

MINUTES OF THE MEETING
GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The meeting of the General Government and Highways Subcommittee was called to order by Chairman Rehberg on January 27, 1987 at 8:00 a.m. in Room 132 of the State Capitol.

ROLL CALL: All committee members were present. Also present were Flo Smith, Budget Analyst from the Office of Budget & Program Planning and Pam Joehler, Senior Fiscal Analyst from the Office of the Legislative Fiscal Analyst. (LFA)

49A:0.00

House Bill 248

Rep. Bruce Simon, House District No. 91, Billings, introduced HB 248. (Exhibit No. 1) The substance of the bill is on page 4. The purpose is to recover money for the general fund not currently being recovered.

Chairman Rehberg called for proponents.

PROPONENTS

Kathy Fabiano, Administrator of the Accounting Division of the Department of Administration, supported the bill. The purpose is to allow the general fund to recover the cost of providing Central Services to certain earmarked accounts, specifically state special revenue accounts that keep their own investment earnings. (Exhibit No. 2) In the past few years, there have been more and more earmarked accounts getting authority to keep their interest earnings. In 1986, there were fourteen state special revenue accounts receiving investment earnings totaling \$5,500,000. Under the proposed legislation, programs funded from interest earning earmarked accounts would be required to reimburse the general fund for their share of Centralized Service costs. The Department of Administration, using the prior year's statewide cost allocation plan, would determine the amount those agencies should pay to the general fund.

The Board of Investments currently deducts investment earnings from agencies for their own administrative expenses. Under this legislation, the Board of Investments, using the amount provided by the division, would also deduct for the cost of the Centralized Services before they credit

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interest earning state special revenue accounts with the investment earnings. Those deductions would then be credited to the general fund by the Board of Investments.

Chairman Rehberg called for opponents.

There were no opponents.

Rep. Simon closed. As indicated by the fiscal note, the amount recovered would be approximately \$50,000. He urged the committee's support for this bill.

The hearing closed on HB 248.

House Bill 180

Rep. Harry Fritz, House District 56, Missoula County, introduced HB 180. (Exhibit No. 3) The bill attempts to provide very limited and carefully circumscribed exceptions to the current state bidding procedures and office stores policy. One exception deals with sealed bids. If a purchasing agent can buy an office supply item cheaper locally, he may do so, after the sealed bid is opened. The second exception relates to office supplies bid out on central contracts for large amounts of several items. It is a question of saving money and how much.

Chairman Rehberg called for proponents.

There were no proponents.

Chairman Rehberg called for opponents.

Opponents

Mike Muszkiewicz, Administrator of the Purchasing Division of the Department of Administration, opposed the bill. With the amendment, it becomes clear this bill applies only to office supplies. Mr. Muszkiewicz said it opens the door to office supply dealers who have an interest, particularly in the Helena area, in selling to the state. It is making an exception to purchasing law which has been in effect since 1984 for one commodity, office supplies.

Sen. Stimatzi was excused to introduce a bill.

Mr. Muszkiewicz continued. The fiscal note described a small savings in the first year. This savings would decline in the second year as suppliers would no longer be interested in submitting a bid. The low bid becomes the price to beat.

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Those who were responsive and bid, suffer; those coming in at the last minute are the winners. The qualify of the product is no longer assured. Once competition declines, the cost to the state will increase. State preference will be difficult to apply. He said the bill decentralizes states purchases in term of office supplies.

(22.45)

There were questions from the committee to Mr. Muszkiewicz and Rep. Fritz.

49B:3.00

The university system cannot invite bids on their own. They must go through Central Stores. There are current price lists furnished by Central Stores. The store at the University of Montana in Missoula was cited as having items offered for sale at a higher price than local vendors. After discussion, this was determined to be a problem in updating the inventory by the store itself.

Rep. Fritz closed. He said he was just trying to buy some items at a cheaper cost and save the state some money.

(14.00)

The committee addressed the three bills presented for this consideration.

House Bill 20

EXECUTIVE ACTION

Sen. Gage moved HB 20 DO PASS.

A voice vote was taken and the motion PASSED, with Chairman Rehberg voting no.

House Bill 248

EXECUTIVE ACTION

Sen. Gage moved HB 248 DO PASS.

A voice vote was taken and the motion PASSED unanimously.

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House Bill 180

EXECUTIVE ACTION

Sen. Keating moved HB 180 DO NOT PASS.

There was discussion regarding the problems in the University System.

A voice vote was taken and the motion PASSED, with Rep. Quilici voting no.

Sen. Stimatzi returned to the meeting.

50A:2.30

DEPARTMENT OF ADMINISTRATION

State Tax Appeal Board

Pam Joehtler, LFA, explained the three percent increase to the general fund was due primarily to an increase in operating expenses. For the most part, the LFA current level maintained contracted services as experienced in FY 86. The majority of the contracted services relate to secretarial services associated with the County Tax Appeal Boards. The major difference between the two budgets is the LFA continued the County Board per diem expense at the current level and the OBPP reduced this by \$3,400 per year. The LFA applied four percent vacancy savings to the State Tax Appeal Board members and the OBPP did not.

EXECUTIVE ACTION

Sen. Keating moved the committee adopt the OBPP budget.

There was discussion regarding vacancy savings and the \$3,400 per diem.

Rep. Quilici amended Sen. Keating's motion to add \$3,465 in personal services to comply with the LFA figure of \$53,055.

Rep. Quilici withdrew his amendment.

Sen. Keating withdrew his motion.

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EXECUTIVE ACTION

Rep. Poulsen moved the committee adopt the LFA budget with adjustments.

A voice vote was taken and the motion PASSED, with Sen. Keating voting no.

Rep. Quilici addressed the request by the agency for the modified to complete the appraisals and appeals.

(21.45)

Publications and Graphics Division - Purchasing and Printing Coord.

EXECUTIVE ACTION

Sen. Keating moved the committee adopt the LFA budget with adjustments.

Pam Joebler, LFA, said there would have to be some adjustments made in the rent category.

Sen. Keating amended his motion to include \$1,734 for rent in FY 88 and \$1,800 in FY 89.

A voice vote was taken and the motion PASSED unanimously.

There was discussion regarding Goods for Resale. Don Breiby, Administrator of the division, said without this spending authority, the division would still bid the product and issue the purchase order, but the agency's name would be on it and the division would be out of it.

The OBPP budget reflects a twelve-month period and the LFA budget reflects a nine-month period.

EXECUTIVE ACTION

Sen. Keating moved \$549,300 be added to the LFA budget in Goods for Resale.

A voice vote was taken and the motion PASSED unanimously.

EXECUTIVE ACTION

Sen. Gage moved the committee increase health insurance by \$690 per year for the one half-time FTE.

A voice vote was taken and the motion PASSED, with Sen. Keating voting no.

EXECUTIVE ACTION

Rep. Poulsen moved the committee eliminate the \$2,487 in FY 88 and \$1,115 in FY 89 for equipment.

A voice vote was taken and the motion PASSED unanimously.

50B:0.26

Publications and Graphics Division - Operations

EXECUTIVE ACTION

Sen. Gage moved the committee adopt the LFA budget with adjustments.

A voice vote was taken and the motion PASSED unanimously.

Pam Joehtler said she had included repair and maintenance costs not requested by the agency and there could be a reduction of \$5,468 each year in that category.

EXECUTIVE ACTION

Sen. Gage moved the committee decrease repair and maintenance by \$5,468 each year.

A voice vote was taken and the motion PASSED unanimously.

Rep. Quilici addressed the \$25,800 in equipment shown in both the LFA and the OBPP budgets for FY 88. Flo Smith from the OBPP listed the equipment:

Plate maker -----	\$13,000	- replacement
Folder -----	\$ 5,000	- replacement
Collator -----	\$ 7,000	- replacement
2 Map file cabinets	800	- new purchase

Pam Joehtler, LFA, addressed the differences in personal services. The additional temporary staff do not receive health benefits.

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They only receive Workers' Comp and unemployment. She forgot to make this adjustment in the LFA budget. She did include excessive health and other benefits in FY 89 and excessive overtime benefits. This amounts to \$13,868 in FY 89. There was also \$3,000 less in overtime in FY 89 than recommended by the OBPP.

EXECUTIVE ACTION

Rep. Quilici moved the committee delete the \$13,868 in FY 89 and add back in the \$3,000 in FY 89 for overtime.

A voice vote was taken and the motion PASSED unanimously.

EXECUTIVE ACTION

Sen. Gage moved the committee increase the rent by \$1,456 in FY 88 and \$1,556 in FY 89.

A voice vote was taken and the motion PASSED unanimously.

EXECUTIVE ACTION

Rep. Poulsen moved the committee allow the \$800 to purchase a map file and remove the plate maker, folder and collator.

Mr. Breiby said the division could make the existing plate maker last a couple years. He further stated there could be some problems if the collator was not replaced. There is a twenty-four hour service contract on it during the Legislature to keep it up and running and this is very expensive.

A voice vote was taken and the motion DID NOT PASS, with Sen. Keating, Sen. Stimatz and Sen. Gage voting no.

EXECUTIVE ACTION

Sen. Keating moved to segregate.

A voice vote was taken and the motion PASSED unanimously.

EXECUTIVE ACTION

Sen. Keating moved the committee delete the amount of \$13,000 for the plate maker.

A voice vote was taken and the motion PASSED unanimously.

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EXECUTIVE ACTION

Rep. Quilici moved the committee grant the \$7,000 for the collator.

A voice vote was taken and the motion PASSED, with Rep. Poulsen voting no.

EXECUTIVE ACTION

Rep. Poulsen moved the committee grant the \$800 for the two map file cabinets.

A voice vote was taken and the motion PASSED, with Chairman Rehberg voting no.

EXECUTIVE ACTION

Rep. Quilici moved the committee delete \$5,000 for the folder.

A voice vote was taken and the motion PASSED unanimously.

The committee recessed at 10:15 a.m.

The committee reconvened at 10:35 a.m.

Publications and Graphics Division - Administration

EXECUTIVE ACTION

Rep. Quilici moved the committee adopt the LFA budget with adjustments.

A voice vote was taken and the motion PASSED unanimously.

Pam Joebler, LFA, addressed the need to adjust the rent and add \$4,501 in FY 88 and \$4,667 in FY 89.

EXECUTIVE ACTION

Rep. Quilici moved the committee adjust the rent and add \$4,501 in FY 88 and \$4,667 in FY 89.

A voice vote was taken and the motion PASSED unanimously.

Pam addressed the difference in equipment. The OBPP recommended the purchase of two replacement desks in the amount of \$936 in FY 88. This was not included in the LFA budget.

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EXECUTIVE ACTION

Sen. Keating moved the committee grant the \$936 in FY 88 to purchase the two replacement desks.

A voice vote was taken and the motion PASSED, with Chairman Rehberg and Rep. Poulsen voting no.

51A:2.25

Purchasing Division

EXECUTIVE ACTION

Sen. Gage moved the committee adopt the LFA budget with adjustments.

A voice vote was taken and the motion PASSED unanimously.

EXECUTIVE ACTION

Sen. Gage moved the LFA budget be increased \$690 per year for health insurance.

A voice vote was taken and the motion PASSED unanimously.

Flo Smith from the OBPP addressed the difference in the two budgets in personal services. The amount of \$920 is overtime for purchasing staff during fiscal year end.

Purchasing Division - Property and Supply Bureau

EXECUTIVE ACTION

Sen. Gage moved the committee adopt the LFA budget with adjustments.

A voice vote was taken and the motion PASSED unanimously.

Pam Joehler, LFA, addressed the differences in communications. This is accounted for as follows:

1. The OBPP included \$1,140 each year for messenger service. This was not included in the LFA.
2. The OBPP included approximately \$1,900 each year for telephone equipment. This was not included in the LFA.

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6. The LFA deleted \$157 in FY 88 and \$536 in FY 89 for telephone moving costs.

There was discussion regarding the fire alarm line.

EXECUTIVE ACTION

Sen. Keating moved the committee grant \$984 each year for the fire alarm line.

A voice vote was taken and the motion PASSED unanimously.

EXECUTIVE ACTION

Chairman Rehberg moved the committee adopt the OBPP budget for repair and maintenance, an annual \$6,071 reduction from the LFA budget.

A voice vote was taken and the motion PASSED unanimously.

(16.10)

Information Services Division - Resource Management/Admin.

EXECUTIVE ACTION

Sen. Gage moved the committee adopt the LFA budget with adjustments.

A voice vote was taken and the motion PASSED unanimously.

EXECUTIVE ACTION

Sen. Gage moved the committee increase the LFA budget in the amount of \$14,400 in FY 88 for audit other than state audit. (i.e., the central audit)

A voice vote was taken and the motion PASSED unanimously.

There was discussion regarding the publication of the State-wide Data Processing Plan. Pam Joehler, LFA, said the \$15,000 in FY 88 would be for the publication of a User's Manual. The LFA did not include it because it was not a current level service. This would not be published on a regular basis.

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Information Services Division - Central Computer Operations

EXECUTIVE ACTION

Rep. Quilici moved the committee adopt the LFA budget with adjustments.

A voice vote was taken and the motion PASSED unanimously.

Rep. Quilici addressed the difference in supplies and materials. Pam Joehler, LFA, said the primary difference relates to the assumption of growth. The LFA used a smaller level of growth. Mike Trevor, Administrator of the division, said the cost is recovered through usage rates.

EXECUTIVE ACTION

On the assumption that the supplies and materials are pass-throughs and this would be merely spending authority and may not necessarily be spent, Sen. Keating moved the committee approve the \$52,669 in FY 88 and \$85,274 in FY 89 increase for the division's use in case there is a demand.

A voice vote was taken and the motion PASSED unanimously.

Sen. Gage requested information as to what each agency had expended in FY 86 for the division's services. This would enable the subcommittees to question large increases by agencies in data processing.

There was discussion regarding the repair and maintenance category. Mike Trevor said everything does not stop if there is a problem with UPS as they can revert to Montana Power.

Rep. Quilici addressed the work study program with Helena Industries and Helena Vo-Tech in lieu of overtime.

Mr. Trevor said they could still utilize these services. However, with four percent vacancy savings, it would be doubtful.

51B:5.00

EXECUTIVE ACTION

Sen. Keating moved the committee increase contracted services by \$2,704 in FY 88 and \$3,014 in FY 89 and decrease personal services overtime by a like amount.

A voice vote was taken and the motion PASSED unanimously.

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Sen. Gage asked for clarification in the repair and maintenance category. Mr. Trevor said the deficiency resulted from the transfer of the maintenance on the COM from expenditure ID 2743 to expenditure ID 2750. The problem with reducing ID 2743 by this amount is there was no consideration given to inflation by either the LFA or the OBPP.

EXECUTIVE ACTION

Sen. Gage moved the committee include \$9,500 in FY 89 for the maintenance contract on the multiuser computer and terminal.

A voice vote was taken and the motion PASSED, with Chairman Rehberg voting no.

Information Services Division - Information Center

EXECUTIVE ACTION

Sen. Gage moved the committee adopt the LFA budget with adjustments.

A voice vote was taken and the motion PASSED unanimously.

Rep. Quilici stressed the importance of this training center. Mr. Trevor said the training equipment should be up-to-date. The equipment removed from the center is placed in the equipment pool and is made available to other agencies. He felt the division could get by with the three computers as in the LFA budget.

ADJOURNMENT: The meeting was adjourned at 11:45 a.m.



Dennis R. Rehberg

DAILY ROLL CALL

GENERAL GOVERNMENT & HIGHWAYS SUBCOMMITTEE

DATE Jan. 27, 1987

House BILL NO. *244*

INTRODUCED BY *Senators*

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO RECOVER THE COST TO THE GENERAL FUND OF PROVIDING SERVICES TO CERTAIN PROGRAMS THAT ARE NOT FUNDED THROUGH THE GENERAL FUND; AMENDING SECTION 17-6-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The unified investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall be administered by the board of investments and the Montana economic development board in accordance with Article VIII, section 13, of the Montana constitution and the prudent expert principle which requires any investment manager to:

(a) discharge his* duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;

(b) diversify the holdings of each fund within, the unified investment program to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so; and

(c) discharge his duties solely in the interest of and for the benefit of the funds forming the unified investment program.

(2) Retirement funds may be invested in common stocks of any corporation provided that no investment may be made at any time which would cause the book value of such investments in any retirement fund to exceed 50% of the book value of such fund or would cause the stock of one corporation to exceed 2% of the book value of such retirement fund.

(3) Nothing contained in this section prevents the investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana, if the investment meets the standard of care required by this section. In discharging its duties, the board of investments and the Montana economic development board shall consider the preservation of purchasing power of capital during periods of high monetary inflation.

(4) The board of investments has the sole authority to invest state funds other than the Montana in-state investment fund. No other agency may invest such state

1-27-89

1 funds. The board shall direct the investment of state funds
2 in accordance with the laws and constitution of this state.
3 The board has the power to veto any investments made under
4 its general supervision.

5 (5) The board of investments shall:

6 (a) assist agencies with public money to determine if,
7 when, and how much surplus cash is available for investment;
8 (b) determine the amount of surplus treasury cash to
9 be invested;

10 (c) determine the type of investment to be made;

11 (d) prepare the claim to pay for the investment; and
12 (e) keep an account of the total of each investment
13 fund and of all the investments belonging to such fund and a
14 record of the participation of each treasury fund account
15 therein.

16 (6) The board of investments may:

17 (a) execute deeds of conveyance transferring all real
18 property obtained through foreclosure of any investments
19 purchased under the provisions of 17-6-211 when full payment
20 has been received therefor;

21 (b) direct the withdrawal of any funds deposited by or
22 for the state treasurer pursuant to 17-6-101 and 17-6-105;

23 (c) direct the sale of any securities in the program
24 at their full and true value when found necessary to raise
25 money for payments due from the treasury funds for which the

1 securities have been purchased.

2 (7) The cost of administering and accounting for each
3 investment fund shall be deducted from the income therefrom,
4 except that such costs of the nonexpendable trust funds
5 shall be paid from income otherwise receivable from the
6 pooled investment fund, and the amounts required for this
7 purpose shall be appropriated by the legislature from the
8 respective investment funds.

9 (8) (a) The director of the department of
10 administration annually may prepare a statewide cost
11 allocation plan to distribute program costs incurred by
12 state agencies that are funded through the general fund to
13 the programs served by the agencies. Except as provided in
14 subsection (8)(b), the cost to an agency of providing
15 services to a program funded through an account in the state
16 special revenue fund as defined in 17-2-102 must be deducted
17 by the board of investments from the account's investment
18 earnings according to the statewide cost allocation plan.
19 Amounts deducted by the board must be credited to the
20 general fund.

21 (b) No deduction for program costs as provided in
22 subsection (8)(a) may be made if an account's cash on hand
23 is pooled for investment in the treasury cash account
24 defined in 17-6-202."

25 NEW SECTION. Section 2. Effective date. This act is

LC 0778/01

1 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB248, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to recover the cost to the general fund of providing services to certain programs that are not funded through the general fund; amending section 17-6-201, MCA; and providing an effective date.

ASSUMPTIONS:

1. The allocation of statewide centralized service costs to interest-earning state special revenue accounts is based on the FY86 percentage of expenditures/transfers-out in the special revenue account to the agency's total expenditures.
2. It is assumed that an account's expenditures are related to the volume of all centralized services the account receives.
3. Accounts are based on accounts earning their own interest in FY86, except Highways accounting entity 02422.

FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Board of Investments:	\$ 0	\$ 240	\$ 240	\$ 0	\$ 240	\$ 240
Personal Services	0	60	60	0	60	60
Operating Expenses	0	300	300	0	300	300
TOTAL	\$ 0	\$ 300	\$ 300	\$ 0	\$ 300	\$ 300
<u>Revenues:</u>						
General Fund	\$ 0	\$ 49,556	\$ 49,556	\$ 0	\$ 49,556	\$ 49,556
Earmarked Special Revenue Fund	<u>49,556</u>	<u>0</u>	<u>(49,556)</u>	<u>49,556</u>	<u>0</u>	<u>(49,556)</u>
TOTAL	\$ 49,556	\$ 49,556	\$ 0	\$ 49,556	\$ 0	\$ 0

Funding Source: Proprietary FundEFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

David L. Hunter DATE 1/15/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Bruce Simon DATE 1-14-87
BRUCE SIMON, PRIMARY SPONSOR
Fiscal Note for HB248, as introduced.

HB-248

DEPARTMENT OF ADMINISTRATION TESTIMONY

House Bill No. 248

RECOVERY OF CENTRALIZED SERVICE COSTS

HB 248 - "An act to recover the cost of providing centralized services to certain nongeneral funded programs; amending Section 17-6-201; and providing a July 1, 1987 effective date."

PURPOSE

HB 248 is requested by the Department of Administration. This bill amends Section 17-6-201, allowing the General Fund to recover the cost of providing central services to earmarked accounts that keep their investment earnings. As amended, the law will allow the Board of Investments to deduct the cost of these services from earmarked accounts' investment earnings before the earnings are distributed. Amounts deducted by the Board will be credited to the General Fund.

JUSTIFICATION

The cost of providing Statewide centralized services, such as accounting, purchasing, personnel and budgeting, is paid by the General Fund. The Department of Administration prepares the Statewide Indirect Cost Allocation Plan, allocating the cost of these services to the agencies that receive them. Agencies in turn determine the portion of their costs that are attributable to federal programs and attempt to recover that amount from the federal government. Any amount recovered is credited to the General Fund. Although these same centralized services are also provided to State Special Revenue (earmarked) accounts, currently no attempt is made to recover the cost from these accounts.

Agencies that receive earmarked revenues have in the past successfully argued that they should not be required to pay for the centralized services they receive because the investment earnings on earmarked revenues are credited to the General Fund. However, during the past few years a number of agencies have received legislative authorization to keep the investment earnings on their earmarked revenues. The programs funded from these interest earning earmarked monies each received centralized services, in different degrees, free of charge. At fiscal year-end 1986 there were fourteen such accounts. During FY86, these fourteen accounts received investment earnings totalling \$5.5 million. Amounts earned by individual accounts ranged from \$80 to \$3.2 million.

EFFECT

Under the proposed legislation, programs funded from interest earning earmarked accounts would be required to reimburse the General Fund for their share of centralized service costs. The Department of Administration, using the prior year's Statewide Indirect Cost Allocation Plan and working with the affected agencies, would determine the cost of providing centralized services to these programs. Wherever possible, the program allocations would be made on the same basis that costs are allocated to agencies in the Statewide Indirect Cost Plan. For example, the cost of providing accounting services is allocated to agencies based on the number of transactions they process;

the cost of providing personnel services is allocated based on number of FTE; and the cost of providing central purchasing services is allocated based on the number of requisitions an agency submits. Wherever allocations cannot be made as they are in the Statewide Indirect Cost Plan, the Department of Administration would work with the affected agency to determine another reasonable, cost-effective means of doing the allocation.

The Board of Investments currently deducts for their administrative expenses from agencies' investment earnings before they are distributed. If this legislation passes, the Department of Administration will provide the Board with an additional amount to be deducted from each earmarked account's investment earnings for centralized services. Centralized service costs recovered from earmarked accounts will be deposited in the General Fund as revenue.

Kathy Fabiano, Administrator
Accounting Division
Department of Administration

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1 (9) "Term contract" means a contract in which supplies

2 or services are purchased at a predetermined unit price for
3 a specific period of time."

4 Section 2. Section 18-4-302, MCA, is amended to read:

5 "18-4-302. Methods of source selection. (1) Unless
6 otherwise authorized by law, all state contracts for
7 supplies and services must be awarded by competitive sealed
8 bidding, pursuant to 18-4-303, except as provided in
9 18-4-133, 18-4-304 through 18-4-306, and chapters 5 and 8 of
10 this title, and subsections (2) and (3). Supplies or
11 services offered for sale, lease, or rental by public
12 utilities are exempt from this requirement if the prices of
13 the supplies or services are regulated by the public service
14 commission or other governmental authority.

15 (2) At the time the department or a purchasing agency
16 opens MAILS AN INVITATION FOR bids or A REQUEST FOR
17 PROPOSALS FOR OFFICE SUPPLIES, if a MONTANA supplier's
18 current publicly advertised or established catalog price

19 AVAILABLE TO THE PUBLIC is less than any bid or proposal
20 received by the department or purchasing agency may reject all
21 bids and purchase the office supply from that supplier
22 without meeting the requirements of 18-4-303 through
23 18-4-306 MAY BE REGISTERED AS A BID IF IT MEETS THE
24 SPECIFICATIONS, TERMS, AND DELIVERY REQUIREMENTS OF THE
25 INVITATION FOR BID OR REQUEST FOR PROPOSALS. THE DEPARTMENT

1 SHALL CERTIFY THE EXACT TIME THAT THE ADVERTISED OR CATALOG
2 PRICE WAS RECEIVED BEFORE THE INVITATION FOR BIDS OR REQUEST
3 FOR PROPOSALS WAS MAILED. AN ADVERTISED OR ESTABLISHED
4 CATALOG PRICE REGISTERED AS A BID MUST BE AVAILABLE FOR
5 INSPECTION TO ALL PROSPECTIVE BIDDERS.
6 (3) Any office supply procured by the department
7 through a bulk-purchase program or contracted for by means
8 of a term contract may be purchased by a purchasing agency,
9 without meeting the requirements of 18-4-303 through
10 18-4-306, from a MONTANA supplier whose publicly advertised
11 or established catalog price AVAILABLE TO THE PUBLIC, at the
12 time of purchase THE MAILING OF THE INVITATION FOR BIDS OR
13 REQUEST FOR PROPOSALS, is less than the price for which the
14 office supply is available from the department or under the
15 provisions of the term contract. All state office supply
16 term contracts must include a provision by which the
17 contracting parties acknowledge and agree to the provisions
18 of this subsection."

19 NEW SECTION. Section 3. Extension of authority. Any
20 existing authority of the department of administration to
21 make rules on the subject of the provisions of this act is
22 extended to the provisions of this act.
23 NEW SECTION. Section 4. Applicability. This act
24 applies to term contracts entered into after the effective
25 date of this act.

1 NEW SECTION. Section 5. Effective date. This act is
2 effective July 1, 1987.

3 NEW SECTION. SECTION 6. TERMINATION DATE. THIS ACT
4 TERMINATES JUNE 30, 1989.

-End-

(9) "Term contract" means a contract in which supplies or services are purchased at a predetermined unit price for a specific period of time."

Section 2. Section 18-4-302, MCA, is amended to read:

"18-4-302. Methods of source selection. (1) Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by competitive sealed bidding, pursuant to 18-4-303, except as provided in 18-4-133, 18-4-304 through 18-4-306, and chapters 5 and 8 of this title, and subsections (2) and (3). Supplies or services offered for sale, lease, or rental by public utilities are exempt from this requirement if the prices of the supplies or services are regulated by the public service commission or other governmental authority.

(2) At the time the department or a purchasing agency opens bids or proposals for office supplies, if a MONTANA supplier's current publicly advertised or established catalog price AVAILABLE TO THE PUBLIC is less than any bid or proposal received, the department or purchasing agency may reject all bids and purchase the office supply from that supplier without meeting the requirements of 18-4-303 through 18-4-306.

(3) Any office supply procured by the department through a bulk-purchase program or contracted for by means of a term contract may be purchased by a purchasing agency.

without meeting the requirements of 18-4-303 through 18-4-306, from a MONTANA supplier whose publicly advertised or established catalog price AVAILABLE TO THE PUBLIC, at the time of purchase, is less than the price for which the office supply is available from the department or under the provisions of the term contract. All state office supply term contracts must include a provision by which the contracting parties acknowledge and agree to the provisions of this subsection."

NEW SECTION. Section 3. Extension of authority. Any existing authority of the department of administration to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 4. Applicability. This act applies to term contracts entered into after the effective date of this act.

NEW SECTION. Section 5. Effective date. This act is effective July 1, 1987.

-End-

In compliance with a written request, there is hereby submitted a Fiscal Note for HB180, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising competitive bidding requirements to permit state agencies to purchase supplies using advertised or catalog prices in certain circumstances; providing special purchasing procedures for office supplies.

ASSUMPTIONS:

1. The state has 79 term contracts awarded to vendors which represent approximately \$9.7 annually. They average 15% less than suggested retail pricing.
2. The state bulk-purchases and warehouses (Central Stores) over 12,000 daily-use supply items which are purchased on a competitive sealed bid basis (61% of purchases are from Montana vendors). These items are resold to state agencies at \$2.4 million annually, averaging 58% less than suggested retail, saving an estimated \$3.3 million annually.
3. Vendors may underbid term contract and Central Stores prices by up to 1% for approximately one year. After that time period, these purchasing methods, as well as many other competitively sealed bid items will progressively decline for lack of participation on the part of vendors (bid prices will only serve as target prices to be beaten by other vendors advertising \$X or X% off term contract or Central Stores prices). For the purpose of this note, it is assumed term contracts and bid items will drop by 25% in FY89.
4. With no published state volume discounted price as a benchmark, bid prices or otherwise obtained prices to the state will increase toward suggested retail pricing.
5. No inflation is reflected in estimates.
6. No dollar estimate is offered for value of merchandise purchased which is not of comparable value to specifications required due to incomplete descriptions in catalog or sale literature.
7. No dollar amount is offered for unsold inventory and lost revenue at Central Stores on term contract vendors.

FISCAL IMPACT:

Expenditures for term contract and warehoused bulk purchase, supplies and services would be impacted by this legislation:

	<u>FY88</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>FY89</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Difference</u>
		\$12,096,101	\$11,975,140	\$120,961		\$12,906,101	\$14,047,714	(\$1,141,613)

The net cost of this legislation is estimated at \$1,020,652 over the 1989 biennium. It is not possible to determine the impact on each fund type because it is dependent upon which agencies use Central Stores and the funding sources of the user agencies.

David L. Hunter DATE 1/16/87
DAVID L. HUNTER BUDGET DIRECTOR
Office of Budget and Program Planning

M. J. Smith DATE 1/16/87

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. This note assumes 25% of term contract and bid items will no longer be established by bid in FY89. If all bids and term contracts are lost due to non-participation, the potential cost to user state agencies would total \$5.05 million annually.
2. Administrative costs to the state may increase with more transfer warrant claims and more alternate bids and sources.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

Proposed Amendment

HB 180 - Introduced Copy

1. Page 3, line 16

Following: "proposals"

Insert: "for office supplies,"

2. Page 3, line 16

Following: "if a"

Insert: "Montana"

3. Page 3, line 17

Following: "catalog price"

Insert: "available to the public"

4. Page 4, line 1

Following: "from a"

Insert: "Montana"

5. Page 4, line 2

Following: "catalog price"

Insert: "available to the public,"

VISITOR'S REGISTER

GENERAL GOVERNMENT & HIGHWAYS

SUBCOMMITTEE

AGENCY (S) _____

DATE Jan. 27, 1987

DEPARTMENT _____

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY