

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **SUBCOMMITTEE ON GENERAL GOVERNMENT & HIGHWAYS**

**Call to Order:** By Chairman Quilici on January 22, 1991, at 8:02 a.m.

#### **ROLL CALL**

##### **Members Present:**

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

**Staff Present:** Clayton Schenck, Senior Fiscal Analyst (LFA)  
John Patrick, Budget Analyst (OBPP)  
Arlene Carlson, Secretary

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

**Announcements/Discussion:** Chairman Quilici stated Mr. Racicot would present his budget on: the Law Enforcement Academy, Law Enforcement Services Division, Highway Patrol, and Gambling Control Division.

#### **HEARING ON DEPARTMENT OF JUSTICE**

**Tape No. 1**

##### **Law Enforcement Academy Division**

**Mr. Schenck** gave a summary of the Division. **EXHIBIT 1**  
This program provides a professional education and training program in criminal justice for Montana Law enforcement officers and other criminal justice personnel.

The Law Enforcement Academy current level budget increased 11.2 percent due to personal services increases over 10 percent due to vacancy savings, pay plan increases and hiring replacement staff at higher step levels than budgeted.

Operating expenses increased over 16 percent due to the addition of the "pre-service" ten-week basic training course at the Academy for up to 32 students each year at \$48,000. HB 146, 1989 session, required all students to pay their own tuition fees to attend the course in the amount sufficient to fund the increased cost, with all fees deposited in the general fund.

Additional increases were for contract instructors and inflationary adjustments in operating expenses. The savings are

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due to the purchase of the academy buildings and campus in July 1988 and the resulting lower costs of operating the facility.

**Marc Racicot, Attorney General**, introduced **Gregg Noose, Administrator, Law Enforcement Academy Division**. Mr. Noose stated the last legislature approved HB 146 which provided pre-service training for individuals who are not law enforcement officers, but qualify for admission to the Academy. Pre-service students pay their own tuition. The department allows students to obtain entry level certificates--this program is authorized by law.

The personal service request of .5 FTE is to provide building maintenance and bus transportation of students to the MSU meal facility. **EXHIBIT 2**

The salary adjustments are for reorganization of the department. The department has brought the academy up-to-date in terms of providing law enforcement education in Montana. The department has also worked with the DOA to review all positions within the Academy and they felt there should be an attorney to design and teach programs to law enforcement officers. The department went forward with the reorganization and the reclassification of the attorney position as well as some Administrative Assistant positions.

Operating expenses include the general inflation increase. Contracted services for food service and room and board with MSU are subject to inflation and what has been allocated will perhaps not be sufficient.

The training course and driving range are located at Lewistown and there are no facilities available, therefore, the department has to make arrangements for motel and food services while in Lewistown for training.

The department has other sources of accounting that require approval at the Law Enforcement Academy -- money comes from the Sheriff's and Peace Officer's Association; Burlington Northern and others provided grants to the foundation that supports the Academy.

The department has purchased computer equipment, library equipment, and training materials for the Joe May Foundation. The department has 1400 law enforcement officers plus the Highway Patrol who receive training here.

#### **Law Enforcement Services Division**

**Clayton Schenck** gave an overview of the Division which includes the administration, management and coordination of a broad spectrum of criminal investigative services performed by the Criminal Investigation Bureau, Identification Bureau, and Criminal Intelligence Information Bureau. The Division also

includes the Fire Marshal Bureau and Special Investigation programs. **EXHIBIT 3** The current level for the 1993 biennium increased just over 1 percent. Personal services increased 3.6 percent due to vacancy savings in FY90 and the FY91 pay plan. Operating expenses decreased over 6 percent due to a reduction in the statewide drug enforcement task force funding. **EXHIBIT 4**

Equipment includes \$70,000 for ten used vehicles to be used for undercover investigations; \$11,600 for a replacement pickup for the Fire Marshal; \$6,786 for Fire Marshal inspection and storage equipment, \$9,600 for three computers for criminal investigation work, \$26,775 for criminal investigation equipment; \$4,222 for office equipment, and \$2,500 for a paper shredder.

The Fire Marshal and Identification Bureaus are funded entirely by general fund. The Fire Marshal Bureau is responsible for safeguarding life and property from fire, explosion and arson. The performance indicators were submitted as part of its budget program narratives. The bureau's failure to meet its statutory responsibilities due to staff limitations may raise liability issues for the state. There is currently at least one lawsuit against the state in progress which involves the bureau's failure to inspect a commercial building within the timeframe required by statute. The figures reflecting the changes were submitted in November and those figures have changed.

The Executive Budget includes \$79,805 general fund in the 1993 biennium for an additional criminal investigator to respond to increased requests by local law enforcement agencies for investigation of felony crimes.

The Law Enforcement Services Division has two drug investigation units that comprise the Statewide Drug Enforcement program.

**CHAIRMAN QUILICI** stated when he reviewed the budget he noticed federal funds for crimes on drug are becoming more scarce. He could not understand how President Bush is pushing for a big drug program and putting money into crime on drugs and yet the funds are no longer there that have been there for several years.

**Mr. Racicot** stated there will be more money available for the state this year than there has been -- the problem is there are program requirements that require any program funded with federal dollars to move away from federal funding after a period of four years. In the last biennium the department was supposed to have changed from 25% to 50% match in the second year of the biennium. The percentage was rescinded and the department only had to pay the 25% and the other 25% was reverted. We cannot stay in the program more than four years and this is the department's last year.

**Mr. Racicot** said they have submitted a request for an expansion of the Fire Marshal Bureau staff from the current 9.0 FTE to 40.0 FTE because the current staff is not meeting the statutory

requirements for the frequency of fire safety inspections and other related responsibilities. The agency will present a proposal to the legislature to fund the increase with a possible increase of 1.5 percent tax on fire insurance.

Mr. Racicot introduced Gary Carrell, Administrator, Law Enforcement Services Division. Mr. Racicot gave an overview on the Law Enforcement Services Division. The Forensics Science Division has one of the positions that includes the pay plan exception. This particular position is paid by federal funds. 25% for the first year is federal funds and 75% general fund. So we don't know what will happen because the grant comes to an end. This division has twelve drug investigators; five are in Missoula, one in Great Falls; six are in Billings (all six are funded by Coal Board funds). There are six general investigators (one in Billings, Missoula, and the remainder here) for a total of 18. They do only drug investigations and other kinds of criminal investigations at the request of local authorities. They have no responsibilities in the gambling arena. Last year they initiated 307 cases with the 18 people and processed about 765 different intelligence reports and seized over \$3.75 million dangerous drugs.

The fingerprint identification system has 6.0 FTEs who are responsible for processing all fingerprints in Montana and for criminal history information. Last year they received about 15,000 fingerprint cards and had 119,000 different transactions. They also provide 90 hours of training. The department is requesting 2 more FTE and funding to lease equipment to computerize fingerprint services in the Identification Bureau.

The Fire Marshall Bureau has 9 FTEs. The current staff is not able to meet the statutory requirements of the office for fire safety inspections in almost every type of occupancy except residential homes and other related responsibilities. Other duties include adopting model codes for fire prevention and inspection, supervision in the enforcement of safety rules, providing training programs, for statistics, for fire investigating all fire prevention equipment, etc. They are responsible for state institution inspections. There are 11 institution complexes with a total of 116 buildings. In 1990 they were able to inspect five of those complexes for 35 buildings. They have the six university systems for 151 buildings. They inspected three in 1990 and 72 buildings. There are many more responsibilities. Also are business where the public goes, taverns, day care centers where there are 13 or more children, developmentally disabled homes, schools, etc. In 1989 they had 99 investigations of suspicious fires and 100 in 1990. There was discussion held between the Department of Justice and the Department Administration to see how the fire marshals and other investigators throughout the state could be under one division. No decision has been made at this time. The department is requesting 16 FTEs to adequately meet all statutory requirements. The Insurance Industry seemed very much

in favor the proposal for they believe in the long run it will contribute to the reduction of serious injuries and fire loss.

Operating expenses include an inflationary factor in the budget.

The department is requesting more money for buy-money, to purchase drugs when an investigation under way.

**CHAIRMAN QUILICI** asked **Mr. Racicot** if there are any grants for local governments for buy-money. **Mr. Racicot** responded by stating there are a number of different projects funded with anti-drug abuse funds around the state.

The ID Bureau has learned there are federal funds available to through the Bureau of Justice Assistance to assist in maintaining identification services. All criminal history records and information pertaining to anyone that has been arrested, along with fingerprint information for Montana are here. Because there are so many needs in the ID Bureau with compliance, we applied for a grant which will hopefully help bring the Bureau up to a better level of performance. It's 100% federal money. We are looking at total computerization of this so a bank of fingerprints can be searched. It's expensive technology but very effective.

**Tape 2**

**Mr. Racicot** stated the transfer of funds from the Coal Board is still up in the air because they do not know if they will be receiving any funding from the Coal Board this biennium.

In the area of special investigation in Missoula, FY92 is the fourth and final year of federal funding. They don't know how to address the second year of the biennium; whether or not if anything is going to change in the revenue made available by federal government to continue the statewide drug investigating unit in Missoula. It will be up to the committee as to whether or not this program is important enough to fund.

**SEN. STIMATZ** said he couldn't see how much the Fire Marshal's budget for the current year was over the biennium. **Mr. Schenck** said it was a separate program last biennium but it is all combined now. There are five original programs now combined into one. The amount included in the LFA current level is \$352,700 in FY92 and \$341,400 in FY93 for the Fire Marshal's portion. **SEN. STIMATZ** said to that amount they want to add 16 FTEs. What's the total cost of your new proposed program? Answer from someone in the department: The total cost would be \$1.8 million over the biennium which would all be generated by the increase of tax on fire casualty insurance premiums. The 3/4 of 1 percent would bring in \$940,000 over the biennium and all of that goes to the general fund. **SEN. STIMATZ** said this looks like years ago when we levied on the insurance industry where they collect money and it's in excess of what it costs to run the department and it goes into the general fund and we show these people winding up as an expense. The \$352,000 and \$341,000 only adds up to about

\$700,000 and they're getting \$940,000 so they're actually getting a profit. So we can add these 16 people without it costing us anything. It will prevent the general fund from raiding this fund. In answer to SEN. FRITZ, this does not fund any retirement.

CHAIRMAN OF APPROPRIATIONS BARDANOUVE pointed out that when there is proposed legislation and it has not been approved, he encouraged holding that decision.

#### Highway Patrol Division

Mr. Schenck gave an overview on the Division stated that the agency's budget is presented differently than last biennium. EXHIBIT 5. Because of reorganization, in the last biennium this budget was presented in five sub-programs--this biennium it is being presented in one total budget. The Highway Patrol Division is responsible for patrolling the highways in Montana, enforcing traffic laws and investigating traffic accidents.

The Highway Patrol Division increased their budget by 1.6 percent, due to increases in operating expenses and equipment. Operating expenses increased 6.1 percent due to prisoner per diem. Operating expenses includes a \$57,000 biennial increase in special away-from-home allowances for patrol officers to reflect union negotiations for the subsistence plan and inflationary adjustments of \$119,500 for gasoline and other items.

The Highway Patrol Division is funded primarily by highways state special revenue funds. The MCSAP program is funded 80 percent by federal funds from the U.S. Department of Transportation. A 20 percent state match is required for the program.

The executive budget includes \$350,660 of general fund for additional staffing to reduce customer delays at driver licensing stations statewide. Delays in customer service of up to two hours are attributed by the agency to a 22 percent increase in staff workload with no increase in personnel and the addition of the commercial licensing program in 1988. There is a request for additional FTEs to reduce customer delays to driver licensing stations statewide. There is a request for additional patrol officers and communications operators on duty to reduce delays in responding to motorists' needs. The executive budget includes \$51,000 of highway state special revenue funds in the 1993 biennium to purchase 75 hand-held radios for patrol officers.

#### EXHIBIT 6

Funding for the highways program has included a number of "temporary revenue sources". There was a large bond issue and the special revenue fund as related to the bond issues was depleted and the gas tax money is now being spent. Gas tax and GVW fees are being spent at a much faster rate than first thought. There is no request for a gas tax increase in this Legislature. The next legislature will be dealing with a

shortfall of revenues that would require an equivalent of an 8 cent gas increase to fund the program at current level.

**Mr. Racicot** stated the first issue is the pay plan and general inflation increase. **EXHIBIT 7** Since 1979 the Department of Justice has been involved in a lawsuit with the highway patrol officers regarding the promotion of highway patrol officers. There is a number of different ranks within the structure of the highway patrol. There is no pay distinction between patrolmen and sergeants, although, sergeants are in a supervisory position. Patrol Officers II can earn more money than Sergeants because of the overtime the Patrol Officers can accumulate. The Department of Administration has recommended to the Department of Justice, they correct the promotion and pay differential that exists.

**Mr. Racicot** gave a brief summation of his handout regarding equipment and the need for the replacement of 65 vehicles per year. **EXHIBIT 8** He would like to recruit for more highway patrol officers in FY92. The replacement figure for highway patrol cars is very low. **Mr. Racicot** spoke on the modification by stating that he has not seen a change in the number of patrol officers in the Highway Patrol since 1970. They have seen an increase in traffic and registered vehicles. They are requesting 8 FTEs for additional officers and dispatchers.

**Tape 3**

The department is requesting hand-held radios for outlying areas. **Mr. Racicot** felt it was necessary to bring before the committee the replacement aircraft. They transport prisoners and witnesses, do blood runs, medical emergencies, traffic surveillance, drug cases, transports witness and law enforcement personal. They are spending \$400,000 per biennium for prisoner transport. The committee may wish to consider, in view of the fact that the department is spending \$400,000 to extradite prisoners, maybe the some consideration should be given to investing in some kind of aircraft that would allow the department to transport and extradite prisoners statewide and to other states. **EXHIBIT 9** **Mr. Racicot** introduced Sgt. Yaeger, the pilot of the aircraft.

**SEN. TVEIT** asked what kind of airplane the department has presently. **Mr. Racicot** stated that it was a Cessna 182, four passenger aircraft. The airplane is utilized for traffic control. **SEN. TVEIT** asked about the request for a new airplane. **Mr. Racicot** stated the airplane they are talking about has two french seats on the side and they can be installed or removed. There are two people who travel when extraditing prisoners because of security problems. The department has to purchase three tickets when transporting prisoners. The airplane would be a utility airplane that would be able to hold a great deal of baggage. **SEN. STIMATZ** asked how much the airplane would cost and **Mr. Racicot** answered the purchase price would be \$900,000 and over a five year purchase would be \$220,000 per year. Operating costs would bring it up to \$285,000 which is \$85,000 over what they are presently paying for the transport of

prisoners. The type of airplane that would be purchased is a Cessna 208.

#### GAMBLING CONTROL DIVISION

Mr. Schenck gave an overview of the Division which was established by the Fifty-first Legislature (SB431) to investigate, license and regulate the gambling industry in Montana. A gaming advisory council of nine members provides advisory services to the Attorney General to ensure uniform statewide regulation of gambling activities. The division was created by transferring the video gaming control functions from the Department of Commerce and enforcement functions from the Department of Revenue to the Department of Justice.

Funding for the Gambling Control Division is from a portion of the revenues generated through licenses and permits for gambling operators, machines, and other gambling activities as well as license fees for video gambling machine manufacturer/distributors.

The executive budget is requesting a major expansion of the Gambling Control Division. The expansion would include the addition of 10.0 FTE to meet the statutory obligations for gambling enforcement.

Mr. Racicot stated for 100 years gambling regulations resided at the local level--with the passage of SB 431 the responsibility was transferred to the Department of Justice. It has been a learning experience for his department because it has been involved in activities which has caused heated debates over the direction of gambling in Montana.

There are eight cities in Montana that have twenty-four hour gaming, and there are seven Indian Reservations that have gambling. The expenses that cover one-half of the license fee and the license fees are \$100 for each card game table, \$75 for dealer licenses upon initial application and \$25 renewal fee and \$1000 of the manufacture distributed license goes to underwriting the cost of gambling; for a total \$1.138 million to underwrite the cost of gambling enforcement. The remainder generated by the fees \$1.12 million goes into local government treasuries. There is a one million dollar balance double appropriation there was money appropriated in revenue as well as in the department for the employment of investigators. All of the money was reverted except for the expenses associated with Gambling Advisory Council for \$28,000.

Mr. Racicot gave a brief summation of the current level budget that he was requesting, equipment and proposed license fees.

EXHIBITS 11 AND 12



**Informational Testimony:**

**Ron Reiland, International Gaming Technological**, stated IGT is the world's largest manufacturer of gaming machines and is represented where there is legalized gambling in the world. He oversees the sales and service of equipment in the state of Montana. IGT supports quality, ethical and reasonable enforcement, and regulations within the gaming industry.

Regarding the laboratories, in every gaming jurisdiction, the authorities will require the approval of new gaming machines, new products and modifications. Unfortunately, the approval process for us has been longer than is economically practical. The items they believe or would like to see approved in days and weeks take months and months. In terms of the laboratory process, the approval function does not have sufficient resources to process all the requests that come in from the manufacturers.

The magnitude from IGT perspective, alone the company spent \$100,000 or lost \$100,000 in direct costs plus the loss of potential sales as the result of items not being approved in a timely fashion. The tax revenue is lost to the state coffers when the machines are not marketable in quick fashion. The operators are disappointed when the machines are not available due to the process. The consumer, tourist or resident of Montana, are at a disservice if that item has not reached the market place as fast as they should occur. IGT supports gaming regulation enforcement as a concept, except they will support improvements in the area of processing approvals of up-dates, etc.

**Larry Akey, Montana Gaming Industry Association**, stated that he had intended to just make himself available to the subcommittee for questions but several remarks have come up which he would like to address. The industry recognizes the industry needs to have strong regulations and enforcement; it is good for the gaming public and non-gaming public and for people who are in the business. The regulations and enforcement activities at the state level are paid for exclusively out of funds derived from the gaming industry. In the current fiscal year the industry has seen about \$1.2 million in fees paid from the industry to the state for the purpose of regulation and enforcement. This is an industry under most standards would be considered a heavily taxed industry already. The Attorney General stated there was \$113 million in profit that the industry generates, in fact, that is a misnomer that has been built into state statute and a myth that has been perpetuated over the years. In fact, the industry pays 15% or about \$17 million right off the top of the gross operating market. With any other small business, that kind of tax would be considered a confiscatory tax. In addition, they pay the fees the department is talking about. In order to pay for the modifications that have been presented before the committee today, they would have to double their fee structure. The \$113 million profit that the industry receives is, in fact, the gross

operating revenues, out of that 15% is paid off the top, they pay their employees, mortgages, expenses, advertising, and on top of that, income and employee taxes that all businesses pay.

The second point he made was while there has been a healthy growth in the gaming industry, there has been a healthier growth in the Department of Justice. In looking at the figures from FY88 to FY90, in terms of gross amount wager, the industry has grown about 67% -- the department has grown about 133% -- the department has grown twice as fast the industry. The last couple of years have been tough on the department but also on the industry; they have gone through the transition from local control to state control, from gaming regulated in the Department of Commerce to the Department of Justice. The department employees have done an admirable job in dealing with the transition, but the transition period is over. The department did a marvelous job in drafting the rules, but that rule writing process is over with. The workload the department has experienced over the last 18 months is the result of the transition and not of broken gaming. In addition, there are some alternatives available to this committee and the department other than increasing vehicle fees on the industry.

There are problems in getting new and modified equipment through the testing labs. The department has recognized that problem and has asked for more money, but the alternative would be to allow manufacturers to submit their machines to testing laboratories in New Jersey and Nevada for testing.

The gaming industry in Montana is a highly competitive industry but the competitiveness lends itself to lead to a self-policing mechanism. There have been some rocky times since the gambling industry went from local to state jurisdiction. The industry has been used to operating under strict instruction under SB 431 and can no longer operate in the same way as in the past.

CHAIRMAN QUILICI asked if Keno and Poker machines have meters. Mr. Akey stated there are two sets of meters to measure the amount of money that goes into the machine. One set of mechanical meters and one set of electronic meters. The electronic meters provide ongoing accounting data. All information is available from the department.

Mark Staples, Montana Tavern Association, stated that they understand and appreciate the enforcement that allows everyone to compete in the industry. The question is what level and what is the necessity for funding. There is a symbiotic relationship in the state of Montana that is dependent on a closely watched formula because of the DUI enforcement and changing consumption habits of America. The tavern industry was severely threatened and is still not on the strongest foundation. The small tavern will tell you the gaming machines saved the tavern industry. Many local governments will tell you the revenue from those gaming machines saved in large part local governments which were

disseminated by I-105 and the loss of federal revenue. The relationship is very dependent on a formula that works for everybody and the 15% and the facts and figures are very crucial. The Department of Justice has spoken many times how high the compliance is within the industry.

The growth in the industry itself which provides for a percentage to the Department of Justice might fund those portions to monitor compliance of the Tavern Industry that they say is already in strong compliance. The increase the department is calling for needs a very delicate formula with the small business.

**Joe Roberts**, represents a group "Don't Gamble With The Future." This is a statewide citizens organization that is growing--the group is concerned about the policy direction that has been set for gambling and the continued expansion. The purpose of the group is to bring citizen input to the legislature concerning any proposed expansion of gambling in Montana and to support adequate regulation of the gambling industry. There was nothing said about Blackjack today--and everyone knows that will be the next expansion. Senator Nathe is supporting the major expansion of gambling and to this expansion the budget modification is addressed. It should be made clear that the budget modification is talking about the further expansion of gambling. Give the Justice Department what it needs to monitor the gambling.

**Bill Fleiner, Undersheriff, Lewis and Clark County Sheriffs Department and Board Member of the Montana Sheriffs and Peace Officers Association**, said the Association supported SB 431 and the AG's office regulating gambling. There is a delicate balance between local agencies, the state and the consumers and it gets more delicate in terms of the industry and its competitiveness. A \$250 million industry is a lot of revenue to be involved with. Enforcement needs to be able to enforce the regulations. He disagreed with the issue of competitiveness and self-policing. As the competitiveness grows, it's harder to survive. As the caseload grows, it is more difficult to monitor and will create more problems on this opportune level. Regulation protects the consumer.

**Rep. Dave Brown** stated the fee increases that the Attorney General mentioned apparently will show up as separate legislation that no one else has seen. He hoped nothing would be appropriated here until that legislation is proposed. The Justice Department has gone through a vigorous process of setting up a statewide control system. Even with a few criticisms they have done an exceptional job. He felt the department was sufficiently funded in this area and hoped the committee would refuse the request.

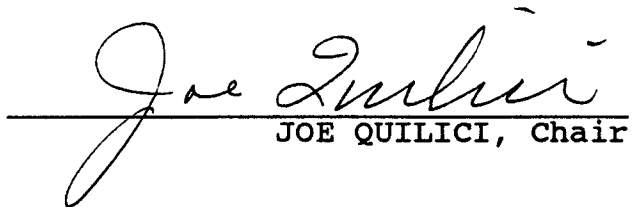
HOUSE GENERAL GOVERNMENT & HIGHWAYS SUBCOMMITTEE

January 22, 1991

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ADJOURNMENT

Adjournment: 11:23 a.m.

  
JOE QUILICI, Chair

JQ/amc

HOUSE OF REPRESENTATIVES

GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE

ROLL CALL

DATE

January 22, 1971

NAME	PRESENT	ABSENT	EXCUSED
REP. JOE QUILICI, CHAIRMAN	✓		
SEN. LARRY STIMATZ, VICE-CHAIRMAN	✓		
REP. TOM ZOOK	✓		
SEN. LARRY TVEIT	✓		
REP. MARY LOU PETERSON	✓		
SEN. HARRY FRITZ	✓		

DATE 1-22-91  
*Ken Hovr Sub*

## LAW ENFORCEMENT ACADEMY DIVISION

Budget Item	Actual Fiscal 1990	Appropriated Fiscal 1991	- - Current Fiscal 1992	Level - - Fiscal 1993	Change 1991-93 Biennium
FTE	10.00	10.00	10.00	10.00	.00
Personal Services	257,067	295,678	306,580	306,033	10.83%
Operating Expenses	212,834	248,676	267,724	267,974	16.08%
Equipment	20,154	8,071	8,000	8,000	-43.31%
Debt Service	4,699	0	0	0	-100.00%
Total Program	\$494,754	\$552,425	\$582,304	\$582,007	11.19%
<u>Fund Sources</u>					
General Fund	494,754	552,425	582,304	582,007	11.19%
Total Funds	\$494,754	\$552,425	\$582,304	\$582,007	11.19%

## Program Description

The Law Enforcement Academy program provides a professional education and training program in criminal justice for Montana law enforcement officers and other criminal justice personnel. The academy, at its campus in Bozeman, provides an annual curriculum specifically designed to meet the needs of the criminal and juvenile justice system.

## Current Level Budget

The Law Enforcement Academy current level budget for the 1993 biennium increases 11.2 percent compared to the 1991 biennium, due to increased personal services and the addition of a "pre-service" course. Personal services increase over 10 percent due to vacancy savings, the fiscal 1991 pay plan increase that continues into the 1993 biennium, and hiring replacement staff at higher step levels than budgeted.

Operating expenses increase over 16 percent due to the addition of the "pre-service" ten-week basic training course at the Academy for up to 32 students each year, at a cost of \$48,000 per year. As authorized by the 1989 legislature in House Bill 146, the students will pay tuition fees to attend the course in an amount sufficient to fund the increased cost, with all fees deposited in the general fund. The

Executive Budget includes this program in a modified budget request described below.

Additional increases of \$4,500 per year for contract instructors and nearly \$3,000 per year for inflationary adjustments are included in operating expenses. The remainder of the budget is based on fiscal 1990 expenditures, which are \$30,000 below the appropriated levels. The savings are due to the purchase of the academy buildings and campus in July 1988 and the resulting lower costs of operating the facility. While the 1991 biennium budget was based on an anticipated 25 percent decrease in operating costs due to the building purchase, actual expenditures in fiscal 1990 were an additional \$30,000 lower than expected.

## Executive Budget Modification

Academy Pre-Service Course

The Executive Budget includes \$96,000 of general fund in the 1993 biennium to provide an additional program of law enforcement basic training for up to 32 "pre-service" students as authorized by House Bill 146 in the 1989 legislature. The funds will allow the academy to add a fourth basic training class each year, in order to provide training for individuals who are not law enforcement officers but qualify for admission to the academy. The pre-service students

Agency: 4110  
Program: 22

DEPARTMENT OF JUSTICE

Law Enforcement Academy Division

2  
DATE 1-22-91  
HB Gen. Govt. Sub

FY92

FY93

**CURRENT LEVEL ISSUES:**

**Personal Services**

- |   |        |        |
|---|--------|--------|
| 1. Increase in FTE to provide building maintenance and bus transportation of students to MSU meal facility. The position will be funded by a transfer from contracted services. | .5     | .5     |
| 2. Salary adjustments resulting from recently completed reorganization.   | 27,244 | 27,244 |

**Operating Expenses**

- |   |       |       |
|---|-------|-------|
| 1. General Inflation Increase             | 5,555 | 8,541 |
| 2. Contracted services inflation increase |       |       |
| - Board and room FY92 (12.5) FY93 (17.5)  | 3,887 | 5,442 |
| - Food service FY92 (12.5) FY93 (17.5)    | 5,568 | 7,795 |

**Equipment**

- |   |       |       |
|---|-------|-------|
| 1. Debt Service - Copier lease/purchase | 8,056 | 8,056 |
|---|-------|-------|

1110 18 00000

# LAW ENFORCEMENT SERVICES DIVISION

Budget Item	Actual Fiscal 1990	Appropriated Fiscal 1991	- - Current Fiscal 1992	Level - - Fiscal 1993	Change 1991-93 Biennium
FTE	40.00	40.00	40.00	40.00	.00
Personal Services	1,200,890	1,263,836	1,276,211	1,276,356	3.56%
Operating Expenses	385,127	495,142	412,324	412,681	-6.28%
Equipment	89,696	36,404	82,303	49,180	4.27%
Total Program	\$1,675,713	\$1,795,382	\$1,770,838	\$1,738,217	1.09%
<u>Fund Sources</u>					
General Fund	1,006,635	1,160,100	1,049,652	1,144,563	1.27%
State Revenue Fund	342,855	354,617	357,414	335,969	-.59%
Federal Revenue Fund	326,223	280,665	363,772	257,685	2.40%
Total Funds	\$1,675,713	\$1,795,382	\$1,770,838	\$1,738,217	1.09%

## Program Description

The Law Enforcement Services Division includes the administration, management, and coordination of a broad spectrum of criminal investigative services performed by the Criminal Investigation Bureau, Identification Bureau, and Criminal Intelligence Information Bureau. Criminal investigators conduct criminal investigations of homicide, fraud, robbery, assault, corruption, arson, organized crime, dangerous drug activity, and other felony crimes. The program activity includes conducting criminal investigations of state agencies and providing investigative training to law enforcement officers. The division emphasizes providing adequate specialized drug enforcement resources to address drug abuse and drug trafficking in Montana. The division also includes the Fire Marshal Bureau, which is responsible for safeguarding life and property from fire, explosion, and arson through investigative, inspection, and fire code interpretation and enforcement functions. The Law Enforcement Services Division consists of the combined Law Enforcement Services, Fire Marshal, Criminal Investigation, Identification, and Special Investigation programs as presented in the 1991 biennium budget.

## Current Level Budget

The Law Enforcement Services Division current level budget for the 1993 biennium increases just over 1 percent compared to the previous biennium. Personal services increase 3.6 percent due to vacancy savings in fiscal 1990 and the fiscal 1991 pay plan increase that continues in the 1993 biennium. Operating expenses decrease over 6 percent primarily due to a reduction in the statewide drug enforcement task force funding. The decrease in the drug program reflects: 1) a decrease in the anticipated federal grant for the western state task force below fiscal 1991 levels; and 2) a budget based on fiscal 1990 actual expenditures, which were significantly lower than appropriated. Although lower than fiscal 1991, the operating expense budget for the 1993 biennium exceeds fiscal 1990 levels due primarily to the federal grant funds for the location and eradication of illicit marijuana fields and prosecution of those cases. The current level budget continues this at 1991 biennium appropriated levels (\$32,000 per year), although only \$740 was expended in fiscal 1990. Other increases in operating expenses over fiscal 1990 are due to fixed cost increases and inflationary adjustments. Offsetting decreases include a \$12,000 per year reduction in vehicle lease costs for criminal investigation units



## LAW ENFORCEMENT SERVICES DIVISION

(replaced by funding for purchase of used cars).

Equipment includes \$70,000 for ten used vehicles to be used for undercover investigations, \$11,600 for a replacement pickup for the Fire Marshal Bureau, \$6,786 for Fire Marshal inspection and storage equipment, \$9,600 for three computers for criminal investigation work, \$26,775 for criminal investigation equipment, \$4,222 for office equipment, and \$2,500 for a paper shredder.

The Fire Marshal and Identification Bureaus are funded entirely by general fund, as are the majority of the general criminal investigation functions of the Criminal Investigation Bureau. In addition, general fund provides a 25 percent match for the federal grant funding of the western drug enforcement task force. The match (\$119,618 in fiscal 1992) is required by current federal law to increase to 50 percent in fiscal 1993 (\$225,685). State special revenue funds include \$38,894 in fiscal 1992 and \$38,865 from the workers' compensation account for a workers' compensation fraud investigator. The balance of the state special revenue anticipates a continuation of Coal Board grant funding for the eastern state drug enforcement task force. Federal funds include \$32,000 per year federal grant funds for the Montana Marijuana Eradication program and \$331,772 in fiscal 1992 and \$225,685 in fiscal 1993 from a Board of Crime Control federal grant for anti-drug enforcement.

### Issue

#### Fire Marshal Statutory Responsibilities

The State Fire Marshal Bureau is responsible for safeguarding life and property from fire, explosion, and arson. Services offered by this program include fire and arson investigation, inspection of buildings for fire safety, fire code interpretation and enforcement, regulation of the fire protection industry, and the collection of fire data through the fire incident reporting system.

The Bureau has been assigned extensive responsibility in statute for fire safety, education, and enforcement issues, including: 1) requirements and time-frames for inspections of all state and public buildings within the state; 2) requiring issuance of permits and licenses to those selling fire equipment in buildings; 3) assigning the Fire Marshal supervisory jurisdiction over local governmental agencies for fire safety and control; 4) the requirement to investigate and determine the cause for all fires within the state; 5) maintaining a fire incident reporting system for statistical information on fires in Montana; and 6) providing specific rules for certification and protection of day-care centers, disabled individuals, foster care homes, and other special need groups.

In performance indicators submitted as part of its budget program narratives, the agency indicated that in the 1991 biennium, it will complete less than 50 percent of the 1,900 required fire inspections it is responsible to complete. Further, it will provide less than 50 percent of the requested and required fire training it is assigned to complete. In its most recent annual report, the bureau indicated that the fire incident reporting system it is required to maintain lacks data from 40 percent of Montana local fire departments, and that 60 percent of the data that is received is incomplete.

The bureau's failure to meet its statutory responsibilities due to staff limitations may raise liability issues for the state. There is currently at least one lawsuit against the state in progress which involves the bureau's failure to inspect a commercial building within the time-frame required by statute. A fire in the building resulted in fatalities.

The Attorney General has submitted a request for an expansion of the Fire Marshal Bureau staff from the current 9.0 FTE to 40.0 FTE and is considering legislation that would revise the statutory requirements for fire regulations.

## AGENCY: DEPARTMENT OF JUSTICE

## LEGISLATIVE ACTION

## PROGRAM: LAW ENFORCEMENT ACADEMY

BUDGET ITEM	FY 1990 Actual	Executive	Fiscal 1992 LFA Curr Lvl	Difference	Executive	Fiscal 1993 LFA Curr Lvl	Difference
FTE	10.00	10.00	10.00	0.00	10.00	10.00	0.00
Personal Services	\$257,067	\$306,580	\$306,580	\$0	\$306,033	\$306,033	\$0
Operating Expenses	\$212,834	\$250,022	\$267,724	(\$17,702)	\$249,663	\$267,974	(\$18,311)
Equipment	\$20,154	\$8,000	\$8,000	\$0	\$8,000	\$8,000	\$0
Debt Service	\$4,699	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL EXPENSES	\$494,754	\$564,602	\$582,304	(\$17,702)	\$563,696	\$582,007	(\$18,311)
FUNDING							
General Fund	\$494,754	\$564,602	\$582,304	(\$17,702)	\$563,696	\$582,007	(\$18,311)
TOTAL FUNDING	\$494,754	\$564,602	\$582,304	(\$17,702)	\$563,696	\$582,007	(\$18,311)

## CURRENT LEVEL ISSUES:

--EXEC OVER (UNDER) LFA--  
FY 92 FY 93

1. CONTRACT INSTRUCTORS - The Executive Budget is higher than LFA current level for instructor fees. The Executive Budget is at the fiscal 1991 appropriated level.

2. BUDGET BASE DIFFERENCES - The Executive Budget is higher due to using the FY 1991 appropriation as a base, whereas LFA current level is based on FY 1990 actual expense. Fiscal 1990 actual costs are significantly lower because costs of operating and maintaining the Academy campus were significantly lower than anticipated when the campus was purchased in July 1988. The lower operating costs are expected to continue.

## 3. INFLATION DIFFERENCES

4. ACADEMY PRE-SERVICE COURSE - LFA current level includes the pre-service basic training course discussed in Budget Modification # 1 in current level. It is included in current level as is based on current law and legislative intent.

## TOTAL CURRENT LEVEL ISSUES

## EXECUTIVE BUDGET MODIFICATION:

1. ACADEMY PRE-SERVICE COURSE - To provide an additional law enforcement basic training course for up to 32 "pre-service" students who would pay their own tuition, as authorized by HB 146 in the 1989 legislature. The cost of the program is recovered by tuition fees (LFA Vol. 1, A-199).

\$48,000 \$48,000 Gen Fund

(\$17,702) (\$18,311)

(\$1,438) (\$2,047)  
(\$48,000) (\$48,000)

\$3,700 \$3,700

\$28,036 \$28,036

1-22-81  
Hon. Govt. Sub.

EXECUTIVE BUDGET MODIFICATION:

	-----FTE-----	
	FY 92	FY 93
1. CRIMINAL INVESTIGATOR - Funding for an additional criminal investigator for investigation of felony crimes (LFA Vol. 1, A-196).	0.75	1.00
		\$42,465
		\$37,340 Gen Fund
ELECTED OFFICIAL BUDGET MODIFICATIONS:		
1. FIRE MARSHAL BUREAU EXPANSION - The Attorney General is requesting expansion of the current staff of the Bureau from 9.0 to 40.0 FTE, to meet all statutory obligations of the Bureau. The agency proposes an increase in the 3/4 of 1 % tax on insurance (statute change) to pay for the increased costs (LFA Vol. 1, A-196).	31.00	31.00
		\$992,229
		\$895,933 Gen Fund
2. AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM - The Attorney General is requesting additional FTE and funding for the lease of equipment to computerize fingerprint services in the ID Bureau (LFA Vol. 1, A-196).	2.00	2.00
		\$544,000
		\$464,000 Gen Fund
TOTAL MODIFICATIONS	33.75	34.00
		\$1,578,694
		\$1,397,273

OTHER ISSUES:

1. PERMANENT FUNDING FOR DRUG INVESTIGATION UNITS - The two drug investigation units are funded by federal and coal board grants, with future funding in doubt. The agency is seeking a more permanent source of funds. Replacement with general fund in the 1993 biennium would require an additional \$841,309 general fund (LFA Vol. 1, A-196).

2. LANGUAGE - The 1991 biennium general appropriations act included the following language:

"The work of the workers' compensation fraud investigator position must include investigations of both employee and employer fraud cases."

The above language applies to a 1.0 FTE general investigator added by the 1989 legislature for workers' compensation fraud investigations, funded by the Workers' Compensation state special revenue account.

EXHIBIT 4

DATE 1-23-77

Gen. Hawkshel

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PROGRAM: LAW ENFORCEMENT SERVICES DIVISION

## LEGISLATIVE ACTION

AGENCY: DEPARTMENT OF JUSTICE

BUDGET ITEM	FY 1990 Actual	LEGISLATIVE ACTION			LAW ENFORCEMENT SERVICES DIVISION		
		Executive	Fiscal 1992 LFA Curr Lvl	Difference	Executive	Fiscal 1993 LFA Curr Lvl	Difference
FTE	40.00	40.00	40.00	0.00	40.00	0.00	
Personal Services	\$1,200,890	\$1,276,674	\$1,276,211	\$463	\$1,276,222	(\$134)	
Operating Expenses	\$385,127	\$487,962	\$412,324	\$75,638	\$481,204	\$68,523	
Equipment	\$89,696	\$71,703	\$82,303	(\$10,600)	\$36,030	(\$13,150)	
TOTAL EXPENSES	\$1,675,713	\$1,836,339	\$1,770,838	\$65,501	\$1,793,456	\$55,239	
FUNDING							
General Fund	\$1,006,635	\$1,040,437	\$1,049,652	(\$9,215)	\$1,164,887	\$20,324	
State Revenue	\$342,855	\$384,493	\$357,414	\$27,079	\$350,062	\$14,093	
Federal Revenue	\$326,223	\$411,409	\$363,772	\$47,637	\$278,507	\$20,822	
TOTAL FUNDING	\$1,675,713	\$1,836,339	\$1,770,838	\$65,501	\$1,793,456	\$55,239	

## CURRENT LEVEL ISSUES:

- PERSONAL SERVICES - Minor differences in benefits/overtime.
- NETWORK FEES - As determined by this committee, the Executive fixed costs for network fees and deflation factor for mainframe computer processing have been adopted.
- BUDGET BASE DIFFERENCES - The Executive Budget used the FY 1991 appropriation as a base, whereas LFA current level is based on FY 1990 actual expense.
- INFLATION DIFFERENCES
- EQUIPMENT - The Executive Budget is lower than LFA current level for equipment. LFA current level provides additional funds for a pickup replacement in the Fire Marshal Bureau and replacement investigative equipment in the Drug Enforcement Unit.

## TOTAL CURRENT LEVEL ISSUES

	EXEC OVER (UNDER) LFA-- FY 92	FY 93
	\$463	(\$134)
	(\$3,088)	(\$3,088)
	\$79,693	\$71,284
	(\$967)	\$327
	(\$10,600)	(\$13,150)
	\$65,501	\$55,239

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## HIGHWAY PATROL DIVISION

Budget Item	Actual Fiscal 1990	Appropriated Fiscal 1991	- - Current Fiscal 1992	Level - - Fiscal 1993	Change 1991-93 Biennium
FTE	263.90	261.40	261.40	261.40	.00
Personal Services	8,055,987	8,436,538	8,256,072	8,250,307	.08%
Operating Expenses	2,039,596	1,913,067	2,105,987	2,088,493	6.12%
Equipment	1,012,457	912,600	1,010,635	1,010,271	4.98%
Total Program	\$11,108,040	\$11,262,205	\$11,372,694	\$11,349,071	1.57%
<u>Fund Sources</u>					
State Revenue Fund	10,630,387	10,744,353	10,872,520	10,850,830	1.63%
Federal Revenue Fund	477,653	517,852	500,174	498,241	.29%
Total Funds	\$11,108,040	\$11,262,205	\$11,372,694	\$11,349,071	1.57%

## Program Description

The Highway Patrol Division is responsible for patrolling the highways in Montana, enforcing traffic laws, and investigating traffic accidents. The patrol gives assistance and information to motorists, first-aid to those injured in traffic accidents, transports blood and medical supplies in emergency situations, and assists other law enforcement agencies when requested. The patrol's Communications Bureau provides 24-hour, seven-day-a-week communication and radio dispatch for the Highway Patrol and other state agencies. The Motor Carrier Safety Assistance program (MCSAP) attempts to reduce commercial motor vehicle accidents in the state by participating in the Commercial Vehicle Safety Alliance (CVSA) and its North American Driver/Vehicle Inspection program in all levels of inspections as well as safety review audits.

## Current Level Budget

The Highway Patrol Division current level budget for the 1993 biennium increases 1.6 percent compared to the previous biennium, due to increases in operating expenses and equipment. Personal services are higher in the 1993 biennium than fiscal 1990 due to vacancy savings and the fiscal 1991 pay plan increase. These increases are offset partially by: 1) a reduction of 2.5 FTE

authorized for fiscal 1990 only for an expanded recruit training class; and 2) an exceptionally high overtime cost (nearly \$200,000) in fiscal 1990 that was \$80,000 above the budgeted amount. The current level contains \$100,000 per year for overtime in the 1993 biennium. The 1993 biennium personal services are lower than the fiscal 1991 appropriation due to a number of downgrades and step changes in patrol officer positions that occurred after the appropriation was made.

Operating expenses increase 6.1 percent due to prisoner per diem (the amount reimbursed to local detention centers for prisoners arrested by the Highway Patrol). In fiscal 1990, expenditures for per diem were \$110,000 more than in previous years. The agency states the increases are caused by: 1) stronger enforcement of DUI laws; 2) more jail time per prisoner due to availability of new jail space; and 3) an increase in the reimbursement rate from a statutory \$20 per day to an average of \$35 per day under a new statute that allows a negotiated rate that more closely approximates full reimbursement.

Because the program is not budgeted for prisoner per diem at this level in the fiscal 1991 appropriation, the agency has submitted a \$280,000 supplemental request for fiscal 1991 for the anticipated increase and to replace the funds transferred to fiscal 1990. The LFA current level includes \$110,000 prisoner per diem per year, as this is

## HIGHWAY PATROL DIVISION

expected to be an ongoing cost. The Executive Budget does not include the increase in current level, but includes it in a modified budget request for additional highway patrol FTE.

Operating expenses also include a \$57,000 biennial increase in special away-from-home allowances for patrol officers to reflect union negotiations for the subsistence plan and inflationary adjustments of \$119,500 for gasoline and other items. These increases are partially offset by the removal of operating expenses for an expanded recruit training school from the fiscal 1990 base.

Equipment includes: 1) \$899,405 in fiscal 1992 and \$898,695 in fiscal 1993 for the replacement of up to 65 patrol cars per year; 2) \$100,000 per year for the purchase of other equipment on a priority basis, including hand-held radios, vehicle top lights, computers, and communications equipment; and 3) \$11,230 in fiscal 1990 and \$11,576 in fiscal 1991 for additional cars for the MCSAP inspection program.

The Highway Patrol Division is funded primarily by highways state special revenue funds. Since these funds are also the primary source of state funds for highway construction and maintenance, funds used for highway patrol operations reduce funds available for the State Highway program. The MCSAP program is funded 80 percent by federal funds from the U.S. Department of Transportation. A 20 percent state match is required for the program, but approximately one-third of the match is provided by a soft match utilizing highway patrol officers to conduct truck inspections. The 65 MPH enforcement squad is funded entirely by federal funds from the U.S. Department of Transportation through a grant from the Highway Traffic Safety Division.

### Issue

#### House Bill 100 Language

House Bill 100 states that "...no funds appropriated for personal services...may be expended under any other category."

In fiscal 1990, the program received a supplemental to spend \$130,000 of fiscal 1991 authority for unexpectedly high prisoner per diem costs. However, the division did not use this supplemental appropriation. Instead, it paid for prisoner per diem (a contracted services expenditure) with excess personal services authority. This expenditure of funds appropriated for personal services in the contracted services category appears to violate the language in House Bill 100.

#### Communications Cost Allocation Plan

The Communications program of the Highway Patrol Division provides around-the-clock communication and radio dispatch from four regional dispatch centers, providing a statewide network. The program also provides communication and radio dispatch services to other state agencies. Funding for the Communications program is from the highways special revenue account.

Prior to the 1991 biennium, the highways special revenue account was not being reimbursed for services provided to agencies and programs that have other fund sources. Agencies and programs served include the Attorney General and Law Enforcement Services Division of the Department of Justice; the Department of Fish, Wildlife, and Parks; Department of Highways; Public Service Commission; Disaster and Emergency Services of the Military Affairs Division; the Lottery Commission; and the Department of Institutions. The system is also used by local law enforcement agencies. According to Department of Justice usage records, in fiscal 1988 approximately 6 percent of the services were utilized by agencies funded by other than the highways special revenue account. Concerned that the use of the service at no charge by programs funded by other sources results in a use of highways special revenue funds for purposes other than that specified by the Montana Constitution, the Fifty-first Legislature included language in the 1991 biennium appropriations bill requiring recovery of the cost of communication and dispatch services provided to other state agencies: "The Department of Justice shall implement a

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## HIGHWAY PATROL DIVISION

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cost allocation plan for the purpose of recovering the operational cost of regional dispatch centers from all user agencies on an equitable basis. It is the intent that after fiscal 1989 the highways special revenue account be reimbursed for services provided to user agencies that are not funded by the highways state special revenue account. Revenues collected as reimbursement from user agencies for operational costs of the regional dispatch centers shall be deposited in the highways state special revenue account, and shall equal at least 5 percent of the total amount of item 6c [Communications Program appropriation for the 1991 biennium]."

The Department of Justice prepared a cost allocation plan for recovering costs and submitted billings to user agencies to recover \$36,000 of costs of the system. All of the agencies billed except one refused to pay the bills on the basis that the cost had not been built into their 1991 biennium budgets. The department has not yet billed the agencies for fiscal 1991 and it did not request that appropriation authority be built into user agency budgets for the 1993 biennium budget so that the agencies would be adequately funded for the charges.

Fiscal 1990 usage data provided by the department indicates that usage by agencies not funded by highways funds has decreased to 2.5 percent of the total communications system. Therefore, maximum cost recovery under the cost allocation plan would be \$37,000 per biennium. In requiring implementation of a cost recovery plan, the legislature anticipated \$70,000 per biennium would be recovered. The department contends that the cost of collecting usage data exceeds the potential reimbursement. Further, it argues there are some users from whom it would not be prudent to collect fees due to reciprocal services agreements. For example, the department receives rent-free space from the Military Affairs Department for its computer operation in exchange for services from the Department of Justice.

It does not appear that a cost allocation plan has been effectively

implemented, nor does it appear that the Department of Justice intends to do so.

### Executive Budget Modifications

#### Added Patrol Officers and Dispatchers

The Executive Budget includes \$748,004 of highways state special revenue fund in the 1993 biennium for increased prisoner per diem costs and for 8.0 additional FTE to increase the number of patrol officers and communications operators on duty and reduce delay in responding to motorists needs. The additional FTE and associated costs would be \$564,004. The department cited several reasons for the additional staff: 1) there are several counties in the state that do not have a highway patrol officer assigned to the area; 2) there are significantly more vehicles on the road with each vehicle logging more miles than ten years ago, with no increase in patrol size; and 3) the statewide communications network does not have sufficient numbers of dispatchers to service the entire state on a 24-hour basis. This modification would provide an additional 4.0 FTE patrol officers and 4.0 FTE communications operators.

The modification includes \$220,000 increased funding for reimbursements to local government detention centers for prisoners arrested by Highway Patrol officers and placed in those facilities. The costs of prisoner per diem have increased significantly in the 1991 biennium due to the elimination of a statutory ceiling of \$20 per day for per diem reimbursement by the 1991 legislature. The increase provided in this modification for prisoner per diem is included in the LFA current level budget as it is an ongoing expense.

#### Hand-Held Radios

The Executive Budget includes \$51,000 of highways state special revenue funds in the 1993 biennium to purchase 75 hand-held radios for patrol officers. In 1988, the Montana Highway Patrol was accredited by the National Commission on Accreditation with a waiver of understanding specifying that the patrol

## DEPARTMENT OF JUSTICE

### Executive Budget Modifications 1993 Biennium

<u>Budget Modifications</u>	<u>FTE FY92</u>	<u>FTE FY93</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
1) Gambling Control Expansion	10.0	10.0		\$1,043,333	\$1,043,333
2) Gambling "Buy" Money				30,000	30,000
3) Dr. License Express Station	8.0	8.0	\$350,660		350,660
4) Additional H/P Officers	8.0	8.0		748,004	748,004
5) Hwy Patrol Handheld Radios				51,000	51,000
6) Added General Investigator	0.75	1.0	79,805		79,805
7) Academy Pre-Service Course			96,000		96,000
8) Data Processing Fee Incr.			109,830		109,830
9) Data Processing Air Cond.			49,400		49,400
Total	26.75	27.0	\$685,695	\$1,872,337	\$2,558,032

The Executive Budget includes the budget modifications listed above. These modifications are discussed in the program narratives.

present the following additional budget modification requests to the 1991 legislature. They are discussed in more detail in the program narratives.

In late November 1990, the Department of Justice indicated that it planned to

### Elected Official Budget Modifications 1993 Biennium

<u>Budget Modifications</u>	<u>FTE FY92</u>	<u>FTE FY93</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
1) Appellate Svcs Bureau Chief	1.0	1.0	\$ 118,882		\$ 118,882
2) Attorney, Indian Legal Jur.	1.0	1.0	94,484		94,484
3) Dr. License Express Station	12.2	12.2	579,464		579,464
4) Replacement Aircraft			285,000	\$ 285,000	570,000
5) Gambling Control Expansion	13.0	13.0		1,048,383	1,048,383
6) Fire Marshal Bur. Expansion	31.0	31.0	1,888,162		1,888,162
7) Autom. Fingerprint ID Sys.	2.0	2.0	1,008,000		1,008,000
8) Drug Investigations Program - Permanent Funding			NA	NA	NA
Total	60.2	60.2	\$3,973,992	\$1,333,383	\$5,307,375



## LEGAL SERVICES DIVISION

<u>Budget Item</u>	<u>Actual Fiscal 1990</u>	<u>Appropriated Fiscal 1991</u>	<u>- - Current Fiscal 1992</u>	<u>Level - - Fiscal 1993</u>	<u>Change 1991-93 Biennium</u>
FTE	25.50	25.50	25.50	25.50	.00
Personal Services	890,312	986,924	990,601	989,277	5.47%
Operating Expenses	177,348	160,841	225,323	220,580	31.85%
Equipment	31,829	13,000	10,175	9,904	-55.21%
Debt Service	2,085	0	0	0	-100.00%
Total Program	\$1,101,574	\$1,160,765	\$1,226,099	\$1,219,761	8.11%
<u>Fund Sources</u>					
General Fund	1,101,574	1,160,765	1,226,099	1,219,761	8.11%
Total Funds	\$1,101,574	\$1,160,765	\$1,226,099	\$1,219,761	8.11%

### Program Description

The Legal Services Division provides the Attorney General with legal research and analysis; provides legal counsel for state government officials, bureaus, and boards; provides legal assistance to local governments and Indian tribes; and provides legal assistance, training, and support for county prosecutors. The Legal Services Division is comprised of the County Prosecutor Services Bureau, the Appellate Legal Services Bureau, and the Indian Legal Jurisdiction Section. The Legal Services program consists of the combined Legal Services, Indian Legal Jurisdiction, and County Prosecutor Services programs as presented in the 1991 biennium budget.

### Current Level Budget

The Legal Services Division current level budget for the 1993 biennium increases over 8 percent compared to the previous biennium, due to personal services increases and a contingency appropriation for caseload costs in the Indian Legal Jurisdiction program. Personal services increase 5.5 percent due to vacancy savings in fiscal 1990 and the fiscal 1991 pay plan increase which continues into the 1993 biennium.

Operating expenses increase nearly 32 percent, due primarily to the inclusion of a \$100,000 biennial contingency appropriation in the Indian Legal

Jurisdiction program for legal fees, expert witnesses, and other court costs. This contingency appropriation is shown as \$50,000 in each year of the 1993 biennium. For the past two biennia, a \$100,000 biennial appropriation has been appropriated for this program. In fiscal 1990, only \$11,200 of this appropriation was expended.

Other increases in operating expenses include rent and other fixed costs of nearly \$4,000 and inflationary adjustments. Operating costs are higher in fiscal 1992 due to the biennial printing cost of Attorney General opinions. Equipment includes \$11,950 for computer equipment and software; \$4,629 for shelving, file cabinets, and typewriters; and \$3,500 for replacement carpet.

### Elected Official Budget Modifications

In November 1990, the Department of Justice indicated that it planned to present the following additional budget modification requests to the 1991 legislature. They are not included in the Executive Budget.

#### Appellate Legal Services Bureau Chief

The Attorney General requests \$118,882 general fund in the 1993 biennium to add a 1.0 FTE attorney in the Appellate Legal Services Bureau for the position of Bureau Chief. The eleven attorneys and five clerical personnel in the

6  
Agency: 4110  
Program: 13

DEPARTMENT OF JUSTICE  
Highway Patrol Division

7  
DATE January 22, 1991  
By Gen. Hair Sub

	<u>FY92</u>	<u>FY93</u>
<b>CURRENT LEVEL ISSUES:</b>		
Personal Services - Pay Plan Exception	110,000	110,000
<b>Operating Expenses</b>		
1. General Inflation Increase	43,038	66,170
2. Overtime - increase to FY90 actual		
- Uniformed Officers	50,000	50,000
- Communications	23,000	23,000
3. Recruit School - Train 30 recruits in FY92 rather than 15 in each year.	87,840	(87,840)
<b>Equipment</b>		
1. Equipment needs require the replacement of 65 vehicles per year plus \$100,000/yr. for replacement of other patrol and communication equipment.		
FY92 - 65 vehicles @ \$15,480	1,006,200	
FY93 - 65 vehicles @ \$16,254		1,056,510
Other equipment	<u>100,000</u>	<u>100,000</u>
	1,106,200	1,156,510
Less - LFA equipment level	<u>1,000,000</u>	<u>1,000,000</u>
Additional equipment needs	106,200	156,510
<b>MODIFICATIONS:</b>		
1. Additional Officers and Dispatchers FTE	8.00	8.00
Personal Services	182,756	182,376
Operating Expenses	57,564	36,028
Equipment	<u>75,852</u>	
	316,172	218,404

Highway Patrol Division

page 2

2. Handheld Radios	51,000	57,000
3. Replacement Aircraft		
Operating Expenses	65,000	65,000
Debt Service	<u>220,000</u>	<u>220,000</u>
	285,000	285,000

DEPARTMENT OF JUSTICE  
HIGHWAY PATROL DIVISION  
EQUIPMENT REQUEST

8  
DATE 1-22-91  
HE Gen. Low Sul

FY92

65 Vehicles @ \$15,480	1,006,200
103 Vehicle Top Lights	61,800
21 Unitrols	9,450
6 Detachment Micro Computers	16,200
Communications Bureau Equipment	12,550
	<hr/>
	1,106,200

FY93

65 Vehicles @ \$16,254	1,056,510
103 Vehicle Top Lights	61,800
21 Unitrols	9,450
6 Detachment Micro Computers	16,200
Communications Bureau Equipment	12,550
	<hr/>
	1,156,510

9  
DATE 1-22-91  
RE Gen. Gov. Sec.

DEPARTMENT OF JUSTICE  
REPLACEMENT AIRCRAFT FUNDING

FUNDING SOURCE	AMOUNT
Extradition and transportation of prisoners	\$100,000
Use charges:	
Gambling Control Division	50,000
Highway Patrol Division	50,000
Remainder from Drug Forfeiture accounts, coroner charges and the general fund	85,000
	<hr/>
	\$285,000

EXHIBIT 10  
 DATE January 22, 1991  
 BY Gen. H. R. Sullivan

## GAMBLING CONTROL DIVISION

Budget Item	Actual Fiscal 1990	Appropriated Fiscal 1991	- - Current Fiscal 1992	Level - - Fiscal 1993	Change 1991-93 Biennium
FTE	31.00	31.00	31.00	31.00	.00
Personal Services	878,579	817,634	963,702	962,301	13.55%
Operating Expenses	281,865	614,396	399,053	399,097	-10.95%
Equipment	<u>225,137</u>	<u>91,022</u>	<u>50,000</u>	<u>50,000</u>	<u>-68.37%</u>
Total Program	\$1,385,581	\$1,523,052	\$1,412,755	\$1,411,398	-2.91%
<b>Fund Sources</b>					
State Revenue Fund	<u>1,385,581</u>	<u>1,523,052</u>	<u>1,412,755</u>	<u>1,411,398</u>	<u>-2.91%</u>
Total Funds	\$1,385,581	\$1,523,052	\$1,412,755	\$1,411,398	-2.91%

### Program Description

The Gambling Control program was established by the Fifty-first Legislature to investigate, license, and regulate the gambling industry in Montana. An appointed gaming advisory council of nine members provides advisory services to the Attorney General to ensure uniform statewide regulation of gambling activities. The division has criminal justice authority and conducts field routine inspections and investigations for irregularities in gambling activities. In addition to collecting licensing fees for gambling machines and activities, the division is also responsible for collection and distribution of the gambling tax assessed on the net proceeds of gambling activities.

The division was created by transferring the video gaming control functions from the Department of Commerce and enforcement functions from the Department of Revenue to the Department of Justice, along with new funding and FTE for gambling regulation. The revised gambling laws took effect on October 1, 1989.

### Current Level Budget

The Gambling Control Division current level budget for the 1993 biennium decreases nearly 3 percent compared to the 1991 biennium, but this figure is distorted due to an inadvertent double appropriation in the 1991 biennium. When the Gambling Control Division was created by Senate Bill 431 late in the 1989 legislative session, funding was provided from three sources as shown in Table 1 below.

Table 1  
 Gambling Control Division  
 1991 Biennium Appropriation

Source of Appropriation	FTE	FY 90	FY 91
Department of Commerce			
- Video Gaming Bureau	13.0	\$ 830,055	\$ 819,688
Department of Revenue			
- Investigation/Enforcement	7.0	246,072	254,823
Senate Bill 431	<u>11.0</u>	<u>527,081</u>	<u>449,081</u>
Total	31.0	\$1,603,208	\$1,523,592

EXHIBIT 10  
DATE 1-22-91  
BY Gen. Law Sec

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## GAMBLING CONTROL DIVISION

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investigative work, audits, and machine inspections. The gambling state special revenue account would not have sufficient revenues to fund this increase without an increase in current fees or license costs allocated for regulation of the industry. The agency had originally requested \$2,091,716 and 23.0 FTE for gambling control expansion.

### Gambling "Buy Money"

The Executive Budget includes \$30,000 from the gambling state special revenue account in the 1993 biennium for "buy money" to be used in undercover investigations of gambling law violations.

### Elected Official Budget Modification

In November 1990, the Department of Justice indicated that it planned to

present the following additional budget modification request to the 1991 legislature. It is not in the Executive Budget.

### Additional Gambling Control Expansion

As discussed above, the Executive Budget includes \$1,043,333 gambling state special revenue funds for 10.0 additional FTE and expansion of gambling control operations. The Attorney General requests an additional \$1,048,383 and 13.0 FTE to handle the unanticipated investigative caseload increases, audit requirements, and licensing volume. This would provide for a total program expansion of 23.0 FTE and \$2.1 million in the 1993 biennium. The agency intends to propose an increase in fees and license proceeds allocated to gambling regulation in order to fund this expansion.

STATE OF MONTANA  
**DEPARTMENT OF JUSTICE**  
GAMBLING CONTROL DIVISION

EXHIBIT 11  
DATE 1-22-91  
Gen. David Su

Marc Racicot  
Attorney General



2687 Airport Road  
Helena, MT 59620-1424

Memo

To: Mick Robinson, Administrator  
Central Services Division

From: Rick Ask, Audit Program Manager

Subject: Current Level Equipment, FY 92 and 93

While each of the equipment purchases proposed to the OBPP can be justified, I have discussed the requests with program personnel to arrive at amounts that are essential to the maintenance of the division. The revised requests, listed below, are the result of those conversations.

	FY92	FY93
3103 AUTOS-to purchase replacemnt vehicles.(FY92: 1 @ \$10,595, 1 @ \$12,412; FY 93 2 @ \$10,925)	\$23,007	\$21,850
3116 EMULATION PODS-2 new pods each year, revised the cost based on recent estimates.	\$10,000	\$12,000
3106 Computer memory and software upgrades, same.	\$15,000	\$9,800
3106 TERMINALS-replace 5 terminals as long as there is enough for repair and maintenance on the remainder (5 @ \$1,200)		\$6,000
3116 STATIC TEST ENCLOSURE-still need at original submission amount.	\$3,000	
3116 Miscellaneous lab parts and tools reduced FY93 request by a \$1,000.	\$1,000	\$1,000
3116 Computer equipment to help tie field offices to central computer and make field office word processing compatible with central computer (1 modem @ \$1,400 and 6 Font Cartridges \$1,000)	\$3,000	\$4,400



3106	Portable, laptop, computers and and software for Revenue Agents.		\$8,600
3112	EVIDENCE ROOM IMPROVEMENTS-no change original estimate was conservative and necessary.	\$1,000	
3112	ON-SITE INVESTIGATION EQUIPMENT- reduce by one VCR.	\$3,500	
3109	LAW ENFORCEMENT EQUIPMENT-no change.	\$3,300	
	Totals	\$62,807	\$63,650
	LFA Recommendations	\$50,000	\$50,000
	Difference	\$12,807	\$13,650

It should also be noted that a large share of the computer equipment purchased by the division during the 91 biennium was for the installation of PCs in field office locations and hook-ups to the central system, not just the division's central computer system. The division now has a state-wide network.

In regard to the possibility of utilizing the state main frame in the future, the main frame is a dos based system. The division's computers are a UNIX based system. The two systems are not readily compatible. The division has steadily invested in and improved the existing system over the last four years. It is expected that when staff and industry growth level out the need for large computer investments in the future will diminish.

EXHIBIT 12  
DATE 1-22-91  
1 Gen. Govt. Sub

GAMBLING CONTROL DIVISION  
PROPOSED LICENSE/PERMIT FEE REVISION  
JANUARY 1991

License/Permit	Current Fee	Proposed Fee
Premises (Operator) License	-0-	\$125
Manufacturer's License	\$1,000	\$3,000
Distributor's License	\$1,000	\$2,000
Route Operator's License	\$1,000	\$1,000
Dealer's License (Annual/Renewal)	\$75/\$25	\$100/\$25
Card Table Permit(1st)	\$250	\$300
(Additional)	\$500	\$600
Live Keno/Bingo Permit	\$500	\$1,000
Video Gambling Machine Permit	\$200	\$275

Changes in fees will not generate additional revenue for local governments. All increases will be used to cover the costs of administration (Gambling Control Division).

## VISITORS' REGISTER

James L. Smith & Hephernan COMMITTEE

BILL NO. \_\_\_\_\_

DATE \_\_\_\_\_

Jan. 22, 1991

SPONSOR \_\_\_\_\_

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.