

## **MINUTES**

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

#### **SUBCOMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By CHAIRMAN BERV KIMBERLEY, on February 8, 1991,  
at 8:00 A.M.

#### **ROLL CALL**

**Members Present:**

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

**Members Excused:** None

**Members Absent:** None

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

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

**Announcements/Discussion:** CHAIR. KIMBERLEY announced the trip to  
the Lewis & Clark Caverns would be on Sunday, March 10th.

#### **FISH, WILDLIFE & PARKS**

##### **CONSERVATION EDUCATION DIVISION Cont'd.**

**Motion/Vote:** CHAIR. KIMBERLEY moved to revisit the Watchable  
Wildlife/Youth Education Program. **Motion** CARRIED unanimously.

#### **EXHIBIT 6 - February 7, 1991 Minutes (Budget).**

K. Cool, Director FWP said, I would appreciate your reconsidering  
a small portion of the budget modification you rejected  
yesterday. You rejected the \$22,900 budget modification for  
Watchable Wildlife/Youth Education which included 64% of the  
general license account and 36% federal funds. We would like you  
to reconsider a recommended revision of using all of the federal  
allocation which would be 75% federal of \$8,244 and 25% from the

license account which would be \$2,748 for a total of \$10,992 each year. This would provide the educational materials requested by the teachers in the Montana school system as well as the initiating of teaching children how to fish and having a better understanding of fisheries.

**Motion/Vote:** REP. GRADY moved to accept the Executive budget for \$10,992 each year of the biennium for watchable wildlife/youth education. **Motion CARRIED** unanimously.

**EXHIBIT 1 - Suggested HB2 Language:**

Mr. Mott said, I have worked on Indirect Costs language with the LFA and OBPP and we came up with the following language: "The department shall conduct a study of the options and methods available for allocating administrative cost to the various state special revenue funds managed by the agency. The department shall present the findings of its study to the Legislative Finance Committee by July 1, 1991, along with its recommendation, affected accounts, and any required statute changes."

**Motion/Vote:** SEN. DEVLIN moved to accept the language on HB2 as presented to the committee. **Motion CARRIED** unanimously.

CHAIRMAN KIMBERLEY asked Carl Schweitzer, OBPP if he would bring a list of park revenues and the amounts they raise. Mr. Schweitzer said, he would do this.

Mr Cool said, he would like to talk about Management Services and Administration. Much of the work done in these two divisions is never seen by sportsmen and it is difficult to add any modifications or expansions to these programs. However, with the growth in FWP and the added responsibilities, I would ask that this committee very carefully consider the importance of some of the modifications. We took a hard look at expansions in Management Services and had to equate those with a very restrictive schedule for increases FTE or the reduction in the general license account. There is a critical need for additional FTE, one in Management Services and one in Administration for efficiency in this division.

**HEARING ON MANAGEMENT SERVICES DIVISION**

**EXHIBIT 2 - Pages 5 - 12.**

Dave Mott, Administrator Management Services Division reviewed the different bureaus within the management services division. There are five bureaus: Accounting and Finance, Personnel, Planning, Federal Aid and Word Processing. One third of our budget is financed with federal dollars. We had 70 - 80 recruits last year and as you can see there is a lot of turnover. 33% of the budget is funded from state special revenue funds, mostly license dollars. 15% is federal dollars and 52% is out of the proprietary funds. We also have a warehouse here in Helena where we buy uniforms for employees, building materials, etc.

**EXHIBIT 3 - Budget**

Roger Lloyd, LFA reviewed the budget base differences between the LFA and the Executive.

Technical Adjustment:

Item A, Mr. Lloyd explained, the move of the planning unit from this division to Administration has not been reflected in the budget. The actual expenditures for the planning unit are still in management services. This adjustment moves the expenditures to Administration. The (\$10,500) will be offset in the Administration Division.

Item B, Insurance - The LFA did not budget for insurance from Tort Claims which perhaps they should have.

Item C, Audits - This amount is for the auditor other than the legislative auditor.

Building and Ground Maintenance:

The LFA also included rent in this category, therefore, this showed up as a double expenditure of around \$75,000. The LFA is greater by that amount which it should not be.

Equipment:

The Executive budget included \$87,000 in FY92 for aircraft overhaul and rotors which the LFA did not include.

Vehicles - The LFA used a 3 year average which showed up in FY92 for \$25,192.

Transfers:

Vehicle Differential - the division cannot charge the inflation amount from the last time they purchased a vehicle. The LFA did not include this to give the legislature time to review it.

Legislative Contract Authority - the committee has already taken action on this item.

Budget Base Differences:

Management Services - the difference is due to the different basis.

Vehicle Program - base differences.

Warehouse Program - base differences.

Executive Budget Modifications For Program Expansions:

Fiscal Management Position - adding 1.0 FTE and approximately \$35,000 each year of the biennium.

Vehicle Account - there are no FTE and approximately \$77,000 FY92 and \$81,000 FY93.

Budget Review: EXHIBIT 3.

Mr. Mott reviewed the budget with the committee.

Personal Services:

Item A & B, 1 FTE will be transferred to Administration Division,

and .75 FTE is a clerical position responsible for handling employee applications, personnel files, etc.

Technical Adjustment:

Item A - Mr. Lloyd explained the transfer of this position to the Administration Division.

Item B, Insurance - we have insurance which supplements the state's self-insurance program on the helicopters and the snowgroomer accounts.

SEN. DEVLIN asked, what kind of insurance do you carry on that equipment and how much is the deductible?

Mr. Mott explained, I am not sure of the deductible amount, but if the equipment was totaled, the insurance would cover replacement costs.

SEN. WEEDING asked, in personal services, isn't \$46,000 a little excessive for .75 FTE?

Mr. Mott explained, it would be the difference of \$46,375 and (\$32,720) for the .75 FTE. Therefore, the .75 would be about \$13,655.

Item C, Audits - all purchases over a certain dollar amount have to be reviewed by the Administration Division and they charge an assessment for reviewing those which would be in addition to the legislative audit fees as Mr. Lloyd explained.

Building and Grounds Maintenance:

We agree with Mr. Lloyd, this was in the budget twice and can be eliminated.

Equipment:

Item A, Aircraft Maintenance - the \$87,000 is to do some work on our aircraft. There are certain standards which need to be followed under the FAA. The \$87,000 is to replace 5 rotor blades which cost \$10,000 each. The balance of \$37,000 would be used to repair components in the engines. This is the same amount authorized 2 years ago for repairs. We didn't get the work done by the June 30th deadline so the appropriation authority lapsed at that time. Therefore, this was continued into the next biennium.

CHAIRMAN KIMBERLEY stated, in the last legislative session, I believe we appropriated about \$360,000 for a new helicopter, how does that relate to this appropriation?

Mr. Mott explained, this was a 1977 helicopter and when we purchased it we inherited some liability for repair and maintenance on the blades and engines.

Mr. Cool stated, we were very fortunate to have been able to

purchase this helicopter as the used market is unbelievable. We receive about 4 request per month from private companies asking if we want to sell any of our helicopters

**CHAIRMAN KIMBERLEY** asked, do you use those helicopters to plant fish in high lakes and how close to you have to get?

**Mr. Cool** said, we now have pontoons on the helicopters. We have two old helicopters made in the '50's and one has no market at all so we use it for salvage like in "Mash".

Item B, Vehicles - we have used a replacement schedule of replacing vehicles with 85,000 to 95,000 miles on them. We sell all of our used vehicles at a public auction. Between our division and the Department of Highways we can attract a lot of people at this auction.

Transfers:

Item A, Vehicle Differential - **Mr. Mott** used a flip-chart to show how the vehicle account works. We charge each agency for the use of a vehicle including, gasoline, repairs and maintenance and insurance. The federal government will not participate in inflation factors. What we have in the account now for vehicle replacement will not buy a vehicle in a year or two due to inflation. We need to supplement the difference with state dollars. The state motor pool has the same problem.

**SEN. WEEDING** asked, is that amount reflected in the other divisions?

**Mr. Mott** said, that is correct. The state is picking up all the difference because the federal will not support inflation factors.

**SEN. DEVLIN** asked, what kind of inflation factor do you use?

**Mr. Mott** said, we got the inflation figures from the Department of Administration from the most recent purchase of new vehicles and it was about a 4% inflation factor.

Budget Base Differences:

Item A, Management Services Program - we had \$2,400 in late bills which did not get paid in FY90 for printing, office supplies and materials. We had a high vacancy turnover in management services and when these positions are not filled you are saving about \$1,000 for each vacancy operation. Also, we did not do any maintenance on our copier or word processor in FY90 and we need to have a maintenance schedule for our computers and photo copy equipment.

Item B, Vehicles - this is out of the proprietary account. This is another area where we had late bills which didn't get paid until after the fiscal year and is a case of the LFA and OBPP working off of different bases.

We had a lot of new programs which were not fully operating in FY90 for example, the shooting range program. In FY91 and in the future this program will be ongoing. Also, much of the fee revenue we had in parks didn't get working in FY90. There was a difference of inflation in gasoline which the LFA did not take into account. The LFA figured gasoline prices would go down and the Executive figured it would stay about the same, which amounts to about \$2,400 the second year.

Item C, Warehouse - I talked about the warehouse here in Helena previously where we store different items used in FWP. In FY90 we spent \$253,000 and Executive request for FY92 and FY93 is \$194,000. Therefore, we cut about \$59,000 out of our budget request. We had an upgrading of our department uniforms which will last for several years so this wouldn't be an ongoing expense at this time. The LFA lowered that request by about \$23,000.

REP. GRADY asked, do you have enough equipment to handle the problem of game damage?

Mr. Mott replied, this expenditure will show up in the field services division.

SEN. BENGTSON asked, do your people buy their own uniforms?

Mr. Mott said, no, we buy them so we can retain quality.

CHAIRMAN KIMBERLEY asked, what kind of equipment do you keep in the warehouse for game damage?

Mr. Mott replied, we have elk panels, blood meal, scare guns, fencing materials, etc.

CHAIRMAN KIMBERLEY asked, do those scare guns do any good?

Mr. Mott explained, sometimes they do and sometimes they don't. The most popular items with the landowner is the elk panels which they can wrap around the hay stacks. Our field services administrator will review more on game damage.

SEN. DEVLIN asked, how much of these fencing materials do you go back and pick up, like steel posts which are pretty expensive items.

Mr. Mott said, I will have to defer that to field services.

REP. GRADY asked, what would the cost be for uniforms if your people had to buy their own?

Mr. Cool said, our officers in our enforcement division are required to wear specific types of uniforms of which they each have an individual budget for. We recycled our old uniforms for temporary employees. There is a more restrictive budget for

biologists and individuals which are not in the enforcement category. The uniform requirements were legislatively mandated several years ago. A warden's uniform would cost about \$500 and another individual would be closer to \$100. We don't put all of our employees in uniform but we do mark vehicles which is good public service.

Executive Budget Modifications for Program Expansion:

Fiscal Management Position - this is for 1 FTE for this position.

Vehicle Account - if the committee approves the various modifications it will impact our vehicle account. Perhaps the committee could wait until they taken action on each item before considering this.

Fiscal Management Position: Mr. Mott reviewed this position with the committee.

We are trying to separate the biological functions from the fiscal functions. The problem is the size and complexity of our budget is different than it was ten years ago. In 1980 we had 18 funding sources for the whole agency and 11 years later we had 38 funding sources of which the increased workload is in the management services division. All of the increased programs impact this division.

This person would work on preparation of the budget for the Governor's office and Mr. Lloyd's review. Allocation of funding is the most time consuming of all. We appropriate by division and funding source and break it down further in about 500 different areas. This person would also monitor complaints. We have to make sure the money is spent for the right purpose. We want to maintain our accountability.

SEN. DEVLIN said, there are several places where we run into late payments of bills, will this budget take care of that?

Mr. Mott said, this will certainly help.

Mr. Lloyd asked, is this part of indirect costs showing up again in a different form? Mr. Mott said, that is exactly right.

Mr. Cool said, over the 10 year period this is an area you can see tremendous gains in efficiency of operation. This area is the 2nd highest priority for an FTE that we have.

EXECUTIVE ACTION

MANAGEMENT SERVICES DIVISION

Motion/Vote: REP. GRADY moved to accept the LFA budget. Motion CARRIED unanimously.

**Motion/Vote:** SEN. WEEDING moved to accept the budgets for Personal Services - Item A, and B, transfer of 1 FTE to Administration Division for a difference of \$13,655 for the remaining .75 FTE. **Motion CARRIED** unanimously.

**Motion/Vote:** SEN. WEEDING moved to accept the Executive budget for Technical Adjustment - Item A, transferring planning unit to Administration for (\$10,500); Item B, Insurance and Item C, Audits. **Motion CARRIED** unanimously.

**Motion/Vote** SEN. BENGTON moved to accept the Executive budget for Building and Ground Maintenance. **Motion CARRIED** unanimously.

**Motion/Vote:** SEN. BENGTON moved to accept the Executive budget of Equipment - Item A, Aircraft Maintenance. **Motion CARRIED** unanimously.

**Motion/Vote:** REP. GRADY moved to accept the Executive budget on Item B, Vehicles. **Motion CARRIED 5 - 1 (SEN. BENGTON voting "no")**.

**Motion/Vote:** REP. GRADY moved to accept the Executive budget on Transfers - Item A, Vehicle Differential. **Motion CARRIED** unanimously.

**Motion/Vote:** SEN. WEEDING moved to accept the Executive budget on Budget Base Differences - Item A, Management Services Program. **Motion CARRIED** unanimously.

**Motion/Vote:** REP. GRADY moved to accept the Executive budget on Item B, Vehicle Program. **Motion CARRIED 5 - 1 (SEN. BENGTON voting "no")**.

**Motion/Vote:** REP. NISBET moved to accept the Executive budget on Item C, Warehouse Program. **Motion CARRIED 5 - 1 (SEN. BENGTON voting "no")**.

**Motion/Vote:** SEN. DEVLIN moved to accept the Executive budget on Modification - 1, Fiscal Management Position. **Motion CARRIED 5 - 1 (SEN. BENGTON voting "no")**.

Modification - Item 2, Vehicle Account, the committee will revisit this item.

#### **ADMINISTRATION DIVISION**

Mr. Pat Graham, Deputy Director Staff Operations - EXHIBIT 4. The Deputy Director of Field Operations administers 8 regional offices: Kalispell, Bozeman, Billings, Miles City, Missoula, Great Falls, Glasgow and Helena. These offices function as



information centers. The supervisor has the responsibility to implement all the field programs that are developed for the department. **Al Elser is the Deputy Director, Field Operations.**

**Mr. Graham** reviewed the staff operations with the committee. The Staff Operations has 8 units: Fisheries Division, Parks Division, Field Services Division, Resource Assessment, Responsive Management Unit, Wildlife Division, Enforcement Division, Conservation Education and Legal Unit.

**BUDGET REVIEW: EXHIBIT 5.**

**Mr. Lloyd** reviewed the budget differences between the LFA and the Executive for Department of Administration.

**Technical Adjustments:**

Item A, Fish & Game Commission per diem - The LFA did not include per diem, which was an oversight. \$7,000 was spent in FY90 which should have been included in the LFA.

Item B, Rent - this was for the new region 8 which the LFA did not include.

Item C, Planning Unit Move - this is the move from Management Services which offsets the amount of \$10,500.

Item D, Legal Books Printing - the books which are printed in even numbered years for \$6,600 should be taken out of FY93.

Item D, Personal Vehicles - the Executive contains \$1,146 more for vehicles which they need.

**Internal Reorganization:**

Item A, Moving FTE from Management Services to Administration.

Item B, Moving 1 FTE from Field Services to Administration.

Item C, Moving .50 FTE from Parks to Administration.

Item D, Moving .15 FTE from Parks to Administration.

**Overtime:**

Actual expenditures in FY90 was used by the LFA.

**Headquarter's Fixed Costs:**

The LFA did not include costs for the new headquarter's in Miles City and Billings.

**Fleet Charge:**

The committee took action on this accepting the Executive budget for \$722 each year.

**Strategic Plan Printing:**

Nothing was spent in FY90 which was the LFA base and they are requesting \$5,500 for FY92.

**Capital:**

The LFA did not include replacement and repair of mechanical

systems in headquarters.

Legislative Contract Authority:

The committee took action on this accepting the Executive budget for \$100,000 each year.

Budget Base Differences:

These are due to the differences in the base between the LFA and the Executive.

Executive Budget Modification For One-Time-Only Programs:

Item 1, Salinity Control - the committee is recommending this be a biennial appropriation if approved.

Item 2, Sikes Act - this has to have 50% matching federal funds.

Item 3, Predator Control - this modification was approved last session for an additional \$20,000 to be used as a grant to the Department of Livestock to control predators. The total will be \$110,000 grant each year to the Department of Livestock. There is also a request for \$34,00 each year for executive reorganization to transfer to DSL for administration of dams.

Legal Services:

This is for \$12,300 each year of the biennium.

Executive Budget Modifications for Program Expansion

This includes Legal Services, Tribal Relations, Interagency Support, Geographic Information Systems and Regional Office Support. This is for a total of 1 FTE and \$240,000 for FY92 and \$230,000 for FY93.

Biennial Appropriations:

Salinity Control - The committee requests this be a biennial appropriation if approved.

Sikes Act - The committee requests this be a biennial appropriation if approved.

House Bill 2 Language:

This language was contained in HB100 of the previous session on Salinity Control. The department indicated they wish consideration of similar language. See EXHIBIT 4.

Mr. Schweitzer suggested moving "dams" out of predator control for \$34,000 into Item 6. of Executive Budget Modifications. There is no FTE involved.

Mr. Lloyd said, in the past this committee has not taken action on reorganizations and moving the "dams" to Item 6 of the Modifications would be one of these.

Mr. Lloyd explained, contained in current level is \$90,000 which FWP had authority to transfer Livestock Division. The \$20,000 is an additional budget mod. contained in the last session and the

legislature indicated that was not to be in this year's budget.

Mr. Graham continued with his testimony. He said he wanted to review some of the things the agency would be facing in the future. In the base budget adjustments is an area to enhance training in responsive management in the department. We are trying to improve our human relations within our people customer services. Our people are highly trained in the technical area but not in human relations. Some people learn defensive mechanisms to avoid those situations. We want to treat people who make mistakes in a more positive way. There are people who are criminals and we have to treat them differently. There is a need for better understanding between our geologists and landowners.

Mr. Graham showed a video to the committee on how the department could improve its relationships with the public.

**BUDGET REVIEW: EXHIBIT 5.**

Mr. Graham reviewed the budget with the committee.

**Technical Adjustments:**

Item A, Fish & Game Commission per diem - the LFA left this out of the budget and we would like to have this reinstated.

Item B, Rent - This is additional rent for the new region 8 headquarters.

Item C, Move from Management Services to Administration - \$10,500 which is offset in the Management Services Division.

Item D, Legal Books Printing - We would like to reduce the budget for \$6,600 as we print these books in even numbered years and we will not be printing in FY93.

Item E, Personal Vehicles - This vehicle mileage adjustment was reviewed previously.

**Internal Reorganization:**

Item A, Moving 1 FTE from Management Services to Administration. This position was filled by a person with a biological background. We have 550 independent work plans for biological staff.

Item B, Moving 1 FTE from Field Services to Administration. This position is for our region 8 supervisor to provide better response in the Helena area.

Item C, Moving .50 FTE from Parks to Administration. Staff and support person for region 8.

Item D, Moving .15 from Parks to Administration. Staff and support person for region 8.

**Overtime:**

We ask for your consideration for overtime.

Headquarters' Fixes Costs:

Most of the costs are for gas, electric and sewer in the regional headquarters at Butte, Billings and Miles City. Also, a portion of this budget is for building upkeep.

SEN. DEVLIN asked, what happens to the old headquarters building in Miles City? Do you rent that out?

Mr. Cool said, our initial intent was to use this as a vehicle maintenance shop.

CHAIRMAN KIMBERLEY asked, what about the one in Billings, that is a big quonset hut and a sizeable amount of property?

Mr. Cool said, hopefully we will be able to liquidate that as it is in a residential area. The money would go back into a trust fund for land management.

REP. GRADY asked, Mr. Lloyd don't you figure in a higher cost of a new building?

Mr. Lloyd said, I used the FY90 figures as the base and didn't add any additional costs of the new building which hadn't been completed yet.

SEN. WEEDING asked, do you use solar efficient energy in these buildings?

Mr. Graham said, the newer building are larger facilities than the old ones, so the energy efficiency is not at great.

Mr. Cool said, I believe SEN. WEEDING you are referring to the improvements in energy efficiency that went into the state hatchery such as Lewistown.

SEN. BENGTON said, there are always additional costs when they want a new building. It is always bigger and is going to be more efficient and because of inflation it always costs more.

Mr. Lloyd said, the legislature approves the capital projects of building new headquarters and fisheries. This also ties you into additional costs as you are seeing here.

Fleet Charge:

Action has been taken on this item.

Strategic Plan Printing:

We print this approximately every 5 or 6 years, the last time was 1985 and that is why there is a one-time cost of \$5,500.

Mr. Cool explained, it represents some statistics in what we are doing and where we are going administratively. It will provide a

strategic plan in the future which will direct the agency and hopefully provide the information in terms of change modules rather than just using a certain number of animals or a certain number of acres.

**Mr. Graham** said, we are trying to get more public involvement rather than just internal input in the strategic planning.

**Mr. Cool** said, in this agency we have about 500 employees who have a bachelor's degree, many have a master's degree and many have PHD's. I have said, if we could ever capture all of their energy we could accomplish anything we want. The difficulty is, we each second guess each other's functions. It is not like dealing with a labor force, these people are highly educated.

Capital:

Replacement and Repair of Mechanical Systems in Headquarters -

**Mr. Graham** said, some of the problems we are having is a heating system in the Missoula region needs to be addressed, we need a cinder box storage in Kalispell, an exhaust system is needed in the Wildlife lab, the smell was terrible and MSU was glad when we moved out. The Billings office needs some fencing.

**REP. GRADY** asked, you can't do all those things with \$10,000 can you?

**Mr. Graham** said, we won't take care of all the problems at once, but I wanted to give you some examples of the needs. The cinder block storage would cost about \$4,000 alone.

Legislative Contract Authority:

The committee has taken action on this item.

Budget Base Differences:

This falls into three basic categories; contracted services, repair and maintenance and late bills.

Contracted Services - in FY90 we only spent 30% of the amount authorized.

Land Management - we are trying to develop more cooperative management or partnerships. The access sites all operate independently. They have their own garbage haulers and care takers, etc. for each one. We would like to try and combine some of those services and have them under a single management and possible save some costs.

Responsive Management: Change - how you could facilitate, who you are and how you act. Marketing - training our employees in understanding our customer wants and designing programs which satisfy those needs. Conflict Resolution - training our people in how to handle conflicts with the people and landowners. We feel this is important, both for the moral of our employees and the public to provide this training. City Survey - we would like

to find out what the public expectations are and what programs they are willing to pay for. Endangered Species Policy - we would like to do more with endangered species act to provide the flexibility with the management of grizzly bears, etc. Also, have some policy review of some of the problems which come before the director.

The other differences were reviewed previously.

Executive Budget Modification for One-Time-Only Programs:

Salinity Program - This was a report back from the last session. \$125,000 of the amount budgeted is earmarked funds for the upland game bird program and we would like to transfer that amount from the Department of Administration to the wildlife program and reduce the budget by \$25,000.

Sikes Act:

This was a proposal to charge a federal access fee to generate more money. Our analysis was, the public wouldn't be too supportive of an additional fee and it wouldn't be cost effective for the administration. It would be more effective to provide that match out of the current license account. This was implemented by the staff of BLM and the forest service. There is an advisory committee set up to review recommendations which is funded by federal and state agencies. 24 projects had been approved the last biennium and 21 of them have been implemented at a cost of \$111,650 to the state and \$85,000 in federal funds. The \$150,000 in the budget is half state funds and half federal spending authority. The federal spending authority was not utilized. Our recommendation would be to cut the federal portion of that down to about \$10,000. This would be \$170,000 biennial appropriation.

Predator Control:

The LFA previewed this in the budget review.

Legal Services:

This is to pay for contracted services, attorney fees, court costs, expert witnesses, etc. We are currently contracting with the Attorney General on the bison issue.

Executive Budget Modifications for Program Expansion:

Legal Services - we have 3 attorneys which is less than the other agencies. We are involved in a lot of regulations, such as leasing, land access, hunting license, fishing license, etc. Enforcement personnel is also part of our legal services. The department needs a 4th attorney to handle the increase legal needs. We would consider a paralegal position which would be a \$15,000 savings.

**Tribal Relations - EXHIBIT 6.**

There are 7 reservations in Montana and the issues we deal with in regard to hunting and fishing are not issues we initiate. There is an increasing interest in management of land, animal and

fishing within the tribes. We have a liaison person in the directors office which initiates contact with tribes to maintain some level of communication. They are all different, they have different treaties and different needs. This modification would provide contacting and reviewing specific issues within the tribes.

**Mr. Schweitzer** asked, was it the Crow tribe who said they own all the land on the Big Horn River and now they are saying that includes all the tributaries and you have to get permission to fish there?

**Mr. Graham** said, the issue was whether or not people could fish on private land in the Little Big Horn River. Our attorneys say they can and the tribes say you cannot. We would prefer to settle this out of court because we usually lose 9 out of 10 cases.

#### Interagency Support -

This was a request of \$25,000 increase to the Natural Resources Information System which is doubling the department's contribution. This would reduce the NRIS by a like amount.

**Mr. Schweitzer** said, the state library needed some additional funds and instead of using general fund we suggested using license dollars because FWP also uses the system.

#### Geographic Information System -

The purpose for this system is to automate our resource inventory and data base system. This is to support our management decisions such as the Department of State Lands. It also allows us to improve working relationships with federal land agencies. The data is also available to the public. The lands are mapped by jurisdiction, ownership, vegetation type, soil and elevation. We can analyze this information to see what kind of animal would adapt to a certain area and what the impact would be.

We are requesting sufficient funds to allow us to initiate pilot projects for the potential use of GIS and evaluate type of equipment needs, what the cost and benefits would be. Therefore, we could come back to the next legislative session and report our findings. We could tie in directly with university systems capabilities.

**REP. GRADY** said, you have 5 different agencies essentially doing the same thing. Can't we somehow consolidate what some of the others have already done?

**Mr. Cool** said, we can do that and it would enable us to utilize their data and hardware for wildlife needs.

**Mr. Graham** said, we are not talking about developing a separate system, we want to develop a linkage to have access to other information data that the other departments have.

**Regional Office Support -**

This is a request for additional FTE for the regional offices. These offices provide a better service to the public. We also have developed a volunteer program which has allow us to provide more benefits to the parks which includes contracted services for snow removal, lawn care and headquarter security.

**Dams:**

Defer action on this item.

**Biennial Appropriations:**

We would like to have the Sikes Act budget and the Salinity Control budget made a biennial appropriation.

**EXECUTIVE ACTION****ADMINISTRATION DIVISION**

**Motion/Vote:** REP. GRADY moved the LFA budget for the Administration Division. **Motion** CARRIED unanimously.

**Motion/Vote:** SEN. BENGTON moved to accept the Executive budget on Technical Adjustments; Item A - Per Diem, Item B - Rent, Item C - Planning Unit Move from Management Services to Administration, Item D - Legal Books Printing. **Motion:** CARRIED unanimously.

**Motion/Vote:** SEN. BENGTON moved to accept the Executive budget on Internal Reorganization; Item A,B,C,D - Transfer of FTE to Administration from Management Services, Field Services and Park Services, a total of 2.75 FTE. **Motion** CARRIED unanimously.

**Motion/Vote:** REP. GRADY moved to accept the Executive budget on Headquarters' Fixed Cost. **Motion** CARRIED 5 - 1 (SEN. BENGTON voting "no").

**Motion/Vote:** SEN. BENGTON moved to accept the Executive budget on Strategic Plan Printing for \$5,500 for FY92, this is to be a one-time-only appropriation. **Motion** CARRIED unanimously.

**Motion/Vote:** SEN. WEEDING moved to accept the Executive budget on Capital - replacement and repair of mechanical systems in headquarters. **Motion** CARRIED 5 - 1 (SEN. BENGTON voting "no").

**Motion/Vote:** SEN. BENGTON moved to accept the Executive budget on Budget Base Differences.

REP. NISBET asked for a break down on the base differences of responsive management.

Mr. Cool said, the training for that program amounts to about \$30,000 per year for a contracted trainer. These are 3 day training sessions at a time.



**CHAIRMAN KIMBERLEY** asked, in the differences which of these are a one-time-only program?

**Mr. Graham** said, contracted services, citizens survey, endangered species policy and efficiency audit.

**SEN. BENGTON** asked, were some of these items included in the current level budget base?

**Mr. Lloyd** said, no they are not.

**REP. GRADY** said, there is a definite need for training in these fields with management and I support this program.

**Mr. Schweitzer** said, contracted services is a one-time-only program and if it shows up in the next biennium we will certainly take a look at it.

**REP. GRADY** said, in regard to late bills, isn't there something that can be done about this instead of this happening every year. I realize there are some bills that come in late.

**CHAIRMAN KIMBERLEY** said, he didn't remember any of these late bills last session.

**Mr. Mott** said, the reason it didn't come up last session is the LFA and Executive both worked off the same base. Some of the reasons of late bills, were we had 2 positions which were vacant just before the books closed and we didn't get them billed until after the dead-line. Hopefully, we will have this taken care of next time.

**Mr. Graham** said, we tried to go to quarterly billing such as the universities and some didn't come in until the fall.

**Mr. Lloyd** said, we will be hearing about late bills from the other agencies as an explanation of the base differences.

**Substitute Motion/Vote:** **REP. NISBET** moved to segregate out from the Base Differences the Responsive Management for Contracted services of \$30,000 per year. **Motion CARRIED 3 - 2 (SEN. BENGTON and REP. GRADY voting "no").**

**Amended Motion/Vote:** **SEN. BENGTON** moved to accept the Executive budget of Budget Base Differences for the remainder of \$108,539 for FY92 and \$111,148 for FY93. **Motion CARRIED** unanimously.

**Motion/Vote:** **REP. GRADY** moved to accept the \$30,000 budget each year for Responsive Management. **Motion CARRIED 4 - 1 (REP. NISBET voting "no").**

**Motion/Vote:** **SEN. WEEDING** moved to accept the budget of \$170,000 for the biennium for Modification Item 2 - Sikes Act. **Motion CARRIED** unanimously.

Motion/Vote: SEN. BENGTON moved to approve \$20,000 each year of the biennium for Item 3 - Predator Control and move \$34,000 biennial appropriation down into Program Expansion Modifications under Item 6 - Dams, FWP. Motion CARRIED unanimously.

Motion/Vote: SEN. BENGTON moved to accept the Executive budget on Item 4 - Legal Services under One-Time-Only Mods. Motion CARRIED unanimously.

Motion/Vote: REP. GRADY moved to accept \$35,000 each year for a paralegal position and also moved the Executive budget on Item 2 - Tribal Relations, Item 3 - Interagency Support, Item - 4 Geographic Information and Item 5 - Regional Office Support.

SEN. BENGTON said, I am not going to vote for any of them as these are program expansions. I do not believe we should add additional license fees for these programs.

REP. NISBET said, he would like to segregate these items.

Motion WITHDRAWN.

ADJOURNMENT

Adjournment: 12:00 P.M.

  
REP. BERV KIMBERLEY Chair

  
THEDA ROSSBERG, Secretary

BK/tr

**HOUSE OF REPRESENTATIVES**  
**NATURAL RESOURCES SUBCOMMITTEE**

**ROLL CALL**

**DATE** 2-08-91

<b>NAME</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
SEN. ESTHER BENGTON, VICE-CHAIR	✓		
REP. ED GRADY	✓		
REP. JERRY NISBET	✓		
SEN. GERRY DEVLIN	✓		
SEN. CECIL WEEDING	✓		
REP. "BERV" KIMBERLY, CHAIRMAN	✓		

Exh 1

# NATURAL RESOURCES SUBCOMMITTEE

DEPARTMENT OF FISH, WILDLIFE AND PARKS  
February 8, 1991

## Suggested House Bill 2 Language

The department shall conduct a study of the options and methods available for allocating administrative costs to the various state special revenue funds managed by the agency. The department shall present the findings of its study to the Legislative Finance Committee by July 1, 1992, along with its recommendation, affected accounts, and any required statute changes.

EXHIBIT 2  
2-08-91  
Nat. Res. Serv.

## Management Services

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992		Fiscal 1993	
			Base	Incr/Decr	Base	Incr/Decr
Full Time Equivalent Employees	36.20	36.20	35.20	.00	35.20	.00
Personal Services	812,176.87	971,943	928,890	2,105	928,579	2,089
Operating Expenses	1,595,215.40	1,718,051	1,778,806	68,746	1,819,542	51,574
Equipment	1,016,886.27	691,909	690,629	42,317	690,629	43,978
Transfers	163,651.00	176,020	176,020	32,930	176,020	49,847
Total Agency Costs	\$3,587,929.54	\$3,557,923	\$3,574,345	\$146,098	\$3,614,770	\$147,488
State Special Revenue Fund	1,550,383.66	1,259,036	1,153,904	89,376	1,155,993	133,266
Federal Special Revenue Fund	310,619.07	444,655	579,738	-33,238	596,194	-51,157
Proprietary Fund	1,726,926.81	1,854,232	1,840,703	89,960	1,862,583	65,379
Total Funding Costs	\$3,587,929.54	\$3,557,923	\$3,574,345	\$146,098	\$3,614,770	\$147,488

## Overview

The Management Services Division is an administrative and support unit for the department. The division is responsible for the following department-wide support functions: accounting, fiscal, purchasing and property management services; personnel administration; a planning system to formulate and evaluate department-wide work efforts; federal aid administration; and word processing.

## Goals

The overall goals of the division are:

- \* To provide management support services necessary to enable the department's divisions and regions to most effectively and efficiently plan for, deliver, and evaluate services to the public.
- \* To provide support services to the department so it is in compliance with state and federal laws.

Goals of the division's work units are as follows:

Accounting and Finance - To provide budgeting and fiscal management functions to all divisions in accordance with generally accepted accounting principles and in compliance with state and federal laws and regulations.

Personnel - To provide comprehensive, centralized, full-service personnel operations for the department.

Planning - To assist the department in applying good management principles to the daily administration of the department and to achieve increased efficiency and effectiveness of department resources for the purpose of natural resource management while improving program accountability to the public and the legislature.

Federal Aid - To obtain Federal Aid funds for the department and assure that projects are developed, executed and completed in accordance with federal and state requirements.

Word Processing - To provide typing support, microcomputer, program and computer network systems training and assistance to department users.

## Authorization

Accounting and Finance  
17-1-102 (4), MCA - Uniform Accounting System and Expenditure Control requires that state agencies input transactions to the accounting system prescribed in subsection (2) before the accounts close at the end of the fiscal year.

17-2-101 et seq, MCA - Treasury Funds and Accounts provides for the accounting system and treasury fund structure of the state.

17-6-105 (2)(b), MCA - State Treasurer...Deposits of Money provides that state agencies deposit all money with the state treasurer.

17-7-112, MCA - Submission Deadline requires each department to submit its budget request to the budget director within specified deadlines.

17-8-201, MCA - Authorizations for Disbursements... provides that authorizations for disbursements be given by the agency and a record kept by the agency of authorizations and expenditures.

18-4-221, MCA - General Procurement Authority... requires the department to adopt rules governing the procurement and disposal of supplies and services.

### Personnel

2-18-101 et seq, MCA - State Employee Classification, Compensation and Benefits sets the policy for the operation of the classification and pay system and benefits program in order to attract and retain a qualified workforce.

39-31-101 et seq, MCA - Public Employees Collective Bargaining Act sets the policy for collective bargaining, unit determinations, contract administration, grievance arbitration and unfair labor practices for organized employees.

39-29-101 et seq, MCA - Veteran's Public Employment Preference Act provides the policy for hiring preference for eligible veterans in external recruitment efforts.

39-30-101 et seq, MCA - Handicapped Persons Public Employment Preference Act provides the policy for hiring preference for eligible handicapped persons.

39-2-101 et seq, MCA - The Employment Relationship provides guidance on employer/employee relations, terminations of employment, wrongful discharge and employer liabilities.

2-6-101 et seq, MCA - Employee Record Keeping sets the policy for maintenance, collection and storage of all personnel records. Also, it sets the policy for the employee's right to privacy and the public's right to know.

Title VII of the Human Rights Act of 1964 sets the policy for Equal Employment Opportunity and Affirmative Action Programs.

### Federal Aid

16 U.S.C. 669-669b, 669c-669i - Federal Aid in Wildlife Restoration Act of 1937 (Pittman-Robertson) provides for distribution of federal revenues to states from user taxes on firearms and archery equipment for wildlife management programs, and establishes restrictions on the use of state hunting license revenues.

87-1-708 through 710, MCA - Assent to Pittman-Robertson Act includes the state's agreement to comply with the federal Act, establishes the department's authority for wildlife conservation, and restricts the use of hunting license revenues to department purposes only.

16 U.S.C. 777-777k - Federal Aid in Sport Fish Restoration Act of 1950, as Amended in 1984 (Dingell-Johnson, as amended by Wallop-Breaux) - provides for distribution of federal revenues to states from user taxes on fishing and boating equipment and motorboat fuels for fisheries management programs, and establishes restrictions on the use of state fishing license revenues.

87-1-701 through 703, MCA - Assent to Dingell-Johnson Act includes the state's agreement to comply with the federal

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Act, establishes the department's authority for sport fish conservation, and restricts the use of fishing license fees to department purposes only.

## **Base Program**

The Management Services Division provides accounting and finance, personnel, planning, Federal Aid, and word processing support for the Department of Fish, Wildlife and Parks. The purpose of the division is to provide management support services to enable the department's divisions and regions to most effectively and efficiently provide services to the public in compliance with state and federal requirements.

**Accounting and Finance Bureau** - The Bureau's 24 FTEs provide accounting, budgeting and property management services to the department. These services are mandated by state law and assure proper management of the department's finances.

The objectives of the Accounting Section are to: process payment of accounts payable; prepare payroll; make personnel changes; record receipts and deposit department revenue; and bill for services rendered or goods provided. The objectives of the Property Section are to: record the acquisition, disposal and transfer of all department property; inventory all department property once every two years; provide purchasing assistance and training; prepare purchase orders; and set regulations for maintenance, replacement, usage and financing for 350 vehicles.

The objectives of the Budgeting Section are to: coordinate the preparation and submission of the biennial budget request and the annual budget allocation; and assist management in monitoring budgets for compliance with legislative mandates.

**Personnel Unit** - The Personnel Unit is responsible for all personnel functions and services for the department's managers and employees. Under base funding, the annual objectives of the Unit's 3.0 FTEs are to: recruit and select about 70 employees (usually permanent); answer personnel inquiries from 1400 individuals; establish and

maintain accurate and complete personnel files on 400 permanent employees and 150 temporary/seasonal employees; review and process 1000 classification and pay actions; maintain files of the department's performance appraisal system; prepare the affirmative action plan; review personnel related documents such as administrative rules, contracts, policies, hire letters, authorizations and releases for department compliance; and coordinate employee training and provide answers and advice concerning inquiries about personnel related matters.

In addition, the Unit provides contract administration for two bargaining units that comprise 40% of the department workforce; represents the department in grievances under the collective bargaining agreements and the statutory grievance procedure; manages the department's complaint procedure; represents the department in collective bargaining; develops comprehensive personnel policies; and provides advice and consultation to agency management on all personnel matters.

**Planning Unit** - The Planning Unit provides management assistance to the department for the purpose of improving effectiveness and efficiency in its operations. The Unit's 2.0 FTEs have three primary responsibilities. The objective of strategic planning is to set long-term direction for the department by the end of FY 1992. This would result in the department revisiting its mission statement, determining goals and objectives for each program, and working with the public to reflect public needs.

The objective of operational planning is to maintain the annual workplan (550+) and New Work Proposal processes. This will result in managers having complete documentation of each project within the department. Workplans describe work to be done, timeframes, benefits, and relate the work to the department's long-term direction. This will result in more efficient and effective management of work, increased accountability of what work is occurring and why, and the resources required to achieve the work.

The objective of project evaluation is to maintain and improve effectiveness of the department by evaluating program accomplishments. This includes initiating mid-year

variance reports and end-of-year reports on each workplan. This will result in a logical process for the department to evaluate all work at the mid-point of each fiscal year, and evaluate completion of work at the end of each fiscal year.

**Federal Aid Administration** - This function is mandated by Federal Aid program requirements. The Federal Aid Administrator is responsible for the administration of \$7 million in federal funds received annually by the department through the U.S. Fish and Wildlife Service and \$2.5 million annually in required matching state funds. This is over one-third of the agency's total operating budget. These federal funds are the foundation for the department's fisheries and wildlife management and research efforts and also support construction of facilities such as hatcheries, fishing access sites and shooting ranges. Funds are budgeted for all but one division and for all 8 regions.

The objectives of the unit's one FTE are to: obtain all Federal Aid funds available annually; assure that projects are developed, executed and completed in accordance with federal and state requirements; and ensure that no funds are used improperly, which would cause loss of federal funds.

**Word Processing Section** - The Word Processing Section is responsible for providing typing support, microcomputer, program and computer network systems training and assistance to divisions and regions. The objective of the section's 2.0 FTEs is to complete 90% of all typing projects submitted on or before the originator's requested time with an error rate of no more than 1%. Completed projects will provide users with the necessary information in a format which is easily read and revised.

## Base Funding

The program is funded similar to the 1991 biennium. The major funding source is the vehicle and warehouse proprietary fund. The accounting system used required double budgeting - once in this program and again in the division using a vehicle or acquiring goods from the warehouse.

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The balance of funding is from indirect costs collected on federal and state programs, and license funds. The indirect costs spent from the state earmarked accounts relate to support services in Management Services, Field Services, and Administration. However, they are all spent in Management Services to simplify the accounting system.

The following is a brief description of each account:

State Special Funds	FY92	FY93
	\$1,153,904	\$1,155,993

02407, 02408, 02411, 02412, 02413, 02414: Indirect costs collected on various state earmarked revenue funding sources.

02409 Fish and Game Earmarked Revenue: For the support of the various programs carried on by the Department of Fish, Wildlife and Parks which benefit sportsmen. The primary source is from the sale of fishing and hunting licenses. (87-1-601 MCA)

Federal Funds	FY92	FY93
	\$579,738	\$596,124

03404 Overhead: Indirect cost reimbursements from federal programs. (LCA \$50,000)

Proprietary	FY92	FY93
	\$1,840,703	\$1,862,583

06502 Equipment Enterprise: Accounts for the costs of providing a Department motor vehicle fleet.

06503 Warehouse Inventory: Accounts for the costs of providing a warehouse and office supply inventory to the Department.



## Performance Indicators

	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Accounting and Finance				
Payroll - Timereolls Processed	15,600	15,600	16,100	16,100
Claims				
# Transfer Warrant Claims	17,600	17,600	18,100	18,100
# No-Warrant Transfers	700	700	750	750
# Journal Vouchers	700	700	725	725
Cashier - \$ Deposited	\$30M	\$30M	\$30M	\$30M
Accounts Receivable				
# of Contracts	80-100	80-100	85-105	85-105
\$ of Billings	500-600	500-600	525-625	525-625
Budgeting				
# of R212's	90-110	90-110	90-110	90-11-
# of SBAS 213's	900-1,000	900-1,000	900-1,000	900-1,000
Allocated Budget By:	June 30th	June 30th	June 30th	June 30th
Prepare Biennial Budget By:	N/A	Sept. 1	N/A	Sept. 1
Purchasing				
State Purchase Orders Processed	170	170	180	180
Agency Purchase Orders Processed	700	700	720	720
Vehicles				
Vehicles Purchased	44	44	44	44
Vehicle Runs Completed	12	12	12	12
Incident Reports Processed	8	8	8	8
Credit Cards Issued	113	113	113	113
Vehicle Books Issued	227	227	227	227

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	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Property				
PAMS Documents Processed	965	965	975	975
Warehouse Runs Completed	13	13	13	13
Personnel				
Employment Inquiries	1,400	1,400	1,400	1,400
Recruitments	70-80	70-80	95-105	90-100
Mailings/handouts	6,100	6,100	8,100	7,700
Applications Received	1,200-1,350	1,200-1,350	1,425-1,575	1,350-1,500
Applications Replied to	1,100-1,250	1,100-1,250	1,325-1,475	1,250-1,400
Position fill Requests	322	322	50	50
Payroll Authorizations	850	850	870	860
Position Description Reviews	135	135	175	155
Personnel File Upkeep	575-650	575-650	600-700	600-700
Process Complaints	12	12	12	12
Process Grievances	8	8	8	8
Monitor Performance Appraisals	650	650	600-700	600-700
Copy Training Announcements	400	400	400	400
Training Registrations	111	111	111	111
Copy 2 Subscriptions	1,020	1,020	1,020	1,020
Planning				
Update Strategic Plan	0	1	0	0
Process Annual Workplans	550	550	560	560
Process Annual FYE Reports	550	550	560	560
File Midyear Variance Reports	35	35	40	40
Conduct Training Sessions	12	15	15	15
Facilitate Staff Meetings	8	9	10	10
Planned Management Newsletters	4	6	8	8

	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Federal Aid				
Fish Restoration				
Amt. of Federal Contracts	\$4M	\$4M	\$4.5M	\$4.5M
# of Federal Contracts	21	21	25	25
\$ of Federal Projects	91	91	100	100
Wildlife Restoration				
Amt. of Federal Contracts	\$3M	\$3M	\$3M	\$3M
# of Federal Contracts	8	8	8	8
# of Federal Projects	39	39	39	39
Word Processing				
Lines Typed	168,316	168,316	218,810	218,810
# of Projects	2,484	2,484	3,289	3,289
Pages Printed	56,684	56,684	58,384	58,384
Labels Printed	56,665	56,665	58,364	58,364
Training Time	150	150	195	195

## Increase or Decrease from Base

### New/Expanded Programs

**Fiscal Management Position** - The department budget includes a new budget analyst position to provide a more thorough tracking of laws and rules that relate to the various earmarked accounts and the requirements in the legislative appropriation bills. Earmarking of department revenues allocates fiscal management, impacts budget preparation, allocation, monitoring, and analysis. In FY82 the department had an operations budget of \$15 million with 20 funding sources. In FY90 the budget has grown to \$31 million with 38 funding sources. The general license account will provide \$35,105 in FY92 and \$33,726 in FY93 for this proposed position.

**Vehicle Account** - The department recommends additional proprietary fund authority to cover the vehicle expenses related to travel included in many department program increases. The budget includes \$77,732 in FY92 and \$81,113 in FY93 of proprietary fund revenue for this program increase.

### Other Increases/Decreases

**LCA** - The Department is requesting an increase in LCA of \$15,000 in FY92 and FY93. The increase is above the amount appropriated by the 1989 Legislature. The request is 100% federally funded, and is needed to provide additional accounting and personnel support for new federally funded projects.

Technical Adjustments

Transfer Position - 1.00 FTE and related operating budget was transferred from the Management Services Division to the Administration Division. This was done to create a Responsive Management Section in the Administration Division. The Executive Budget System did not allow for any changes past a certain date so this position appears in the increases/decreases to the base category.

Vehicle Differential - Because the vehicle account receives reimbursement based upon the acquisition cost of vehicles in use, the fund does not have adequate cash to cover the acquisition cost increase for replacement vehicles. We have projected an increase of \$17,900 in FY92 and \$34,847 over the FY91 level. The Executive Budget System did not allow for any changes past a certain date so this increase appears in the increases/decreases to the base category.

Inflation Adjustment - Due to the increase in the price of fuel, an inflationary adjustment was made in the amount of \$44,915 in FY92 and \$22,259 in FY93. This increase was funded primarily from the Vehicle Proprietary Fund with a small portion funded by the State Special Revenue Fund. The Executive Budget System did not allow for any changes past a certain date so this increase appears in the increases/decreases to the base category.

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5201 DEPT OF FISH, WILDLIFE & PARKS  
01 MANAGEMENT SERVICES DIVISION  
00000

DATE : 01/08/91  
TIME : 21/29/24  
CURRENT LEVEL COMPARISONS

Budget Item	Actual Fiscal 1990	Executive Fiscal 1992	LFA Fiscal 1992	Difference Fiscal 1992	Executive Fiscal 1993	LFA Fiscal 1993	Difference Fiscal 1993
FTE	40.20	34.20	33.45	.75	34.20	33.45	.75
Personal Services	812,174	898,390	884,725	13,665	898,142	884,510	13,632
Operating Expenses	1,595,228	1,805,689	1,764,532	41,157	1,826,972	1,757,855	69,117
Equipment	1,016,887	694,577	607,577	87,000	696,438	671,246	25,192
Transfers	163,651	208,930	0	208,930	225,867	0	225,867
Total Expend.	\$3,587,940	\$3,607,606	\$3,256,834	\$350,772	\$3,647,419	\$3,313,611	\$333,808
Fund Sources							
State Revenue Fund	1,550,391	1,208,175	1,041,067	167,108	1,255,533	1,067,850	187,683
Federal Revenue Fund	310,620	546,500	546,500	0	545,037	545,037	0
Proprietary Fund	1,726,929	1,852,931	1,669,267	183,664	1,846,849	1,700,724	146,125
Total Funds	\$3,587,940	\$3,607,606	\$3,256,834	\$350,772	\$3,647,419	\$3,313,611	\$333,808

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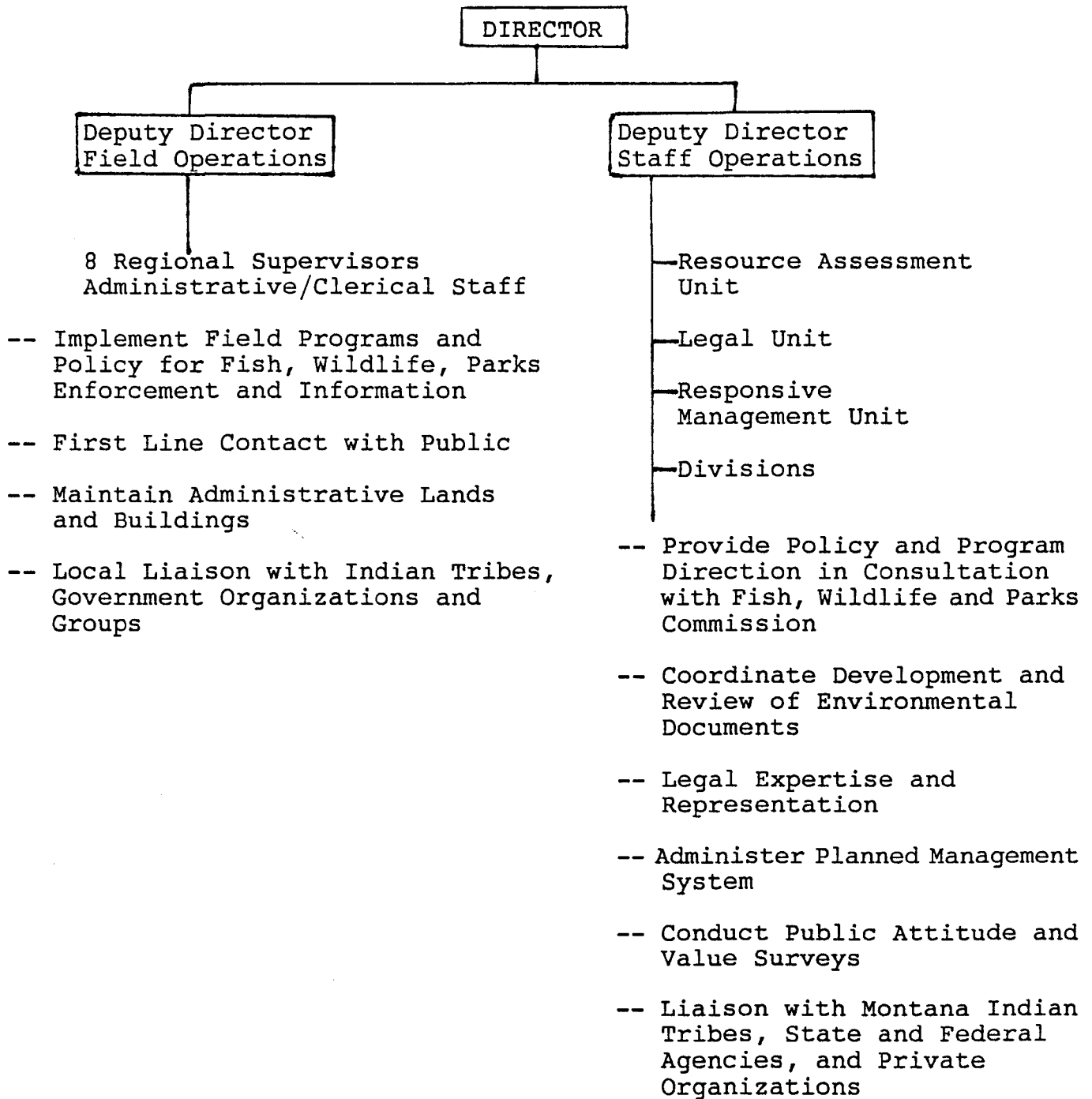
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EXHIBIT 3

CURRENT LEVEL ISSUES:		FUP - MS	--EXEC OVER (UNDER) LFA--		FY 92	FY 93
PERSONAL SERVICES						
A. The LFA eliminated 1.75 FTE which had been vacant much of fiscal 1990.		Study - LFA - Unknown				
B. The Executive Budget transfers 1.0 of these FTE (#11821) to Administration.		Weedling Approved for 13,055 Unknown			\$46,375 (\$32,710)	\$46,266 (\$32,635)
TECHNICAL ADJUSTMENT Berampton ALC - Ex - Unknown						
A. The planning unit has been transferred to Administration. Actual fiscal 1990 expenditures remain in the LFA base. This adjustment moves the expenditures from Management Services to Administration where the Planning Unit's budget is now.					(\$10,500) Admin	(\$10,500)
B. Insurance - The LFA includes only insurance from Tort Claims and none from other sources.					\$8,385	\$11,710
C. Audits - The LFA removed the expenditures for audits not associated with the Legislative Auditor.					\$2,086	\$2,087
BUILDING AND GROUNDS MAINTENANCE - Due to agency coding of rent in this category, the LFA contains double the rent allocation.		Berampton - Ex - Unknown He Lave			(\$74,866)	(\$74,244)
EQUIPMENT						
A. Aircraft maintenance - The LFA does not include \$25,000 for an engine overhaul nor \$65,000 for new rotors. The 1989 legislature authorized \$82,000 in fiscal 1991 for aircraft engine overhauls, and \$73,964 for the biennium in increased maintenance cost for the new helicopter.		Berampton A - Ex - Unknown			\$87,000	\$0
B. Vehicles - The LFA uses double the 3-year average for the biennium total		Study Ex - 5-1 Passed Berampton No!			\$0	\$25,192
TRANSFERS						
A. Vehicle Differential - The LFA did not include this item		Study - Ex - Unknown			\$143,950	\$160,867
B. Legislative Contract Authority		Advisory - Unknown			\$65,000	\$65,000
BUDGET BASE DIFFERENCES						
A. Management Services Program		Weedling - Ex - Unknown			\$9,717	\$11,673
B. Vehicle Program		Study - Ex - Unknown 5-1 Berampton No!			\$78,823	\$102,519
C. Warehouse Program		Market Ex - 5-1 Berampton No!			\$27,512	\$27,873
TOTAL CURRENT LEVEL					\$350,772 =====	\$333,808 =====
EXECUTIVE BUDGET MODIFICATIONS FOR PROGRAM EXPANSION:						
FISCAL MANAGEMENT POSITION (100% general license account)		Van Lier - Ex 5-1 Berampton No!			\$35,105	\$33,726
VEHICLE ACCOUNT 19104 - (Bond Bank)					\$77,732	\$81,113
TOTAL MODIFICATIONS					\$112,837 =====	\$114,839 =====

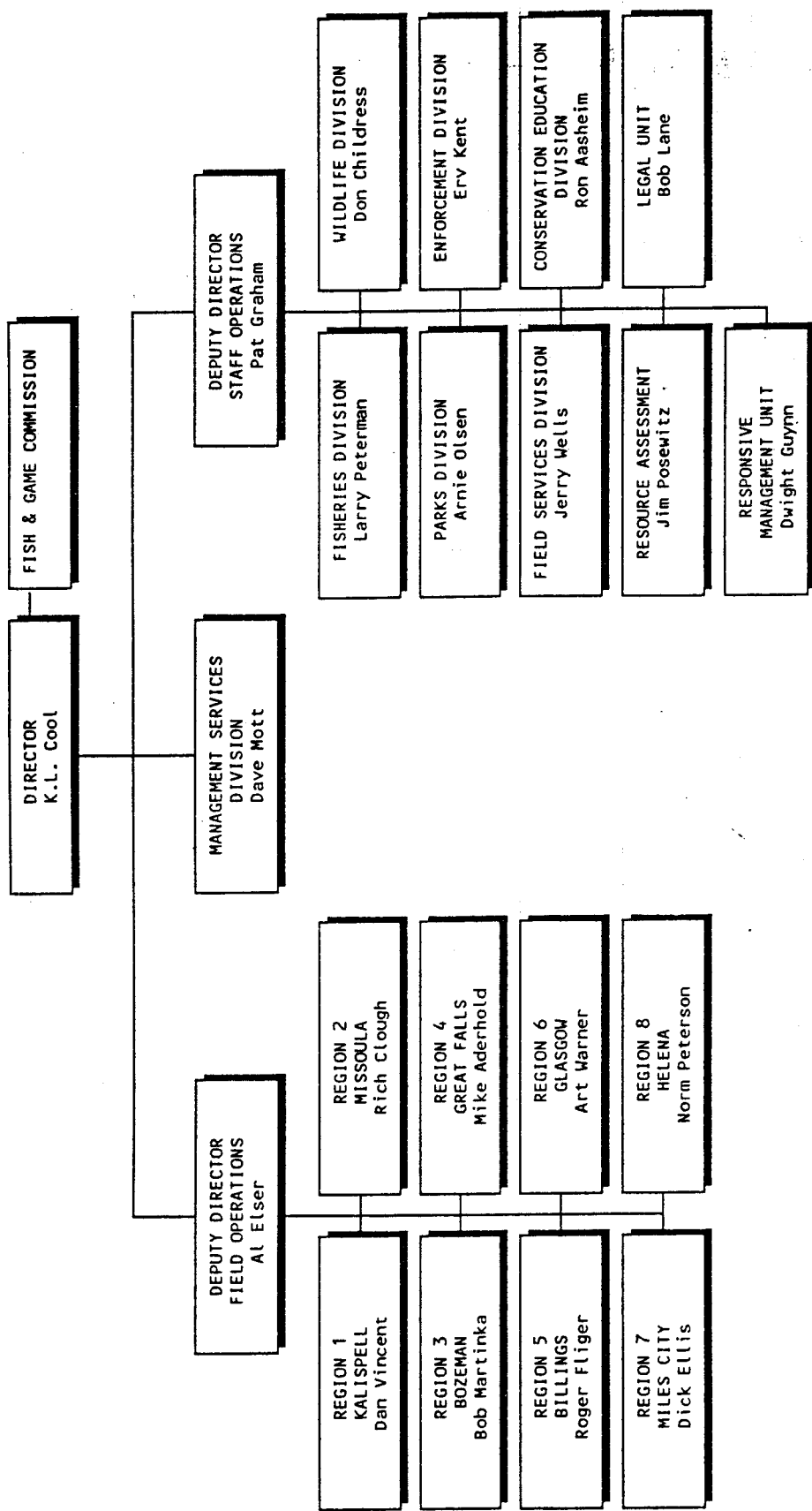
Exhibit 4  
2-08-91  
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## ADMINISTRATION



EX-1181 F 4  
2-08-91  
Mar. Pres. Sec.

MONTANA DEPARTMENT OF  
FISH, WILDLIFE AND PARKS  
ORGANIZATIONAL CHART





# Administration

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992		Fiscal 1993			
			Base	Incr/Decr	Recommended	Base	Incr/Decr	Recommended
Full Time Equivalent Employees	34.48	36.23	37.48	3.75	41.23	37.48	3.75	41.23
Personal Services	1,156,337.50	1,229,327	1,299,010	128,229	1,427,239	1,297,874	128,121	1,425,995
Operating Expenses	529,936.71	787,661	616,279	383,985	1,000,264	610,128	389,034	999,162
Equipment	34,993.12	14,800	14,800	28,385	43,185	14,800	8,671	23,471
Capital Outlay	5,239.97	0	10,000	0	10,000	10,000	0	10,000
Grants	119,010.69	135,000	90,000	179,000	269,000	90,000	179,000	269,000
Transfers	0.00	65,000	90,000	10,000	100,000	90,000	10,000	100,000
Total Agency Costs	\$1,845,517.99	\$2,231,788	\$2,120,089	\$729,599	\$2,849,688	\$2,112,802	\$714,826	\$2,827,628
State Special Revenue Fund	1,515,109.59	1,759,664	1,411,695	702,112	2,113,807	1,453,199	640,049	2,093,248
Federal Special Revenue Fund	330,408.40	472,124	708,394	27,487	735,881	659,603	74,777	734,380
Total Funding Costs	\$1,845,517.99	\$2,231,788	\$2,120,089	\$729,599	\$2,849,688	\$2,112,802	\$714,826	\$2,827,628

## Overview

The Administration Division is responsible for the following department activities: Overall department direction regarding policy, planning, program development, guidelines and budgets; liaison with the Governor's office and the legislature; direct interaction with the Fish and Game Commission; decision making authority for key resource activities affecting the department; administration of 7 major divisions that provide program development and staff support; supervision of 8 regional offices that are responsible for program implementation; legal counsel for the department; liaison with other state and federal agencies; and, liaison with Montana's Indian tribes.

## Goals

The overall goal of the Administration Division is to provide direction for policy and program development and implementation consistent with the department's statutory responsibilities for fish, wildlife and outdoor recreation. Individual goals include:

Maintain effective liaison with the Governor's office, the Montana Legislature and the Montana Fish and Game Commission.

Develop cost effective programs utilizing staff from the 7 divisions.

Implement programs and policies in a consistent fashion in the 8 regions.

Provide appropriate legal expertise and counsel.

Provide clear channels of internal communication.

Provide liaison with Montana Indian tribes, state and federal agencies, and appropriate private entities.

## Authorization

Authorization for the Administration Division is provided under:

EXHIBIT

4

DATE

2-23-91

HB

Nat. Res. Div.

promote better viewing conditions and less conflict among viewers at the viewing sites.

The increase also will support the department's Youth Education program. The funds will be used to: 1) introduce college-level education and resource majors to terrestrial and aquatic Project WILD; 2) directly expose every third grade student in Montana to terrestrial and aquatic wildlife and fishery information; and 3) train and maintain a core of volunteer angling instructors.

#### Other

Nongame Wildlife Funding - The 52nd Legislature directed the department to develop alternatives to replace the use of hunting and fishing license fees to fund the Nongame Program. In response, the department, in cooperation with the Northern Region of the U.S. Forest Service, surveyed other nongame programs and compiled a list of potential nongame funding strategies. The alternatives, which will be presented to the legislature include the following three types of funding sources:

1. Tax revenue. Many states have tapped into their tax structure by designating a percentage of an existing tax -- cigarette tax, motor vehicle tax, tourism tax, etc. - to fund nongame wildlife programs.
2. Mitigation funds. Some states which have sought compensation from activities that adversely impact wildlife have applied a percentage of the mitigation settlement toward nongame programs.
3. User fees. Some states have expanded user fees beyond operations and maintenance needs and are funding nongame programs with fees collected from people who enjoy fishing and wildlife-related recreation.

Since the adoption of a new funding strategy likely will require legislative action the executive budget recommends continued use of license dollars to support the nongame program until alternative income sources are created. Because surveys show that hunters and anglers participate in other wildlife related recreational opportunities -- photographing and viewing wildlife, camping, hiking, etc. -

- the department believes a continuation of the use of hunting and fishing license fees to fund nongame programs would create neither controversy nor conflict among state hunters and anglers.

#### Other Increases/Decreases

LCA - The department is requesting \$30,000 each fiscal year primarily for spending of Federal/Private donations for the Conservation Education Division. The 1989 Legislature did not appropriate any LCA in FY 90/91.

#### Technical Adjustments

Inflation Adjustment - Due to the increase in the price of fuel, an inflationary adjustment was made in the amount of \$1,818 per year. The Executive Budget System did not allow for changes past a certain date so this adjustment was made to the increases/decreases to the base category.

unit generally advises the department, as appropriate, on the legal aspects of all the department's policies and programs.

**Tribal Liaison** - Interaction between the department and Indian tribes relative to fish, wildlife and recreational issues is coordinated through the directors' office. Cooperative agreements, enforcement, historical and legal reviews are all responsibilities within this function.

**Resource Assessment** - The resource assessment program provides liaison with state, federal and private entities on complex natural resource issues. MOU's, cooperative agreements, department representation on major committees and resource policy development are all significant aspects of this function.

**Resource Assessment** - The resource assessment program provides liaison with state, federal and private entities on complex natural resource issues. MOU's, cooperative agreements, department representation on major committees and resource policy development are all significant aspects of this function.

The program is funded similar to the 1991 Biennium. There are 2 funding sources - license revenues and indirect costs recoveries from federal programs.

02409 Fish and Game Earmarked Revenue: For the support of the various programs carried on by the Department of Fish, Wildlife and Parks which benefit sportsmen. The primary source is from the sale of fishing and hunting licenses. (87-1-601 MCA)

**Federal Funds**

<u>FY92</u>	<u>FY93</u>
708,394	659,603

	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Annual Work Plans Reviewed Implemented & Reported	550	550	550	550
Employee Performance Appraisals Completed & Reviewed in the Regions	275	275	275	275
Public Contracts by Regional Clerical Staff	220,00	220,000	220,000	220,000
License Sales in Regional Offices	46,100	46,100	46,100	46,100
Legal Briefs Prepared	45	45	45	45
Contracts Review for Legal Content	400	400	400	400
Legal Review of Water Related Issues	12	12	12	12
Contracts with Indian Tribal Councils	10	10	10	10
Requisitions within General Level Purchasing Authority Reviewed & Approved by Regional Supervisors	850	850	850	850
Fish & Game Commission Meetings	10	10	10	10
Complex EA/EIS's Reviewed	15	15	15	15
Participation in Ad Hoc Standing Committee	10	10	10	10

## Increase or Decrease from Base

### Report Back Projects

Legal Services - The department recommends continuation of a \$12,300 per year increase appropriated by the 1989 Legislature for legal services. The 1989 Legislature approved state special revenue for increasing legal and court costs. In the 1991 biennium appropriations bill, the legislature required that the \$12,300 per year increase be

re-presented to the legislature for its reconsideration and re-appropriation. The executive budget continues the legal services increase.

Predator Control - The department recommends continuation of a \$20,000 per year expansion of the predator control program grant. The predator control program is administered by the Department of Livestock. In the 1991 biennium appropriations bill, the legislature required that the \$20,000 per year grant increase for the predator

control program be re-presented to the legislature for its reconsideration and re-appropriation. The total recommended predator control grant is \$110,000 per year.

Sikes Act - The department recommends continuation of \$75,000 per year of state special revenue appropriated by the 1989 Legislature to match \$75,000 per year of federal funds. The department receives federal challenge grants from the federal Bureau of Land Management and the U.S. Forest Service for fish and wildlife enhancement projects. The state funds will be used to match the federal grants. In the 1991 biennium appropriations bill, the legislature required that the \$75,000 per year in federal matching grants be re-presented to the legislature for its reconsideration and re-appropriation.

Salinity Control - The department recommends continuation of \$75,000 per year of federal and state special revenue appropriated by the 1989 Legislature for salinity control. In the 1991 biennium appropriations bill, the legislature required that the program for salinity control be re-presented to the legislature for its re-consideration and re-appropriation. The executive budget continues the salinity control program.

#### New/Expanded Programs

Legal Services - The department recommends the addition of an attorney position, at a cost of \$50,000 per year, making a total of four attorneys. Legal demands and requirements in such areas as water reservations, water leasing, the state water plan, tribal issues, land and easement acquisition, revision of the fish and wildlife statutes, development of personnel policies, and the Superfund litigation have increased and expanded, thereby creating the need for the fourth department attorney.

Tribal Relations - The department recommends \$40,000 per year to provide legal, historical, resource, and tribal government information and assistance to the tribal coordination efforts of the department.

Regional Support - The department recommends a \$75,000 state special revenue increase for regional office support. The \$75,000 will be used for:

Department of Fish, Wildlife and Parks

67

1. landscaping care and maintenance on grounds at regional headquarters;

2. clearing of snow and ice from sidewalks;

3. maintenance of facilities, painting, repairs, etc.;

4. security protection of regional facilities;

5. addition of temporary staff at peak licensing times; and  
6. group tours at regional headquarters.

Geographic Information System - The department recommends \$40,000 in FY92 and \$50,000 in FY93 of state special revenue to:

1. develop an automated resource inventory for department land;

2. acquire the computer technology to analyze and interpret the inventory to facilitate planning, development, and management of department lands;

3. complete a pilot project(s), within the context of other current projects, to evaluate GIS application to wildlife research and management problems; and

4. establish a GIS planning team to evaluate options for expanded GIS capability, especially for the purposes of developing species management plans, river corridor plans, state recreation area plans and automated interfacing with the planning process of other agencies.

Interagency Support - The budget includes and increase in the grant to the State Library from \$25,000 to \$50,000 for work on a statewide geographic information system.

Dams - The department budget recommends \$34,000 per year be transferred to the Department of State Lands for administration of department dams. The department owns 19 dams throughout the state and some are high hazard dams.

Administration

EXHIBIT 4  
DATE 2-28-91  
HB Par. 2, New

#### Other Increases/Decreases

LCA - The Department is requesting an increase in LCA of \$35,000 in FY92 and FY93. The increase is above the amount appropriated by the 1989 Legislature. The request is federal/private funded, and is mainly attributable to the anticipated increase in federal contracts and grants.

#### Technical Adjustments

Transferring Positions - As previously discussed in the Management Services, Field Services and Parks narratives, a total of 2,75 FTE and related operating budgets were transferred into this program. The Executive Budget System did not allow for any transfers of positions past a certain date so the adjustments were made in the increase/decrease to the base category.

Inflation Adjustment - Due to the increase in the price of fuel, an inflationary adjustment was made in the amount of \$1,900 per year. The Executive Budget System did not allow for any changes past a certain date so the adjustment was made in the increase/decrease to the base category.

Contracted Services and Equipment - There was approximately \$52,000 added to the contracted services and equipment budgets as compared to the FY91 appropriated levels. However, there were decreases in other programs to offset this increase. The Executive Budget System did not allow for these adjustments to be made past a certain date so they appear in the increase/decrease to the base category.

281 Spill  
Mar. Rev. Dec.

Budget Item	Actual Fiscal 1990	Executive Fiscal 1992	LFA Fiscal 1992	Difference Fiscal 1992	Executive Fiscal 1993	LFA Fiscal 1993	Difference Fiscal 1993
FTE	31.13	40.23	37.48	2.75	40.23	37.48	2.75
Personal Services	1,156,336	1,391,855	1,295,279	96,576	1,390,695	1,294,133	96,562
Operating Expenses	529,940	676,348	488,378	187,970	668,662	490,056	178,606
Equipment	34,993	25,185	25,185	0	21,971	21,971	0
Capital Outlay	5,240	10,000	0	10,000	10,000	0	10,000
Grants	119,011	115,000	115,000	0	115,000	115,000	0
Transfers	0	100,000	0	100,000	100,000	0	100,000
Total Expend.	\$1,845,520	\$2,318,388	\$1,923,842	\$394,546	\$2,306,328	\$1,921,160	\$385,168
Fund Sources							
State Revenue Fund	1,515,112	1,657,507	1,362,961	294,546	1,646,948	1,361,780	285,168
Federal Revenue Fund	330,408	660,881	560,881	100,000	659,380	559,380	100,000
Total Funds	\$1,845,520	\$2,318,388	\$1,923,842	\$394,546	\$2,306,328	\$1,921,160	\$385,168

EXHIBIT 5  
Par. 4a. Nov.

--EXEC OVER (UNDER) LFA--  
FY 92 FY93

FWP - ADMIN  
Headly, Lfa - Wren

TECHNICAL ADJUSTMENTS

Fish and Game Commission per diem - The LFA include no per diem. Broughton abcd - Ex - Wren  
\$7,000 was spent in fiscal 1990.

Rent - The LFA did not include additional rent for Region 8 headquarters

Planning Unit Move - The planning unit has been transferred to Administration from Management Services. Actual fiscal 1990 expenditures remain in the LFA base. This adjustment moves the expenditures from Management Services to Administration where the Planning Unit's budget is now located.

Legal Books Printing - These books are printed in even numbered years. The LFA contains this cost in fiscal 1993.

The Executive Budget contains more for personal vehicles than requested

INTERNAL REORGANIZATION

The Executive Budget moves 1.0 FTE (#11821) to Administration from Management Services

The Executive Budget moves 1.0 FTE (#12816) to Administration from Field Services

The Executive Budget moves .50 FTE (#16412) to Administration from Parks

The Executive Budget moves .25 FTE (#26455) to Administration from Parks

VERTIME - The LFA reflects actual 1990 expenditures. No action. Lfa OK.

HEADQUARTERS' FIXED COSTS - The LFA does not include additional costs associated with new headquarters in Miles City and Billings. Headly - Ex - 5-1 Broughton (no)

FEET CHARGE - The Executive Budget contains additional amounts to pay for the increased per mile rate charged by the Management Services Division. action taken Ex - not to be included in Ex. Wren. not budget Broughton Ex.

STRATEGIC PLAN PRINTING - Nothing was spent for this item in fiscal 1990

CAPITAL - For replacement and repair of mechanical systems in headquarters

LEGISLATIVE CONTRACT AUTHORITY action taken except the Ex.

BUDGET BASE DIFFERENCES Broughton - Wren Ex. Noted Naval segment C. Sen. Resp. signed. 30,000 yr. 3-2. Headly & Broughton no.

CURRENT LEVEL Broughton move 103,539.92 + 11,148-93

Headly - 30,000 yr. mgr. management. 4-1 (insert me)

\$6,250

\$1,513

off set \$10,500 Wren

\$0

\$1,146

\$32,535

\$42,634

\$9,369

\$5,135

\$653

\$30,000

\$772

\$5,500

\$10,000

\$100,000

\$138,539  
103,539

\$394,546

=====

\$141,148  
111,148

\$385,168

=====



# Legal Services

Three attorneys - fewest of natural resource agencies

DWRC - 7

Health - 7

DSL - 4

Regulatory function - licensing, hunting + fishing regs, land use regs., leases for access, grazing etc. conservation easements

- Rulemaking 500 FTE
- personnel issues - ~~enforcement~~
- enforcement activities
- complex environmental / social issues  
Superfund, Endangered species, Water rights, ~~Tribal~~ jurisdictional issues,

Prefer a fourth attorney - prepared to reduce the request by \$15,000. to the status of a para legal.

WORK PLAN / PROJECT DESCRIPTION

EXHIBIT 5  
DATE 2-8-91  
HB Pat. Res. New  
Copy

1. SBAS Project No.: 9831A      Fiscal Year: 1991
5. Project Title: Legal Unit Staffing-4th Atty.
6. Project Manager: Bob Lane
7. Budget Total \$      44987
8. Number of FTEs:

Total:	1.00		
Perm Base:	0.00	Temp Base:	0.00
Perm NonBase:	0.00	Temp NonBase:	0.00
9. Is this a continuing project ? Y      Complete (YRMM):
10. Project Priority: DIR:      PGM:      REG: H
11. Is funded by redirected funds? N      Amt Redirected: \$      0
12. Describe how this project relates to priority issues.

The Legal Unit needs a fourth attorney to adequately meet the legal needs of the department. The demands or requirements for legal services have increased since a third attorney was added three years ago to the point where four attorneys are needed to handle the requirements for legal services in the department. The need for four attorneys is fully discussed in a memo to Pat Graham entitled "Legal Staffing Requirements." A legal staff of four attorneys is conservative compared to other resource agencies when the diversity and complexity of issues, the number of employees in the agency, and the agency budgets are compared.

13. What are the objectives & benefits that will result ?

Fully staffing the Legal Unit with a fourth attorney will enable the Legal Unit to meet the legal service needs of the department. This will provide the resources to concentrate on priority tasks as they are assigned or that develop without compromising either these priority duties or the other legal service needs of the department.

The present staff of three attorneys will only be able to do 3/4 the work of four attorneys. Continuing with three attorneys will make it impossible to meet all of the department's needs for legal services. Because court cases, administrative hearings, the immediate needs of divisions and administrators, and other deadlines set much of the priorities for the Legal Unit, it will not be possible to effectively prioritize a four attorney workload for three attorneys. However, past experience supports a conclusion that four attorneys can meet the needs of the department.

14. List tasks to be accomplished and timeframes for completion :

The tasks to be performed are those in the Legal Unit's Work Plan.

*Give to Connie  
rewrite Budget sheet  
& show 50,000*

# Administration

## Legal Services - EPP (92901)

File Name: 4Y92901

	FY90 Actual	FY91 Budgeted	FY92 Request	FY93 Request
FTE			1.00	1.00

1000 PERSONAL SERVICES			\$35,302	\$35,218
------------------------	--	--	----------	----------

### 2000 OPERATIONS

2100 Contracted Services			\$3,000	\$4,000
2200 Supplies and Materials			\$2,000	\$2,282
2300 Communications			\$1,000	\$1,000
2400 Travel			\$2,198	\$2,500
2500 Rent			\$500	\$500
2600 Utilities				
2700 Repairs and Maintenance			\$500	\$500
2800 Other			\$2,500	\$2,500
2900 Goods Purch. for Resale				
TOTAL OPERATIONS	\$0	\$0	\$11,698	\$13,282

3000 EQUIPMENT			\$3,000	\$1,500
4000 CAPITAL OUTLAY				
5000 LOCAL ASSISTANCE				
6000 GRANTS				
7000 BENEFITS AND CLAIMS				
8000 TRANSFERS				
LCA				
TOTAL	\$0	\$0	\$50,000	\$50,000

### FUNDING SOURCES

02407 Snowmobile Fuel Tax				
02408 Coal Tax Trust Account				
02409 General License			\$50,000	\$50,000
02411 Parks Earned Revenue				
03404 Overhead -- LCA				
06501 FW&P Print Shop/Olc Supp				
06502 Equipment Enterprise				
06503 F&G Warehouse Inventory				
TOTAL	\$0	\$0	\$50,000	\$50,000

EXHIBIT 5  
DATE 2-8-91  
HB Mark De Leo

**Montana Department  
of  
Fish, Wildlife & Parks**

EXHIBIT

DATE 2-8-91



MEMORANDUM

TO: Pat Graham  
FROM: Bob Lane *Bob Lane*  
RE: Legal Staffing Requirements  
DATE: January 30, 1990

This is in response to your memo requesting that I identify the legal staffing needs of the Department. You have requested an estimate of staffing time under three scenarios. I have concentrated on the third request and have related the first two scenarios to the estimates for the third scenario. That request asks for an estimate of the level of effort to meet the needs of this agency for legal services. Then the other two scenarios will be addressed to the best of my ability.

The function of legal counsel within the Department cannot be properly analyzed by simply attempting to assign numbers to tasks as variable as the work requirements that the legal unit faces. The most accurate understanding of legal counsel's function depends on an analysis of the nature of our function and of the considerable experience that the attorneys for this Department have in serving this Department and in agency legal practice. Therefore, this memo will first provide a narrative analysis of our Department's requirements for legal services. In this way I hope to best communicate the legal service needs of the Department and to give some meaning to my attempts to quantify legal services by estimating time spent on discrete tasks.

The most meaningful and accurate analysis is the simplest: the track record in serving this Department of three hardworking, dedicated and efficient attorneys who have an outstanding depth of experience in agency legal practice. Generally, the quality of legal service and the efficiency have both been excellent. The high quality and effectiveness of our work is generally acknowledged by other attorneys and the staff of this Department. The considerable legal experience, along with the work habits of our attorneys, have contributed both to a high level of efficiency and to mature judgments as to the level of effort appropriate to specific legal tasks. These statements are made, not as a form of boasting, but to document the justification for relying on our

Memorandum  
January 30, 1990  
Page -2-

experience within and without the agency as the basis for determining the Department's legal staffing needs.

Our experience has shown that three attorneys are not able to adequately meet the legal needs of the Department. This is not to say that as part of an agency team we have not done our part to help accomplish Department goals. We have helped to manage, protect and enhance the natural resources and, therefore, have a pride in the Department's accomplishments. However, programs have been adversely impacted or potentially adversely impacted because the workload has made timely and complete responses impossible in all cases. This has included responses to some needs that are late, from a few days to weeks to months, and responses in some cases that are too superficial to insure a reasonable level of confidence in the work product. This is not a description of all of our work. The majority of the work is timely and competent. However, the incidents of lateness and the incidents where there was not enough time to insure the job was done with prudent care occur often enough to serve as a warning signal, especially where other causes such as inexperience or inefficiency are not present. There is no paradox that our legal work is generally held in high regard in the agency and is recognized as being valuable while, at the same time, it is also generally recognized that the present legal resources do not adequately meet the needs of the Department.

Even more significant to an analysis is the recognition of a number of Department programs and goals that are now being started or will be started in the near future which will benefit from the services of legal counsel. In these efforts, legal advice will be an indispensable component. Specifically, the areas in which there will be or may be increased workloads include water reservations, water leasing, the state water plan, tribal issues, land and easement acquisition, revision of the fish and wildlife statutes, development of personnel policies, and the Superfund litigation.

The first of these areas, water and fisheries related matters, needs more attention than our workload presently allows. The need for legal assistance will increase as the Department's involvement in water matters increases. Both the Clark Fork River and the Missouri River basin water reservation processes will be entering into their more formal stages, with the Clark Fork River water reservation hearings realistically planned for this summer or fall. The legal component will be considerable in helping prepare for the hearings, representing the Department during the hearings, and writing the briefs following the hearings. Both water leasing and the state water plan have analyses of water law issues as major components and, consequentially, the Department's efforts will be aided by timely and careful legal advice.

Memorandum  
January 30, 1990  
Page -3-

The extent of issues dealing with tribes is difficult to predict for the immediate future, but easy to anticipate in the longer run. The number and extent of tribal issues may very well vary in the short run from almost no activity to more work than one attorney working full-time could handle. Generally, the timing and number of tribal issues are beyond the Department's control. However, based on the experience in other states and our own experience, there are a considerable number of unresolved issues that will have to be dealt with in the relatively near future.

The need for legal involvement in land and easement acquisitions by the Department is steadily growing. The legal unit has extensive expertise in land transactions, including conservation easements, but our ability to effectively use that experience depends on adequate staffing.

The Department needs to and plans on revising our statutes, particularly with an eye towards enforcement. This has always been identified as a task that would need to be contracted out because it requires a concentrated block of time that would not be available under any anticipated staffing level. However, the revisions will still require considerable legal staff review in order to benefit from our inhouse experience.

The development of personnel policies is an area where increased participation by legal can be an integral and contributing part of the development of these policies. There is no question that the Department needs to develop policies in many areas and has had this need probably throughout our history. The Department has not been adequately staffed to meet this need and at least one attempt to contract out the development of a personnel policy manual failed. Now that a personnel manager has been added to the staff, the Department has the capability to develop personnel policies to at least meet the most critical needs. In effect, the addition of personnel staff will increase some of the demands on our legal services because we will be reviewing and contributing to policies that would not otherwise be developed. Also, the legal staff in the past has been involved in personnel matters, such as grievances and discipline. The amount of our involvement will not likely decrease, but our efforts will be better focused now that a personnel manager has been added. Previously we helped fill in many of the gaps in personnel services created by understaffing. Much of our efforts were in areas we are not trained for. The legal staff will now be able to concentrate on those issues that require legal counsel, with the result of better overall personnel services for the agency.

The legal services from this Department required to pursue the natural resources damage litigation has been partially addressed

Memorandum  
January 30, 1990  
Page -4-

with the full-time assignment of Fred Robinson to this litigation. However, the total resources, legal and technical, needed to adequately meet this challenge has not yet been addressed by the trustees. It will take a great deal more than Fred and one or two other attorneys. Although the estimates in this memo of the Department's staffing needs exclude the Superfund litigation because of Fred's assignment and because a formulation of the state's approach has not yet been dealt with, it is realistic to assume that this Department will be expected to contribute more legal effort even if the bulk of the needed legal resources are met in other ways. Therefore, a minimum amount of time, not counting Fred, has been estimated for this effort.

With the above background, I will attempt to answer your request for staffing needs under three scenarios. The staffing needs are expressed in FTEs on a yearly basis. The needed level of effort will be given as a range where appropriate to realistically express the variables in our workload, with the average being the figure that can be added cumulatively to estimate a total workload. The third scenario is answered first to estimate the time necessary to adequately address the Department's need for legal services. This is identified as the Projected Workload for the legal unit.

Projected Workload

<u>Average</u> <u>in FTEs</u>	<u>Range in</u> <u>FTEs</u>	<u>Workload Area</u>	<u>Qualification</u>
1) N/A	N/A	Legal Research	This area is a component of all other areas.
2) 3/4	1/2-1	Litigation	
3) 3/8	1/4-1/2	Personnel matters	
4) 1/4	0-1/2	Legislation	This effort requires about 1/2 an attorney, but the work is for every other year with the work concentrated during the session. The average is therefore 1/4 FTE.
5) 1/4	1/4	Rulemaking	

Memorandum  
January 30, 1990  
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EXHIBIT 5  
DATE 2-8-91  
HB 400K Rep A

- |     |      |         |   |  |
|-----|------|---------|---|--|
| 6)  | 1/2  | 1/2     | Leases, contracts,<br>real estate                     |  |
| 7)  | 1/16 | 1/16    | Liaison on contracting<br>for attorney                | The only presently<br>retained counsel<br>is for the SB 76<br>water adjudica-<br>tion. This<br>effort would<br>increase slightly<br>with each<br>contracted<br>attorney. |
| 8)  | 1/8  | 1/8     | Represent DFWP at<br>meetings                         | This estimates the<br>work not repre-<br>sented in other<br>areas  |
| 9)  | 1/8  | 1/8     | Represent DFWP before<br>Fish and Game Commission     |  |
| 10) | --   | --      | Coordinate as appropriate<br>with department training | An effort that<br>virtually has not<br>existed, but that<br>could be valuable<br>to the department.  |
| 11) | 1/16 | 1/16    | Water adjudication                                    | Presently<br>contracted out and<br>has been for the<br>whole adjudication<br>with inhouse<br>counsel now<br>handling only a<br>small fraction of<br>the workload.        |
| 12) | 3/8  | 1/4-1/2 | Clark Fork/Missouri<br>water reservation              | This effort has<br>been adjusted<br>slightly because<br>some of the time<br>is already counted<br>under litigation.  |
| 13) | 3/8  | 1/4-1/2 | Other water issues                                    |  |



Memorandum  
January 30, 1990  
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EXHIBIT 5  
DATE 2-8-91  
HB Mr. [unclear]

14)	1/4	1/4	Natural Resources Damage Litigation	This may be low depending what the Department's total contribution will be.
15)	1/2	1/4-3/4	Tribal issues	
16)	1/16	1/16	Fish and Game Laws/Rules (advise and consult with county attorney)	
17)	1/8	1/8	Supervision of the Legal Unit	
18)	3/16	3/16	Continued Education	Keeping up with the latest decisions and developments is a requirement of all attorneys. This is computed by assuming 3 attorneys with 1/16 of their individual time for this effort.

4 3/8

TOTAL FTEs

The above estimate of workload includes two areas not on your original list, but which are necessary for a complete summary. The supervision of the Legal Unit is a duty of the Chief Legal Counsel. Also added was a fraction of each attorney's time for continuing education which includes studying the latest decisions of the state and federal courts (primarily decisions of the Montana Supreme Court and United States Supreme Court) and keeping abreast of developments in the areas that we specialize in, such as water law, administrative law, personnel law, etc. As a condition to practicing law in Montana, attorneys are required to pursue a minimum level of continuing legal education.

The first scenario asked for a summary of the workload over the past year or so with the three attorney unit as we were functioning. The above estimate also serves as a summary for this scenario especially when viewed in light of my initial qualifications in this memo. The above estimate of workload is our present workload as we face the coming year. We have had the

Memorandum  
January 30, 1990  
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present demands for some time. The workload has grown over the five years that I have been with the Department. When I came here there was a sufficient workload for three attorneys although there were only two. Being understaffed has been the consistent status of the legal unit and this conclusion is bolstered by the experience of the Department's former Chief Legal Counsel, Stan Bradshaw. As we discussed at a Policy Planning Committee meeting a few months ago, the impact of having a workload for four attorneys but having only three attorneys was that many important issues were not receiving the thorough attention by the legal staff that the Department deserves and some issues or programs were being put on the back burner. It is difficult in a service function such as ours to effectively prioritize services that need to be done. Prioritizing means either that the Department abandons some programs because legal services cannot be provided or that those programs proceed without legal input with the Department taking the risk. Neither should be considered acceptable.

The second scenario asked for a summary of the workload under the present situation of Fred working full time on the natural resources damage litigation and two remaining staff attorneys. Again, the above estimate serves as a summary for this scenario. The workload does not change. The only option is to chose, if it is possible, which tasks would be done and which would not be done. It may be difficult, if not impossible, to make deliberate choices. My experience has been that under similar circumstances the "brush fire" too frequently gets preference over more significant issues or programs. The impact of this manner of making decisions is often felt most strongly in the future because many significant issues are ignored until an effective contribution is no longer possible.

It is important to emphasize that the natural resources damage litigation has essentially not been considered in this analysis. This memo describes the workload that exists exclusive of the Superfund litigation. The resource needs of the state to competently and adequately handle this litigation still have not been addressed, let alone successfully resolved.

My conclusion is that without four staff attorneys the programs and goals of this agency will be adversely impacted. Because Fred has been assigned full time to the Superfund litigation, there are presently two attorneys confronted with a workload for four attorneys.

One additional topic still needs to be discussed in this memo. I understand that consideration is being given to contracting with private counsel as a way of meeting some of the legal needs of the Department. It is my opinion that this option is not cost

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January 30, 1990  
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EXH.B.1 5  
DATE 2-8-91  
HB Nar R. Shaw

effective nor does it offer any other benefits over inhouse counsel, except in limited circumstances. Historically, agencies retained outside counsel in the 1960's, but concurrent with the executive branch reorganization in the early 1970's agencies started meeting their legal needs with inhouse counsel. Now, almost all the legal needs of agencies are met with inhouse counsel with the exceptions being for specialties that the agencies deal with infrequently, for specialties where agencies would have a difficult time attracting attorneys experienced in the area, or for short-term needs that do not justify employment of a full-time employee.

While agencies were meeting most of their needs by employing staff attorneys in the 1970's, some agencies also retained outside legal counsel. This practice became a substantial political liability, sealing the demise of retaining private counsel for the normal and expected legal services of agencies. One of the prime reasons for going to inhouse counsel is the very high cost, comparatively, of contracting with private counsel. This is also one of the prime reasons that employing private legal counsel became a political liability. As a response, then Governor Schwinden established the Legal Services Review Committee whose principle charge is to ensure that outside counsel are not retained by contract where the legal needs can be met by inhouse counsel at a lower cost. Governor Stephens has continued the Legal Services Review Committee.

It costs about four times as much to contract with outside legal counsel as it does to obtain the same services from inhouse counsel. In graphic terms, this means that to obtain services equivalent to those provided by a grade 17 attorney at \$45,000/year (salary plus benefits plus operating expenses), the Department would expend approximately \$180,000 in contracting with private legal counsel. This conclusion is based both on experience and a comparison of hourly rates. The average hourly rate for retained counsel is approximately \$90/hour compared with an hourly rate of approximately \$22/hour for a grade 17 attorney. Further, I have had experience with retained private counsel in two state agencies over the past eleven years. That experience supports the above conclusion. For example, the Department paid private counsel almost \$40,000 over approximately one year for litigating a case that would have taken inhouse counsel less than 1/4 of an FTE.

Retained private counsel do not provide better services. In fact, better services can be provided by competent inhouse counsel. Good, competent attorneys are available both as employees and as retained private counsel. The advantages that inhouse counsel provide include expertise in the particular areas of law most applicable to this agency, experience in agency legal practice, accessibility, an understanding of how this agency functions, and

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a commitment to the resource. Retained private counsel can offer advantages in some circumstances. These include specialties, such as bankruptcy or commercial law that the Department rarely is involved in, special circumstances where local counsel would be an advantage, and a single large case that is of short duration so that hiring more staff attorneys must be balanced against the relatively short-term need for additional legal resources. The Department's future needs for legal services do not present any areas where contracting with private counsel would be an advantage because of the special circumstances. All of the present and projected workload would be better handled inhouse and for a fraction of the dollars.

cc: K.L. Cool  
Ron Marcoux  
Dave Mott

graham.stf

EXHIBIT 3DATE 28 91HB Harold LawLAWYERS

AGENCY	GRADE					
	15	17	18	19	20	
FWP	1	1	1			(2-3)
HIGHWAYS				6	1	7
ADMIN		3	2	1	1	7
GOV	1	1				
JUSTICE	1	7	8	6	2	24
PSC	1	3				4
STATE LANDS	1	2	1			4
HEALTH		6		1		7
LIVESTOCK		1				1
DNRC		4	2	1		7
REVENUE		1	3	1	1	6
COMMERCE	2	2	1	1		6
DOLI	3	2	1			6
WORK COMP		5	2			7
SRS	3	2	2		1	8
INSTITUTIONS		2				

= call McEnty

2-08-91  
EXH. B17 5  
Mar. Rev. Due

	FTE	1992	1993
EXECUTIVE BUDGET MODIFICATION FOR ONE-TIME-ONLY PROGRAMS: <i>Be into Bureau level</i>			
SALINITY CONTROL (17% general license account) <i>It will be in w/dep. DOW</i>		0.00	0.00
SIKES ACT (50% general license account) <i>Collecting 174,000 Beaver in region</i>		0.00	0.00
PREDATOR CONTROL (100% general license account) Note: \$34,000 each year of this mod is a transfer to DSL for administration of the Department of Fish, Wildlife and Parks' dams as proposed under the Executive reorganization. <i>Angleton 20,000 Beaver. 170 Beaver 140- cut</i>		0.00	0.00
LEGAL SERVICES (100% general license account) <i>Angleton 20,000 Beaver. 170 Beaver 140- cut</i>		0.00	0.00
TOTAL MODIFICATIONS		0.00	0.00
		\$75,000	\$75,000
		\$150,000	\$150,000
		\$54,000	\$54,000
		\$12,300	\$12,300
		\$291,300	\$291,300
		=====	=====

EXECUTIVE BUDGET MODIFICATIONS FOR PROGRAM EXPANSION:			
LEGAL SERVICES - EPP (100% general license account) <i>35,000 / 35,000</i>	1.00	\$50,000	\$50,000
TRIBAL RELATIONS (100% general license account) <i>15,000 for program</i>	0.00	\$40,000	\$40,000
INTERAGENCY SUPPORT (100% general license account)	0.00	\$25,000	\$25,000
GEOGRAPHIC INFORMATION SYSTEM (100% general license account)	0.00	\$50,000	\$50,000
REGIONAL OFFICE SUPPORT (100% general license account)	0.00	\$75,000	\$75,000
TOTAL MODIFICATIONS <i>344,000 c a reg. 1986 law</i>	1.00	\$240,000	\$240,000
		=====	=====

ENNIAL APPROPRIATIONS: The agency requests that the appropriation for the Salinity Control budget modification, if approved, be a biennial appropriation.

The agency requests that the appropriation for the Sikes Act budget modification, if approved, be a biennial appropriation.

HOUSE BILL 2 LANGUAGE: The agency requests language similar to that contained in House Bill 100 if the Salinity Control budget modification is approved - "Item ?? must be used by the department to contract with landowners in cooperation with the Montana salinity control association for salinity control programs that provide benefits to fish and wildlife habitats. Salinity control projects that involve privately owned land must be financed on a cost-share basis under guidelines developed by the department. The guidelines must be consistent with the legislation establishing the funding source and complying with federal funding guidelines."

EXHIBIT 6  
DATE 2-8-91  
HB War Rev. Div.

# Tribal Jurisdictional Issues

Types of issues - FT. Belnap - antelope  
- Crow - stream fishing  
-

Does not duplicate

Tribal liason - Jim Posewitz -

Develop positions, analyze treaty rights

WORK PLAN / PROJECT DESCRIPTION

EXHIBIT 6  
DATE 2-08-91  
HB Yar Per Law

1. SBAS Project No.: 9802N      Fiscal Year: 1992
5. Project Title: Tribal Coordinator-Contracts
6. Project Manager: Posewitz, Lane
7. Budget Total \$    40000
8. Number of FTEs:

Total:	0.00		
Perm Base:	0.00	Temp Base:	0.00
Perm NonBase:	0.00	Temp NonBase:	0.00
9. Is this a continuing project ? Y      Complete (YRMM):
10. Project Priority: DIR:      PGM:      REG: H
11. Is funded by redirected funds? N      Amt Redirected: \$      0
12. Describe how this project relates to priority issues.

This proposal will help provide legal, historical, resource, and tribal government information and assistance to the tribal coordination efforts of the department. The proposal is to provide for contracted services with \$40,000 for legal services and for historical, resource and tribal government research and advice. This amount is in addition to funding already provided for contracting for historical, resource and tribal government expertise.

Negotiating and working with tribal governments on common fishing, hunting, and recreational resource interests is and has been an ongoing effort of the Department. Additional legal, historical, resource, and tribal government expertise is needed to meet the anticipated activity in this area.

13. What are the objectives & benefits that will result ?

Based on the experience in other states and the experience in Montana, tribal governments are starting to and will continue to manage their own natural resources. Because the state claims jurisdiction over many of the same natural resources and has an interest in common with tribes in Montana in these natural resources, negotiating and working with tribal governments will be a growing area of needed Department participation. Negotiating agreements, where possible, to jointly address resource needs often provides many advantages over litigating jurisdictional claims. Where litigation is necessary or is forced, the Department's efforts will help formulate a litigation position, develop strategy, and research the factual background.

Failure to deal with developing events will lose many opportunities to negotiate solutions favorable to the state, tribes, and natural



resources. In addition, where litigation is inevitable or is initiated, the state may be unprepared.

EXHIBIT 2-08-01  
DATE 2-08-01  
HB 2-08-01

14. List tasks to be accomplished and timeframes for completion :

The primary focus will be to provide advice and assistance, including legal, historical, resource, and tribal government expertise, in negotiating and formulating cooperative agreements with Indian tribes. A by-product will be preparation for litigation over jurisdictional claims.

The events will dictate specific activities, with the tribes initiating or providing an opportunity for communications. It is anticipated that the Department will deal, in some fashion, with all seven reservations in Montana. The goal is to provide the capability to successfully negotiate agreements with the tribes or to successfully litigate, where necessary, jurisdictional issues.

This proposal will provide approximately 800 hours/year for a historical consultant at \$50/hour or 440 hours/year or 0.21 FTE of a retained attorney at \$90/hour. The cost of this proposal will be \$40,000/year.

Regional Supervisor Approval: \_\_\_\_\_

Div. Administrator Approval: \_\_\_\_\_

# Administration

## Tribal Relations (92902)

File Name: 4Yr92902

FTE	FY90 Actual	FY91 Budgeted	FY92 Request	FY93 Request

1000 PERSONAL SERVICES				
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### 2000 OPERATIONS

2100 Contracted Services			\$37,000	\$37,000
2200 Supplies and Materials			\$500	\$500
2300 Communications				
2400 Travel			\$2,500	\$2,500
2500 Rent				
2600 Utilities				
2700 Repairs and Maintenance				
2800 Other				
2900 Goods Purch. for Resale				
<b>TOTAL OPERATIONS</b>	\$0	\$0	\$40,000	\$40,000

3000 EQUIPMENT				
4000 CAPITAL OUTLAY				
5000 LOCAL ASSISTANCE				
6000 GRANTS				
7000 BENEFITS AND CLAIMS				
8000 TRANSFERS				
LCA				
<b>TOTAL</b>	\$0	\$0	\$40,000	\$40,000

### FUNDING SOURCES

02407 Snowmobile Fuel Tax				
02408 Coal Tax Trust Account				
02409 General License			\$40,000	\$40,000
02411 Parks Earned Revenue				
03404 Overhead -- LCA				
06501 FW&P Print Shop/Ofc Supp				
06502 Equipment Enterprise				
06503 F&G Warehouse Inventory				
<b>TOTAL</b>	\$0	\$0	\$40,000	\$40,000

EXHIBIT 6  
DATE 2-08-91  
HB For Pers. Dir.

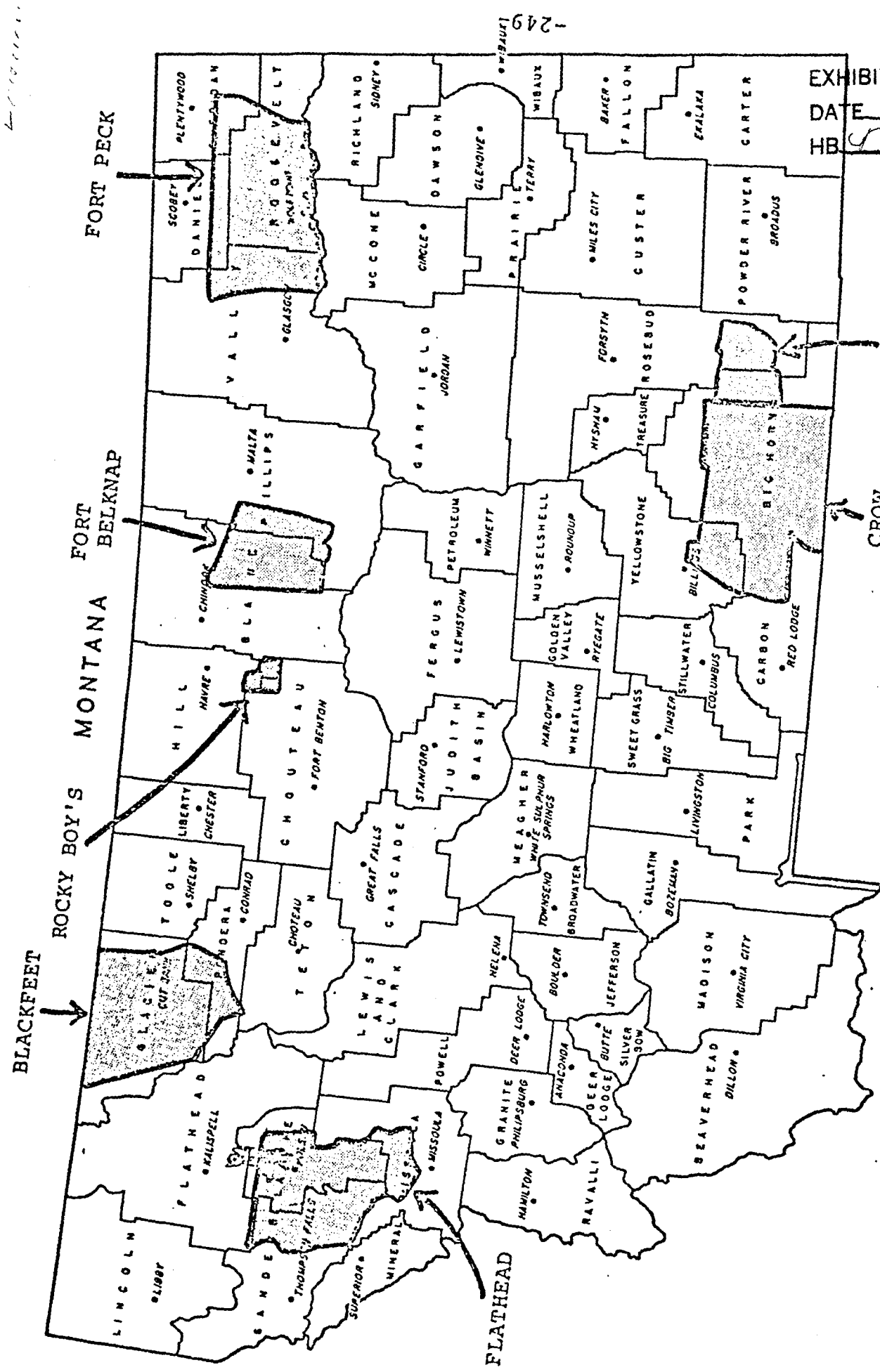


Illustration B-21  
Location of Indian Reservations

EXHIBIT 6  
DATE 2-8-91  
HB Mr. P. D.

PLEASE PRINT.

## Natural Resources

DATE 2-8-91

DEPARTMENT

DIVISION

PLEASE PRINT

PLEASE PRINT

CS-14