

## **MINUTES**

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

#### **SUBCOMMITTEE ON HUMAN SERVICES & AGING**

**Call to Order:** By **CHAIRMAN DOROTHY BRADLEY**, on February 21, 1991, at 8 a.m.

#### **ROLL CALL**

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

Rep. Dorothy Bradley, Chairman (D)  
Sen. Mignon Waterman, Vice Chairman (D)  
Rep. John Cobb (R)  
Rep. John Johnson (D)  
Sen. Tom Keating (R)  
Sen. Dennis Nathe (R)

**Staff Present:** Taryn Purdy, Senior Fiscal Analyst (LFA)  
Terri Perrigo, Associate Fiscal Analyst (LFA)  
Dan Gengler, Budget Analyst (OBPP)  
Bill Furois, Budget Analyst (OBPP)  
Faith Conroy, Secretary

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

##### **Announcements/Discussion:**

#### **DEPARTMENT OF LABOR AND INDUSTRY WRAP-UP**

**Tape 1A**

**Terri Perrigo, Legislative Fiscal Analyst**, distributed a summary of Unemployment Insurance (UI) administrative tax expenditures by the subcommittee, **EXHIBIT 1**, and intent language, **EXHIBIT 2**.

**CHAIRMAN BRADLEY** referred to **EXHIBIT 2** for subcommittee discussion.

**Ms. Perrigo** said No. 2 under the Language section was included on a handout the last time the subcommittee discussed the Labor budget. It was approved for inclusion in the Employment Relations Division. That is where benefits are paid for uninsured employer and subsequent injury. No. 1 relates to the Jobs for Montana's Graduates (JMG) program.

**CHAIRMAN BRADLEY** asked if the Department had an opportunity to review **EXHIBIT 2**. **Brian McCullough, Management Services Bureau Chief**, said the Department has no problem with the intent language. **CHAIRMAN BRADLEY** said she doesn't think a motion is needed, as long as everyone is satisfied with the language. The subcommittee already made motions on the intent.

**UI Administrative Tax:**

**CHAIRMAN BRADLEY** said in 1983 everyone assumed 17 of 24 Job Service offices, particularly in rural areas, would be closed because of federal budget cuts. There were no private agencies to pick up the slack. The question was whether some UI tax could be used for administration as well as benefits. The 0.2 percent was agreed upon. The original intent was for the money to be used to cover lost federal dollars for Job Service offices, particularly in rural areas. Money not appropriated for that purpose would revert to the UI Trust Fund for benefits.

Federal dollars were not lost, so the money was not needed for the original purpose. None of the money was used for administrative purposes. In 1989, the scope was expanded. UI administrative tax was used in lieu of General Fund for approximately six programs. UI administrative tax is now being used for the Project Work Program and JMG.

Several individuals have expressed concern about the possible loss of federal dollars, which appears imminent, particularly with the Job Training Partnership Act (JTPA) program. This is what the tax was originally set up for, not replacement of General Fund dollars within different Department programs. Guidelines should be established for use of this money, and to determine who will decide when the money goes into the Trust Fund.

**Ms. Perrigo** referred to **EXHIBIT 1**. She said the table shows the amount of UI administrative tax approved for the Department in the 1993 biennium. The table also shows UI administrative tax expenditures in fiscal years (FY) 1989 and 1990, and the budgeted amount for FY 91.

The UI administrative tax was established by the 1983 Legislature. It was originally proposed to be 0.2 percent of taxable wages. It was reduced in the final bill and is now set at 0.1 percent of taxable wages for employers with an experience rating, and one-twentieth of 1 percent for employers without an experience rating. The tax is collected by the UI tax collection department and deposited into an account administered by the Department of Labor.

The tax was established for use by the Department for administrative purposes. The intent was to keep Job Service offices open in rural communities to keep the unemployment insurance program viable. Job Service would be able to continue to make job placements for rural employers. Local economies would not suffer as they would if Job Service offices were to close.

The law says any assessments deposited into the UI administrative account that are not appropriated by the Legislature must be transferred into the UI Trust Fund. The law doesn't say at what point those funds are considered to be unappropriated or when

they are to be transferred into the Trust Fund.

The funds have been used in a manner other than what was originally intended. The interpretation of how those funds should be used has evolved over the last few years. There are no established criteria for how these funds should be used. No funds were spent from the UI administrative tax account until FY 1989, when there was a slight reduction in federal funding and the money was needed to keep Job Service offices open.

In FY 90, the interpretation of how those funds should be used was expanded. Based on conversations with agency officials, it was felt at the time that the money could be used for programs that benefitted employer-employee relationships or employers. Since then, the Department has expanded the interpretation to include any employee-employer function.

**CHAIRMAN BRADLEY** said the subcommittee must determine the balance and decide what to do with it. It was said that the tax would be reduced to the lowest level if the majority of the money is put into the Trust Fund. But **REP. JERRY DRISCOLL** said the tax rate is already at the lowest level. The Legislature should be the one to decide if or when the money is reverted. The subcommittee needs to determine who makes that decision and at which point in the appropriations process the decision is made.

The subcommittee should instruct the Department to develop guidelines for use of these dollars. Some possibilities could be to help rural areas that have lost federal dollars, for programs that benefit employee-employer relationships or those that deal broadly with employee-employee functions. Guidelines also could address when a limit should be set and if interest should be earmarked. The guidelines could be brought to the subcommittee for consideration two years from now.

**REP. COBB** asked if UI administrative tax was used in 1991 to finance pay-plan increases. **Ms. Perrigo** said yes. **REP. COBB** said that is where most of the money is going in 1992 and 1993. If the pay plan is higher than proposed for the biennium, more UI administrative tax will be needed. **Ms. Perrigo** said yes. The Job Service Division gets a static amount of federal funds. When pay increases are added, the gap increases. UI administrative tax is used to fill the gap.

**REP. DRISCOLL** said the Legislature established the tax to create a new fund. Employer taxes were not raised; a portion of the existing tax was diverted to a different fund. The tax rate may have dropped faster if this weren't done. But the tax schedule is at the lowest level, unless the law is changed. Schedule 1, rate 1, is zero plus the 0.1 percent. Deficit employers never get below 6.5 percent. For most employers, the rate has been dropping each year. There is \$90 million in the UI Trust Fund. It has helped the Trust Fund to use this money for job-related activities.

A bill in the House Labor Committee would ensure Job Service offices get top priority if federal cuts occur and the \$6.2 is needed. **REP. BOB GILBERT's** bill would ensure enough money is kept in a reserve fund to keep Job Service offices open. They don't need \$6.2 million, but some money is needed. It is important to employers that Job Service offices remain open in rural areas.

The \$6.2 million is one-time money. About \$300,000 in interest comes in each year. A lot of people are after this money. Another bill would use \$145,000 each year to fund Apprenticeship Instruction programs. The subcommittee must remember the first priority for this money is Job Service. Legislation that will be sent to the subcommittee later says money must be kept in a Job Service reserve fund for anticipated federal cuts. He urged the subcommittee to review **REP. GILBERT's** bill before spending any more of this money.

**REP. COBB** asked **REP. DRISCOLL** if he would object to having \$3 million put into a reserve account for Job Service administrative costs until the subcommittee decides what to do with it. **REP. DRISCOLL** said the subcommittee may want to reserve more than \$3 million. There is \$6.2 million. **REP. COBB** said the subcommittee spent some already. **REP. DRISCOLL** said more than \$3 million in new money comes in each year and there is a \$6.2 million fund balance, which is one-time money. If \$3 million is moved, there is \$3.2 million in one-time money still available. **REP. COBB** said the subcommittee could move what it doesn't spend. **REP. DRISCOLL** said he thinks that would be wise until the puzzle is figured out. Some of the money may be needed to retrain laid-off Champion workers. He suggested a hold be placed on the entire \$6.2 million.

#### PUBLIC COMMENT

**Sue Mohr, Montana Job Training Partnership (MJTP) Executive Director**, said she represents private industry councils of Montana and councils of county commissioners who work with them in distributing job training funds statewide. She distributed updated information on JTPA funding. **EXHIBIT 3**

She said Congress increased JTPA funding nationwide but Montana's share is significantly less. The estimated reduction is \$1 million, which would mean 500 fewer people could be served. When federal funds are cut, Job Service, community-based organizations and other programs are affected.

Two years ago the Human Services Subcommittee chose to expand use of UI administrative tax money beyond Job Service to include other community-based services, such as Project Work, Displaced Homemaker and a program for AFDC clients called New Horizons. She praised the subcommittee for its decision to use the money for employment and training-related programs. The problem is that there is an embarrassment of riches in this account.

The Department can continue to ensure the funds are being used appropriately. The question is how much should be left in the fund to maintain ongoing services. If the subcommittee isn't sure how much money will come in from year to year, it will tend to keep a lot of money in the fund. The taxable wage base has been growing since 1945 and appears to be stable. The potential loss of funds for Job Service offices is the other issue. Federal funding for Job Service programs has remained relatively stable. Provisions are in place to prevent drastic cuts from year to year. There is one-time money available.

There is a possibility of working with Congress to do something about the JTPA allocation formula. Congress has kept the JTPA amendments process alive for two years. This is the second year. Congress will amend the law either this year or next. MJTP is looking for some means to restore the funds Montana will lose and keep these programs running until there is a change in the federal allocation formula. Private industry councils have decided to continue to provide funding statewide. This is not an entitlement program. Effort is made to combine funding to coordinate programs.

**REP. GILBERT** said \$749,000 of \$2.7 million collected in UI administrative tax in 1990 or 1991 was used to keep Job Service offices open. The rest went toward other programs. All but about \$500,000 was used. Originally the bill would have restricted UI administrative tax for Job Service offices only. After discussing the issue with other legislators, he realized these other programs would be eliminated if the tax money was taken away.

The bill now says the Department of Labor will determine the amount of federal money available for the biennium. The amount of UI administrative tax needed to keep Job Services open at the FY 91 level will be set aside in a reserve account. What happens to the rest of the money is a political question. Enough money must be available to keep Job Service offices open. The Legislature also should maintain approximately \$3 million in the reserve fund in case of future federal cuts.

**SEN. KEATING** said the subcommittee was told employers are at the lowest unemployment insurance premium tax rate. He asked **REP. GILBERT** if his rate is higher. **REP. GILBERT** said he has one of the lowest experience ratings in Montana and pays the lowest unemployment insurance premium percentage. **SEN. KEATING** said the subcommittee was told that if the \$3 million goes into the UI Trust Fund, premiums will be reduced, which means about a \$6 million savings to employers. It appears that would offset the UI administrative tax they're paying. **CHAIRMAN BRADLEY** said the subcommittee needs clarification on the tax level. She noted that **REP. DRISCOLL** said it is at the bottom level, but the Department says it is not.

**Chuck Hunter, Employment Relations Division Administrator,** said the actual rate schedule won't be completely known until

information is available from all employers.

**Tape 1B**

The schedule is close to being triggered down to Schedule 1 from Schedule 3. He believes the rate will go to Schedule 1.

**SEN. KEATING** said that if the \$3 million is moved from the UI administrative tax fund into the Trust Fund, employers get a \$6 million savings in premiums. Since employers are generating 60 percent of the revenue that comes into the state, the state is helping itself by keeping more people employed.

**CHAIRMAN BRADLEY** said **REP. DRISCOLL** indicated to her that the rate will be at Schedule 1 regardless of what is done with this money. He also said no one's taxes will go down because this was not a tax increase. A portion of it was diverted. It would take a special legislative act to get rid of it.

**SEN. KEATING** asked if the \$3 million is being transferred as part of the calculation to determine whether the rate goes to Schedule 1 or stays at Schedule 3. **Mr. Hunter** said no. **SEN. KEATING** asked if the rate can go to Schedule 1 without the \$3 million transfer. **Mr. Hunter** said yes. **SEN. KEATING** asked when the Department will know. **Mr. Hunter** said data will be in the computer by March 1 and a calculation can be made. **Mr. McCullough** said that when the Department was addressing the \$3 million, it was trying to ensure the likelihood the rate would stay at Schedule 1 into 1993. There is no guarantee in the economy.

**REP. GILBERT** said the subcommittee is talking about saving employers \$6 million. It doesn't help if there isn't anywhere to go to hire employees. The issue is whether the state is going to keep Job Service offices open. It doesn't help to transfer the money to the UI Trust Fund or General Fund if federal money is lost. The reserve fund is needed to keep the Job Service offices open.

**Jon Oldenberg, MJTP President**, praised the work of private industry councils and job training programs statewide. He said these programs are designed to serve economically disadvantaged individuals, displaced workers and those with serious barriers to employment. He urged UI administrative tax money to be used for private industry councils to offset federal cuts. Money spent on private industry councils is money well spent.

**Mike Murray, a Helena City Commissioner, small businessman and representative of the CEP Private Industry Council**, testified in support of the allocation of UI administrative tax money to restore JTPA funding. He said that as a private employer who pays UI administrative tax and works with the council to allocate job training funds, he believes use of these funds is appropriate and well within the precedent set by the 1989 Legislature. The Department oversees these programs. Next year, \$9 million in JTPA funding will flow through the Department to councils. He urged the subcommittee to augment JTPA funds to return to the FY 90

level of \$10 million. Five-hundred participants will go unserved without additional funding. Other programs will be in danger of closing without the \$1 million.

**Noel Williams, Lincoln County Commissioner and Chairman of the Council of Commissioners for the Balance of the State**, said federal job training cuts have already occurred and will significantly impact job training services in rural areas statewide. This money originally was to be used to keep Job Service offices open in rural areas. These other programs assist rural areas too. Job Service is only part of the picture. The loss of JTPA funding will impact other providers more than Job Service. There has been talk that this money should be used to benefit the employer-employee relationship. Nothing benefits an employee more than having a job. Employers benefit by having competent employees. That is what these services are all about.

**Judy Carlson, Human Resource Development Council (HRDC) Directors Association representative**, urged the subcommittee to funnel employment training money through private industry councils and to provide a one-time allocation of UI administrative tax money to make up a projected 10 percent loss in federal JTPA monies in FY 92 and FY 93. **EXHIBIT 4**

**Ann Mary Dussault, a member of the Council of Commissioners**, urged any money allocated for job training-related programs to be routed through the Department of Labor to Service Delivery Areas (SDAs). That allows coordination of the money with the programs. She asked the subcommittee to do the same with the JMG program. These monies need to be coordinated at the local level to avoid duplication and to meet job training needs.

**Leon Stalcup, Director of the Montana Restaurant Association and Chairman of Missoula's HRDC**, said the 10 percent loss in federal money will be compounded by a mandated 12 percent increase in business costs from minimum wage increases. The money is used for training, and employers benefit from that.

**Bob Mullen, Deputy Director of the Department of Labor**, said he opposes expanded use of the UI administrative tax. Programs being discussed are outside the original intent of the bill. The administrative tax is an example of good government. The agency discussed the need for the tax with employers before it was implemented. The Department discussed changes with employers when it became apparent the tax was going to be used for other things. Employers objected to funding HRDCs with UI administrative tax dollars. Excess funds were to flow into the UI Trust Fund to hold the line on the UI tax rate.

JTPA is a benefit program, not administrative. Other benefit programs being funded are Project Work, New Horizons and Displaced Homemaker. Four wrongs do not make a right. The Audit Committee is telling the Department to revert money that went into benefits programs and wasn't used strictly for

administrative purposes. If these programs are worth funding, another funding source should be found instead of the UI administrative tax.

The \$3 million may be needed to reach Schedule 1. Maybe not. But it will help to retain that level. Legislation is pending to increase unemployment benefits, including extension of existing claims by one-half, which will draw down the Trust Fund. The Department's ability to maintain the tax at Schedule 1 for more than a year is questionable.

**CHAIRMAN BRADLEY** asked **Mr. Mullen** if he meant the Human Rights Commission when he referred to programs employers opposed. **Mr. Mullen** said yes.

**SEN. KEATING** asked if the additional one-half unemployment benefit is a change in **REP. DRISCOLL's** bill. **Mr. Mullen** said no. **REP. DRISCOLL's** bill has nothing to do with extended benefits. States buy into the extended benefits program under the federal system. Clients must meet certain criteria to qualify for an additional 13 weeks of benefits. It will draw down the UI Trust Fund. The state is obligated to pay the additional benefits.

**SEN. KEATING** asked how much extended benefits will cost. **Mr. Hunter** said benefits are calculated on an individual basis. Overall, it will cost several million dollars. Half of the money would come from the UI Trust Fund. The other half is federal money.

**CHAIRMAN BRADLEY** asked if it matters, when considering the end product, whether the JMG and JTPA programs are benefit-oriented or administratively oriented. She asked if they are similar programs. **Ms. Dussault** said they are very similar and would be considered benefit programs. **Mr. Mullen** said JMG is an academic program, not a training program for individuals outside high school. **CHAIRMAN BRADLEY** said it is a different approach, but benefit-oriented. **Mr. Mullen** said no. It is strictly administrative. The Department is putting career counselors into high schools to work with students to get them to graduate and to help them assess their career goals.

**SEN. WATERMAN** asked what coordination exists among the variety of youth programs. There is concern about duplication and lack of coordination. **Ms. Carlson** said Title IIA school programs for youth are similar to the JMG program. There is an attempt to coordinate locally, but they are similar. There could be better use of the money if they were truly coordinated.

**CHAIRMAN BRADLEY** said she doesn't see much difference in the nature of these programs. If the Department is advocating one, then why is it opposed to the other. **Mr. Mullen** said the JTPA program is broader than the youth programs being discussed.



**SEN. WATERMAN** asked if the subcommittee can use language to encourage coordination. **CHAIRMAN BRADLEY** said legislation was approved last session to do that. Testimony indicated that funneling money through SDAs would be a step in the right direction. She asked how that would work. **Ms. Mohr** said somebody needs to control the pots of money. Local private industry councils should do that. She has never seen such a confused delivery system because everyone's hands are in the pot. Private industry councils are the most non-political groups concerned about local programs. Currently, private industry councils provide needs assessments and employer surveys to determine job training needs. Competitive bids are sought to ensure the best deal. Job training funds have always been political. It is better to get away from that.

**Mr. McCullough** said the Department is trying to get the JMG program off the ground. The program needs seed money to show state support to encourage contributions from other funding sources.

**Tape 2A**

These are different programs. JMG is different than the current JTPA programs that are working with youth. He could not say how they differ.

**Marilyn Miller, Education and Human Services Policy Adviser in the Governor's Office**, said she was one of the instigators of the JMG program. JTPA people are afraid the Governor's Office will want money for the JMG program. No one wants to talk to anyone who may be starting a new program that may need money. The Office of Public Instruction doesn't want to fund this program either. The governor is committed to the JMG program. New programs have a difficult time getting started because they compete with well-established programs. HRDCs indicated they offer the same program. The Governor's Office wanted to talk about it and suggested HRDCs run the JMG program. The governor would support that. He wants it to be run well. A JMG program is starting in Bozeman under contract with the Bozeman HRDC.

**CHAIRMAN BRADLEY** asked if the Governor's Office opposes the SDA concept. **Ms. Miller** said she believes the governor would support use of UI administrative tax if it went through the Department of Labor and was administered the same as the JTPA program. Discussion is needed on the SDA concept.

**CHAIRMAN BRADLEY** said she wanted to know why it doesn't make sense to help an established program that suffered a big federal cut if the state is going to use UI administrative tax for something like this. She doesn't see any difference between the two. If the state can do one, why can't it do them all. **Ms. Miller** said the programs are similar. The bigger the pot of money allocated on a one-time basis, the more apt people will be to look for General Fund support the next time. JMG is an academic program that deals with schoolchildren. She is sure other programs do too.

**SEN. KEATING** said the JMG program is looking for one-time money to work toward securing grants for a fund that will generate interest to support itself. This wouldn't be a long-term expense to the UI administrative tax fund. He asked if that was right. **Ms. Miller** said yes. The Governor's Office would like HRDCs to take over the JMG program. **SEN. KEATING** said he would support the start of a program that would establish a foundation, which would generate interest income to finance itself in the future. He doesn't want to use UI administrative tax for a long-range funding plan.

**EXECUTIVE ACTION ON THE DEPARTMENT OF LABOR AND INDUSTRY**

**REP. COBB** said he would like the balance of the UI administrative tax not specifically appropriated to be appropriated to a reserve account for Job Service administrative costs for use as specified by the Legislature.

**CHAIRMAN BRADLEY** said she would like to first deal with the JTPA issue.

**MOTION:** **SEN. WATERMAN** moved that a first priority for a UI administrative tax reserve account be to restore JTPA money lost through federal cuts, and that the money be channeled through SDAs and private industry councils so that the money is in rural areas.

**DISCUSSION:** **CHAIRMAN BRADLEY** said this would be one-time money only and not be considered a new base. **SEN. WATERMAN** said yes, and it would be used only if federal cuts materialize.

**SEN. KEATING** asked if the subcommittee is talking about the \$6.2 million or the \$3 million. **CHAIRMAN BRADLEY** asked what the predicted shortfall will be. **Ms. Mohr** said \$1 million per year.

**CHAIRMAN BRADLEY** clarified the motion, saying it would be up to \$1 million per year, but only if the federal dollars do not materialize.

**SEN. KEATING** asked if that would be up to current level. **SEN. WATERMAN** said yes. This would not be expanded.

**Mr. Mullen** asked if the intent of the motion is to pass the money through to SDAs or the Department. **SEN. WATERMAN** asked how it is done now. **Ms. Dussault** said funds go to the state, then to SDAs. **SEN. WATERMAN** said she doesn't want to alter the way it goes through. She just wants to make sure the money gets there. **CHAIRMAN BRADLEY** said UI administrative tax goes to the Department, so she thinks the subcommittee would want this money to go to the Department. **Ms. Dussault** said it would then pass through to the SDAs, like federal JTPA funding.

**Mr. McCullough** said the actual shortfall statewide would be \$1,488,000.

**REP. COBB** said he opposes the motion. The Department is going to have a shortfall, so will JTPA and HRDCs. **REP. DRISCOLL** wants the money and so does the governor. The money should be put in a reserve account to allow time to determine what to do with it, instead of the subcommittee deciding now.

**CHAIRMAN BRADLEY** said the Legislature should have a hand in the final decision.

**SUBSTITUTE MOTION:** **REP. COBB** moved that the balance of UI administrative tax not specifically appropriated be appropriated to a reserve account for Job Service administrative costs for use as specified by the Legislature, and that any interest from that reserve account be deposited into the reserve account. **EXHIBIT 4A**

**DISCUSSION:** **REP. JOHNSON** asked **Ms. Dussault** for her opinion. **Ms. Dussault** requested the subcommittee ask involved parties to report back at the next hearing to encourage them to talk about the issue. Without a directive to report back by a certain date, there is no incentive for parties to negotiate.

**REP. COBB** said he inserted the language "as specified by the Legislature" so that no one could touch the money unless the Legislature says it is OK. If they don't talk, the money sits.

**CHAIRMAN BRADLEY** asked if it would be OK with the subcommittee to postpone action until the next hearing. **REP. COBB** said yes. **SEN. WATERMAN** asked if it is possible to get JMG representatives to attend the hearing so that the issue can be fully discussed. **CHAIRMAN BRADLEY** said the issue will be decided at the end of wrap-up for the Department of Family Services and the Department of Social and Rehabilitation Services. The motion will come back. She asked the Department of Labor to work with **Ms. Perrigo** on guidelines that would consider priorities for future allocation of this money.

**REP. COBB** asked if the Department can revert any other money. **Mr. McCullough** said no, only the UI administrative tax.

**EXECUTIVE ACTION ON THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES (DHES)**

**Taryn Purdy, Legislative Fiscal Analyst**, distributed a list of wrap-up items, **EXHIBIT 5**; an allocation summary of the Maternal and Child Health (MCH) and Preventative Health Block Grants, **EXHIBIT 6**; an allocation summary of the Hazardous Waste/CERCLA Resource Indemnity Trust (RIT) Account, **EXHIBIT 7**; and a narrative on the Natural Resource Damage Assessment executive budget modification, **EXHIBIT 8**.

**Ms. Purdy** reviewed Issue No. 1 in **EXHIBIT 5**. She said Licensing and Certification Bureau funding assumes one-third licensure, which is entirely General Fund; one-third Medicaid certification, which is federal funds with a General Fund match; and one-third

Medicare recommendation for certification. Because parts of that program are half Medicaid and half Medicare, General Fund can be reduced by \$65,000 per year and replaced with federal funds. If the subcommittee wants to take that action, potential legislative intent language addresses the issue. If the appropriation is insufficient to maintain state licensure and recommendation for Medicaid certification at the needed level, based on the distribution of work, the agency has two options. It can reduce its effort in licensing or Medicaid certification, or attempt to increase its General Fund authority. The intent language indicates the Department will try to increase its authority, rather than reduce its effort.

**MOTION:** SEN. WATERMAN moved approval of the legislative intent language in wrap-up Item No. 1.

**DISCUSSION:** REP. COBB asked if this is the \$130,000 being given back to the state. Ms. Purdy said yes.

**VOTE:** The motion PASSED unanimously 4-0. SEN. NATHE and SEN. KEATING were absent.

**MOTION:** SEN. WATERMAN moved to reduce the General Fund by \$65,000 each year and replace it with federal funds.

**VOTE:** The motion PASSED unanimously 4-0. SEN. NATHE and SEN. KEATING were absent.

Ms. Purdy reviewed Issue No. 2 for the Environmental Quality Council (EQC) Landfill Modification. She said it involves increased FTEs and related expenses in the Solid Waste program for additional landfill responsibilities due to federal regulations. Three-fourths of an FTE each year is counted twice. The .75 FTE and related funding of \$25,000 per year can be reduced in that program.

**MOTION:** SEN. WATERMAN moved to eliminate .75 FTE and related funding of \$25,000 per year from the EQC landfill modification in the Solid and Hazardous Waste Bureau.

**VOTE:** The motion PASSED unanimously 4-0. SEN. NATHE and SEN. KEATING were absent.

Ms. Purdy reviewed Issue No. 3 for funding of a Solid and Hazardous Waste Bureau Chief position.

**MOTION:** SEN. WATERMAN moved to insert intent language that a time study be done to allow the position to be partially funded with federal funds.

**DISCUSSION:** REP. JOHNSON said that whatever the state is saving will be spent on the time study. SEN. WATERMAN said the subcommittee isn't giving the bureau any money to do the study. Ms. Purdy said the time study would be done by the bureau chief as a regular effort to keep track of his time.

**VOTE:** The motion PASSED unanimously 4-0. SEN. NATHE and SEN. KEATING were absent.

Ms. Purdy reviewed Issue No. 4, Family Planning Language. She said the language was added by the subcommittee to segregate the General Fund in the Family Planning Program so that if additional federal funds were received, they could be budget-amended without reducing the General Fund authority in the Family Planning Program. A bill is pending that would codify language in the appropriation bill as part of the boiler plate. If the language is codified, the Department would be obligated to reduce the General Fund, regardless of subcommittee action.

The subcommittee can increase federal fund authority by an amount that would exceed the amount anticipated, as a contingency, should additional authority be received. The second option is for the subcommittee to take no action and let the General Fund appropriation be reduced if additional federal funds are received.

SEN. WATERMAN asked how much federal funds should be increased. Ms. Purdy said the subcommittee should approve an additional \$50,000 per year if it wants to appropriate up to the highest level received in the last five years.

**MOTION:** SEN. WATERMAN moved to increase the Family Planning Program's federal spending authority by \$50,000 per year, which will allow the program to use the federal money without having to revert General Fund money.

**VOTE:** The motion PASSED unanimously 4-0. SEN. NATHE and SEN. KEATING were absent.

Ms. Purdy reviewed Issue No. 5, the Natural Resource Damage Lawsuit. She said the Department of Health would like the subcommittee to appropriate the money to the agency, not the Governor's Office. She referred to an analysis of the issue, EXHIBIT 8.

Dick Pedersen, Natural Resource Damage Assessment Program Coordinator, briefly reviewed the history of the lawsuit. He said Montana has a year and a half to complete a detailed assessment on the largest Superfund complex in the nation. Montana stands to gain at least tens of millions of dollars. Some estimates are as high as hundreds of millions of dollars.

The Natural Resource Damage Assessment procedure involves collection of physical data and economic analysis of the Basin to determine damage that occurred and the economic value of those damages to the state. A lot of the funding being requested will be spent to do this.

Management and litigation teams have been proposed to properly pursue the case. A significant amount of work will be contracted out to get the type of expertise that is needed. There are enough people to oversee the work, but not to do the actual work. Three contractors are on board. He feels they are the best in the country. The job can get done with the requested funding.

The state can collect assessment costs, which would go back to the General Fund, and damages, which have to go back to the Clark Fork resource. This is not a punitive action. There must be a tie to damages, which is why the assessment is being done. He distributed a funding breakdown for the Natural Resource Damage Program. **EXHIBIT 10**

**Kim Wilson, Clark Fork Coalition representative**, said the lawsuit is the coalition's No. 1 concern. Proper handling of the lawsuit is critical to the future of the Clark Fork. He urged the subcommittee to fund it as requested. This is not just a western Montana issue. There are potential Superfund sites across the state. This case may set a precedent for future cases. It is necessary to contract for out-of-state legal counsel because the expertise is not available in Montana. It is important to get the best people possible to do the job. The Department and Governor's Office are moving in the right direction on this.

**SEN. WATERMAN** asked what the additional appropriation would be. **Ray Hoffman, DHES Centralized Services Division Administrator**, distributed appropriation language. **EXHIBIT 9**. He said DHES is requesting a biennial appropriation of \$4,986,059 because it isn't known precisely how much will be spent each year. About \$5 million will be spent over the biennium. DHES has requested the funding be state special revenue, which is more appropriate because of the chance Montana will recover funds within the next two years. DHES has language within the appropriation that allows DHES to borrow General Fund up to the maximum amount of the biennial appropriation request. DHES doesn't have the funds to start the litigation. At the end of the biennium, if the state has recovered funds, the loan will be repaid with appropriate interest. At the end of the biennium, if the state hasn't recovered any money through the lawsuit, DHES will ask the 1993 Legislature for a continuation of the loan.

**REP. COBB** asked if the \$4.9 million is actually General Fund money. **Mr. Hoffman** said yes. **REP. COBB** asked if the amount gets written off if the state doesn't collect damages. **Mr. Hoffman** said the intent is to collect the money. **REP. COBB** asked about the original budget.

**Tape 2B**

**Rod Sundsted, Budget Director,** said the original budget request was for \$2 million in General Fund and \$8 million in other funds. The request was changed to \$5 million of state special revenue. It would include the General Fund loan, which would be repaid with interest. Interest on the loan will be lost during the biennium. It could be as much as \$400,000 if nothing is collected by the end of the biennium.

**CHAIRMAN BRADLEY** said two motions are needed: one for a biennial appropriation of state special revenue in the sum noted and a second motion to accept language brought by DHES.

**SEN. WATERMAN** asked why \$5 million in General Fund isn't allocated directly. She asked what difference it makes if the money is General Fund or state special revenue. **Mr. Sundsted** said this activity has been funded out of the state special revenue account for at least the last two years. That is where these costs should be. By doing it this way, the cost can be recovered, including interest, and there won't be a General Fund appropriation.

**SEN. WATERMAN** asked how the \$5 million will get into the state special revenue account. **Mr. Sundsted** said the state special revenue account will get a loan from the General Fund. When damages are recovered, the money goes back to the General Fund with interest. **SEN. WATERMAN** asked if this isn't \$5 million in General Fund authority. **Mr. Sundsted** said no. This isn't a unique situation. Other General Fund loans are issued in cases when money will come in to repay it. **SEN. WATERMAN** asked if the Budget Office knows the money is coming in because it knows the state will win the lawsuit. **Mr. Sundsted** said Montana will collect something. The question is how much.

**CHAIRMAN BRADLEY** asked what happens if this isn't resolved in two years. **Ms. Purdy** said state law says these loans cannot cross biennia. Because HB 2 expires at the end of this biennium, the Legislature cannot force the next Legislature to continue the appropriation. If more time is needed to repay the loan, the statute must be amended or the state must rely on the next Legislature to continue the loan authorization.

**REP. COBB** asked why the money wasn't borrowed from the RIT trust fund. **Mr. Sundsted** said the state cannot get into the principal of the trust. When the budget was put together, General Fund was used because it was thought assessment costs could not be recouped. Once it was known assessment costs could be recovered, it was decided this should not be a General Fund obligation. It should be out of RIT.

**REP. COBB** asked if RIT could be used instead of General Fund. **Mr. Sundsted** said he would have to look at the statute. He doesn't think the law authorizes inter-entity loans other than through the General Fund.

**Teresa Cohea, Legislative Fiscal Analyst**, said that to date, the Legislature has appropriated less than \$1 million for this effort. It has come entirely from RIT interest. HB 3 requests another \$270,000 for the remainder of this fiscal year from RIT Hazardous Waste. That means the total appropriation will be \$1.24 million from RIT interest for the 1989-91 biennium. DHES is asking that the loan be from state special revenue, not RIT interest. It is a change in the funding source.

The current statute allows an inter-entity loan to be made if there is reasonable evidence that income will be sufficient to repay the loan within one calendar year, and if the loan is recorded in the State of County Records. Another section says the Department of Administration may approve an extension of the loan for another year, or the Legislature may do it by special legislative authorization. The current statute does not allow an extension beyond the two-year period. If the money is not recouped during that period, either the loan must be extended by the next Legislature or the statute must be amended.

**SEN. WATERMAN** said she still doesn't understand why this is not being funded out of the RIT account. **CHAIRMAN BRADLEY** said some of it is being funded from the RIT account. The additional amount isn't because it will be paid back. The subcommittee must go through the statute that sets up the loan process. As far as she knows, the loan cannot be taken out of the principal of the RIT fund. It appears that is what is being asked. **SEN. WATERMAN** asked if it could be funded with RIT interest. **Mr. Sundsted** said there isn't enough interest to fund this.

**CHAIRMAN BRADLEY** said she assumes the subcommittee doesn't want to amend the statute at this point and that the subcommittee will trust that the next Legislature will deal with the issue if it hasn't been resolved by that time.

**MOTION:** **REP. JOHNSON** moved approval of the biennial appropriation of state special revenue in the amount indicated by the Department.

**VOTE:** The motion **PASSED** 3-1, with **REP. COBB** voting no. **SEN. NATHE** and **SEN. KEATING** were absent.

**MOTION:** **REP. JOHNSON** moved to accept the language regarding the General Fund loan and repayment with interest. **EXHIBIT 9**.

**VOTE:** The motion **PASSED** 3-1, with **REP. COBB** voting no. **SEN. NATHE** and **SEN. KEATING** were absent.

**REP. COBB** asked if the Department has any money to give back. **Mr. Hoffman** said no.



CHAIRMAN BRADLEY asked if anyone wanted to reconsider action on the dentist position, which was previously eliminated. No one responded.

ADJOURNMENT

Adjournment: 10:45 a.m.

Dorothy Bradley  
REP. DOROTHY BRADLEY, Chairman

Faith Conroy  
FAITH CONROY, Secretary

DB/fc

**HOUSE OF REPRESENTATIVES**  
**HUMAN SERVICES SUBCOMMITTEE**

**ROLL CALL**

**DATE**

2/3/01

NAME	PRESENT	ABSENT	EXCUSED
REP. JOHN COBB	✓		
SEN. TOM KEATING	✓		
REP. JOHN JOHNSON	✓		
SEN. DENNIS NATHE	✓		
SEN. MIGNON WATERMAN, VICE-CHAIR	✓		
REP. DOROTHY BRADLEY, CHAIR	✓		

DEPARTMENT OF LABOR & INDUSTRY  
2-21-91

UI Admin Tax Use--Approved by Subcommittee

Division	Fiscal 1992	Fiscal 1993
Job Service	876,402	870,984
Unemployment Insurance	0	0
Centralized Services	0	0
Employment Relations	653,769	658,444
Legal Services	219,906	221,432
Research, Safety, Training	267,026	260,401
Human Rights	0	0
Work Comp Judge	0	0
Job Training Grants	556,145	556,145
TOTAL	2,573,248	2,567,406

UI Admin Tax Use--Previous Years	Fiscal 1989 (actual)	Fiscal 1990 (actual)	Fiscal 1991 (budget)
	350,000	551,389	769,902
		543,163	591,215
		186,643	198,338
		247,301	265,267
		348,733	712,752
	350,000	1,877,229	2,537,474

For  
2/21/91

House Bill #2  
2/21/91  
Human Serv  
Sub C

**HOUSE BILL 2**  
**Language & Intent**  
**Dept. of Labor & Industry**

**Language**

1. Item \_\_\_\_\_ is funded with Unemployment Insurance Administrative Tax funds. The level of UI Admin Tax funds used in this program shall not be increased. (JMG--the Jobs for Montana's Graduates program)
2. The department is appropriated up to \$1 million per year from the accounts established in 39-71-502 and 39-71-901 to pay uninsured employer and subsequent injury benefit payments as required by sections 39-71-503 and 39-71-907, MCA.

**Legislative Intent**

1. The Jobs for Montana's Graduates (JMG) budget modification is totally funded with Unemployment Insurance Administrative Tax funds, but it is the intent of the legislature that the program pursue other funding sources.
2. The department shall use the additional FTE and operating expenses included in the budget modification to reduce the backlog of cases filed with the Human Rights Commission. It is the intent of the legislature that the modified budget will allow an additional 100 cases per year to be closed.
3. The legislature intends to provide the Displaced Homemaker program up to \$54,000 per year of additional Unemployment Insurance Administrative Tax funds. These funds may be used only: 1) if federal JTPA funds for Displaced Homemakers are reduced; and 2) to replace the actual amount of federal JTPA funds lost.

2/2/91  
Human Serv  
Subs.

## Job Training Partnership Act Funding

### BOS and CEP Service Delivery Areas

<u>Revenue</u>	<u>PY90</u>	<u>PY91</u>	<u>Difference</u>
Title IIA	\$6,007,334	\$5,490,832	\$(516,502)
Title IIB	2,869,489	2,551,987	(317,502)
Title IIIF	847,224	696,068	(151,156)
Title III 10%	<u>169,445</u>	<u>139,214</u>	<u>\$( 30,231)</u>
Totals	\$9,893,492	\$8,878,101	\$(1,015,391)

### Balance-of-State (BOS)

Title IIA	\$4,850,270	\$4,449,495	\$(400,775)
Title IIB	2,445,090	2,170,629	(274,461)
Title IIIF	728,613	598,618	(129,995)
Title III 10%	<u>102,259</u>	<u>83,528</u>	<u>( 18,731)</u>
Totals	\$8,126,232	\$7,302,270	\$(823,962)

### Concentrated Employment Program (CEP)

Title IIA	\$1,157,064	\$1,041,337	\$(115,727)
Title IIB	424,399	381,358	( 43,041)
Title IIIF	118,611	97,450	( 21,161)
Title III 10%	<u>67,186</u>	<u>55,686</u>	<u>( 11,500)</u>
Totals	\$1,767,260	\$1,575,831	\$(191,429)

CONFIDENTIAL  
2-21-91  
Human Resource Development Councils  
Directors Association

HUMAN RESOURCE DEVELOPMENT COUNCILS DIRECTORS ASSOCIATION

February 21, 1991

Testimony on allocation of UI Administrative Funds  
Joint Subcommittee on Human Services

I am Judith H. Carlson, representing the HRDC Directors Association. The Human Resource Development Councils are known by a variety of names around the state - Rocky Mt. Development Council here in Helena serving three counties; Action for Eastern Montana in Glendive, serving 13 counties of Eastern Montana, Opportunities, Inc. in Great Falls, serving 6 counties in West-Central Montana, and the Human Resources Development Council District XII in Bozeman serving Park, Gallatin, and Meagher Counties. All counties in the state are covered by one of ten HRDCs.

The HRDCs are multipurpose community action and service agencies. They sprang from the 1965 Economic Opportunity Act and have continued through the years to provide a very vital role in the community to initiate, coordinate, and operate a variety of programs depending on local needs - from HeadStart to Literacy, to Displaced Homemakers, to Senior Citizen Centers. And more.

This morning, the issue is one of job training programs. All HRDCs in the state operate programs for youth - summer youth programs whereby upward toward 2000 youth are put to work on local programs to earn money and to provide a service; in-school programs whereby intensive services and afterschool work is provided to help teens stay in school. You heard about Jobs for Montana's Graduates. The HRDCs have been operating similar programs for years and doing it successfully throughout the state. 348 youth were enrolled in these IIA Youth programs in 1990.

The HRDCs in Missoula, Kalispell and Havre operate Displaced Homemaker Programs for their areas and assisted 154 women to get into the workplace. Action for Eastern Montana and the HRDC based in Lewistown have both operated work training programs for adults for their rural counties.

All of this is to establish the strong interest the HRDCs have in employment and training programs. And that interest has been there since their inception when the Neighborhood Youth Corps programs were established by the Economic Opportunity Act of 1965.

We have now been informed that the JTPA monies coming into the state are to be drastically curtailed. Overall about a 10% loss for FY 92. We are asking for your consideration of our request to use some of the accumulated unused UI Administrative monies to make up this loss. Without this, there will be approximately 200 youth across the state who will lose out on their chance to earn dollars

this summer and to earn the self-esteem and self-confidence that goes with that job. There would be approximately 35 youth who would not receive the intensive services now available to them through the IIA in-school program.

We will be creating waiting lists! Waiting lists of kids who want and need jobs; who want and need the extra help and counselling these programs provide.

We are also suggesting that you consider routing any employment and training programs funded by the UI source through the same coordinating body - the Private Industry Council to insure that the programs are indeed coordinated and cost effective.

We are not asking for this allocation on a permanent basis. We supported Hb 124 calling for the UI Administrative Tax to be used only for Job Service, Displaced Homemakers, and Project Work. What we are seeking is a onetime allocation to be used in a time of need when our federal funds for JTPA have been cut back.

Thank you very much for your consideration.

Judith H. Carlson  
for the HRDC Directors Assn  
442-7462

Exhibit #4A  
2/21/91  
Human Services  
Subcommittee

Balance of UI Admin tax not specifically appropriated is appropriated to a Reserve Account for Job Service Administrative Costs. as specified by the Legislature.

Interest from the Reserve Account reverts to the reserve Account.

(John Cobb's motion)



F. J. [unclear]  
2/21/91  
[unclear]  
[unclear]

## HUMAN SERVICES SUBCOMMITTEE

### Department of Health Wrap-Up Items

1.     Licensing and Certification Reduction in General Fund

Issue:   General fund can be reduced by \$65,000 per year in the Licensing, Certification, and Construction Bureau and replaced with federal funds.

Potential Legislative Intent Language: "The department may not reduce its state licensing and medicaid certification effort should the general fund appropriation for these purposes not be sufficient."

2.     EQC Landfill Modification

Issue:   .75 FTE added for expanded landfill activities is double counted in other programs within the Solid and Hazardous Waste Bureau.

3.     Funding for the Bureau Chief Position in the Solid and Hazardous Waste Bureau

Issue:   The personal services costs of the bureau chief in the Solid and Hazardous Waste Bureau are currently funded entirely with junk vehicle state special revenue funds. If a time study of actual time spent in the programs of the bureau were done, federal funds could be budgeted for a portion of the position.

4.     Family Planning Language

Issue:   The Family Planning Program includes \$50,000 of general fund per year. This amount is currently line-itemed so that the appropriation would not be reduced if additional federal family planning funds are received. However, this may not be sufficient to maintain the appropriation if additional federal funds are received.

5.     Natural Resource Damage Lawsuit

Issue:   The department of health is requesting authority to continue the lawsuit. Funding was originally requested in the Governor's Office.

Human Services Subcommittee  
Allocation of the Maternal and Child Health Block Grant  
Department of Health and Environmental Sciences

Revenue	Actual FY 90	Executive FY 92	LFA FY 92	Subcommittee FY 92	Executive FY 93	LFA FY 93	Subcommittee FY 93
Total Federal Fiscal 1991 Appropriation	\$2,396,333	\$2,204,426	\$2,204,426	\$2,204,426	\$2,204,426	\$2,204,426	\$2,204,426
<u>Disbursements</u>							
Dental/Medical Unit	\$55,369	\$93,087	\$70,094	\$45,051	\$93,632	\$69,927	\$45,036
Public Health Lab				47,039			46,868
Health Services Administration	28,340	31,579	29,932	31,118	31,719	29,879	31,094
Family Planning	29,000	29,000	29,000	29,000	29,000	29,000	29,000
Family/Maternal & Child Health Admin	184,978	236,519	195,809	226,117	236,441	195,697	225,995
Handicapped Children	835,083	845,468	873,279	845,119	846,407	907,883	845,028
Perinatal Program/Preventive Health Bureau Admin	152,894	127,231	194,721	183,029	127,142	196,926	183,389
Preventive Health Bureau Admin		15,278		5,323	15,260		7,152
Immunization (Vaccine)				103,540			101,774
Grants to Counties	671,765	672,316	689,090	689,090	672,316	689,090	689,090
Low Birthweight Prevention	65,999	65,000			65,000		
Case Management	21,117						
Carryover to Counties	278,526						
Total Disbursements	\$2,323,071	\$2,115,478	\$2,081,925	\$2,204,426	\$2,116,917	\$2,118,402	\$2,204,426
Ending Fund Balance	\$73,262	\$88,948	\$122,501	\$0	\$87,509	\$86,024	\$0

Human Services Subcommittee  
Allocation of the Preventive Health Block Grant  
Department of Health and Environmental Sciences

Revenue	Actual FY 90	Executive FY 92	LFA FY 92	Subcommittee FY 92	Executive FY 93	LFA FY 93	Subcommittee FY 93
Total Federal Fiscal 1991 Appropriation	\$590,597	\$644,771	\$644,771	\$644,771	\$644,771	\$644,771	\$644,771
<u>Disbursements</u>							
Public Health Laboratories	\$66,743	\$66,837	\$67,000	\$66,837	\$66,837	\$67,000	\$66,837
Health Services Administration	12,633	13,678	13,404	13,935	13,668	13,380	13,911
Emergency Medical Services	166,797	185,779	168,291	191,312	186,888	169,824	192,845
Family Planning	202,015	203,878	205,000	205,000	203,865	205,000	205,000
Perinatal Program/PH Bureau Admin	69,667	8,576	76,299	87,030	8,739	74,574	85,299
PH Bureau Admin		69,081		20,000	68,768		20,000
AIDS Education Counties	42,631	61,148	47,275	48,689	61,488	47,491	48,911
Health Education	11,968	11,968	11,968	11,968	11,968	11,968	11,968
Rape Crisis							
Director's Discretion	18,143						
Total Disbursements	\$590,597	\$620,945	\$589,237	\$644,771	\$622,221	\$589,237	\$644,771
Ending Fund Balance	\$0	\$23,826	\$55,534	\$0	\$22,550	\$55,534	\$0

Human Services Subcommittee  
Allocation of the Hazardous Waste/CERCLA RIT Account  
Department of Health and Environmental Sciences

Revenues/Disbursements	Executive Fiscal 1992	LFA Fiscal 1992	Subcommittee Fiscal 1992	Executive Fiscal 1993	LFA Fiscal 1993	Subcommittee Fiscal 1993
Beginning Fund Balance	\$804,860	\$731,565	\$731,565	\$1,091,779	\$1,066,996	\$833,217
Total Anticipated Revenue	<u>1,038,621</u>	<u>1,128,586</u>	<u>1,128,586</u>	<u>1,121,030</u>	<u>1,196,182</u>	<u>1,196,182</u>
Total Revenue Available	<u>\$1,843,481</u>	<u>\$1,860,151</u>	<u>\$1,860,151</u>	<u>\$2,212,809</u>	<u>\$2,263,178</u>	<u>\$2,029,399</u>
Disbursements						
-----						
Department of Health*						
Env. Sci. Div. Administration	\$53,446	\$74,434	\$0	\$52,682	\$74,337	
Asbestos Program	0	57,609	0	0	57,612	
Solid/Hazardous Waste Div.						
Hazardous Waste	163,846	133,571	191,223	163,653	133,485	190,864
Underground Storage Tanks	49,703	55,923	58,962	49,896	55,692	58,728
Leaking Underground Storage Tanks	76,638	72,024	80,094	76,721	72,004	80,072
Superfund Core	22,038	22,441	24,806	21,875	22,470	24,834
Water Quality Division						
Water Quality Management	86,251	62,494	113,957	87,603	62,865	113,953
Water Pollution Control	85,386	85,386	85,386	85,386	85,386	85,386
Public Water Supply	106,965	124,325	189,889	106,559	124,148	189,987
Clark Fork	107,429	104,948	108,080	107,991	105,237	108,382
EQC Groundwater			107,151			106,992
Specialist Upgrades (All Divisions)			<u>67,386</u>			<u>67,315</u>
Total Disbursements	\$751,702	\$793,155	\$1,026,934	\$752,366	\$793,236	\$1,026,513
Ending Fund Balance	\$1,091,779	\$1,066,996	\$833,217	\$1,460,443	\$1,469,942	\$1,002,886

\*Proposed Departments of Public Health and Natural Resources and Environment

Human Services Subcommittee  
Allocation of the Environmental Quality Protection Fund  
Department of Health and Environmental Sciences

Revenues/Disbursements	Executive Fiscal 1992	LFA Fiscal 1992	Subcommittee Fiscal 1992	Executive Fiscal 1993	LFA Fiscal 1993	Subcommittee Fiscal 1993
Beginning Fund Balance	\$1,194,036	\$784,394	\$784,394	\$1,391,006	\$893,375	\$797,894
Total Anticipated Revenue*	<u>1,536,729</u>	<u>1,338,029</u>	<u>1,338,029</u>	<u>1,567,459</u>	<u>1,360,561</u>	<u>1,360,561</u>
Total Revenue Available	<u>\$2,730,765</u>	<u>\$2,122,423</u>	<u>\$2,122,423</u>	<u>\$2,958,465</u>	<u>\$2,253,936</u>	<u>\$2,158,455</u>
Disbursements						
-----						
Department of Health**						
Environmental Quality Protection Fund	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Solid/Hazardous Waste Bureau						
State Superfund	323,475	229,048	302,603	343,037	229,050	325,243
Specialist Upgrades			21,846			21,818
DNRE						
Modified Budgets (Support Staff)	<u>16,284</u>			<u>15,674</u>		
Total Disbursements	\$1,339,759	\$1,229,048	\$1,324,529	\$1,358,711	\$1,229,050	\$1,347,061
Ending Fund Balance	\$1,391,006	\$893,375	\$797,894	\$1,599,754	\$1,024,886	\$811,394

\*Revenue estimates includes \$1,000,000 each year to environmental quality protection fund.

\*\*Proposed Departments of Public Health and Natural Resources and Environment

EX-107  
2-15-90  
100-100000  
100-100000

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## EXECUTIVE OFFICE PROGRAM

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### Executive Budget Modification

#### Natural Resource Damage Assessment

The agency has requested \$2,000,000 general fund in the 1993 biennium for legal costs of preparing for litigation against Atlantic Richfield Corporation (ARCO). In 1983, the state filed suit under the federal Comprehensive Environment Response, Compensation and Liability Act (CERCLA) for the maximum allowed under that law (\$50 million) for damages to natural resources from the release of hazardous substances in the Clark Fork Basin. These alleged damages resulted primarily from the Anaconda Company's operations during the last century. Because ARCO purchased Anaconda Company properties, it became responsible under federal law for any natural resource damages that might have occurred. Litigation under this federal law requires the state to prepare a natural resource damage assessment, estimating the total economic damages caused by injuries to natural resources from the release of hazardous substances.

In the mid-1980's, Montana sought and received a stay in order to prepare for the case. The directors of the natural resource agencies coordinated a state effort to gather the data necessary for the suit. Staff in the Departments of Health and Environmental Sciences (DHES) and Fish, Wildlife, and Parks began preliminary work on the damage assessment. To assist in these efforts, the 1987 legislature appropriated \$200,000 of resource indemnity trust (RIT) interest to DHES for costs incurred in pursuing this suit or others that might be filed under CERCLA. With these funds, a Denver law firm was hired to assist DHES lawyers working on the suit. During the period April 1988 through April 1990, DHES paid this firm \$619,350. These costs were funded with the 1989 biennium RIT appropriation, \$370,000 from the environmental quality protection fund, and a portion of the fiscal 1990 appropriation. The 1989

legislature appropriated \$400,000 in RIT interest to DHES to continue this effort. In fiscal 1990, DHES spent \$132,214 of this appropriation.

In 1989, a federal judge lifted the stay on the case at ARCO's request, ordering the state to prepare for trial by May 1993. The Governor's Office estimates that preparation costs for the trial will be \$6 million to \$9.6 million during the next two years. A significant portion of the expense will be for scientific and economic research needed to complete the economic assessment of damages. The remainder will be used for legal fees and costs. The office is requesting \$2 million in general funds and up to \$8 million of additional spending authority from federal or private funds during the 1993 biennium for trial preparation costs. The agency has not specified a source for these private or federal funds.

While the state's original suit sought \$50 million as the maximum allowable damages, the federal law was amended in 1986 to allow much higher damages recoveries. DHES is currently contracting for a preliminary analysis of damages that might be recovered. CERCLA requires that funds received from damage assessments be used to "restore, replace, or acquire the equivalent" of the natural resources that were damaged. In addition, states may be reimbursed for a portion or all of the costs incurred in bringing the suit.

This budget modification will: 1) change the primary funding source for this effort from RIT interest to general fund; 2) transfer day-to-day responsibility for management of this case from DHES to the Governor's Office; and 3) create a large "other funds" appropriation in the agency. If this modification is approved, the legislature may want to include language in the appropriations act prohibiting use or transfer of the general fund or the other funds' spending authority for any purpose other than preparation for this case.

The department is authorized to receive an interentity loan from the general fund for no more than \$4,986,059 for the purpose of conducting the natural resources damage assessment and litigation against the Atlantic Richfield Company. Repayment of this loan is extended through the end of the 1993 biennium in accordance with 17-2-107, MCA. The repayment shall include interest on the amount loaned at a rate commensurate with rates earned in the short term investment pool.

## FUNDING BREAKDOWN

## FUNDING

Total = \$4,986,059 As a Biennial Appropriation



# POSITIONS FOR NATURAL RESOURCE DAMAGE PROGRAM

Position	Grade	Function
Env. Prog. Man. II	17	Overall Program Manager, Coordinator, and Supervisor
Env. Spec. IV	15	NRDA Physical Science Coordinator
Economist II	15	NRDA Economic Coordinator
Admin. Asst. III	11	Administrative Support to NRDA Program (Clerical, Contracts, Public)
Attorney Supervisor	19	Coordinate NRD Legal Efforts Supervise Remaining Legal Staff
Attorney	17	NRD Legal Requirements, Depositions and Case Preparation
Attorney	15	NRD Legal Requirements Research and Support
Paralegal Asst. II	12	NRD Legal Support
Paralegal Asst. I	11	NRD Legal Support and NRD Administrative Support

Table 1

2/21/91  
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## Summary of Budget Request

	FY 1991	FY 1992	FY 1993	FY 1994
<b>A. CONTRACTOR SCIENTIFIC AND ECONOMIC SERVICES</b>				
<u>Phase I. Preliminary Screen/Detailed Plan</u>				
General Support/Management	\$ 30,000			
Economist	\$ 60,000			
Physical Sciences	\$ 60,000			
Phase I Total	\$ 150,000	\$0	\$0	\$0
<u>Phase II. Quantification of Injury/Damages</u>				
Technical Management/Coordination	\$ 20,000	\$ 110,000	\$ 70,000	
Economics				
- Recreation Studies		\$ 200,000	\$ 100,000	
- Total Valuation Study		\$ 200,000	\$ 100,000	
- Air, Ground Water, Soils, etc		\$ 75,000	\$ 25,000	
- Restoration/Replacement of Services		\$ 75,000	\$ 25,000	
- NRDA Summary Report		\$ 40,000	\$ 60,000	
Physical Sciences				
- Fisheries, Surface Water, Stream Sediments, Aquatic Life, and Wetlands Studies (includes regional modeling)	\$ 150,000	\$ 550,000	\$ 300,000	
- Ground Water Studies		\$ 150,000	\$ 150,000	
- Soils and Vegetation		\$ 150,000	\$ 100,000	
- Air Quality		\$ 100,000	\$ 50,000	
Phase II Total	\$ 170,000	\$1,650,000	\$ 980,000	\$0
<u>Phase III. Litigation Support</u>				
Management		\$ 50,000	\$ 50,000	\$ 50,000
Economics		\$ 50,000	\$ 50,000	\$ 50,000
Physical Sciences		\$ 50,000	\$ 75,000	\$ 75,000
Phase III Total	\$0	\$ 150,000	\$ 175,000	\$ 175,000
TOTAL (Phase I + II + III)	\$320,000*	\$1,800,000	\$1,155,000	\$ 175,000

\* \$50,000 obtainable from the \$200,000 existing Fiscal Year 1991 budget

Table 1  
(cont.)

Summary of Budget Request

	FY 1991	FY 1992	FY 1993	FY 1994
<b>B. CONTRACT LEGAL SERVICES</b>				
Initial Preparation		\$ 135,000		
Discovery and Motions		\$ 301,500	\$ 603,000	\$50,250
Premial Preparation				\$185,625
<b>TOTAL CONTRACT LEGAL SERVICES</b>	<b>\$0</b>	<b>\$ 436,500</b>	<b>\$ 603,000</b>	<b>\$235,875</b>
<b>C. STATE AGENCY COSTS</b>				
Salaries + Benefits + Operating Program Staff		\$ 211,524	\$ 195,167	\$195,167
Legal Staff		\$ 193,002	\$ 211,866	\$211,866
Computer Document Management		\$ 100,000	\$ 50,000	
Interagency Support		\$ 15,000	\$ 15,000	
<b>TOTAL STATE AGENCY COSTS</b>	<b>\$0</b>	<b>\$ 519,526</b>	<b>\$ 472,033</b>	<b>\$407,033</b>
<b>TOTAL COSTS ALL CATEGORIES</b>	<b>\$320,000</b>	<b>\$2,756,026</b>	<b>\$2,230,033</b>	<b>\$817,908</b>
<b>EXISTING GOVERNOR'S BUDGET</b>		<b>\$1,000,000</b>	<b>\$1,000,000</b>	
<b>ADDITIONAL BUDGET NEED</b>		<b>\$1,756,026</b>	<b>\$1,230,033</b>	

TOTAL COST - FY 91 + FY 92 + FY 93 + FY 94 = \$6,123,967

TOTAL NEED FOR FY 92 + FY 93 = \$4,986,059

ADDITIONAL NEED FOR NATURAL RESOURCE DAMAGE PROGRAM BUDGET = \$2,986,059

**HOUSE OF REPRESENTATIVES  
VISITOR REGISTER**

Human Services SUBCOMMITTEE DATE 2/21/91  
DEPARTMENT(S) LABOR / HEALTH DIVISION \_\_\_\_\_

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NAME	REPRESENTING	
INGRID DANIELSON	DLI	
BOB ANDERSEN	DLI	
JUDITH CARLSON	HRDC	
<sup>Jon A. Aldenburg</sup> Carl Aldenburg	Private Industry Council	
Karen Tomaso Perke	Private Industry Council	
<sup>Ann Mary Dussault</sup> Ann Mary Dussault	BOS Council of Commissioner	
SUE MOHR	MTTP	
Laurie Lamson	MTTP	
Leon Stalcup <sup>Stalcup</sup>	MT Restaurant Assoc	
Mike Murray	self: CEP PIC	
<sup>Noel F.</sup> Noel Williams	Council of Commissioners <sup>Balance of the</sup> BOS State	
Bud Miller	Council of Commissioners <sup>BOS</sup>	
Marilyn Miller	Governor's Office	
Brian McCullough	DLI	
Bob Muehlen	DLI	oppose
Ray Hoffman	DHES	
DICK PEDERSEN	DHES	
Kim Wilson <sup>Wilson</sup>	Clark Fork Coalition	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.