communications Co. v. City of Boulder
California v. Watt
USA v. AT&T
Marrese v. American Academy of Orthopaedic Surgeons

INVESTIGATIONS

The AWCCU conducted 38 investigations during 1981 and 1982 into alleged unlawful conduct. Some of these investigations are ongoing. Others were concluded with a finding of no culpability or were resolved between the parties by mutual consent. Others were referred to proper authority for prosecution or to private counsel for resolution. Some of the industries investigated included time share condominiums, foam insulation, soft drinks, gasoline, solar products, insurance, hearing aids, auto glass, grain and feed, financial funds, agricultural chemicals, carpeting, automobile dealerships, automobile towing, mining, recycling, farm

equipment, lumber, moving and storage, garbage contracts, malting barley, and armored car services.

PUBLIC INFORMATION SERVICES

The AWCCU assisted several private attorneys and their clients in the preparation and trial of civil actions. It advised numerous other attorneys and private parties who made inquiries by phone or by mail as to antitrust and white collar crime matters. It gave classroom lectures and talks to professional groups on the subject of antitrust white collar crime and distributed several thousand antitrust information pamphlets to businessmen across the State of Montana.

LEGISLATIVE ACTIVITIES

The AWCCU has drafted for introduction at the request of the Attorney General a Small Business and Consumer Protection Act designed to regulate more specifically at the state level areas such as price fixing, resale price maintenance, bid rigging, group boycotts, market divisions, production and quality restrictions, exclusive dealings, predatory pricing and other anti-small business, anticonsumer activities commonly engaged in by large corporations.

DEPARTMENT OF ENERGY REFUND PROGRAM

During the federal gasoline price control era, approximately 1976-1980, a number of major oil companies allegedly violated those price controls. Claims were filed against some of these companies by the U.S.

Department of Energy for those alleged violations, and over the last two years settlements totalling \$286 million have been reached between the Department of Energy and some of the companies. The AWCCU has monitored those negotiations and ~~settlements on the part~~ of the Montana Department of Justice. It has assisted in the processing of one claim that has already paid over \$60,000 to the State of Montana, assisted in the enactment of U.S. House of Representatives joint resolution directing that additional sums be paid to the State, and will assist in the processing of the additional claims related thereto. It will also continue to review and monitor future settlements.

FEDERAL MINERAL ROYALTY PROGRAM

Approximately two years ago, as a result of a scandal that arose on the Wind River Indian Reservation in Wyoming and subsequent Congressional investigations, the federal government and the western states have been ~~engaged in a review of the federal-lands state royalty~~ program which entitles the states to royalties on oil and minerals produced from federal lands within those states. An ad hoc committee of the National Association of Attorneys General was established for the purpose of reviewing the existing programs and seeking the enactment of correcting legislation on the national level. The AWCCU attorney serves on that committee. Legislation was proposed in the last session of Congress

by Senator Baucus as well as others at the request and urging of the committee and the Montana Attorney General. The AWCCU assisted and advised Congressional personnel regarding that legislation as it affected Montana and attempted to assist the Montana delegation with its passage. With the advent of the new Congress, that process will have to begin again, but sufficient compromises have been arrived at, and the proposed legislation has been amended to meet the approval of the administration as well as other states and other interests. It is anticipated by at least one Congressional office that passage of the corrective legislation will be obtained this session of Congress. These efforts should result in a substantial increase in monies received by the State of Montana from federal oil, gas and mineral leases in the state.

DEPARTMENT OF JUSTICE

PROGRAM: County Prosecutor Svs.

CURRENT LEVEL SERVICES

1984 REQUEST

1985 REQUEST

	Agency Request	Exec. Budget	LFA Budget	LFA-FX Diff.	Agency Request	Exec. Budget	LFA Budget	LFA-FX Diff.
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F.T.E.

3.0

3.0

3.0

-

3.0

3.0

3.0

-

Personal Services

Salaries	82,763	82,763			82,445	82,445		
Employee Ben.	14,897	14,897			14,991	14,991		
Subtotal	97,660	97,660	104,141	6,481	97,436	97,436	99,086	1,650

Operating Expenses

Contracted Svs.	1,339	805	1,217	412	1,419	853	1,231	378
Supplies & Mat.	3,077	3,077	3,072	(5)	3,319	3,319	3,312	(7)
Communications	4,004	3,834	3,698	(136)	4,584	4,404	4,258	(146)
Travel	7,424	5,726	7,420	1,694	7,753	6,282	7,747	1,465
Rent	3,612	3,549	3,611	62	3,828	3,928	3,827	(101)
Utilities	-	-	-	-	-	-	-	-
Rep. & Maint.	3,786	3,546	3,775	229	4,012	3,758	3,994	236
Other Exp.	147	147	145	(2)	156	156	152	(4)
Subtotal	23,389	20,684	22,938	2,254	25,071	22,700	24,521	1,821

Equipment

	-	-	-	-	-	-	-	-
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Total Program

121,049

118,344

127,079

8,735

122,507

120,136

123,607

3,471

Funding

General Fund	121,049	118,344	127,079	8,735	122,507	120,136	123,607	3,471
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ADJUSTMENTS TO LFA BUDGET RECOMMENDATIONS:

1. Personal Services - To be discussed by Agency/LFA/OBPP representatives. Decrease LFA FY84 budget \$4,900. Severance costs will have been paid in FY83.

1/14/83 *affirmed existing budget*

DEPARTMENT OF JUSTICE

PROGRAM: Agency Legal Services

CURRENT LEVEL SERVICES

1984 REQUEST

Agency Request	Exec. Budget	LFA Budget	IFA-Ex Diff.	Agency Request	Exec. Budget	LFA Budget	LFA-Ex Diff.
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F.T.F.

7.0	7.0	7.0	-	7.0	7.0	7.0	7.0
183,002	183,002	182,302	(8,359)	182,302	182,302	17,413	(8,866)
33,749	33,749	33,974	(4)	33,974	33,974	2,874	(6)
216,751	216,751	216,276	(6)	216,276	216,276	4,841	(8)
220,121	220,121	219,774	(10)	219,774	219,774	9,393	(14)
16,431	16,431	15,936	(4,659)	15,936	17,079	11,702	(5,377)
2,717	2,717	2,172	(682)	2,172	2,172	1,449	(723)
4,153	4,153	892	(2)	892	948	945	(3)
9,038	9,038	45,619	(13,722)	45,619	63,606	48,609	(14,997)
15,034	15,700						
2,049	2,049						
894	894						
58,675	59,341						

Operating Expenses

24,790	24,790	26,279		26,279	26,279	17,413	(8,866)
2,717	2,717	2,880	(4)	2,880	2,880	2,874	(6)
4,153	4,153	4,841	(6)	4,841	4,841	4,832	(8)
9,038	9,038	9,407	(10)	9,407	9,407	9,393	(14)
15,034	15,700	15,936	(4,659)	15,936	17,079	11,702	(5,377)
2,049	2,049	2,172	(682)	2,172	2,172	1,449	(723)
894	894	948	(2)	948	948	945	(3)
58,675	59,341	62,403	(13,722)	62,403	63,606	48,609	(14,997)

Equipment

-

275,426	276,092	265,740	(10,352)	278,739	279,882	268,383	(11,499)
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Funding

275,926	276,092	265,740	(10,352)	278,739	279,882	268,383	(11,499)
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ADJUSTMENTS TO LFA BUDGET RECOMMENDATIONS:

1. Personal Services - To be discussed by Agency/LFA/OBPP representatives. Vacancy Savings - The program is self-supporting and cannot sustain vacancy savings.
2. Contracted Services - Increase LFA FY84 budget \$8,359. Increase LFA FY85 budget \$8,866. To cover costs of retaining expert witnesses and extra ordinary case related expenses.
3. Must be adjusted to reflect space allocation in Justice Building. (Rent)

AGENCY LEGAL SERVICES ADD'L ATTORNEYS
BUDGET MODIFICATION - 1985 BIENNIUM

	<u>FY 84</u>	<u>FY 85</u>
FTE	2.00	2.00
<u>Personal Services:</u>		
Salaries	52,036	52,036
Employee Benefits	10,296	11,839
Total	<u>62,332</u>	<u>63,875</u>
<u>Operating Expense:</u>		
Contracted Services	9,715	10,297
Supplies & Materials	1,745	1,850
Communications	1,145	1,243
Travel	3,519	3,730
Rent	907	961
Repairs & Maint	546	579
Other Exp	<u>1,798</u>	<u>1,906</u>
Total	<u>19,375</u>	<u>20,566</u>
<u>Equipment:</u>	1,600	-
<u>Total Program:</u>	83,307	84,441
<u>Funding:</u>		
General Fund		
Other Funds	<u>83,807</u>	<u>84,441</u>
Total	<u>83,807</u>	<u>84,441</u>

Narrative:

This modification would add two attorneys to the staff of the Agency Legal Services Bureau, bringing the total to seven attorneys.

Comments:

Insul 84 \$42,000

Insul 85 \$45,000

DEPARTMENT OF JUSTICE

PROGRAM: Motor Vehicle Admin.

CURRENT LEVEL SERVICES

1984 REQUEST

1985 REQUEST

Agency Request	Exec. Budget	LFA Budget	LFA-Ex Diff.	Agency Request	Exec. Budget	LFA Budget	LFA-Ex Diff.
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F.T.E.

2.9 2.9 2.0 (.9) 2.9 2.9 2.0 (-.9)

Personal Services

Salaries	67,545	69,197		67,287	68,932		
Employee Ben.	12,841	13,087		12,924	13,172		
Subtotal	80,386	82,284	(19,529)	80,211	82,104	62,701	(19,403)

Operating Expenses

Contracted Svs.	922	435	918	483	976	460	971	511
Supplies & Mat.	1,708	1,708	1,703	(5)	1,816	1,816	1,806	(10)
Communications	652	647	649	2	749	744	745	1
Travel	2,238	1,516	2,235	719	2,270	1,531	2,265	734
Rent	3,785	2,978	3,680	702	4,478	3,296	3,900	604
Utilities	-	-	-	-	-	-	-	-
Rep. & Maint.	607	146	183	37	644	155	192	37
Other Exp.	2,368	2,071	2,364	293	2,511	2,196	2,504	308
Subtotal	12,280	9,501	11,732	2,231	19,663	10,198	12,383	2,185

Equipment

	301	301	301	-	378	378	378	-
Total Program	92,967	92,086	74,788	(17,298)	100,252	92,680	75,462	(17,218)

Funding

General Fund	-	-	-	-	-	-	-	-
Motor Vehicle	92,967	92,086	74,788	(17,298)	99,790	92,680	75,462	(17,218)
TOTAL FUNDING	92,967	92,086	(17,298)	(17,298)	100,252	92,680	(17,218)	(17,218)

ADJUSTMENTS TO LFA BUDGET RECOMMENDATION:

1. FTE .9 *shown vacant by position order*
- 5 FTE secretary deleted by LFA. Position has been filled since 4/82 and should be maintained.
- 4 FTE Attorney deleted by LFA. Position was not supported by Line Item appropriation as indicated in Budget Analysis and should be maintained.

408 would be 11,576 for 83 and 12,228 for 84

DEPARTMENT OF JUSTICE

PROGRAM: Driver Licensing Prog.

1984 REQUEST

CURRENT LEVEL SERVICES

1985 REQUEST

	Agency Request	Exec. Budget	LFA Budget	LFA-Ex Diff.	Agency Request	Exec. Budget	LFA Budget	LFA-Ex Diff.
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F.T.E.

81.3

80.3

81.3

33,792

81.3

80.3

81.3

80.8

Personal Services

Salaries 1,221,764 1,211,870
 Employee Ben. 254,349 251,961
 Subtotal 1,476,113 1,463,831 1,497,623

Operating Expenses

Contracted Svs. 238,332 231,900 229,898
 Supplies & Mat. 54,139 53,894 50,852
 Communications 28,298 29,759 28,213
 Travel 28,111 25,613 28,102
 Rent 87,572 90,063 83,516
 Utilities 3,691 3,525 3,688
 Rep. & Maint. 38,681 34,861 34,461
 Other Exp. 2,510 2,954 2,505
 Subtotal 481,334 472,569 461,235

Equipment

71,835 32,470 24,640

Total Program

2,029,282 1,968,870 1,983,498

Funding

General Fund 1,929,782 1,269,470 1,891,493
 Other Funds 99,500 699,400 92,005

TOTAL FUNDING

2,029,282 1,968,870 1,983,498

ADJUSTMENTS TO LFA BUDGET RECOMMENDATIONS:

1. Personal Services - To be discussed by Agency/LFA/OBPP representatives.

2. Supplies and Materials - Increase LFA FY84 budget \$3,042. Increase LFA FY 85 budget \$3,217. Costs for minor tools--e.g. batteries, light bulbs, eye machine cards. ^{modification}
 3. Equipment - Increase LFA FY84 budget \$22,470. Increase LFA FY85 budget \$14,980. Provide a total of five vehicles in FY84 and four vehicles in FY85. LFA recommended ~~three~~ ^{two} vehicles each fiscal year.

Ex recommended 3 vehicles per year
LFA recommended 2 vehicles per year
Agency requested 5 and 14 for the biennium

Exhibit 6
 1-11-83

DEPARTMENT OF JUSTICE

PROGRAM: Vehicle Registration

CURRENT LEVEL SERVICES

1984 REQUEST

Agency Request

Exec. Budget

LFA Budget

LFA-Ex Diff.

Agency Request

Exec. Budget

LFA Budget

1985 REQUEST

LFA Budget

Exec. Budget

LFA-Ex Diff.

LFA Budget

Agency Request

Exec. Budget

LFA Budget

F.T.E.

70.0

70.0

70.0

70.0

70.0

Personal Services

Salaries

Employee Ben.

Subtotal

934,791

199,099

1,133,890

934,791

199,099

1,133,890

930,934

200,135

1,131,069

930,934

200,135

1,131,069

930,934

200,135

1,131,069

930,934

200,135

1,131,069

930,934

200,135

1,131,069

Operating Expenses

Contracted Svs.

Supplies & Mat.

Communications

Travel

Rent

Utilities

Rep. & Maint.

Other Exp.

Subtotal

417,308

29,094

198,481

3,980

73,764

13,795

55,121

10,736

412,517

29,063

201,030

3,979

65,128

13,795

55,121

10,736

388,655

29,089

198,452

3,975

60,688

13,792

47,568

10,731

(23,862)

26

(2,578)

(4)

(4,440)

(3)

(7,553)

(5)

442,346

30,910

222,671

4,119

78,190

16,877

58,429

11,381

435,007

30,876

226,258

4,118

69,036

16,877

58,429

11,381

411,970

30,900

222,636

4,113

64,326

16,871

50,416

11,372

(23,037)

24

(3,622)

(5)

(4,710)

(6)

(8,013)

(9)

812,604

851,982

812,604

Equipment

37,590

11,370

29,590

27,790

3,600

Total Program

1,973,759

1,953,049

2,025,582

2,010,843

1,964,121

Funding

General Fund

Other Funds

1,973,759

1,953,049

1,913,867

2,025,582

2,010,843

1,964,121

TOTAL FUNDING

1,973,759

1,953,049

2,025,582

2,010,843

1,964,121

ADJUSTMENTS TO LFA BUDGET RECOMMENDATION:

1. Personal Services - To be discussed by Agency/LFA/OBPP representatives.
2. Contracted Services - Increase LFA FY84 budget \$20,000. Increase LFA FY85 budget \$23,200. Purchase secure motor vehicle titles.
3. Rent - Increase LFA FY84 budget \$4,668. Increase LFA FY85 budget \$4,668. Pay for software lease for Series 1.
4. Repair and Maintenance - Increase LFA FY84 budget \$6,870. Increase LFA FY85 budget \$6,870. Pay for maintenance contract for Series 1.
5. Equipment - Increase LFA FY84 budget \$25,990. Increase LFA FY85 budget \$25,990. Pay for purchase agreement for Series 1.

2 reads per year instead of 1 per year.

One in 84 Jan in '83

7.770 for Van - Exhibit 1-11-83

DEPARTMENT OF JUSTICE

PROGRAM: County Prosecutor Svcs.

DEPARTMENT OF JUSTICE			CURRENT LEVEL SERVICES			1985 REQUEST			LFA-Fx		
PROGRAM: County Prosecutor Svs.			1984 REQUEST			LFA-EX			LFA		
	Agency Request	Exec. Budget	3.0	3.0	3.0	Agency Request	Exec. Budget	3.0	3.0	3.0	Diff.
F.T.E.			3.0	3.0	-						
Personal Services											
Salaries	82,763	82,763				82,445	82,445				
Employee Ben.	14,897	14,897				14,991	14,991				
Subtotal	97,660	97,660	104,141	6,481		97,436	99,086			1,650	
Operating Expenses											
Contracted Svs.	1,339	805	1,217	412		1,419	853	1,231		378	
Supplies & Mat.	3,077	3,077	3,072	(5)		3,319	3,319	3,312		(7)	
Communications	4,004	3,834	3,698	(136)		4,584	4,404	4,258		(146)	
Travel	7,424	5,726	7,420	1,694		7,753	6,282	7,747		1,465	
Rent	3,612	3,549	3,611	62		3,828	3,928	3,827		(101)	
Utilities	-	-	-	-		-	-	-		-	
Rep. & Maint.	3,786	3,546	3,775	229		4,012	3,758	3,994		236	
Other Exp.	147	147	145	(2)		156	156	152		(4)	
Subtotal	23,389	20,684	22,938	2,254		25,071	22,700	24,521		1,821	
Equipment											
Total Program	121,049	118,344	127,079	8,735		122,507	120,136	123,607		3,471	
Funding											
General Fund	121,049	118,344	127,079	8,735		122,507	120,136	123,607		3,471	

ADJUSTMENTS TO LFA BUDGET RECOMMENDATIONS:

1. Personal Services - To be discussed by Agency/LFA/OBPP representatives. Decrease LFA FY84 budget \$4,900. Severance costs will have been paid in FY83.

1/19/01

VISITORS' REGISTER

Budget

HOUSE

Elected Officials / Harry

COMMITTEE

~~SECRET~~

Dept of Justice :- legal Services

Date _____

1/11/83

~~SPONSOR~~

County Prosecutors Service
Agency Legal Services

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.