

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIRMAN JOHN COBB, on February 15, 1993, at 7:10 A.M.

ROLL CALL

Members Present:

Rep. John Cobb, Chairman (R)
Sen. Mignon Waterman, Vice Chairman (D)
Sen. Chris Christiaens (D)
Rep. Betty Lou Kasten (R)
Sen. Tom Keating (R)
Rep. David Wanzenried (D)

Members Excused: None

Members Absent: None

Staff Present: Lisa Smith, Legislative Fiscal Analyst
Lois Steinbeck, Legislative Fiscal Analyst
Connie Huckins, Office of Budget & Program Planning
John Huth, Office of Budget & Program Planning
Billie Jean Hill, Committee Secretary

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

Committee Business Summary:

Hearing: DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
Executive Action: DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

HEARING ON DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Tape No. 1:Side 1

Mr. Bob Robinson, Director, Department of Health and Environmental Sciences, presented an overview of DHES policy issues, budget issues and a brief summary of each department. The administrative staff of each division was introduced.
EXHIBIT 1

Mr. John Wardell, Environmental Protective Agency, said he could not add anything more to what Mr. Robinson had said.

Mr. Denzel Davis, Administrator, Health Facilities Division,

DHES, said the division consists of two bureaus and one program: the certification bureau, the licensure bureau and Clinical Laboratory Improvement Act (CLIA). EXHIBIT 2

Mr. Steve Pilcher, Administrator, Environmental Sciences Division, DHES, said that this division is charged with the responsibility to protect public health and provide a clean environment for all Montanans. The division is divided into four bureaus: Air Quality Bureau (AOB), Water Quality Bureau (WQB), Solid and Hazardous Waste Bureau (SHWB) and Occupational and Radiological Health Bureau. EXHIBIT 3

Mr. Jeff Chaffee, Bureau Chief, Air Quality Bureau, Environmental Sciences Division, DHES, stated that the AOB is responsible for implementation of the Montana and federal Clean Air Acts. These laws require AOB to achieve and maintain air quality levels in the outdoor atmosphere considered safe for public health and welfare. EXHIBIT 4

Mr. Duane Robertson, Bureau Chief, Solid and Hazardous Waste Bureau, Environmental Sciences, DHES, stated that the bureau is divided into four programs: Motor Vehicle Recycling and Disposal program, Hazardous Waste program, Solid Waste Management program, and Underground Storage Tank program. EXHIBIT 5

EXECUTIVE ACTION ON DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Tape No. 2:Side 1


Motion/Vote: SEN. KEATING moved to coordinate with DHES about Capitol complex increased funds. The motion CARRIED with CHAIRMAN COBB voting no.

Motion/Vote: SEN. WATERMAN moved to work with the department and allocate indirect costs after the committee does FTEs. The motion CARRIED unanimously.

Motion/Vote: SEN. KEATING moved that after the subcommittee listens to review of a program, the LFA review with the Governor's office and the DHES the funding mix, determine the level and bring that information back to the subcommittee as soon as possible. Motion CARRIED unanimously.

ADJOURNMENT

Adjournment: 11:50 A:M



JOHN COBB, Chairman



BILLIE JEAN HILL, Secretary

JC/bjh

HOUSE OF REPRESENTATIVES

HUMAN SERVICES

SUB-COMMITTEE

ROLL CALL

DATE

2-15-92

NAME	PRESENT	ABSENT	EXCUSED
REP. JOHN COBB, CHAIRMAN	✓		
SEN. MIGNON WATERMAN, VICE CHAIR	✓		
SEN. CHRIS CHRISTIAENS	✓		
SEN. TOM KEATING	✓		
REP. BETTY LOU KASTEN	✓		
REP. DAVID WANZENRIED	✓		

HOUSE OF REPRESENTATIVES

HUMAN SERVICES

SUB-COMMITTEE

ROLL CALL VOTE

DATE Jul. 15, 1993 BILL NO. _____ NUMBER _____

MOTION: Motion to Coordinate E Dept of DHEC
about Capital Complex increased funds

NAME	AYE	NO
REP. JOHN COBB, CHAIRMAN		X
SEN. MIGNON WATERMAN, VICE CHAIRPERSON	X	
SEN. CHRIS CHRISTIAENS	X	
SEN. TOM KEATING	X	
REP. BETTY LOU KASTEN	X	
REP. DAVID WANZENRIED	X	

HOUSE OF REPRESENTATIVES

HUMAN SERVICES SUB-COMMITTEE

ROLL CALL VOTE

DATE Feb 15, 1993 BILL NO. _____ NUMBER _____

MOTION: Move ^{to work} with Department and
Allocate Indirect Cost after we
Do FTE's.

NAME	AYE	NO
REP. JOHN COBB, CHAIRMAN	X	
SEN. MIGNON WATERMAN, VICE CHAIRPERSON	X	
SEN. CHRIS CHRISTIAENS	X	
SEN. TOM KEATING	X	
REP. BETTY LOU KASTEN	X	
REP. DAVID WANZENRIED	X	

HOUSE OF REPRESENTATIVES

HUMAN SERVICES

SUB-COMMITTEE

ROLL CALL VOTE

DATE Dec 15 1993 BILL NO. _____ NUMBER _____

MOTION: After Sub-committee listens to review of
Program, the LFA (Lia) will review with the Horrois
office & the Dept (DHES) the funding mix and will
determine the level & bring back to Subcomm as soon
as possible

NAME	AYE	NO
REP. JOHN COBB, CHAIRMAN	X	
SEN. MIGNON WATERMAN, VICE CHAIRPERSON	X	
SEN. CHRIS CHRISTIAENS	X	
SEN. TOM KEATING	X	
REP. BETTY LOU KASTEN	X	
REP. DAVID WANZENRIED	X	

HOUSE OF REPRESENTATIVES

HUMAN SERVICES

SUB-COMMITTEE

ROLL CALL VOTE

DATE Feb 13, 1993 BILL NO. 8 NUMBER

MOTION: Pine Trees 189.244 (Susp)

Deer Antler Vines 15,000

Both Len Lund

NAME	AYE	NO
REP. JOHN COBB, CHAIRMAN	X	
SEN. MIGNON WATERMAN, VICE CHAIRPERSON	X	
SEN. CHRIS CHRISTIAENS	X	
SEN. TOM KEATING	X	
REP. BETTY LOU KASTEN	✓	
REP. DAVID WANZENRIED	✓	

EXHIBIT _____
DATE 2-15-93
SB _____

Director's Office

Department of Health
and Environmental Sciences

OFFICE OF THE DIRECTOR

EXHIBIT 1
DATE 2/15/93
SB

The Office of the Director provides overall management, administration, program support and policy development for the department. The office includes the director, deputy director, a medical/dental advisor, an administrative officer, a contracts officer, two personnel staff, a payroll clerk, an administrative secretary, a hearings reporter and a legal services unit with two lawyers and two support staff.

The director and medical advisor are supported by general funds. The remainder of the office, including the legal unit, is funded with state allocations of indirect assessments.

Budget Issues

1. Five percent personal services reduction.

To respond to the five percent reduction mandate, two positions--the administrative officer and legal secretary positions--were identified for reduction. The administrative officer is essential to implement all department reorganization efforts, spearhead an overhaul of contracts and contract management processes, as well as developing methods to improve provision of direct disease prevention services.

Request reinstatement of administrative officer position:

<u>FY94 Cost</u>	<u>FY95 Cost</u>	<u>Source of \$</u>
\$56,000	\$56,000	Indirect Allocation Funds

2. Provide appropriate annual level of fluoride rinse and tooth brushes to schools and public health nurses. Base year expenditures are artificially low due to timing of FY92 purchases:

<u>FY94 Cost</u>	<u>FY95 Cost</u>	<u>Source of \$</u>
\$15,116	\$15,116	General Fund

3. Travel - Training.

LFA and OBPP recommendations are \$8,286 and \$8,342 apart in FY 94 and FY 95 respectively for director's office travel and training. LFA provides less than \$1,900 annually for travel and \$450 for all training by director, deputy director, administrative officer and two legal staff. Training funds are not sufficient to even maintain legal staff accreditation. Travel recommendation would prevent director's office staff from appropriately meeting with industry, local health officials and personally attending to issue areas affecting the department.

Request reinstatement of part of the difference:

<u>FY94 Cost</u>	<u>FY95 Cost</u>	<u>Source of \$</u>
\$5,988	\$5,988	Indirect Allocation Funds

4. County/Community Outreach.

A major emphasis of this department is to improve coordination and utilization of local health officers to provide mandated (state and federal) public and environmental health services and improve information dissemination concerning department activities. One FTE currently on staff will lead this effort.

Request appropriation:

<u>FY94 Cost</u>	<u>FY95 Cost</u>	<u>Source of \$</u>
\$38,932	\$38,932	Indirect Allocation Funds

Montana Board of Health and Environmental Sciences

The MBHES was established by the Executive Reorganization Act of 1971. The seven-member board serves as a quasi-judicial body that can accept or reject the issuance of certain licenses, permits, variances and exceptions to rules and regulations. The MBHES is also authorized to adopt rules, regulations and standards for relevant public health issues and is provided for in Section 2-15-2104, MCA.

The two primary duties of the board, as defined in Section 50-1-301, MCA, are to advise the department on public health matters and to hold hearings and take testimony on matters relating to the duties of the board.

The four subject areas that demand the greatest amount of board members' energy and time are: air pollution, water pollution, solid and hazardous waste and occupational health. The MBHES adopts rules, issues orders, holds hearings and takes official action on classifications, applications, standards and regulations in each of the subject areas. Also, the MBHES has general supervision over public waters, regulation of radioactive materials and the use of radiation.

In several chapters of Title 75, MCA, the MBHES is responsible for adopting, amending and repealing rules for the administration, implementation and enforcement of laws that deal with environmental protection and public health.

Budget Issues

The board has no regular legal counsel for advice and consultation related to permit decisions in which the department is a party to administrative or contested case hearings. The board generally relies upon department staff for most legal advice or contracts with the Department of Justice for legal advice when the department is a party. This leads to inconsistent advice because of the ad hoc nature of requests. The board requests \$12,000 per year to contract with independent counsel (as does the Board of Natural Resources).

<u>FY94 Cost</u>	<u>FY95 Cost</u>	<u>Source of \$</u>
\$12,000	\$12,000	General Fund

Budget Issues

Funding for Montana's air quality program is currently derived from three sources: the federal air pollution grant, air quality permit fees, and the state general fund. Figure 4 shows the role of each funding source in supporting the program over the past several years and presents the FY94-95 funding picture. As an outcome of the Special Legislative Sessions in FY92, the general fund contribution to the program has decreased significantly and fees have increased proportionately. While fees have been increased to replace general fund, and further growth proposed in AQB would be funded through additional fees, it is important to emphasize a continued need for general fund support of the program. Fees can only be used to support program functions relating to regulating industrial (permitted) air pollution sources. A significant portion of the required state air quality program is related to control of non-industrial (area source) pollutants (e.g., wood stove and automobile emissions). Loss of general fund would place control of "people-generated" pollutants on only federal funding, a source that is expected to drop significantly in the next several years. When this occurs, current support of county air pollution control programs, as well as state efforts, would be diminished or eliminated. Failure to carry out the control programs for the area source pollutants will expose the state to EPA sanctions and Montana citizens to unhealthy air.

The executive budget for the bureau reduces personal services by 1.5 FTE to meet the 5% reduction target. The bureau currently needs a full staff of 30.5 FTE to address statutory requirements in both the state and federal Clean Air Acts. Further, a significant increase in staff will be needed to allow the bureau to respond to requirements of the 1990 Federal Clean Air Act Amendments (CAAA); this increase will be addressed as a modified budget request.

The budget review by the LFA did not reflect the 5% reduction in personal services, but it did significantly reduce the operating expenses proposed in the executive budget. The LFA reduced numerous operating expenses, including contracted services, travel and communications, to FY92 actual expenditure levels. This reduction is not appropriate because FY92 does not represent an example of the bureau's needs in FY94-95. Consultant and professional services in FY92 were charged to a budget amendment funded by special federal dollars; therefore, the FY92 number is not representative. Other operating expenses were also not representative because the bureau was not able to fill a number of new positions until late in the year because of delays in implementing a fee funding system and in classifying, recruiting and hiring for the new positions. The LFA reductions are not appropriate for FY94-95.

Modifieds

Montana currently has primacy for the federal air quality program in our state; our goal is to continue full delegation of federal air quality regulations to assure we have control over implementation of all air pollution regulations in the state. The importance of continued primacy underscored by the 1990 Federal Clean Air Act Amendments (CAAA). To address expanding federal requirements for state air programs, AQB submitted modified requests as part of the executive budget for the 1994-95 biennium. We have further developed the modified requests through work with an advisory committee to address the resources needed for continued primacy of the federal/state program. We are asking the following modified requests:

Modifieds Operating Permit Program

Title V of the CAAA requires each state to develop an operating permit program complete with a fee funding system. The program must be developed (including legislative authorization, rulemaking and fee funding) and submitted to the EPA by November 1993. Failure to put an adequate program in place will result in EPA sanctions (loss of federal highway funds and air pollution grants and/or emission offsets for new industry). The CAAA also directs EPA to develop a federal operating permit program and charge fees to the regulated community if the state fails to meet its responsibilities. Virtually every major industrial facility will be required to obtain an operating permit to continue production; clearly, this is a program that the state must control.

The Operating Permit Program includes a number of different elements, including a small business assistance program, coordination with the current construction permit activity, a program to reduce and control hazardous air pollutants (toxics), and enhanced enforcement authority. A critical part of the program is development of an adequate fee funding system for all the functions related to operating permitting activity, both direct and indirect. This will include the functions mentioned above, as well as other air program elements related to the industrial sources which will be required to obtain an operating permit. The bureau has assembled a proposed staffing and budget plan for development and implementation of the complete program and has drafted legislation which will provide authority for the necessary program elements. AQB has consulted with a Clean Air Act Advisory Committee comprised of representatives of regulated industries, small business, environmental groups, and other interested parties to solicit input and seek positions that are correct for Montana. The proposed legislation and budget package reflect input from the committee and EPA and represent an approach which AQB believes is conservative on program growth yet adequate to allow us to do our job.

HB 318 has been introduced on behalf of DHES to provide the necessary statutory authority for the Operating Permit Program as well as other needed updates in the Montana Clean Air Act. Along with statutory authority, Montana must demonstrate to the EPA that we have adequate resources to implement the Operating Permit Program. To receive delegation from EPA for the Operating Permit Program, the Legislature must pass HB 318, and they must authorize the collection of air permit fees during the appropriations process to adequately fund the new program.

Working in conjunction with the Clean Air Act Advisory Committee, AQB prepared the "Montana Air Permit Fee Analysis" to identify the role of fee funding for AQB and project the resources needed for development and full implementation of the operating permit and associated programs. The fee analysis is a zero-based evaluation of each program area; it projects resource needs over the next several bienniums but allows mid-course adjustments each biennium as the requirements for many of the new programs become more clear. For the 1994-95 biennium, we have projected the need for 14.0 additional FTE. They would be phased-in as follows:

<u>Request</u>	<u>FY 94 Cost</u>	<u>FY 95 Cost</u>	<u>Source of \$</u>
FTE:	9.0	14.0 (5 additional)	Permit fees*
Additional funding authority requested:	\$585,130	\$849,705	

*State Special Revenue

The additional funding authority requested differs from the HB 318 fiscal note (increase of \$6,894 in FY94 and \$104,103 in FY95) due to corrections in personal services costs.

This additional funding authority would increase the permit fees currently paid by industry; AQB has prepared the following estimates, based upon 1991 emissions of the respective air pollutants:

<u>Pollutant Category</u>	<u>Dollars per Ton of Emissions</u>		
	<u>Current</u>	<u>FY 94</u>	<u>FY 95</u>
Particulate, Sulfur Dioxide, and Lead	\$4.00	\$9.50	\$12.70
Nitrogen Oxides and Volatile Organic Compounds	\$1.00	\$2.38	\$ 3.18

While these numbers may change during fee rulemaking before the Board of Health and Environmental Sciences, they provide an estimate of the impact on the regulated community over the next two years. Based upon our comparison with air permit fees in surrounding states, these proposed fee levels are below average. They are less than one-half of the \$28.39/ton that EPA would charge if they were to operate the program under the CAAA.

Billings-Laurel Sulfur Dioxide State Implementation Plan Call

In a December 21, 1992 letter, the EPA warned DHES to expect notification during early 1993 that the State Implementation Plan (SIP) to control sulfur dioxide (SO₂) in the Billings-Laurel area is inadequate to protect National Ambient Air Quality Standards (NAAQS) for SO₂. Once the SIP call is received, the department has 18 months to develop a revised SO₂ emission control plan for the seven major industries in the Billings-Laurel area and submit it to EPA for approval as a SIP revision. Failure to meet this deadline would expose the state to federal sanctions and loss of control of the planning effort to EPA. In anticipation of the call, AQB has prepared a budget proposal for additional staff and resources to complete the revised SIP in the mandatory time frame. To develop the budget, AQB assumed a worst-case scenario where area industry provided no cooperation and support for the effort. Under this scenario, AQB projects the need for the following resources to address the Billings-Laurel SO₂ SIP call:

<u>Request</u>	<u>FY 94</u>	<u>FY 95</u>	<u>Source of \$</u>
2.0 FTE			Permit fees*
Additional Funding Authority			
Requested:	\$400,000	\$190,000	

*Special geographic fees (add-on) to be charged only to Billings-Laurel area SO₂ emission sources. AQB has met with Billings-Laurel area industry to review this proposed approach to funding the SIP revision effort. We requested their support in a rewrite of the SO₂ SIP and told them the staff resources needed to revise the SIP will decrease significantly if they are willing to support monitoring, technical studies, and other related efforts. To date, the industry has not provided any consensus on a cooperative effort; AQB is willing to work with them and would plan to reduce the fees to be charged if they agree to cooperate in the next several months. This modified proposal

would result in additional fees for the Billings-Laurel area SO₂ emission sources of approximately \$12.15/ton of SO₂ in FY94 and \$5.80/ton of SO₂ in FY95. These fees could be reduced by one-half or more if the industries agree to work with the state on the SIP revision effort.

Restoration of Vacant and 5% Reduction Positions

Recent legislative action eliminated both vacant positions and those identified as part of the 5% reduction plan for agencies. For the AQB, this reduced the current staff from 30.5 FTE to 27.0 FTE. This reduction comes at a time when the program needs to grow to meet CAAA requirements; failing to fill the vacant positions places more pressure on the coming biennium when we will need these 3.5 FTE as well as the 14 additional FTE discussed earlier. Further, failing to fill these positions will result in measurable losses in services right now, including critical compliance activities for industry (would be turned back to EPA), management of data and information for the bureau, and monitoring to assure we know the quality of our air. If these reductions stand, we will be unable to convince EPA we can maintain adequate resources to continue primacy for the current programs, and we will have little chance of convincing EPA that we should receive delegation for the new operating permit program.

Information follows on each position identified for elimination, including key duties and funding sources:

- Position No. 306, Environmental Specialist IV (G. 15 - proposed).

This position is 100% federally funded and provides management and direction of the bureau's Data Management Unit in the Planning and Technical Support Section. Some of the key duties of this unit include management of a large EPA air database [the Aerometric Information Retrieval System (AIRS)], supporting the bureau's information processing needs, providing critical user support for individual computer work stations, and assuring EPA that we collect and report the necessary air pollution data and information. For example, this work group will need to develop a new permit tracking system and coordinate it with the AIRS system for the operating permit program. Failing to fill this position jeopardizes current state primacy for federal programs.

- Position No. 311, Environmental Specialist II (G. 13).

This position is 100% funded by current permit fees; leaving it vacant denies industry the state regulatory program they are paying for through fees. Because this position is responsible for assuring compliance of more than 30 industrial facilities in the state with air regulations, leaving it unfilled creates a major gap in our ability to assure compliance of these industries with permit requirements and regulations. Not only does this endanger air quality, it also leaves these industries liable for large enforcement penalties for being out of compliance for long periods of time. If the position remains vacant, AQB will be forced to return approximately 37 industries to EPA for compliance and enforcement oversight.

numerous violations of the SO₂ National Ambient Air Quality Standards situation is leading to the EPA SIP call for the area. The major efforts facing us

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At new industrial sources of SO₂, existing sources will likely have to give up part of emissions or submit to emission limits. AQB continues to be contacted by industry in locating in the area.

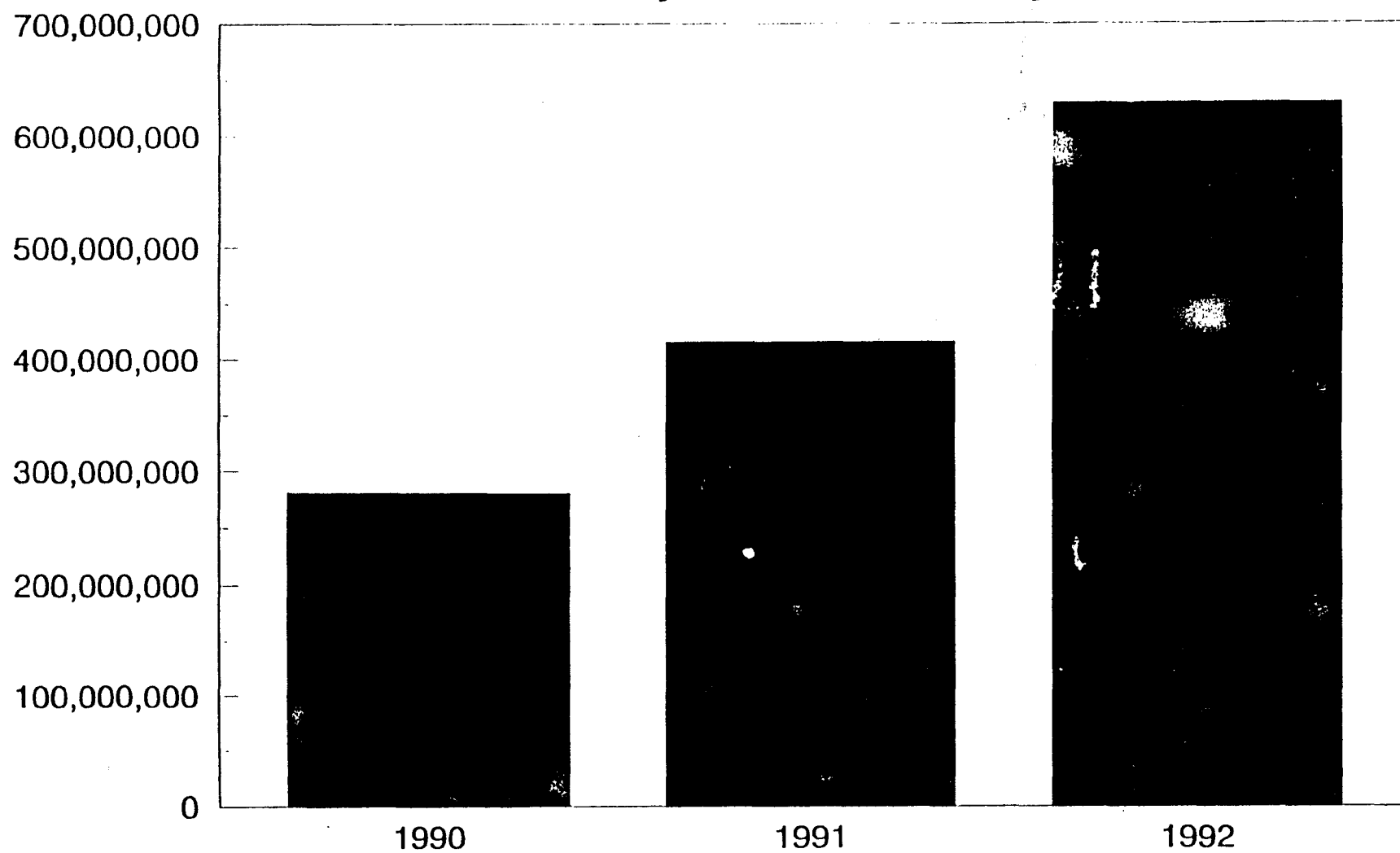
The SO₂ SIP will need to be prepared that ensures protection of air quality and defines how further industrial development will be allowed.

of a Delegated Air Quality Program

Earlier, Montana has continued to maintain primacy for the air pollution control state. This has been accomplished by the significant efforts of existing personnel in additional workload and by adding permitting staff with fee funding in the last year. However, holding at current staffing levels will not allow continued delegation of the program. Therefore, we must be allowed to expand to address the incoming federal program. Failure to do so will mean transfer of control to others who have no direct interest in the future.

FIGURE 1

**Department of Health and Environmental Sciences
Air Quality Bureau
Dollar Value of Major Industrial Projects Permitted**



•Position No. 354, Environmental Specialist I (G. 12).

This position is currently funded 100% by federal funds but would also be eligible for partial fee funding in the future. As part of the bureau's Air Monitoring Unit, this position provides key support in operation of the statewide ambient air monitoring network. Failure to fill this position means a loss in ambient air monitoring services, a drop in the quality of our data and will endanger our program primacy from EPA. Monitoring ambient air is key in determining if we are accomplishing our goal of protecting public health and welfare. AQB is already making full use of county agencies and industry in operating the state's monitoring network. Even with this outside support, bureau staff are needed to assist and oversee the county and industry efforts. Collection of quality ambient air data is a fundamental need for the entire program.

•Position No. 362, Administrative Clerk III, 0.5 FTE (G. 8).

This 0.5 FTE position is 100% federally funded. It provides key support in maintaining the bureau's library and filing systems and providing other administrative support. It also provides data entry support for the AIRS system. The position is currently filled but was identified as part of the 5% reduction requirement. Loss of the position will critically impact the efficient operation of AQB, will result in a loss of service to the public, and will simply result in a return of federal money to EPA.

Accomplishments and Goals

The Montana Air Quality Program has accomplished much in the past two years, and we feel that our efforts are visible in improved air quality in many areas and in orderly and environmentally compatible economic growth. However, implementation of the Federal Clean Air Act Amendments of 1990 (CAAA) present a huge challenge to AQB. We must do much more to ensure our citizens breathe healthy air. Some examples of important advances and future challenges are as follows:

•State Implementation Plans (SIPs)

Montana has made significant progress in implementing the federal particulate (PM-10) standards established in 1987. In conjunction with local governments, we have developed and submitted to EPA PM-10 SIPs (control plans) for Missoula, Kalispell, Columbia Falls, Butte and Libby. Many of the tasks necessary to develop and finalize PM-10 SIPs for the cities of Whitefish and Thompson Falls are underway. We continue to work closely with ASARCO and are nearing finalization of a SIP for the East Helena lead problem. Additional work has been completed in updating emissions inventories for carbon monoxide (CO) in Billings and Great Falls and in working with Missoula County to implement an oxygenated fuels program to help control the CO problem in Missoula. However, significant efforts lie ahead:

- EPA has required additional information for a number of the PM-10 SIPs which have been submitted. One area of particular concern is the requirement to perform dispersion modeling of industrial impacts on the Columbia Falls PM-10 nonattainment area; this could result in additional control expenditures being required of area industry.
- The East Helena Lead SIP will need to be finalized and submitted to EPA by July 1993; it will result in the expenditure of more than \$10 million by the ASARCO smelter to control lead emissions.
- The SO₂ SIP for East Helena must be revised and submitted to EPA to meet CAAA requirements. The SIP is overdue to EPA (it was due in May 1992) and the state could face sanctions if our current efforts to negotiate an acceptable plan between ourselves, ASARCO and EPA fail.
- EPA has notified DHES to expect a "call" of the Billings-Laurel area SO₂ SIP in early 1993, thereby declaring it inadequate to protect SO₂ ambient air standards. As described elsewhere, rewrite of the emission control plan for the seven area industries will be a major effort.
- Portions of the current statewide SIP need to be updated and revised to bring them in line with current requirements.

Permitting and Compliance Programs

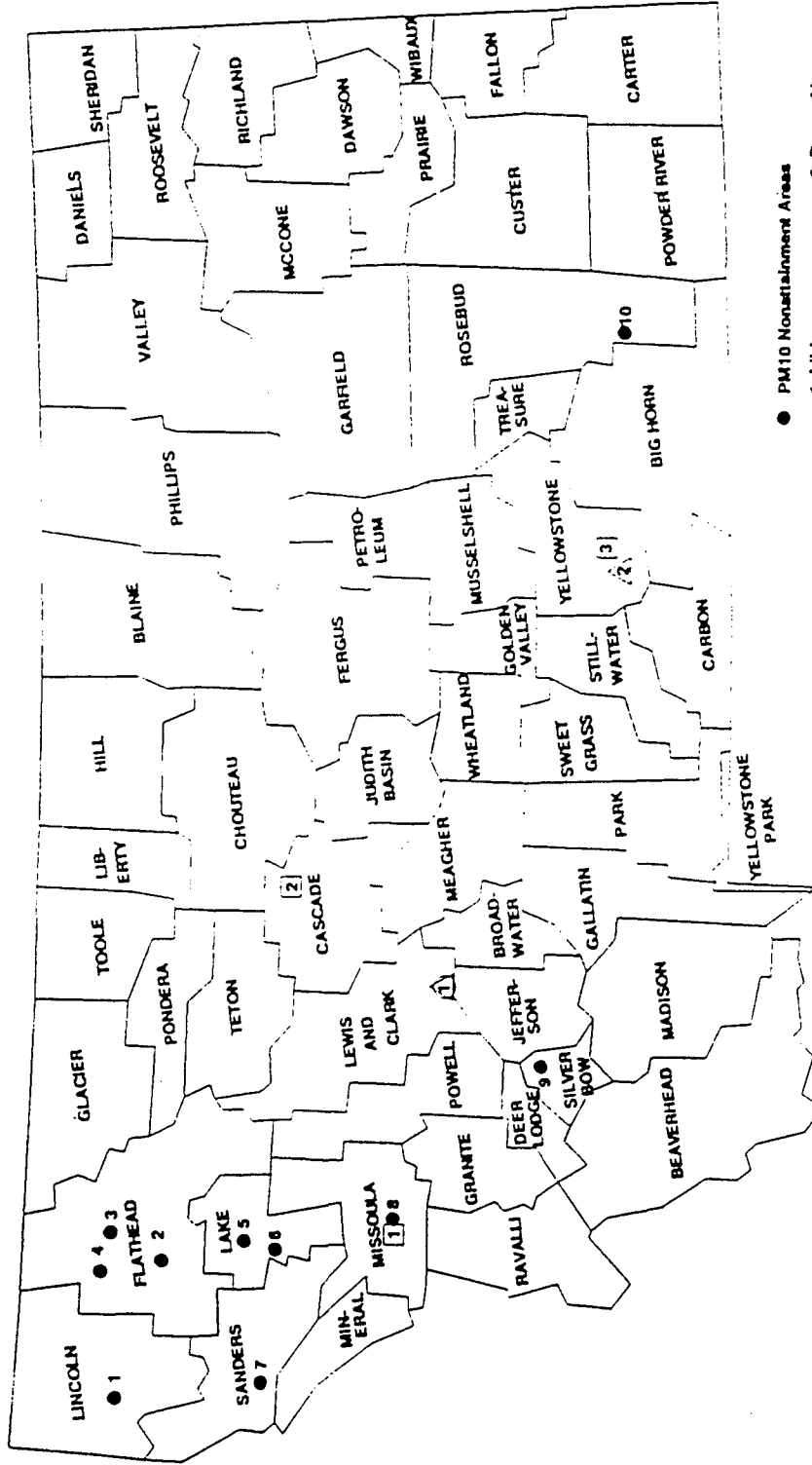
AQB has been running an air quality permitting program that has provided timely preconstruction review of new and expanded industrial facilities. We have permitted more than \$600 million of new construction projects in Montana in the past year. We have also operated a compliance/enforcement program which has emphasized the importance of complying with air quality regulations. However, significant additions to these programs must be made in the next several years to maintain primacy:

- An operating permit program with associated fees must be developed and submitted to the EPA by November, 1993.
- Major rulemaking must be completed to update existing permitting regulations and formulate new ones.
- Our enforcement program must be strengthened to meet federal requirements and thereby keep EPA from overfiling on enforcement cases. (Their penalty collection capabilities are much greater than ours.)

Billings Sulfur Dioxide (SO₂)

Cooperation of industry and government through the Billings-Laurel Air Quality Technical Committee (BLAQTC) has resulted in the collection of important data and information on sulfur dioxide (SO₂) in the area over the past several years. In addition, dispersion modeling studies conducted in support of an air quality permit issued to Billings Generation Inc. and for the City of

Montana Nonattainment Areas



- ☐ CO Nonattainment Areas
1. Missoula
 2. Great Falls
 3. Billings

- ☐ Pb Nonattainment Areas
1. East Helena

- ☐ SO2 Nonattainment Areas
1. East Helena
 2. Laurel

- ☐ PM10 Nonattainment Areas
1. Libby
 2. Kalispell
 3. Columbia Falls
 4. Whitefish *
 5. Polson **
 6. Ronan **
 7. Thompson Falls *
 8. Missoula
 9. Butte
 10. Lame Deer **
- * Official Designation Soon
** Tribal/EPA Jurisdiction

EXHIBIT 1
DATE 2-15-93

FIGURE 3

Department of Health & Environmental Sciences Environmental Sciences Division

Air Quality Bureau

Current Organizational Chart

While these positions are coordinated by the Administration section supervisor, they are the lead workers for the sections denoted.

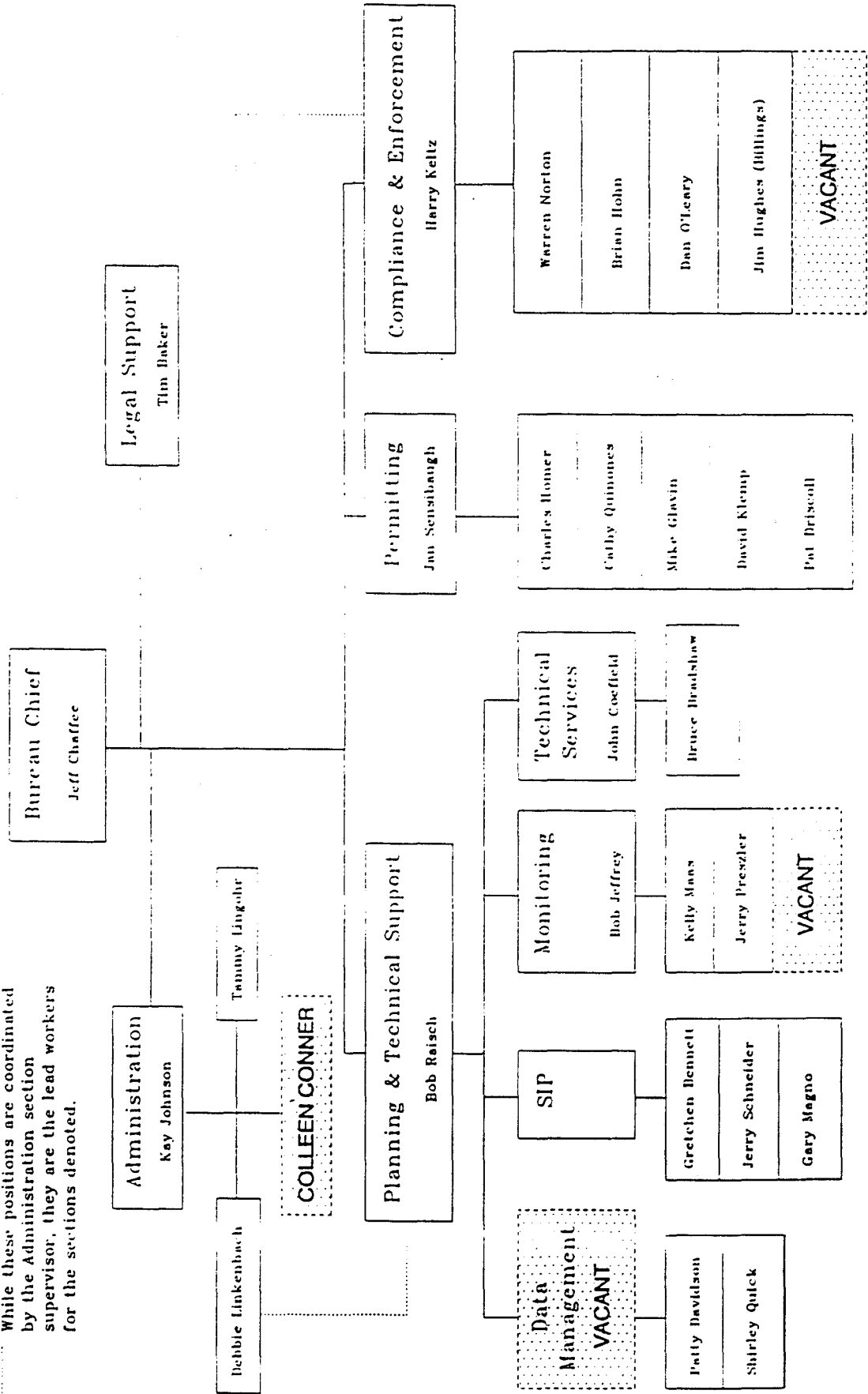
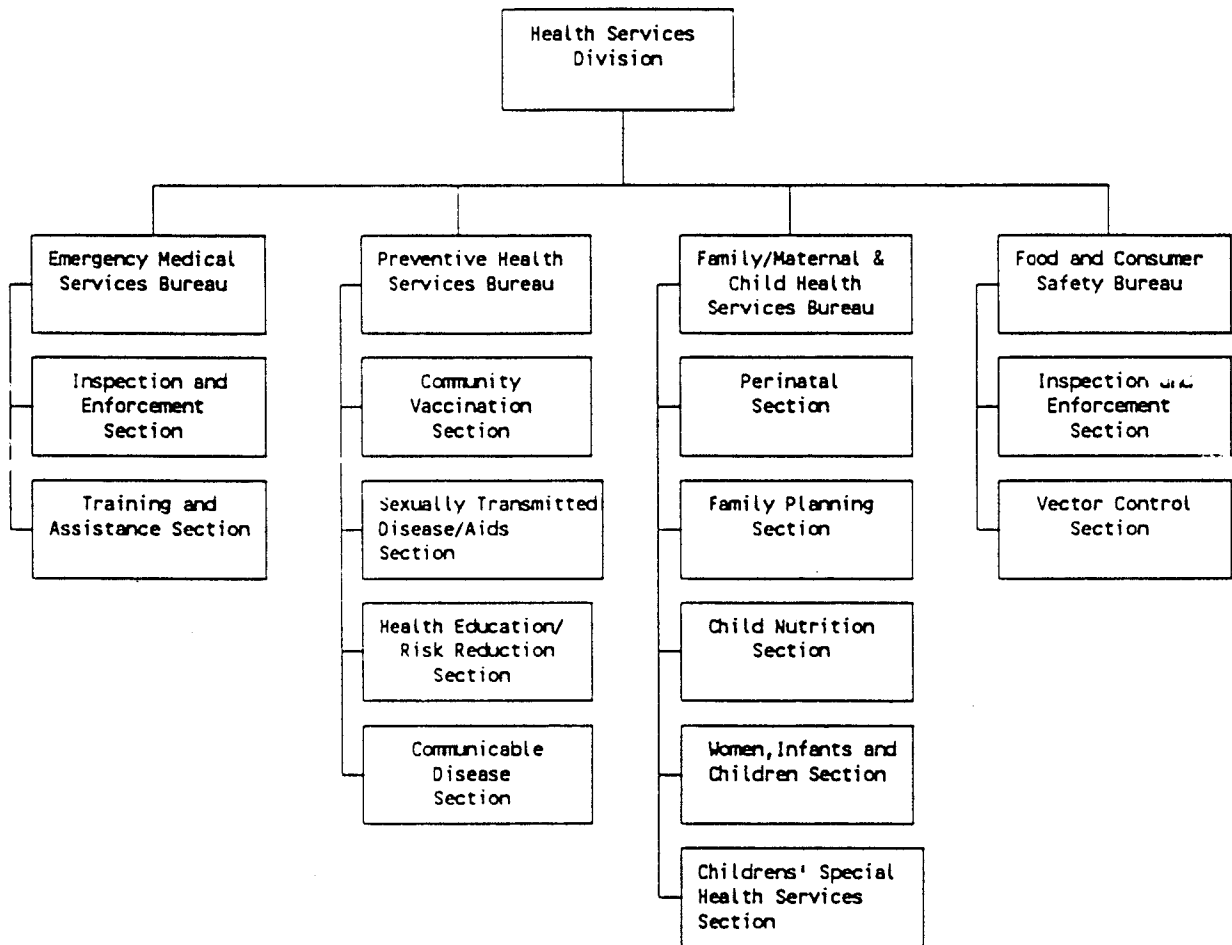


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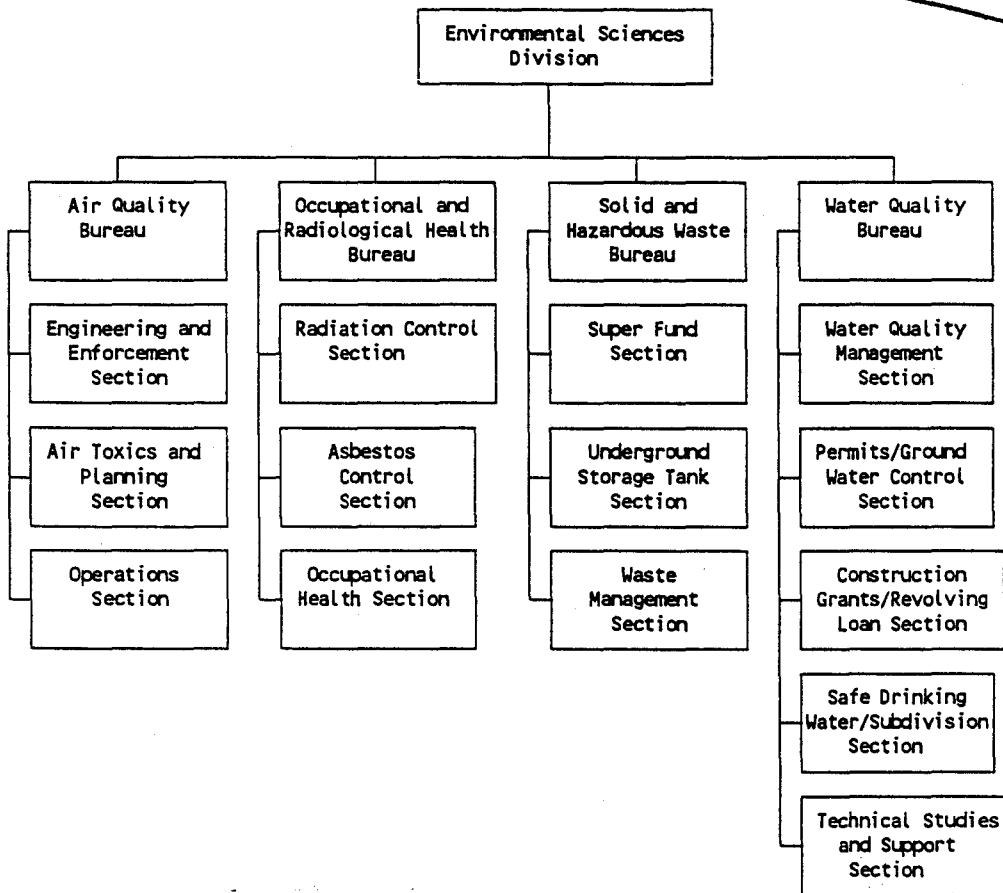


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DATE 2-15-93
SB _____

Health Facilities Division

Department of Health
and Environmental Sciences

HEALTH FACILITIES DIVISION DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

OVERVIEW

The Health Facilities Division is responsible for State Licensure of Health Care Facilities and Services under Title 50, Chapter 5, of the Montana Codes Annotated, certification activities for Medicare and Medicaid providers as provided for by Sections 1864 and 1874 of the Social Security Act, and, the Clinical Laboratory Improvement Act (CLIA), Section 353 of the Public Health Service Act.

Provisions of Sections 1864 and 1874 as amended authorize State Medicaid Agencies (SRS) to contract with State Survey Agencies (MDHES) to conduct Medicaid surveys and to certify Medicaid health care providers as required by Sections 1919 and 4212 of the Social Security Act, as amended.

Currently, there are 22 types of health care providers which fall under the jurisdiction of the Health Facilities Division either through State Licensure, Federal Certification or a combination of both (see Chart 1). Nine provider types are regulated under state standards only; seven are both licensed and certified, and seven are currently regulated by the state under federal standards.

The recent addition of the Clinical Laboratory Improvement Act (CLIA) by budget amendment in FY93 is the first Medicare certification program paid for by charging user fees to clinical laboratories.

Medicare and Medicaid published "Enforcement" regulations for skilled nursing facilities on August 28, 1992. It is not certain if the final enforcement rules will become effective in FY93 or FY94. The enforcement regulation when implemented will increase the Certification Bureau's workload in two areas: long-term care enforcement and nurse aide abuse investigations and the fair hearings process.

Program responsibilities for State Licensure are carried out by the Licensure Bureau; certification of Medicare/Medicaid health care providers is done by the Certification Bureau, and the Clinical Laboratory Improvement Act is administered by the Division's CLIA program. Detailed overviews, authorization and bureau functions are included in separate bureau sections of this presentation.

The division currently has 47 FTE assigned to the following areas:

Division Administration	3.00
Certification Bureau	39.00
Licensure Bureau	5.00
CLIA Program	6.00 (modifieds)

BUDGET AMENDMENTS

The CLIA budget amendment requested 6 FTE, and a Medicare budget request to support the budget amendment was approved by Medicare in October 1992. The Health Care Financing Administration (HCFA) is phasing in the implementation of CLIA and has authorized the division to fill two FTE at this time. These two positions are currently filled. A detailed summary of CLIA follows the bureau sections of this presentation.

House Bill 2 passed by the July 1992 Special Session eliminated two certification positions from the current level base for FY94 and FY95. We are requesting reinstatement of these two positions. We are also asking for reinstatement of 1 FTE removed as of December 29, 1992, by action of the joint appropriations committee.

<u>Request</u>	<u>FY94 Cost</u>	<u>FY95 Cost</u>	<u>Source of \$</u>
6.00 FTE (CLIA)	\$454,909	\$454,909	Medicare
2.00 FTE (Certification)	\$ 74,137	\$ 74,137	Medicare, Medicaid, General Fund Medicaid
1.00 FTE (Certification)	\$ 35,290	\$ 35,290	Medicare, Medicaid, General Fund Medicaid

CERTIFICATION BUREAU

Overview

The Certification Bureau is responsible for surveying all certified health care facilities in Montana, including hospitals, nursing homes, hospices and rural health clinics. Following successful surveys, the bureau recommends certification for Medicare to the Health Care Financing Administration or grants Medicaid certification.

Authorization

Authority and funding for the Medicare and Medicaid Programs is provided for by the Social Security Act. This is the agreement between the Secretary of Health and Human Services and the State of Montana to carry out the provisions of Sections 1864, 1874, and related provisions of the Social Security Act, as amended.

Bureau Functions

Functions performed by the bureau under the Section 1864 agreement are referred to collectively as the certification process. These include:

- conducting complaint investigations, certification and recertification, and follow-up surveys annually to determine if facilities are complying with the Conditions of Participation for Medicaid and Medicare;
- furnishing consultative services to providers and potential providers to enable them to qualify for participation in the programs and remain qualified to participate in the programs and to maintain standards of health care consistent with the Conditions of Participation;

- participating in validation surveys of accredited hospitals to ~~ensure the validity of~~ "deeming" to the DPH and Congress that accredited hospitals meet the Conditions of Participation; and
- conducting Fire Life Safety surveys and Fire Safety Evaluations for Medicare and Medicaid providers.

Bureau Structure

In 1990, the bureau reorganized internally in response to deficient items noted in our state agency evaluation (SAEP) conducted by regional office employees and also in preparation for implementation of the monumental nursing home reform legislation passed as OBRA 87. This reorganization has been very effective and resulted in Montana having the highest score in Region VIII in 1992. The Montana survey agency advanced from fifth out of six to first in Region VIII and represented the most significant increase in a state score in the region (see Exhibit 1 attached to the end of this presentation).

The bureau has functioning satellite offices in Billings and Polson. The Billings office is staffed with one working supervisor and eight surveyors; Polson is staffed with one supervisor and three surveyors. The satellites have allowed the bureau to increase efficiency by reducing the amount of staff travel time required to reach survey sites. The satellite offices also allow the bureau to become more visible and available to the general public and provider community.

Workload

The survey and certification process and workload have changed dramatically with the implementation of OBRA 87. These new requirements resulted in the bureau requesting an increase of 15 FTE in our FY92-93 budget. This necessary staff adjustment has allowed the bureau to fulfill its survey commitments and remain on schedule.

The bureau's workload is ultimately dictated by Congressional appropriations allocated through the Regional Office in Denver. For Federal Fiscal Year (FFY) 93-94, the survey agency is surveying 100% of all Long Term Care Facilities, Home Health Agencies, Medical Assistance Facilities, and Outpatient Rehabilitation Facilities (see Chart 2). Other provider types (primarily non-long term care) are surveyed at either 50% (mammography suppliers), or 10% (hospitals, Hospice, etc.) as directed by HCFA. These workload adjustments were necessary to accommodate the significant survey shifts brought about by OBRA 87 and new home health regulations and survey process. The Health Care Financing Administration's new mandatory guidelines for deficiency documentation have resulted in increased time necessary to produce quality reports (see Chart 3). Five areas of responsibility have had the most significant impacts on the bureau's workload: long term care, home health, the nurse aide training program, complaints and new providers. A discussion of the challenges posed by each area follows.

Long Term Care. The initial OBRA 87 regulations and survey process for nursing homes were implemented on October 1, 1990, with final regulations going into effect on April 1, 1992. This new survey process brought a new philosophy and procedures for surveying long term care

facilities that are "resident focused" and "outcome oriented." The process focuses almost exclusively on assessing the adequacy of care and services being delivered directly to residents. Less attention is now paid to structural or procedural requirements, and more emphasis is placed on resident rights, quality of care, quality of life and resident assessment requirements. The new OBRA survey process and regulations have resulted in surveys being from 1.3 to 3.7 times longer.

The new OBRA 87 regulations and survey process, along with changes that allow more flexibility in scheduling facility surveys, mean the bureau is able to identify and focus more of its time and resources on facilities providing substandard care. As a result, the bureau is seeing an improvement in the quality of care and services in all facilities.

OBRA 87 required all surveyors inspecting nursing homes to be specially trained and tested for competency. The survey agency has had to develop a comprehensive orientation program for new surveyors, including both classroom and on-site instruction. Surveyors are now required to take and pass a standardized national examination which will result in a certification for Long Term Care Surveyors. All bureau surveyors took this exam on December 7, 1992.

Home Health Agencies. New regulations and a survey process for home health agencies have been in effect since March 1991. The new process uses a functional assessment instrument (FAI) which requires a significant increase in the amount of time surveyors spend reviewing records to determine quality of care. Surveyors are spending approximately 2-1/2 times longer per survey than prior to implementation of the 1991 survey instrument. Home visits are now required for every survey, which greatly impacts survey time. Additionally, the number of home health agencies has increased by 25% (from 39 to 47) over the past two years. The agency continues to operate a toll-free home health hotline to receive consumer complaints and answer questions related to home health services.

Nurse Aide Training and Competency Evaluation Program. OBRA 87 required states to implement mandatory training and competency evaluation of nurse aides working in long term care and home health settings. The bureau manages a registry of more than 7,000 certified nurse aides. The bureau has had to dedicate staff to conduct required ongoing surveys of training programs in more than 100 different locations. Staff also oversee the standardized nurse aide testing program (two vendors). The bureau is also responsible for accepting, reviewing and investigating all cases of abuse of residents occurring in nursing homes and maintaining a registry of nursing home employees deemed to have committed abuse. In FY92, the bureau received and processed 121 complaints of resident abuse in nursing homes, up from 38 reported cases of abuse in FY91. These complaints are increasing as more individuals become aware of the regulations.

Complaints. The bureau has seen a marked rise in the number of complaints received concerning health care facilities (see Chart 4). As this graph indicates, complaint investigations have increased about 30% from FY91 to FY92. Based upon current projections, the number will increase another 30% in FY92. All complaints require on-site investigations, which can increase travel and survey time.

New Providers. The bureau has seen a significant increase in the number of new providers. The most dramatic increase has been with the new mammography program (32 new providers in the past two years), and Rural Health Clinics, which have increased by 11 in the past two years. The

bureau has had a total of 76 new provider requests for Certification surveys since July 1, 1991 (see Chart 5).

LICENSURE BUREAU

Overview

The Licensure Bureau is responsible for state-authorized licensure of health care facilities and services in Montana through reasonable, practical, and realistic regulatory oversight in accordance with Montana law and administrative rules. The bureau is also responsible for the review of all health care facility construction and renovation projects.

Authorization - Montana Code Annotated

Authority to license and adopt standards for health care facilities and services in Montana is collectively located in 50-5-103-109 MCA (authority to promulgate and adopt rules for health care facility/service licensure standards), 50-5-201-231 MCA (health care facility/service licensure law), 50-5-1101-1107 MCA (Montana Long-Term Care Residents' Bill of Rights Act), and 75-10-1001-1006 MCA (Infectious Waste Management Act).

Bureau Functions

The general operations of the Licensure Bureau fall under six general areas of activities. First, for the immediate future, we will use the services of agency counsel and bureau personnel to lead an effort to update and clarify state licensure standards for health care facilities and services. These changes are imperative to accurately and reasonably reflect the many changing faces of the health care system.

Second, the bureau will continue to conduct licensure surveys of health care facilities/services annually to triennially to determine compliance with state licensure laws which are designed to assure the safety of residents/patients. Chart 6 indicates the Licensure Bureau's inspection responsibility for both licensed-only and licensed and certified facilities.

Third, the bureau is obligated to assist with new or potential providers in developing a new health care facility or service to ensure standards will be met previous to start-up and in accordance with Montana law.

Fourth, a major component of the bureau is to review, approve and conduct preliminary through final inspections of all renovation or new construction plans of health care facilities. Chart 7 shows 1991 calendar year activities related to construction review. If LC 1389 should pass, it is our intent to develop a design review system which would centralize various review structures at the state and local levels and be funded through a fee-based system. We have received positive feedback from the health care industry on such a system.

The fifth responsibility of the bureau is to conduct complaint investigations in licensed-only facilities. Finally, the bureau has become a referral source for many information requests regarding licensure and other health-related issues. Therefore, bureau staff provides a variety of consultative and technical assistance to providers, potential providers, consumers and the general public.

Workload

Montana law requires the department to issue licenses from one to three years based on facility or service inspections. For the licensed-only health services, the Licensure Bureau is responsible for all inspections. For the licensed and certified services, the Licensure Bureau is responsible for inspections which the federal government does not authorize or fund through the Certification Bureau. For example, in the current federal fiscal year, the federal government has authorized the department to inspect 10% of hospitals not accredited by the Joint Commission on Healthcare Organizations. There are 57 licensed and certified hospitals in the state. Sixteen of those are Joint Commission accredited. Of the remaining 41, 4 (10%) will be inspected under federal certification requirements. The 37 other hospitals then fall under the regulatory jurisdiction of state health facility licensure laws.

CLIA '88

Overview

The Health Facilities Division has responsibility under the Clinical Laboratory Improvement Amendments of 1988 to survey clinical laboratories. The CLIA '88 regulations, established by Section 353 of the Public Health Services Act, became final on September 1, 1992. The regulations require that all sites performing clinical laboratory testing for the purpose of diagnosis and assessment of human health be surveyed and certified under regulations mandating quality control, proficiency testing and personnel qualifications. Laboratories performing only six basic waived tests will be certified but not inspected. Laboratories accredited by other agencies approved by HHS will be validated on a random basis.

Workload

Previous laboratory regulations (CLIA '67) required only hospital and independent reference laboratories be included in a survey and certification program. Fifty-three Montana laboratories were in the laboratory certification program in FY92. Under new CLIA '88 regulations, the laboratory certification workload will increase to approximately 390 laboratories to be inspected biennially and an additional 125 laboratories with Certificates of Waiver. The new workload is made up primarily of physician office laboratories but will also include Rural Health Clinics, Medical Assistance Facilities, family planning clinics, WIC programs, surgicenters, county health departments, wellness clinics, end-stage renal disease centers, student health clinics and chiropractic office laboratories. Taking into account the change from annual to biennial inspections, CLIA will increase the laboratory inspection workload fourfold.

DATE 2-15-93
SB _____

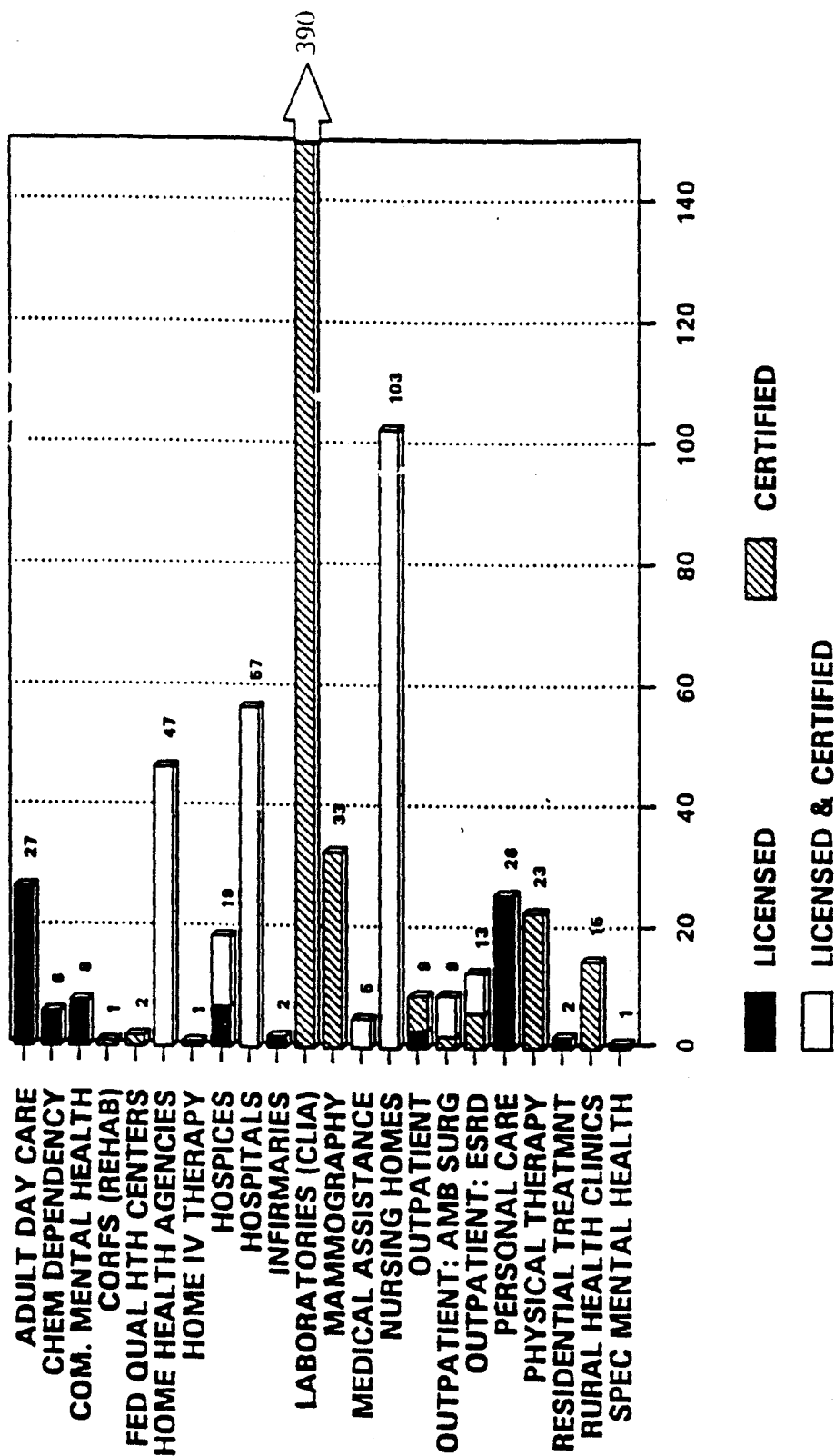
The CLIA Program is responsible for all survey and follow-up activities, enforcement, complaint investigations, validation surveys of accredited laboratories and issuing CLIA certificates. Also, the CLIA Program must monitor proficiency testing which laboratory personnel in all laboratories are required to perform three times yearly.

The increased time it takes to complete the survey process and the increased workload requires four surveyors to perform all surveys, follow-up surveys, validations and complaint investigations. Three of these surveyors will be based in Helena, and one will be based in the Billings office in order to reduce travel. A CLIA Program Supervisor is responsible for all Quality Assurance review of reports, new provider assistance, scheduling, complaint and survey processing, training, proficiency testing monitoring, supervision of surveyors, HCFA required reports and fiscal management. One support person will be required to be responsible for all clerical duties, issuing CLIA certificates and inputting data to the Central Office mainframe in Baltimore.

CLIA surveys of previously regulated laboratories began December 1, 1992 using already trained laboratory surveyors from the old CLIA '67 program. While the challenge of implementing the new federally mandated CLIA regulations will require additional staff and equipment, the program will operate on a fee-based system.

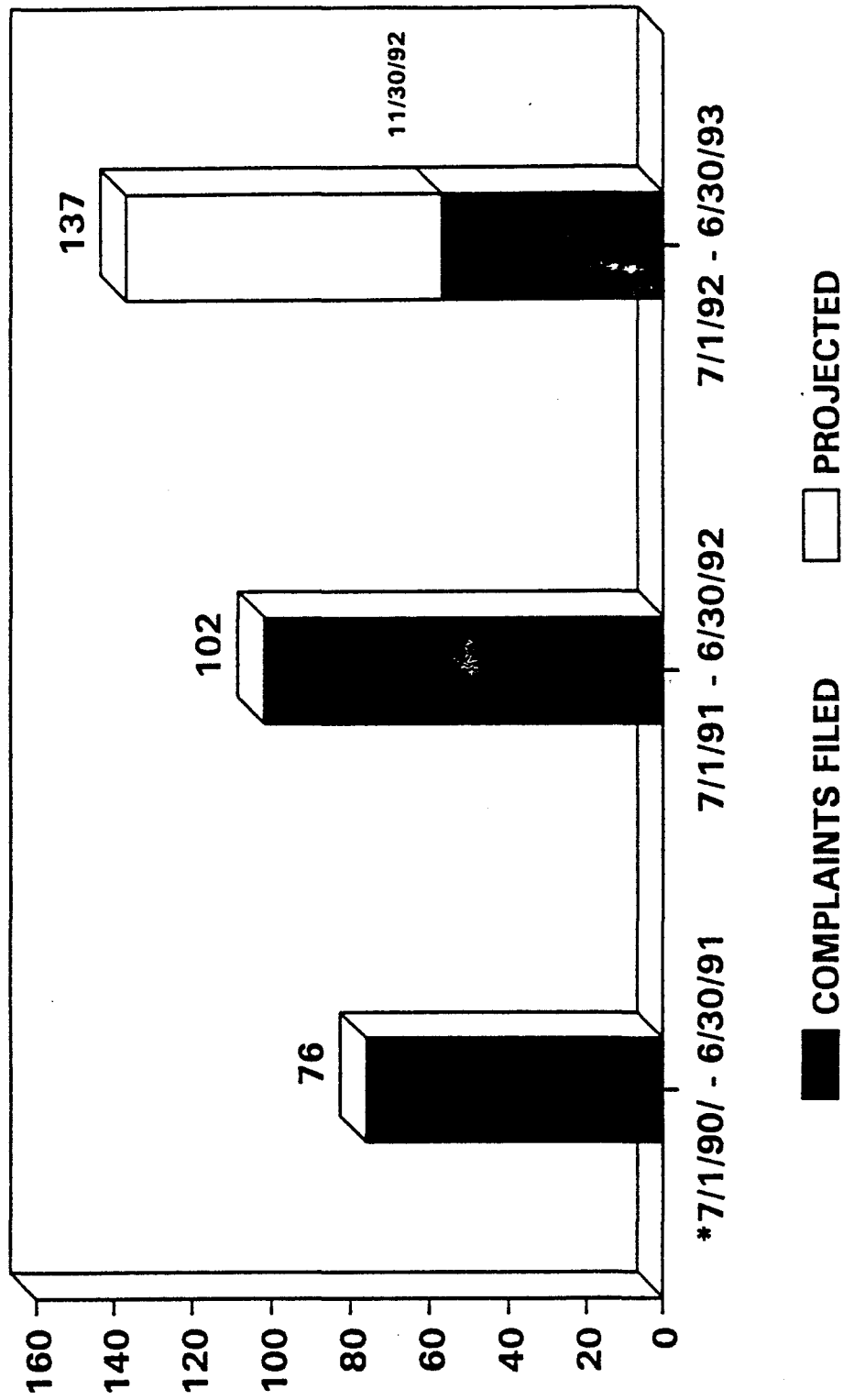
CHART 1

HEALTH FACILITIES & SERVICES 1992



SOURCE: HEALTH FACILITIES DIVISION

CHART 4 COMPLAINTS FILED



*INCLUDES PERSONAL CARE (LICENSED ONLY)

EXHIBIT 2
DATE 2-15-93
SB _____

CHART 5

INITIAL CERTIFICATION SURVEYS REQUESTED

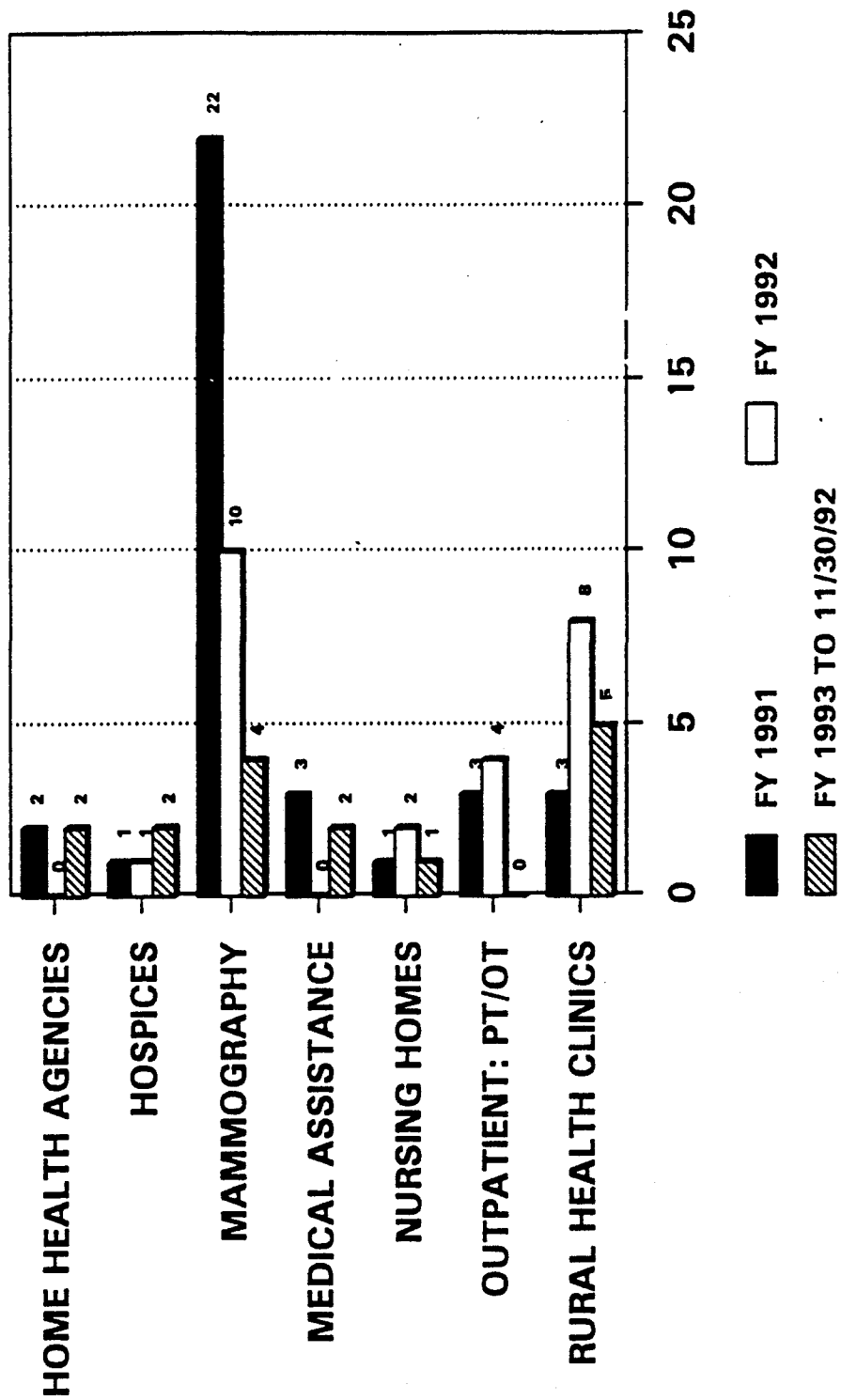
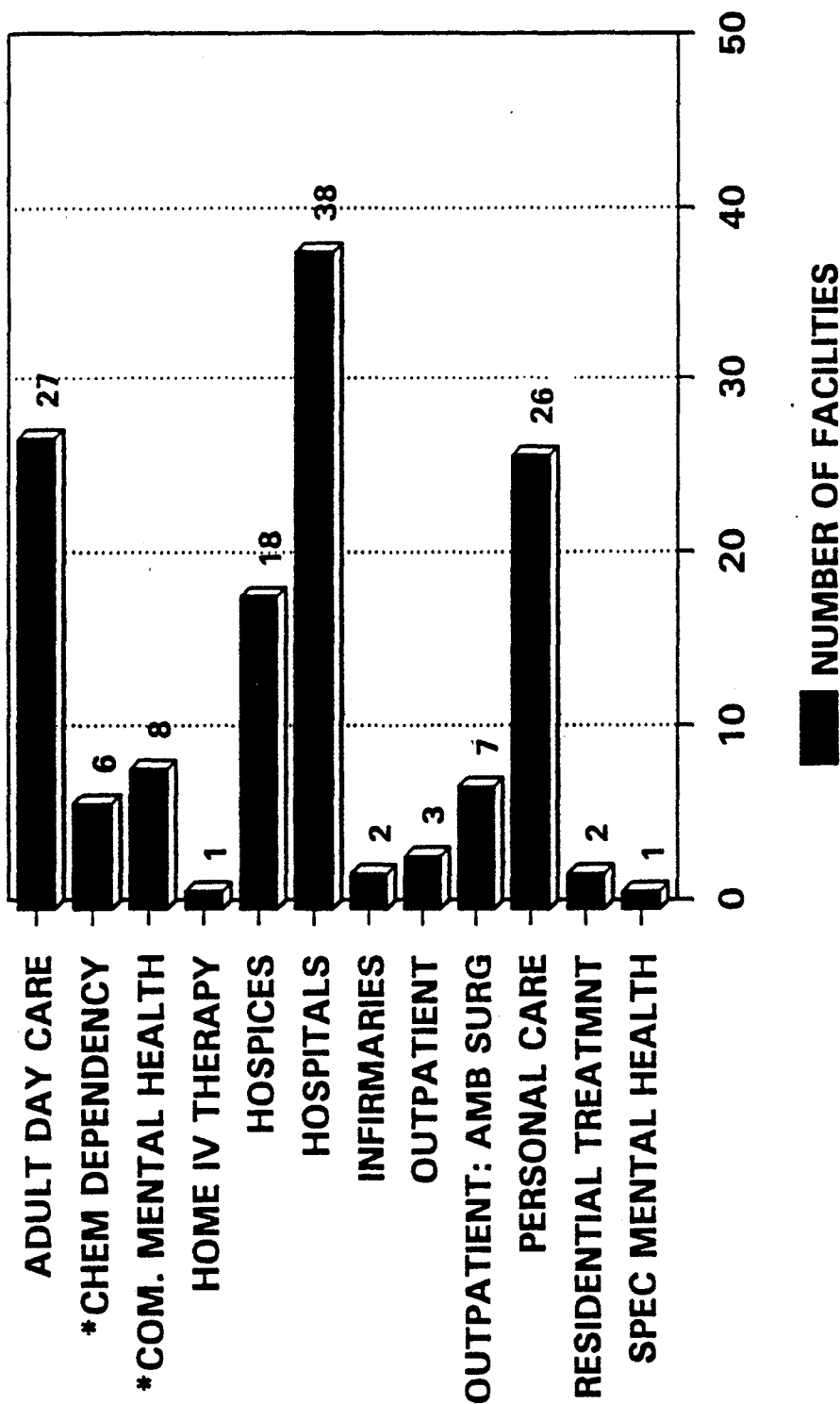


CHART 6

SURVEY WORKLOAD - LICENSURE

EXHIBIT 9
DATE 2-13-93
SB _____

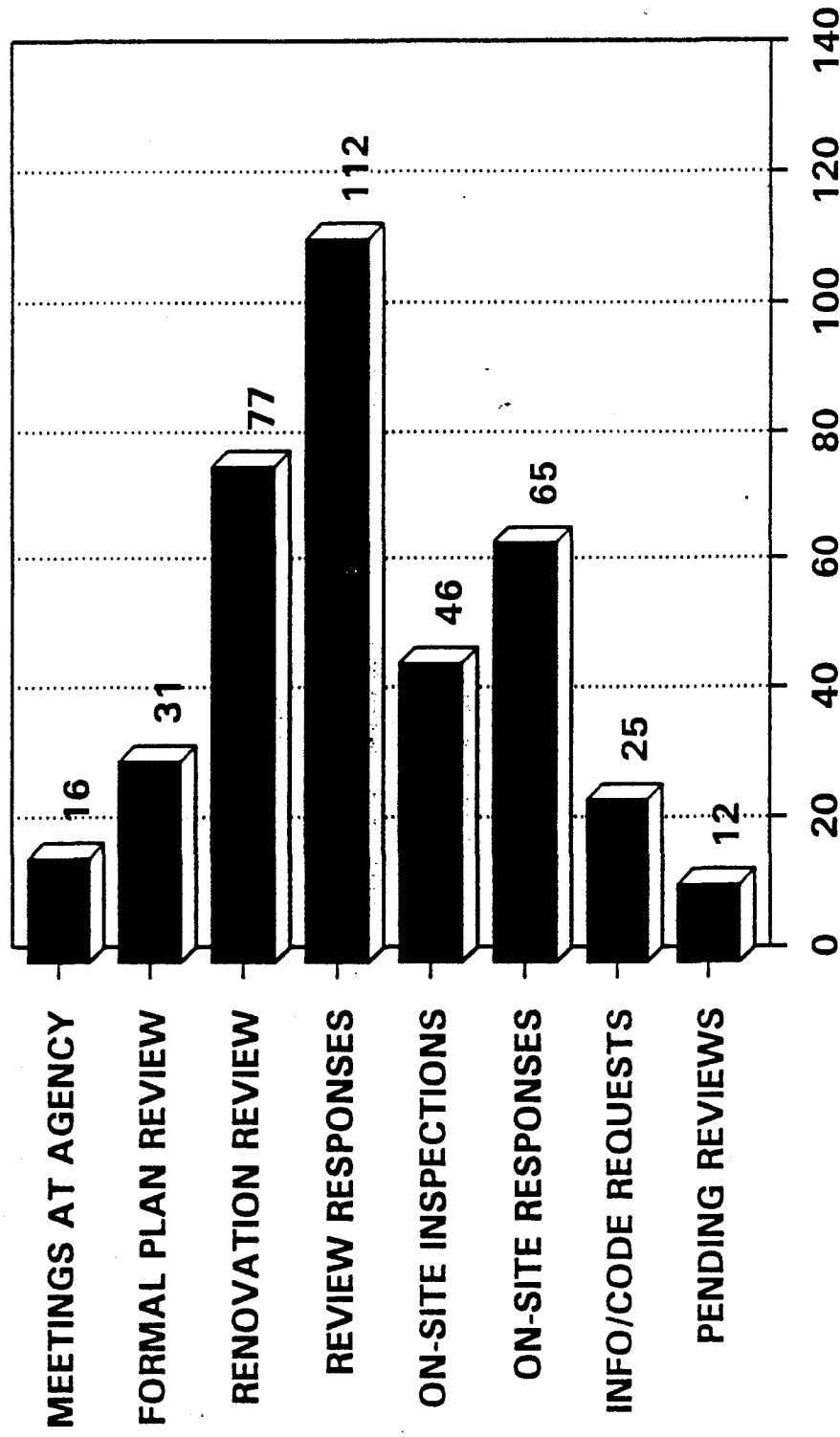


*SURVEYS CONDUCTED BY DCHS

CHART 7

CONSTRUCTION PROGRAM - LICENSURE

WORKLOAD - JAN. THROUGH NOV. 1992



NARRATIVE

Comprehensive Evaluative Report

Montana State Survey Agency

Fiscal Year 1992

The Social Security Act mandates the establishment of minimum health and safety standards which providers and suppliers participating in the Medicare and/or Medicaid Programs must meet. The Secretary of the Department of Health and Human Services has designated the Health Care Financing Administration (HCFA), and within HCFA, the Division of Health Standards and Quality (DHSQ), to administer/monitor the compliance aspects of these programs.

The Montana Department of Health and Environmental Sciences, Health Services Division, Certification Bureau, hereinafter referred to as the State Agency, has responsibility for performing initial and periodic surveys of all providers and certain kinds of suppliers to evaluate their performance and effectiveness in rendering safe and acceptable quality of care. The DHSQ Regional Office, through the State Agency Evaluation Program (SAEP) continuously monitors the State Survey Agencies to ensure that all survey and certification functions are performed properly.

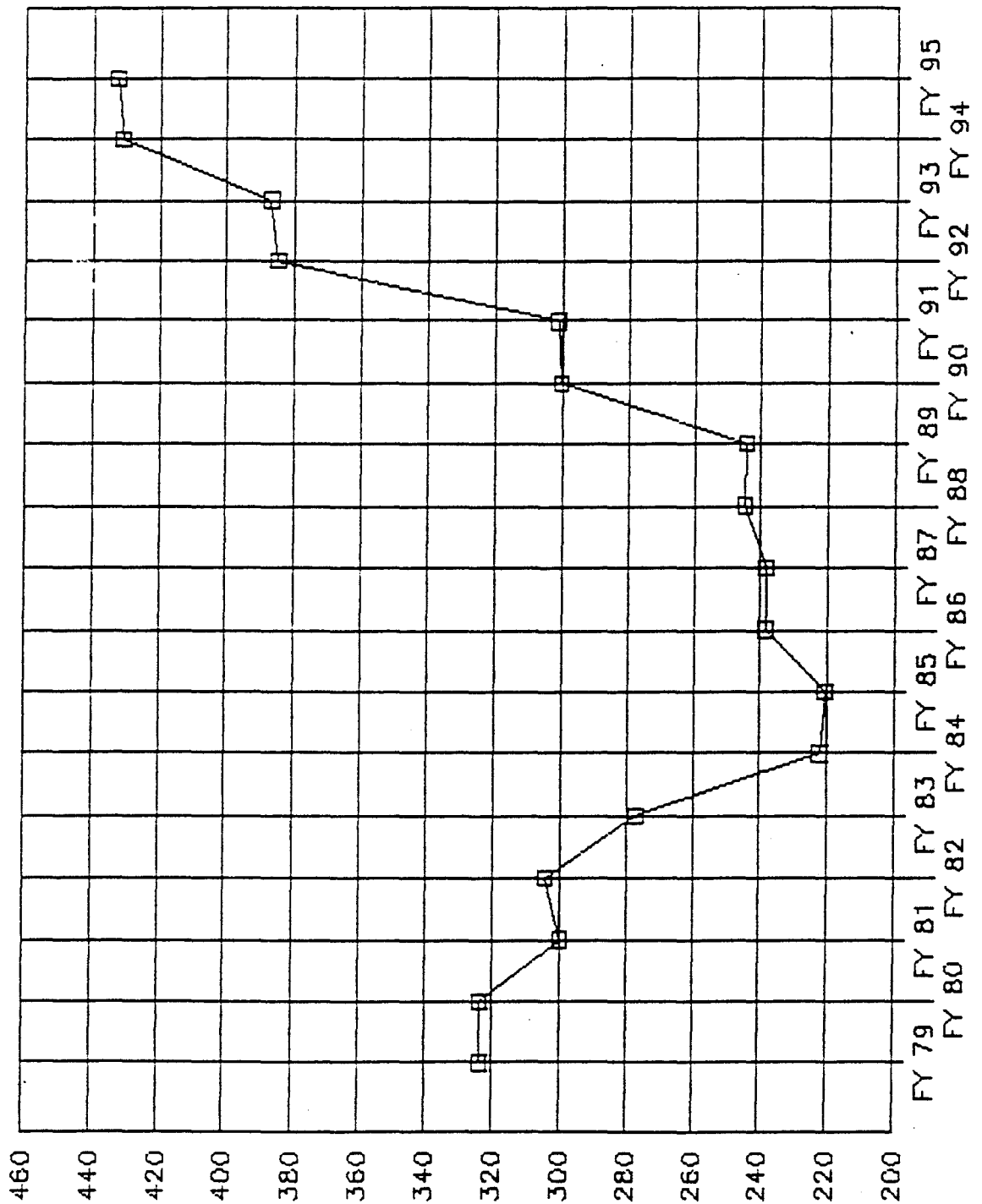
The SAEP process consists of a review by the HCFA Regional Office of seven (7) Criterion with a total of 52 Standards. These are as follows:

- Criterion I - Survey Proficiency (Six Standards)
- Criterion II - Fiscal Management (Eight Standards)
- Criterion III - Process Management (Six Standards)
- Criterion IV - Survey Management (Six Standards)
- Criterion V - Complaint Management (Eight Standards)
- Criterion VI - Evidentiary Requirements (Eleven Standards)
- Criterion VII - Federal Monitoring Survey (Seven Standards)

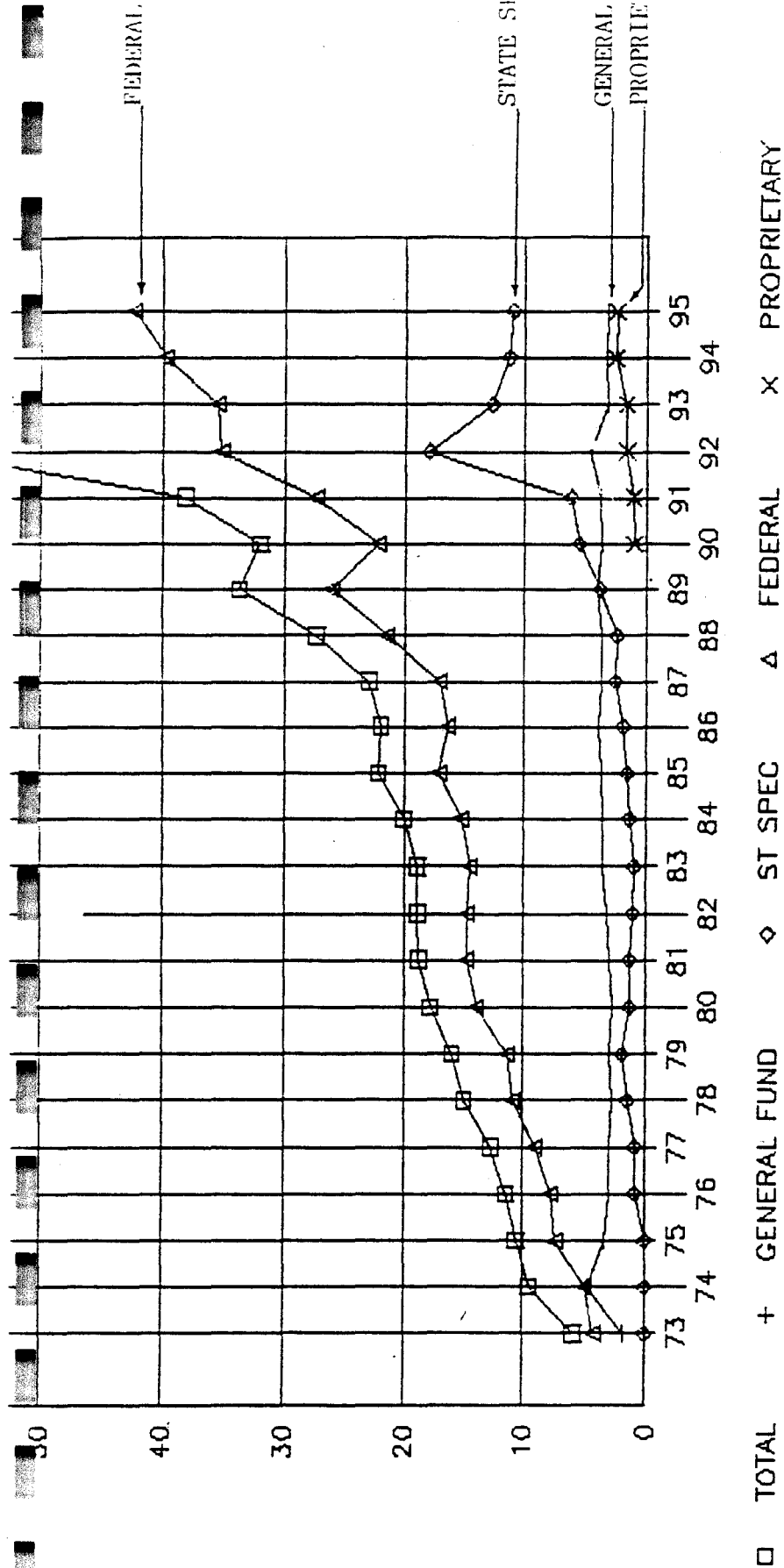
Based on the results of the Regional Office review, each Standard is scored by multiplying the performance level times the weight of the Standard. For any Standard in which the State Agency did not have activity up to the time the review was performed, the weight for that particular Standard is redistributed among the remaining Standards in proportion to the performance levels of those Standards in the Criterion which did have activity.

Montana Department of Health

F.T.E. FY 79-95



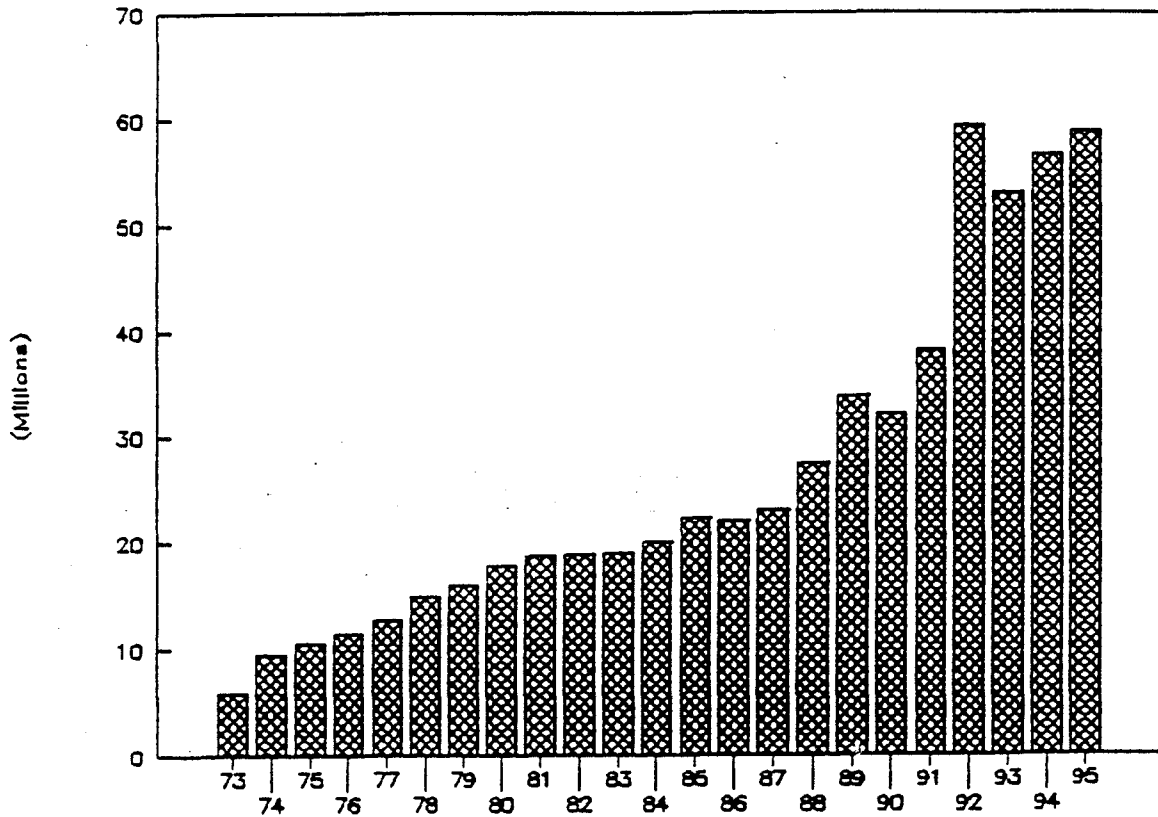
(Millions)



DATE 2-15-93
HB _____

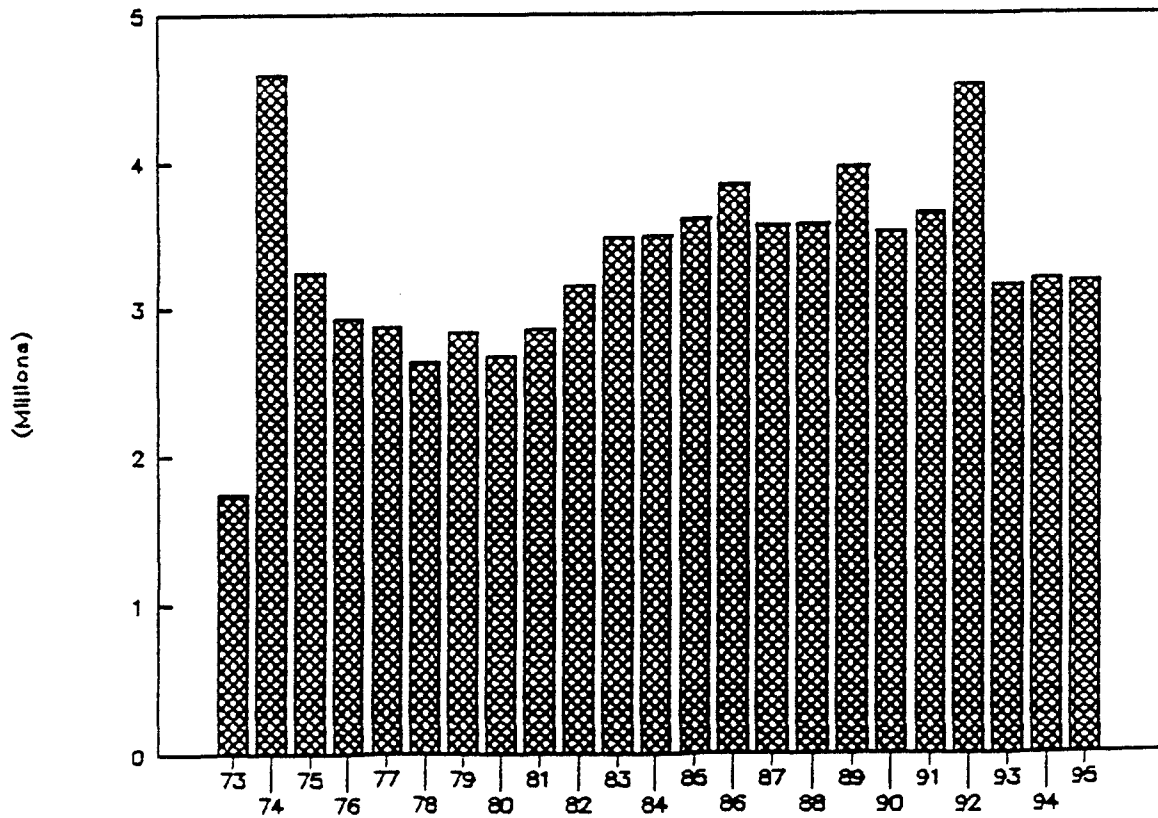
DEPARTMENT OF HEALTH

TOTAL FUNDING FY 73-95



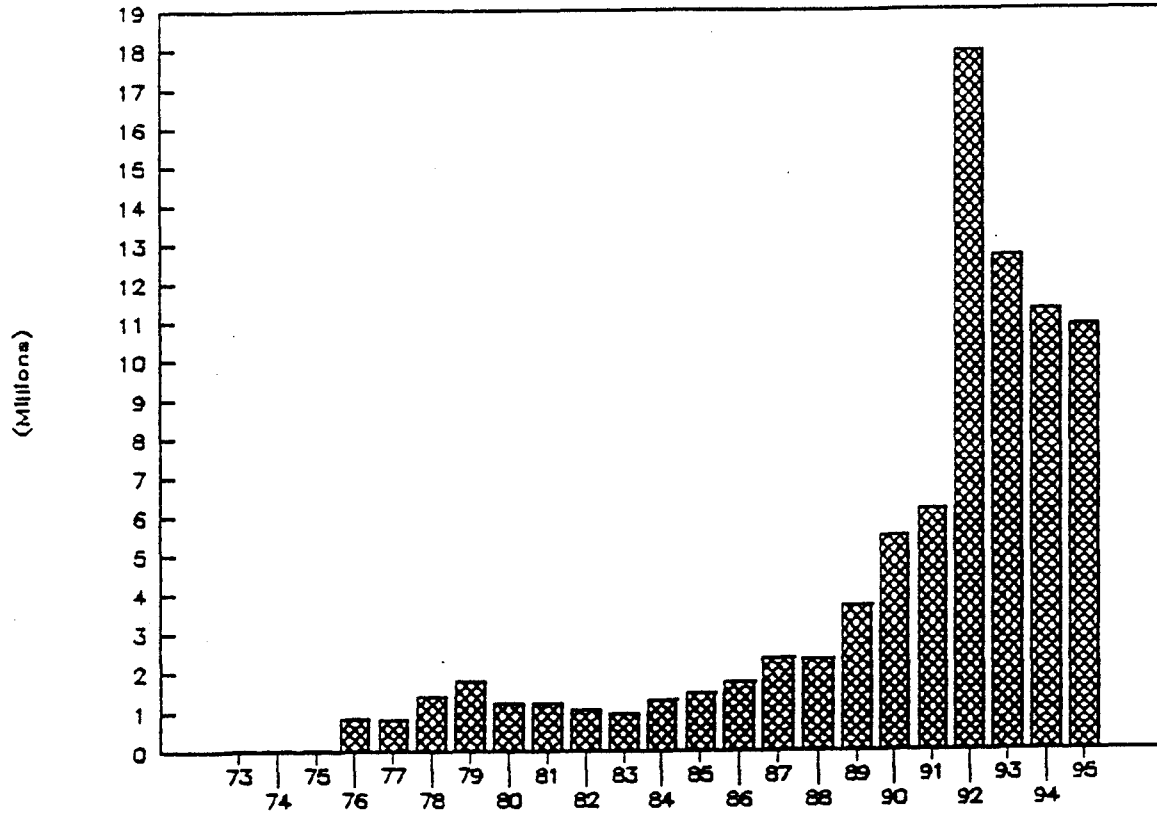
DEPARTMENT OF HEALTH

GENERAL FUND FY 73-95



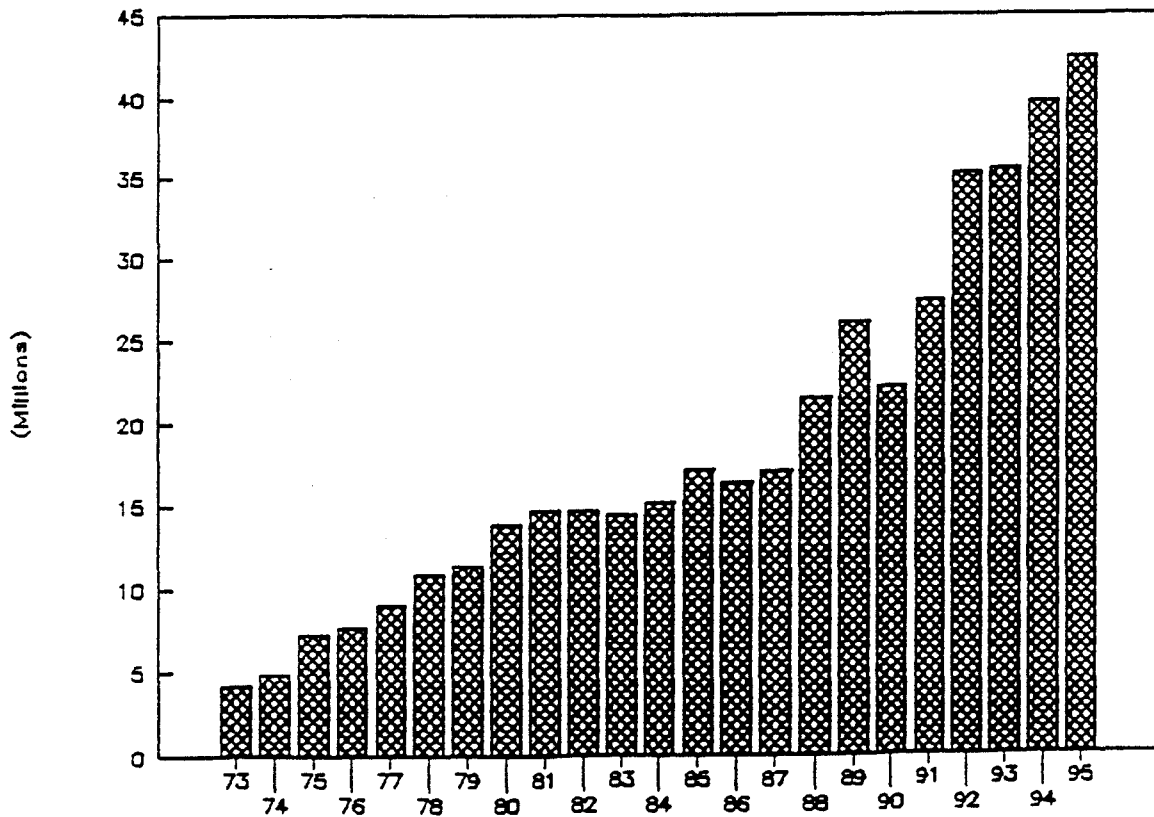
DEPARTMENT OF HEALTH

STATE REVENUE FY 73-95



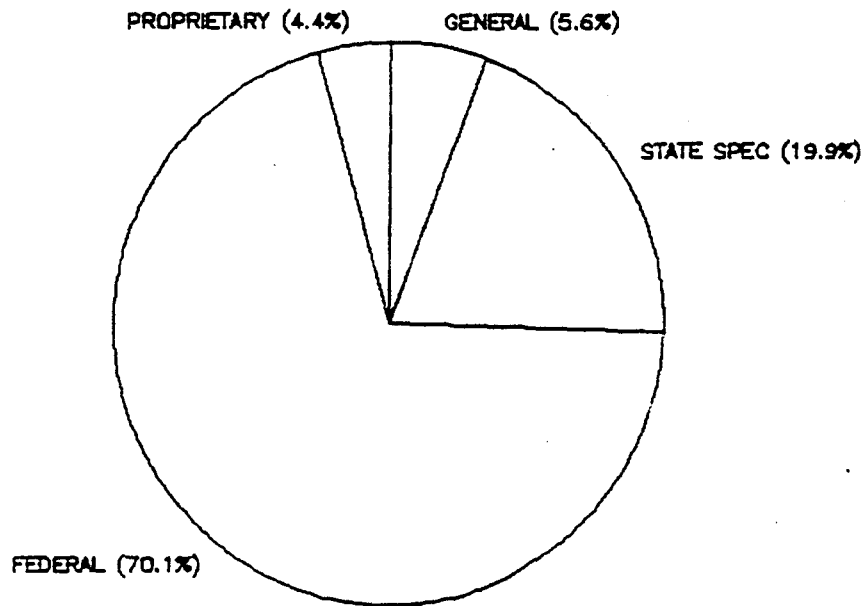
DEPARTMENT OF HEALTH

FEDERAL REVENUE FY 73-95

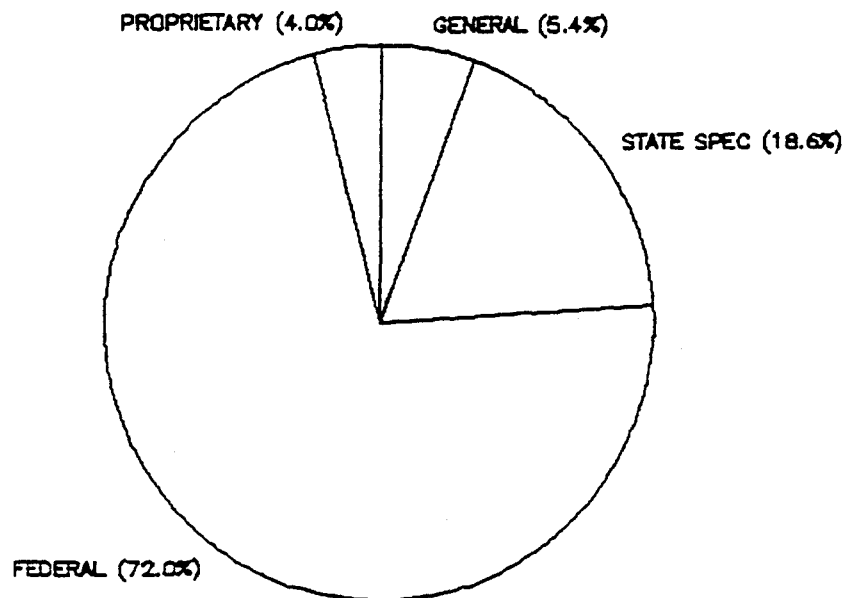


DEPARTMENT OF HEALTH
FUNDING FY 1994

DATE 2-15-93
HB



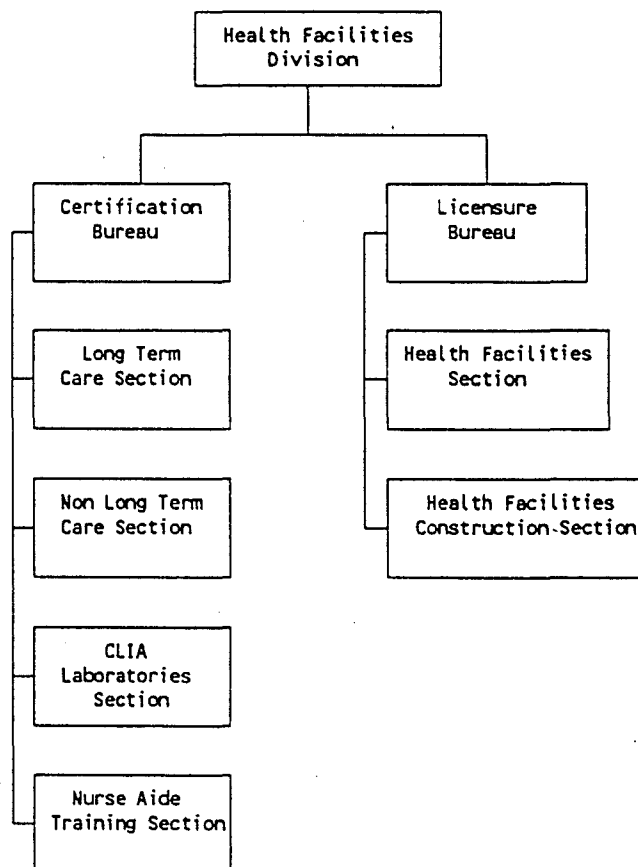
DEPARTMENT OF HEALTH
FUNDING FY 1995



DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES GRANTS/AGREEMENTS 1993

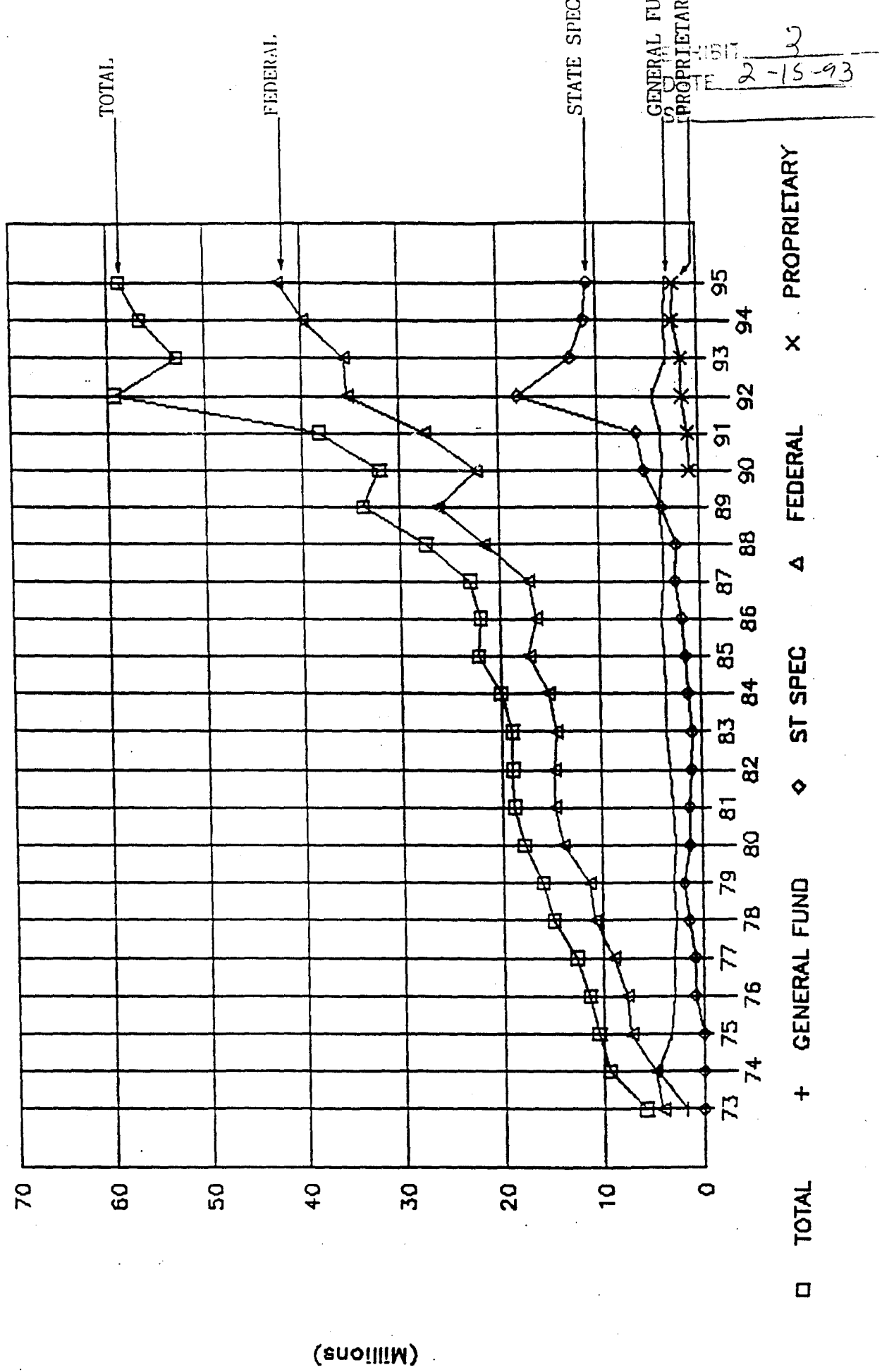
NAME	AWARDING AGENCY	GRANT PERIOD	\$ FEDERAL	CARRY-OVER	\$ STATE	\$ TOTAL
NATIONAL DEATH INDEX	HHS	Jan 1 - Dec 31	4,600			4,600
VITAL STATISTICS	HHS	Jan 1 - Dec 31	110,294			110,294
SOCIAL SECURITY ADMIN	HHS	Jan 1 - Dec 31	12,000			12,000
WATER QUAL MANAGEMENT (205J)	EPA	Jul 1 - Jun 30	102,000		137,257	239,257
DRINKING WATER	EPA	Jul 1 - Jun 30	428,228	43,931	157,387	629,546
WATER POLLUTION CONTROL (105)	EPA	Jul 1 - Jun 30	647,070		85,388	732,458
GROUNDWATER PROGRAM 106A	EPA	Jul 1 - Jun 30	222,423	27,808		250,031
NPS MANAGEMENT PGM 315H CONGE	EPA	Mar 1 90 - Jun 30 94	658,447		438,954	1,097,411
NPS IMPLEMENTATION PROGRAM	EPA	Oct 1 89 - Sep 30 94	290,000		193,333	483,333
NPS POLLUTION CONTROL	EPA	Jul 1 92 - Jun 30 95	682,132		500,000	1,182,132
STORMWATER POLLUTION CONTROL	EPA	Sep 1 92 - Sep 30 93	128,245			128,245
STORMWATER POLLUTION CONTROL	EPA	Sep 1 91 - Jun 30 93	99,365			99,365
CONSTRUCTION GRANTS (205G)	EPA	Jul 1 - Jun 30	166,171	1,077,420		1,243,591
CONSTRUCTION OF ALLOWANCE (205G)	EPA	Jul 1 - Jun 30	150,000			150,000
STATE REVOLVING FUND (SRF)	EPA	May 1 92 - Sep 30 95	10,074,800		2,014,960	12,089,760
MUNICIPAL WATER POLLUTION	EPA	Jul 1 92 - Jun 30 94	50,000			50,000
EPA DATA MANAGEMENT	EPA	Aug 1 92 - Sep 30 93	28,383		1,798	27,771
CLEAN LAKES ASSESSMENT	EPA	Apr 20 92 - May 14 94	30,000		30,000	60,000
CLEAN LAKE SWAN LAKE	EPA	Apr 20 92 - May 2 95	70,000		30,000	100,000
CLEAN LAKE FLATHEAD LAKE	EPA	Jul 15 91 - Jul 14 93	70,000		30,000	100,000
WETLANDS AND WATERSHED	EPA	Jul 1 92 - Sep 30 95	682,132		500,000	1,182,132
AIR QUALITY (105)	EPA	Jul 1 - Jun 30	1,232,227	28,818	449,843	1,710,888
HAZARDOUS WASTE	EPA	Jul 1 - Jun 30	556,508		185,532	742,130
UNDERGROUND STORAGE TANKS (UST)	EPA	Jul 1 - Jun 30	147,500	15,000	54,167	216,667
LEAKING UNDERGROUND TANK (LUST)	EPA	Jul 1 90 - Jun 30 93	2,293,432		254,825	2,548,257
SUPERFUND CORE PROGRAM	EPA	Apr 1 88 - Jun 30 94	1,013,724		79,692	1,093,416
SILVERBOW CREEK (SUPERFUND)	EPA	Oct 17 83 - Sep 30 92	8,736,254		21	8,736,275
MULTI-SITE (SUPERFUND)	EPA	Apr 1 85 - Feb 15 93	3,820,228			3,820,228
MONTANA POLE RIFTS	EPA	Mar 31 88 - Sep 30 93	1,095,970			1,095,970
ROBERT WOOD JOHNSON	PRIVATE	Mar 1 92 - Aug 31 93	92,342			92,342
PC SERVICES MANPOWER	HHS	Sep 30 91 - Mar 31 93	144,943			144,943
EMS CONTRACT	NHTSA		69,000			69,000
TRAUMA CARE	HHS	Oct 1 92 - Sep 30 93	171,337			171,337
FAMILY PLANNING	HHS	Jul 1 - Jun 30	883,053		1,792,195	2,675,248
CHILD NUTRITION(AUDIT)	USDA	Oct 1 92 - Sep 30 93	98,574			98,574
CHILD NUTRITION(SAE)	USDA	Oct 1 92 - Sep 30 93	213,038			213,038
CHILD NUTRITION(REIMBURSEMENT)	USDA	Oct 1 92 - Sep 30 93	6,000,000 *****			6,000,000
WOMEN,INFANT,CHILDREN(ADM)	USDA	Oct 1 92 - Sep 30 93	2,571,807			2,571,807
WOMEN,INFANT,CHILDREN(FOOD)	USDA	Oct 1 92 - Sep 30 93	8,000,000 *****			8,000,000
PRIMARY CARE	HHS	Oct 1 91 - Mar 31 93	20,000			20,000
MCH DATA UTILIZATION	HHS	Oct 1 92 - Sep 30 93	40,000			40,000
MCH BLOCK GRANT	HHS	Oct 1 92 - Sep 30 93	2,478,151		1,858,613	4,336,764
STD CONTROL PROGRAM	HHS	Jan 1 92 - Dec 31 93	299,853			299,853
IMMUNIZATION PROGRAM	HHS	Jan 1 93 - Dec 31 93	387,498			387,498
PHS BLOCK GRANT	HHS	Oct 1 92 - Sep 30 93	1,010,983			1,010,983
TB CONTROL	HHS	Apr 1 92 - Jan 31 93	53,533			53,533
CHRONIC DISEASE CONTROL	HHS	Sep 1 92 - Aug 31 93	191,539			191,539
AIDS PREVENTION PROJECT	HHS	Jan 1 93 - Dec 31 93	95,782	5,338		101,120
AIDS HOME HEALTH	HHS	Apr 1 92 - Mar 31 93	100,000			100,000
AIDS SURVEILLANCE	HHS	Jan 1 93 - Dec 31 93	142,044	750		142,794
MEDICARE(T18)	HHS	Oct 1 92 - Sep 30 93	1,236,261			1,236,261
MEDICAIDE(T19)	HHS	Oct 1 92 - Sep 30 93	477,365		159,121	636,486
CLINICAL LABORATORY (CLIA)	HHS	Oct 1 92 - Sep 30 93	353,932			353,932
TOTAL			58,729,256	1,198,865	8,952,694	68,880,815

EXHIBIT 2
DATE 2-15-93
SB _____



DEPARTMENT OF HEALTH

TOTAL FUNDING FY 73-95



MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

SCOPE OF RESPONSIBILITIES

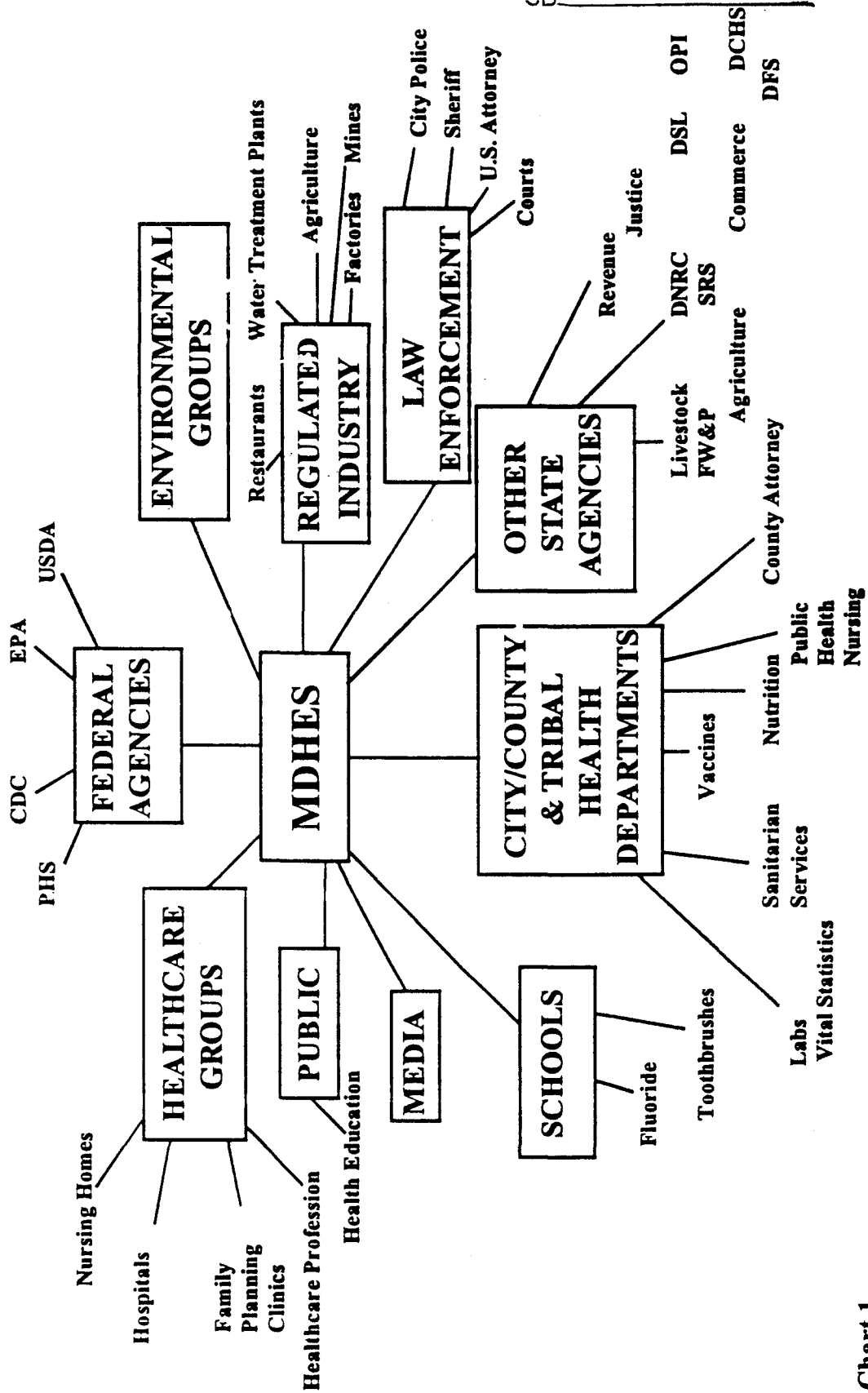


EXHIBIT 2
DATE 2-15-93
SB _____

Chart 1

Table 1

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
GENERAL FUND EXPENDITURES AS A PERCENTAGE OF
TOTAL STATE GENERAL FUND EXPENDITURES**

FY	TOTAL STATE GENERAL FUND EXPENDITURES	DEPT. OF HEALTH GENERAL FUND EXPENDITURES	PERCENT OF TOTAL
83	\$340,013,763	\$3,489,232	1.03%
84	\$356,613,882	\$3,450,653	0.98%
85	\$377,141,607	\$3,610,210	0.96%
86	\$368,996,003	\$3,853,776	1.04%
87	\$390,423,182	\$3,564,518	0.91%
88	\$372,136,111	\$3,577,681	0.96%
89	\$389,860,049	\$3,978,815	1.02%
90	\$429,700,688	\$3,522,186	0.82%
91	\$456,781,077	\$3,648,332	0.80%

EXHIBIT 3
DATE 2-15-93
SB

Health Services Division

Department of Health
and Environmental Sciences

2-15-93

EXHIBIT 3
DATE 2-15-93
SB

BUDGET PRESENTATION

**DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES**

PRESENTED TO THE

**APPROPRIATIONS - FINANCE AND CLAIMS
JOINT SUBCOMMITTEE ON
HUMAN SERVICES AND AGING**

53RD LEGISLATURE

FEBRUARY 1993

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

1994-95 Biennial Budget Overview Major Policy Issues

"The primary mission of the Montana Department of Health and Environmental Sciences is to protect, promote and enhance public health and environmental quality for the benefit of all Montana citizens."

Specifically, the department is committed to the following goals:

- Goal 1 Increase the span of healthy life for Montanans
- Goal 2 Reduce health disparities among Montanans
- Goal 3 Achieve access to preventive services for all Montanans

These goals paraphrase the national goals for Healthy People 2000.

Reduced to its most basic elements, the role of the Department of Health and Environmental Sciences is disease prevention. At the core of each department program are disease prevention/public health and the health promotion responsibilities. Recognition of that role is often lost to many, from license/permit applicants to the general public.

The department was established in 1901 to control tuberculosis and has evolved into an agency consisting of five major components, four divisions and director's office, 15 bureaus and more than 40 distinct programs, many of which are further divided into multiple subprograms.

The agency may well have the broadest scope of responsibility of all state departments and be the most financially complex.

As you can see from Chart 1, the department has direct contact with nearly every other state agency, all local government units, all businesses providing food and drink, every major industrial operation, medical treatment facility, nursing home or personal care facility, and most importantly, nearly all Montanans, especially the medically needy, for purposes of disease prevention and diagnosis.

The common theme uniting these functions is preventive health, with responsibilities ranging from AIDS prevention to water quality monitoring to prevent water-borne contamination and resulting illness. These functions are as fundamental to the well being of Montanans as any other need or purpose affecting those citizens.

Major issues related to the Department of Health and Environmental Sciences budget can be divided into two broad policy categories:

- The role and function the state will provide in health and environmental programs and related financing
- Major management prerogatives related to how services are provided

The role of the state in public health issues is controlled by financing public health programs.

Issue #1 Appropriate level of general fund support for DHES

- Since 1983, annual general fund expenditures for DHES functions have been relatively static, fluctuating between \$3.5 and \$3.9 million per year.
- DHES general expenditures as a proportion of total state general fund expenditures have actually declined from slightly more than 1% of total general fund expenditures to .8% (see Table 1).
- The relative decline in general fund support for DHES operations is even more dramatic when compared to total expenditures of the department, with general fund declining from 18.4% of DHES total expenditures in FY83 to 5.9% in FY93 (see Chart 2).
- One effect of these changes has been to shift policy and program control from addressing basic state needs to one of serving the population that can pay fees and operating as the local agency implementing federal government policy.

Issue #1(a)

Utilization of fees to support state laboratories

- Appropriate level of support from fees?
Budget request for Chemistry Lab is 21.4% of annual budget (approximately \$91,500 per year), and for the Public Health Lab is 16.5% of annual budget (\$190,000 per year).
- General fund reductions result in increased costs to local and county health offices and other department preventive health programs. General fund is provided to pay the cost of tests for general-fund supported programs.

Issue #1(b)

Utilization of fees to finance environmental programs

Fee bills proposed by the department to fund statutory functions

HB 318	Air Quality Fees
HB 388	Water Quality Fees
HB 592	Hazardous Waste Fees
HB 563	Subdivision Review Fees
HB 400	Nuclear Regulatory Inspection Fees

- Given the history of general fund support for the environmental health functions, it is clear the Legislature has increasingly relied on fees to support ever-increasing workloads.

- How should the department respond - budget authority, budget amendment or ignore?

Issue #4 Vacant positions - hiring freeze - resulting impact on department operations

MANAGEMENT POLICY ISSUES

Issue #5 Department organization and supervisor span of control.

- Reexamination of administrative structure is essential in at least the environmental sciences division and in the provision of legal services.

Issue #6 Support resources

- The proper level of support staff is essential to ensure various programs are run in accordance with law and federal contract provisions.
- Contract management is a critical component when we administer approximately \$30 million dollars by contract.

Issue #7 Contracting for appropriate services - better coordination with local health departments

- The department will be emphasizing contracts as a key element to implementing its programs at the local level.
- Opportunities for contracting with county health offices will be emphasized and examined as an alternative to state employees in each program.

Issue #8 Decentralizing state staff

- Regional field offices are to be examined as a means of providing more "face-to-face" service with department "customers."

- How should the department respond - budget authority, budget amendment or ignore?

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EXHIBIT 3
DATE 2-15-93
SB _____

ENVIRONMENTAL PERMIT FEES
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

In the past two years, the Department of Health and Environmental Sciences, like environmental regulatory agencies nationwide, has found it necessary to seek alternate means of funding in order to meet statutory responsibilities during times of declining revenues from traditional sources. The establishment of a fee, charged to the regulated community or to those who benefit from a state program, appears to be one of the more viable options. During the 1991 Legislative Session, fee authority was granted to MDHES in the areas of solid waste, public water supplies and air quality. During the 1993 session, the agency will seek fee authority in several other areas.

Those who oppose establishment of a fee-based program argue that the public benefits from environmental programs and should bear the cost. They also contend that a fee is merely an alternate tax and an additional burden on business and industry, and therefore, a deterrent to business growth.

It is the position of this agency that those industries or municipalities that discharge wastes into our environment or those activities that pose a threat to the quality of our environment should bear the cost of the programs created to ensure environmental compliance. A fee system seems to be a justifiable means of program funding and truly the only way to maintain viable programs at the state level. Without adequately funded environmental programs, it is not possible to fulfill our constitutional mandate to ensure a clean and healthful environment for all Montana citizens.

Adequate funding also allows the State of Montana to maintain primacy of environmental programs, thus eliminating dual regulatory control and duplication of efforts between the state and federal governments. Some would argue to leave this responsibility to the U.S. Environmental Protection Agency, but time and again the regulated community has expressed a desire to have these programs administered by the State of Montana under our current delegation agreements.

Maybe the most important benefit of an adequately funded regulatory program is that it provides for timely action on permits and approvals so as to avoid needless delays for new projects. Each year, this agency is required to issue permits or approvals for new projects with construction costs of several hundred million dollars. A several month delay in starting construction because a state agency doesn't have the resources to act on the application can result in significant cost increases to a project and slow economic growth. The air quality permit program is a classic example of this. Two years ago, there was a significant backlog of permit applications, with some reviews exceeding the review times allowed by law. Now, with the resources provided by fees, there is no backlog, reviews are timely and staff is available to assist applicants in the regulatory process. Many have expressed a willingness to pay fees in exchange for timely service.

This legislative session, MDHES is seeking authority to charge fees in the following areas:

- Water Quality Permits: Adequate federal funds are no longer available to support these programs. Permits to discharge waste into surface water or groundwater are required by the Montana Water Quality Act. Legislation is being proposed that would allow fees to be charged for permit activities at a level that would cover 60% of the program costs. The balance of costs would be covered with federal funding.

•**X-ray Inspection and Radiological Health Services:** MDHES has provided these services at no charge for a number of years. The program has been funded by general fund appropriation. The number of registered X-ray units has increased approximately 25% in the past 10 years. The current governor's budget recommends that general funds be replaced with fees. The estimated cost of the required inspections, if conducted by the private sector, would be approximately \$300 to \$700 per unit, compared to an average cost per unit of \$70 to \$150 in the fee bill.

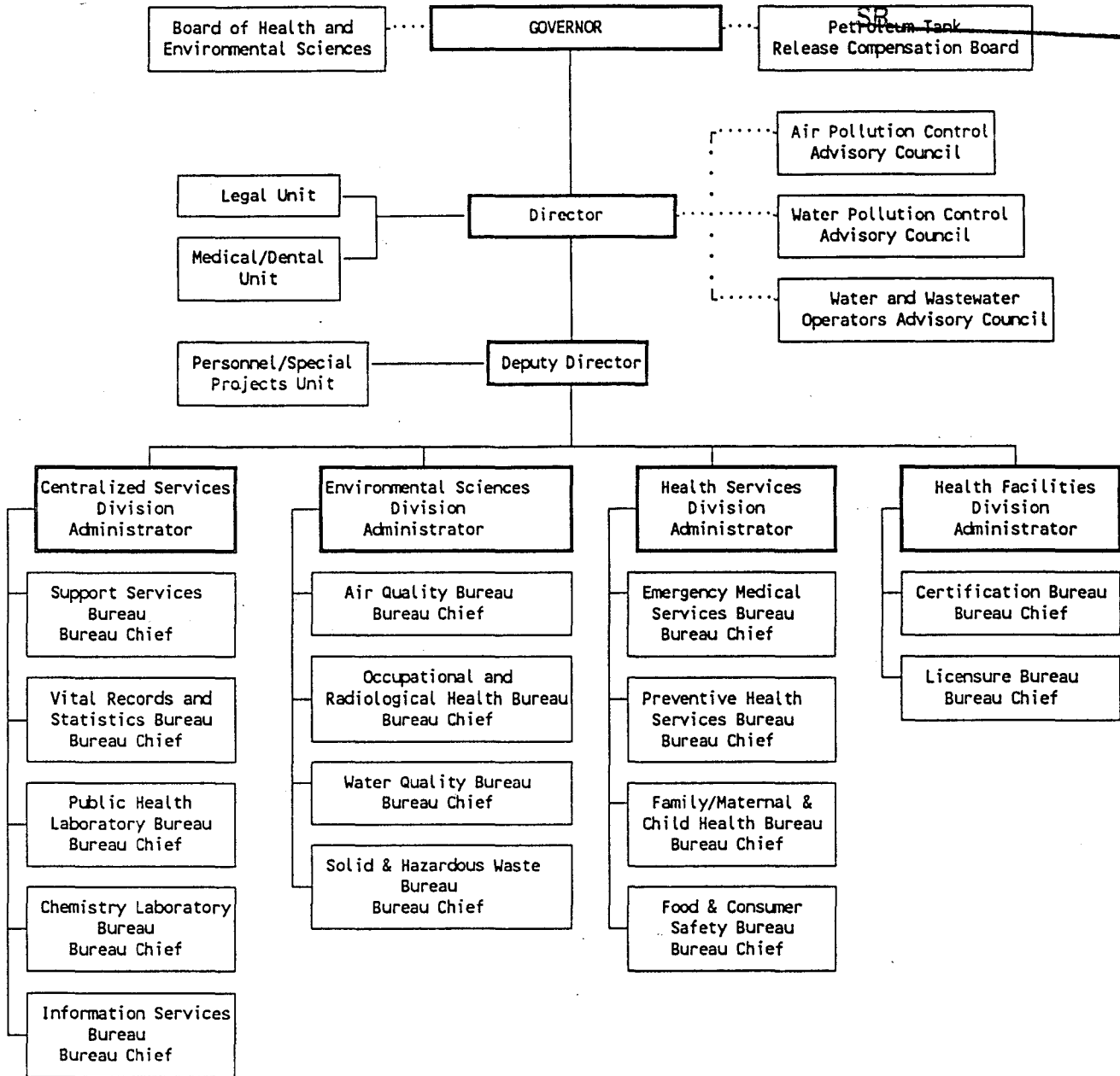
•**Hazardous Waste Facility Permits:** Permits are currently required of hazardous waste facilities in Montana. The cost of permit application review is significant, and we are proposing legislation that would allow MDHES to charge a fee to cover the actual cost of the review. The legislation would also require hazardous waste facilities to pay a fee on each ton of waste handled.

•**Air Quality Permits:** Although fee authority was granted for Air Quality Permits in the last session, we are proposing legislation that will expand fee authority to allow MDHES to implement program expansions mandated by the Federal Clean Air Act Amendments (CAAA) of 1990. The CAAA allows fees to be charged and establishes a fee of \$25/ton of pollutants as the minimum necessary to operate a program unless it can be demonstrated to the EPA that an adequate program can be administered with a lesser amount. Montana began its program with fees of approximately \$5/ton, and even with project resource increases, the figure will be in the \$9-13/ton range. Most other states in the Rocky Mountain region are currently charging amounts in excess of \$20/ton, with one state charging more than \$50/ton.

Included in the required program expansions are an operating permit program for stationary sources and a small business assistance program to aid small business in meeting the requirements of state and federal regulations. MDHES is currently working closely with an advisory task force of industry and environmental officials to develop a strategy for meeting these new requirements.

Assessing a new fee or increasing an existing fee is never a popular proposal, but after much discussion and consideration, we have concluded it may be the only viable way of providing these services to the people of Montana. Additional information on any of the above-mentioned legislation is available.

DATE 2-15-93



ORGANIZATION CHART	
DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES	
<i>Donald Johnson</i>	DIRECTOR
<i>John R. Rife</i>	GOVERNOR

ENVIRONMENTAL SCIENCES DIVISION
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT 4
DATE 2-15-93
HB

Air Quality Bureau
Overview

The Air Quality Bureau (AQB) is responsible for implementation of the Montana and Federal Clean Air Acts (Section 75-2-101 MCA and 42 USC 7401 et seq., respectively). These laws require AQB to attain and maintain air quality levels in the outdoor atmosphere considered safe for public health and welfare. The key tasks necessary to accomplish this mandate include:

- **Permit Reviews:** Industrial facilities are reviewed before starting construction or expansion to assure that appropriate air pollution control equipment is installed and air quality standards are met. AQB conducted new source reviews in FY92 which permitted more than \$600 million in new construction projects in Montana. Figure 1 demonstrates the impact of the air quality permitting program on economic development in Montana over the past several years.
- **Compliance/Enforcement:** To assure continued compliance of industrial sources with air pollution standards, AQB completes a scheduled program of inspections, reviews source self-monitoring results, and takes appropriate enforcement actions where necessary. AQB relies on citizen comments and complaints to help bring air quality problems to our attention. We attempt to be as responsive to each individual complaint or request for information as possible to assure good public service.
- **Ambient Air Quality Monitoring:** Surveillance of the air quality across the state is provided by more than 40 monitoring sites. More than half of these sites are operated by county air quality programs or industry with oversight and support from the state.
- **State Implementation Plan (SIP):** In order to receive delegation of federal air quality regulations and maintain responsibility for the state air quality program, a SIP has been developed and submitted to the Environmental Protection Agency (EPA). This SIP must be updated periodically to include new regulations or to address areas that fail to comply with National Ambient Air Quality Standards (NAAQS). Figure 2 identifies the areas in Montana which have failed to attain NAAQS. With the new SIP development requirements and schedules in the Federal Clean Air Act Amendments of 1990 (CAAA), AQB has been required to revise or rewrite the current SIP, or to develop a new SIP for each carbon monoxide (CO), lead (Pb), sulfur dioxide (SO₂), and fine particulate matter (PM-10) nonattainment area. We are cooperating with local health agencies, communities, and affected industries to define the best solutions to the nonattainment problems in each community.

The AQB is organized to focus on the key programs as shown in the current organizational chart in Figure 3. Sections of the bureau focus on the planning effort required to meet CAAA mandates and on important permitting and compliance/enforcement activities. The chart shows the FY93 authorized staffing level of 30.5 FTE positions and identifies positions that were vacant as of December 25, 1992, or were identified as part of the 5% reduction package. These positions will be addressed as a modified budget request/issue.

2-15-93

EXHIBIT 5
DATE 2-15-93
SB

DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES

SOLID & HAZARDOUS WASTE BUREAU

ENVIRONMENTAL SCIENCES DIVISION

MOTOR VEHICLE RECYCLING & DISPOSAL PROGRAM

EXHIBIT

5

DATE

2-15-93

SB

Overview

The Motor Vehicle Recycling and Disposal Act is a regulatory program that administers, enforces, and controls the disposal of junk vehicles and the shielding of such disposal sites. The act requires the department to license anyone with four or more junk vehicles and requires all junk vehicles to be screened from public view. The act also allows the department to make annual grants to each county to finance the establishment and maintenance of junk vehicle graveyards and to finance the collection of junk vehicles. The department is responsible for removal of the junk vehicles and does so by selling the vehicles to recycling firms who crush and transport the cars to steel mills for recycling.

Authorization

- § 75-10-501, et seq. Motor Vehicle & Disposal Act
- § 16.14.201, et seq. Administrative Rules of Montana

Base Program

The Motor Vehicle Recycling and Disposal Program is the only statewide resource recovery project in Montana. Nearly 7,500 junk vehicle are removed from the Montana landscape each year. Over 130,000 tons of metal from these automobiles have been recycled since the beginning of the program in 1974.

The Motor Vehicle Recycling and Disposal Program provides grants to the counties for the operation of their junk vehicle programs. These grants total \$1.00 for every registered vehicle in the county, but not less than \$5,000.00. With the grants counties collect unwanted junk vehicles, maintain a county junk vehicle graveyard, enforce the regulations as they apply to less than four junk vehicles in one location, and assist the state with the monitoring of motor vehicles wrecking facilities.

Base Funding

Funding for the program is from an earmarked revenue account accumulated from a \$.50 vehicle re-registration fee, a \$1.50 fee for title transfers, \$50.00 annual license fees for private motor vehicle wrecking facilities, and revenue from the crushing of the collected vehicles. Since the beginning of the program, the various fees have been reduced on three occasions so that the program's expenses would equal or exceed the program's income. This was done to balance revenue to expenditures. The program's accumulated funds are being depleted to the point that it will be necessary to increase fees. The increase will allow the state program to continue to provide the counties with sufficient funding to continue their current programs.

Primacy - State Program

FTE - LFA: 4.43 OBPP: 3.86

HAZARDOUS WASTE PROGRAM

EXHIBIT 5
DATE 2-15-93
SB

Overview

The Montana Hazardous Waste Act is a regulatory program that controls generation, transportation, treatment, storage and disposal of hazardous wastes. Persons treating, storing or disposing of hazardous waste must obtain a permit from the department. The department performs inspections, provides technical assistance, and if necessary, takes enforcement actions.

Authorization

75-10-401, et. seq, MCA. The authority for the Hazardous Waste Program is The Montana Hazardous Waste and Underground Storage Tank Act.

Base Program

The Hazardous Waste Program is a counterpart to the federal hazardous waste management program developed under the authority of the Resource Conservation and Recovery Act (RCRA) of 1976 and subsequent amendments. The state program is authorized by the EPA to implement the equivalent of the federal program in Montana in lieu of EPA. The program has been in effect since 1980. Hazardous waste handlers who are regulated under this program include generators, transporters and recyclers. Also regulated are facilities who treat, store or dispose of hazardous waste on-site. The program initiates control over hazardous waste from the point of generation through all intermediate handling to the point of final disposition. The program is oriented to be preventive in nature rather than remedial. Successful implementation of the program will serve to prevent the creation of future Superfund sites in the state.

Base Funding

The Hazardous Waste Program is funded from the RIT Hazardous Waste/CERCLA account and matching federal grant dollars. The match amount has been 25% RIT and 75% Federal. We are asking for an increase in RIT percent because the program has expanded due to new demands, and the federal funding has remained constant.

Primacy - Authorized by EPA in 1980.

FTE - LFA: 14.66 OBPP: 13.97

SOLID WASTE MANAGEMENT PROGRAM

EXHIBIT 5
DATE 2-15-93
SB _____

Overview

The Solid Waste Management Program is responsible for licensing and regulating solid waste management systems in Montana. Solid waste management systems include landfills, solid waste incinerators, resource recovery facilities, waste composting operation, transfer stations, land farms for liquid and semi-liquid wastes, container systems used in municipal waste management and other waste storage, handling, treatment and disposal facilities. The program is charged with the responsibility of licensing and regulating all solid waste managements systems, developing and updating a integrated waste management plan for Montana, and for providing technical and informational assistance to communities, refuse disposal districts, private individuals and commercial and industrial businesses on solid waste related issues. Included in these duties are routine inspections of solid waste systems. licensing reviews, enforcement actions, monitoring groundwater sampling results from affected systems, assistance in the development of local solid waste plans and licensing applications, and providing assistance and advise on the management and disposal of special wastes such as asbestos, medical wastes, oil field sludges, waste vehicle tires, and other miscellaneous special waste materials. Program personnel are also responsible for assisting the public with questions on recycling, waste "minimization", incineration, etc.

Authorization

75-10-101, et. seq., MCA Plans, Funds and Administration Act
75-10-201, et. seq., MCA Montana Solid Waste Management Act
75-10-801, et. seq., MCA Integrated Waste Management Act
75-10-901, et. seq., MCA Megalandfill Siting Act
75-10-1001, et. seq., MCA Infectious Waste Management Act

Base Program

The base program has two important parts, licensing and regulating solid waste management systems and providing technical assistance and support to system operators. Program personnel are responsible for licensing and inspecting approximately 200 landfills, transfer stations, municipal waste incinerators and similar kinds of facilities. License review and inspections are conducted to insure compliance with current state laws and rules regarding solid waste systems. New federal regulations have dramatically changed the nature and complexity of solid waste disposal and have impacted associated state laws and rules in a similar nature. Program staff will be responsible for insuring that Montana's solid waste rules are capable of addressing these changes and that landfill owners and operators meet these new requirements.

Base Funding

Base funding for the program consists of a general fund appropriation for the base program and groundwater monitoring section. A state special revenue fund comprised of solid waste

management system license application review fees and an annual renewal fee consisting of a base and volume fee fund the remainder of the program.

Primacy - Applying to be authorized by EPA. Target date: October, 1993.

FTE - LFA: 15.75 OBPP 14.52

EXHIBIT 5
DATE 2-15-93
SB

UNDERGROUND STORAGE TANK PROGRAM

EXHIBIT 5
DATE 2-15-93
SB

Overview

The Underground Storage Tank Act is modeled after the federal law. Its purpose is to prevent leaks in underground storage tanks through identifying who has underground tanks and eventually requiring tank testing, inventory record keeping, leak detection, financial assurance for clean-up costs and implementing tank design and installation standards. The Leaking Underground Tank Trust Fund are funds used by states, under federal guidelines, to investigate and remediate tank leaks when the responsible party cannot be identified or when the responsible party will not act or respond quickly in an emergency situation, or when the responsible party is insolvent. It is a public response fund to protect the public and minimize damage to the environment. The trust fund is EPA funded through a federal gas tax.

Authorization

42 USC, Section 6991
75-10-401, MCA, et seq.

Base Program

The UST Program regulates tanks to prevent leaks from occurring through adoption of design standards, installation plan review and permitting, installer licensing, and owner/operator training. All underground tank facilities will be required to meet specific design and installation standards to prevent and quickly detect leaks. All existing UST systems will be phased into the regulatory leak detection monitoring requirements of the program by 1994 and must be upgraded to meet substantial performance and operational standards for leak prevention and corrosion control by 1999. Local implementing agencies will assist the program in inspections of tank installations, operational monitoring, and final closure. If a leak occurs, the program will assist the tank owner in assessing the potential threat to human health and the environment, and to initiate corrective action to cleanup the release. The program works closely with the Petroleum Tank Release Compensation Board in providing financial assistance to owners and operators for leaking UST cleanup costs. If a leak is discovered, but a responsible tank owner cannot be identified, the program may commit federal LUST trust funds to assessing the potential threat and initiating a timely cleanup.

Underground Storage Tanks (UST). The UST Program maintains a registry data base of Montana UST systems. These data presently contain over 25,000 reported underground storage tanks at over 12,000 locations throughout the state. Through educational and regulatory activities the program guides tank owners, operators, and installers in the proper installation, operation, maintenance, and final closure of these UST systems. The program also provides a mechanism for grants to local governmental agencies for training, equipment, and the implementation of the program on a local level.

Leaking Underground Storage Tanks (LUST). Montana currently has ⁶³approximately 25,000 registered USTs; the federal government has estimated that 25 percent or more of all tanks may be leaking. Incidents of contaminated soil and groundwater are reported to DHES on a daily basis. Impacts from releases include contamination of drinking water, accumulation of harmful hydrocarbon vapors, and problems associated with sensitive environmental areas. The LUST staff investigates and responds to prioritized leaking UST sites where a responsible party cannot be identified or is insolvent, an emergency situation exists, or a responsible party refuses or fails to respond. Under state and federal law, the responsible party is liable for all LUST response costs incurred by DHES.

Tank Installers. National studies have shown improper installation of underground storage tank systems is one of the major causes of tank failure and leakage. The tank installer licensing and UST permitting program will aid in eliminating improper installations. The program reviews permit applications and issues permits for tank installations, repairs, and closures. In addition, all UST owners and operators must have work on their UST system preformed by either a licensed UST contractor or they may do their own work, if it is inspected by a licensed inspector. The program provides examination study materials and offers UST installer, remover, and inspector examinations several times a year at various locations in the state.

Base Funding

The UST Program receives funding from the RIT Hazardous Waste/CERCLA Account, earmarked annual UST registration fees, and Federal Funds.

Underground Storage Tanks

The UST Program is funded through a combination of earmarked annual UST registration fees and a 75% federal and 25% state RIT fund matching grant. Annual tank registration fees of \$20 for tanks 1100 gallons or less and \$50 for tanks over 1100 gallons are assessed to all tank owners. The federal and state UST regulatory program supports 11.25 FTE.

Leaking Underground Storage Tanks (LUST)

The LUST program is funded by an EPA grant consisting of 90% federal and 10% state matching funds. Federal monies are from the LUST Trust Fund through a federal gasoline tax administered by the U.S. Environmental Protection Agency. The state RIT account has been legislatively established as the source of state matching funds. Any monies recovered from responsible parties can be used for the state matching fund; however, DHES cannot predict the amount of money that will be cost recovered. A majority of the LUST funds is budgeted for remedial action contracted services.

Tank Installers

The tank installers program supports .25 FTE and is funded by tank permit and inspection

fees resulting from tank installations, repairs, and closures. A portion ^{SB} of the fees collected are used to reimburse locally designated licensed inspectors for inspections of permitted systems.

Primacy - Application is currently being reviewed by EPA. The anticipated authorization date is July 1, 1993.

FTE - UST LFA: 11.50

OBPP: 10.56

LUST LFA: 4.50

OBPP: 5.25

SUPERFUND PROGRAM (FEDERAL)

EXHIBIT 5

DATE 2-15-93

SB _____

Overview

The Superfund Program carries out Montana's responsibilities under both state and federal laws requiring the identification, investigation, and clean up of uncontrolled hazardous or deleterious substances. Currently the program involves activities at eight sites that are on the National Priority List (NPL), four sites that have been identified for NPL listing and a site discovery and assessment program. Federal funds administered by the Environmental Protection Agency (EPA) are available to support virtually all state work on NPL sites and for site assessments. Under both state and federal law, all public funds spent in the clean up effort are to be reimbursed by the parties responsible for the contamination at a hazardous substance site.

Authorization

42 U.S.C. 9601 et seq., The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Base Program

The Superfund program recognizes two kinds of response actions--removals and remedial actions. Removals are short-term responses that stabilize or clean up a site that poses an immediate threat to human health and the environment. Remedial actions are long-term responses, such as groundwater restoration and soil treatment.

The Superfund program consists of two phases: a pre-remedial phase during which sites are identified, evaluated, and listed on the NPL if appropriate, and a remedial phase during which the actual cleanup is planned and implemented.

For the activities that are not directly related to specific sites, the EPA provides CORE funds. These funds pay for training, recruitment, general overall management, etc. The CORE program fills the need for necessary, non site-specific activities. The CORE grant requires 10 percent state matching funds.

Base Funding

The Superfund program budget consists of several integral parts. The first is the basic investigative cleanup portion which is funded 100% by federal (U.S. EPA) dollars. The second portion consists of the CORE which are program management type activities that are general in nature and not specifically tied to individual site activities. The CORE is funded 90% by federal dollars and the required 10% match comes from the Hazardous Waste/CERCLA RIT account.

Primacy - EPA retains primacy. The State enters into cooperative agreements with EPA.

FTE - LFA: 16.00 OBPP: 13.79

SUPERFUND PROGRAM (STATE)

EXHIBIT 5
DATE 2-15-93
SB

Overview

The Montana Comprehensive Environmental Cleanup and Responsibility Act (CECRA) provides DHES with similar authorities to the federal Superfund Act. CECRA created a legal mechanism for DHES to investigate and clean up, or require liable persons to investigate and clean up all hazardous substance sites in Montana which are not on the federal Superfund National Priority List (NPL).

Authorization

75-10-701 et seq., MCA, The Comprehensive Environmental Cleanup and Responsibility Act (CECRA).

Base Program

The CECRA Program within the Superfund Section of the Solid and Hazardous Waste Bureau handles the investigation and cleanup of all hazardous substance sites in Montana not on the federal Superfund National Priority List (NPL) or not being addressed by other MDHES Programs. Currently, there are over 250 non-NPL hazardous substance sites in Montana and an additional 50 potential sites.

Base Funding

Pursuant to sections 75-10-704 (4) and 15-38-20 MCA, the CECRA Program is funded annually with 4% of the interest from the Resource Indemnity Trust Fund, which is approximately \$300,000.

Primacy - State Program

FTE - LFA: 4.25 OBPP: 4.60

CURRENT LEVEL DIFFERENCES

PERSONAL SERVICES - All the Programs in the SHWB show a difference in the FTE count between LFA/OBPP. This is the result of a time study that was conducted for all persons within the SHWB that work in multiple responsibility centers. The changes in the OBPP FTE's from FY 92 reflects the results of that study. The total number of FTE's were not increased. Reinstatement of FTE's under the 5% reduction is addressed below under Budget Modifications.

JUNK VEHICLE CRUSHING SERVICES - Contracted services funding is necessary to cover the anticipated need of having to contract for the crushing of the county yards, and the removal of Freon (CFC's) from the vehicles prior to crushing. The metals market is fluctuating due to the opening of the border between Canada and the US. It may be that the crushing of the yards will become an expense item rather than a revenue generator and as such we must be prepared for it. Requested for each year: \$30,000.

RENT - An increase in rent and communications will be needed to move the SHWB into one central location. Currently, the Bureau is located in four separate facilities, making it very difficult for the program to operate and for the public to know where to go to get information and technical assistance.

If the SHWB is retained in it's present locations there will need to be an increase in the rent due to an increase in the present lease that raises the rent from \$4.50/square foot to \$7.50/square foot at the Front Street location. See attached table.

OTHER SERVICES - FEDERAL SUPERFUND PROGRAM

LFA budget - FY94 \$1,762,017 and FY95 \$1,792,301;

OBPP budget - FY94 \$3,081,318 and FY95 \$3,034,318 (difference of FY94 \$1,319,301 and FY95 \$1,241,994 respectively)

Consulting and Professional Services, and Contracts with Non-Profits (line items 2102 and 2169):

Funding for these contracted services is 100 percent federal and it allows for the state to conduct or oversee the implementation of remedial investigations, feasibility studies, risk assessments, remedial designs and remedial actions at state lead National Priority List sites. The amount requested above '92 Actuals is specifically for three projects that were not funded in '92:

- * Implementation of remedial design and clean up at the Montana Pole site. The State will be completing a Record of Decision for the site this spring and will initiate negotiations for implementation of the remedy. The remedy is likely to cost around \$10 million ; oversight/implementation costs are estimated to range from \$300,000 to \$10 million depending on the extent of cooperation from potentially

responsible parties in implementing the selected remedy. Some PRP's have indicated that they are not willing to participate in clean up efforts. For this reason we requested \$1 million/year in spending authority to get us started on the project while we request the necessary budget amendments to complete the project.

* The State has lead responsibility for evaluating and selecting a cleanup plan for the Streamside Tailings operable unit of the Silver Bow Creek/Butte Superfund site. Part of this responsibility includes preparation of a public health and ecological risk assessment for the site. On-going oversight will continue and costs are included in '92 Actuals, but expenditures for the risk assessment will be additional costs. These costs are estimated to be \$200,000.

* The State will have an opportunity to assume lead responsibility for NPL sites during the next biennium. The Mouat site in Columbus is currently under discussion, and prospective new sites include Kalispell Pole and Timber, and Victor Landfill. Any one of these sites would require spending authority in the range of \$150,000 to \$350,000 depending on the PRP situation.

The additional funds requested are necessary because on-going projects will continue to use the '92 level funding provided. In an effort to be fiscally conservative, we request an additional \$1,382,754 in '94 and \$1,332,754 in '95. This spending authority would provide the base to initiate whatever level of effort might be required while allowing time for the budget amendment process to request additional authority if necessary to carry through with a specific project. In past years we have always had \$6 million in spending authority; this biennium proposal is significantly reduced.

OTHER SERVICES - UNDERGROUND STORAGE TANK PROGRAM

OE 2102. Consultant and Professional Services - Increase FY 94 \$9,307 and increase FY 95 \$6,807

Fiscal Year	FY94			FY95		
Description	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
	6,693	16,000	-9,307	6,693	13,500	-6,807

The Program asked for increased funding in contracted service to insure that several projects could be completed during FY94 & FY95. One of those projects is updating the State UST database. The information in the Montana database was collected in 1986 and has not been significantly updated during the past six years. Since approximately 13, 500 facility files need to be updated, it is anticipated this project will require considerable additional support resources to complete in a timely and organized manner.

OE 2106 Laboratory Testing Increase FY 94 \$4,336, FY 95 Increase \$4,336

EXHIBIT 5
 DATE 2-15-93
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Fiscal Year	FY94			FY95		
Description	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
	664	5,000	-4,336	664	5,000	-4,336

Laboratory testing of field samples is needed for site investigations, enforcement documentation and to split field samples for evaluating laboratory quality control.

OTHER SERVICES - STATE SUPERFUND PROGRAM

Contracts with non-profits (line item 2169):

The CECRA Program currently uses the MSU and MBMG contracts for technical expertise on the MPC Butte Yard and Upper Blackfoot sites. Since the EQPF, not the 4%, was used for these contracts during FY92, the LFA budget cuts the proposed \$10,000 for FY94 and FY95. However, we intend to use the 4% account for university contracts on CECRA sites in the next biennium and thus budgeted for this. In the past, we have only used the university contracts for sites with solvent liable persons, consequently all costs were recoverable.

OTHER SERVICES - LEAKING UNDERGROUND STORAGE TANK PROGRAM

OE 2102 Consulting and Professional Services:

Fiscal Year	FY94			FY95		
Description	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
	413,524	680,020	-266,496	413,524	800,000	-386,476

This is the largest portion of the LUST budget and also accounts for the most significant difference between the LFA and OBPP budgets. The difference in the budgets reflects the additional funding requested by the LUST Program for FY 94 and 95. The LUST Program has 30 active LUST Trust sites where funds have been expended or will be expended in FY 93. As of mid-FY93, the program's entire budget for contracted services (\$413,524) had been allocated for investigations at the 30 active LUST Trust sites.

This situation does not allow sufficient reserve for unanticipated emergencies which can easily cost \$100,000 or more. LUST Trust emergency sites typically require immediate actions to mitigate impending threats to public health from contamination of municipal or domestic drinking water supplies, vapor incursion in private residences, or explosion hazards in buildings and confined spaces. It is difficult to budget for LUST Trust emergencies unless sufficient reserve funding are maintained for such contingencies.

There are currently 37 LUST Trust sites listed with the program where LUST Funds have been utilized. Additional unfunded sites, not considered "emergencies", have been identified for further investigation during FY 94-95. These include the following sites:

- 1) Great Falls - 10th Ave. South Highway Reconstruction Oversight
- 2) Columbus - Private Well Contamination
- 3) Denton - Soil and Groundwater Contamination
- 4) Kalispell - Utility Line Corridor Assessments
- 5) Missoula - W. Broadway Avenue Leak Investigations
- 6) Laurel - Burlington Northern Refueling Site
- 7) Columbus - Abandoned UST Facility
- 8) Billings - Industrial/Commercial Area - Numerous Abandoned UST Facilities

If contracted services funding remains at our current level (\$413,524) the program will not have the resources to address new emergencies since the majority of ongoing LUST Trust projects have a two to five year life span and therefore may continue through several bienniums. Major LUST Trust projects can easily exceed several hundred thousand dollars each, severely limiting the program's ability to conduct LUST Trust investigations and remediations in that fiscal year. Currently, the program prioritizes existing sites where LUST Trust funding is required. Federal LUST Trust Grant Funds, in addition to the state's annual grant, are available presently from EPA on a 90% federal, 10% state match (RIT Funds). An increase in spending authority and the state's RIT match would be required to obtain these additional federal LUST Trust funds.

OE 2106 Laboratory Testing

Fiscal Year	FY94			FY95		
Description	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
	21,084	45,500	-24,416	21,084	60,000	-38,916

It appears that the base level of \$21,084 was projected based on actual numbers expended in FY 91-92. It is estimated additional funding would be needed in this area due to the increasing number of LUST Trust site investigations requiring analytical chemistry. At a current LUST Trust site it is anticipated the program will expend approximately \$7,000 for laboratory analyses by the fiscal year end. Costs at other sites can run equally high. The OBPP FY 94 laboratory testing budget should provide an adequate ceiling for these costs. The FY 95 projections were estimated slightly higher in an attempt to account for unknown "emergencies" and the cumulative volume of LUST Trust sites that the program will have at that time.

LABORATORY TESTING (HAZARDOUS WASTE PROGRAM)

Item # 2106 (Laboratory Testing): FY '94 & '95

<u>Item #</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
2106	7,018	30,000	-22,982

The LFA budget proposes funding the program for only \$7018 for laboratory testing. The \$30,000 specified in the OBPP budget is the minimum calculated to be needed for

laboratory services associated with the hazardous waste program's regulatory responsibilities. Laboratory services are required in order to gather evidence for enforcement cases and to allow staff to split samples with hazardous waste management facilities to ensure that results submitted by facilities are representative of actual site conditions. The LFA budget proposal for this category will seriously impair the program's enforcement capability and it's ability to assure public health protection. We request the OBPP budget proposal for this item be approved.

HAZARDOUS WASTE OPERATING COSTS - The following are concerns associated with the proposed LFA and OBPP budgets for the Hazardous Waste Program.

1. **Program Funding Sources:**

Funding Source	<u>LFA Budget</u>		<u>OBPP Budget</u>	
	<u>FY '94</u>	<u>FY '95</u>	<u>FY '94</u>	<u>FY '95</u>
Federal	\$524,926	\$548,283	\$484,780	\$487,922
RIT	<u>174,975</u>	<u>182,761</u>	<u>240,533</u>	<u>241,602</u>

Total	\$699,901	\$731,044	\$725,313	\$729,524

The federal funding in the proposed LFA budget proposal appears to be high. EPA has projected state grant funding for the '95 biennium to be equal to the FY '91 award, which was \$446,998. The OBPP proposed federal funding of \$484,780 is closer to this projection as the Program has historically been successful in receiving modest amounts of additional funding from EPA beyond projected awards. The OBPP budget proposal makes up this federal grant shortfall by contributing extra RIT funds. As we have no information to contradict federal funding shortfall projections, we believe the LFA federal funding totals to be inflated, and request that the OBPP proposed program funding be approved.

2. **Item # 2102 (Consulting & Professional Services): FY '94 & '95**

<u>Item #</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
2102	100	4,000	-3,900

The LFA budget proposes reducing the amount available for consulting and professional services to \$100 per fiscal year. The funding in this category allows the Program the ability to use consulting services to provide review and comments on complex hydrogeological reports and corrective action work plans for permitted hazardous waste management facilities. Utilization of consulting services in these circumstances is necessary when the required expertise does not exist within existing resources. We request approval of the OBPP proposed budget for this item.

3. Items # 2404,2408,2410 (In-state Motor Pool, Lodging, & Meals): FY '94 & '95

<u>Item #</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
2404	3,775	7,280	-3,505
2408	2,164	5,800	-3,636
2410	1,385	3,860	-2,475

The LFA budget proposes a 57% reduction of funding in these categories from the OBPP proposal. Reduction in these travel categories will significantly handicap the program's ability to conduct compliance evaluation inspections of hazardous waste handlers and to respond to citizens complaints alleging improper hazardous waste management. The Program must maintain a presence in the regulated community in order to provide a deterrence from non-compliance and to meet the Program's responsibility and the public's expectations associated with timely complaint investigations. We request the OBPP proposed budget for these items be approved.

4. Items # 2443 & 2449 (Out-of-State Transportation-Training; Out-of-State Lodging-Training): FY '94 & '95

<u>Item #</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
2443	2,655	6,000	-3,345
2449	783	2,250	-1,467

The LFA budget proposes a 58% reduction of funding in these categories from the OBPP proposal. Expenses incurred in these categories are associated with personnel training that is not available in-state. The Program is highly technical requiring individuals to receive specialized training. Coupled with this is the fact that the Program incurs a high personnel turnover rate requiring new employees to access training opportunities in order to be functional as replacements. We request the OBPP proposal for these items be approved.

UNDERGROUND STORAGE TANKS GRANTS TO COUNTIES -

OE 6147 Grants to Local Governments Increase FY 94 \$312,604, Increase FY 95 \$312,604

Fiscal Year	FY94			FY95		
Description	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
	62,075	312,604	250,529	62,075	312,604	250,529

The LFA budget reflects a reduction of \$250,529 in grant monies to local governments (OE 6147). These funds are grant monies which the Department utilizes to fund local tank programs conducted by designated Local Governmental Units (LGUs). Expenditure of only \$62,075 during FY92 is a reflection of the small number of LGU units which had joined the Program's efforts. Since approximately three-quarters of the state's counties are now participating and have been designed as LGU's, it is anticipated that requests for funding will increase significantly. The full \$312,604 will be needed in each of the next two fiscal

years to meet the program's statutory requirement to provide monies to ~~defray the expense~~ of operating local tank programs.

EQUIPMENT (LEAKING UNDERGROUND STORAGE TANK PROGRAM) -

OE 3126 Field Monitoring Equipment

Fiscal Year	FY94			FY95		
Description	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>
		15,734	-15,734	2,000	2,000	

With full program staffing, and a growing number of LUST Trust projects, additional field monitoring equipment is needed. For personnel safety, it is program policy for field staff to use two separate types of organic vapor meters for initial investigations. Having two vapor meters not only provides a backup in case of malfunction, but the HNU meters do not measure oxygen concentration, which is critical in assessing confined spaces which may contain hazardous and potentially explosive vapors levels.

Having an organic vapor meter and a explosive meter (also measures oxygen) allows program personnel to make reliable health and safety decisions. Two HNU organic vapor meters (\$5,367 each) are budgeted for FY 94 and one GasTech explosive meter is budgeted for FY 95. In addition, a replacement soil vapor probe used in LUST investigations, will be required in FY 94. The total cost of this probe (\$10,000) will be split with the PTRCB-DHES budget.

MINOR DIFFERENCES IN OPERATING COSTS, EQUIPMENT, AND INFLATION -

MOTOR VEHICLE RECYCLING AND DISPOSAL PROGRAM - LFA reduced to the FY '92 actual level categories of program expenses. LFA did not recognize the excessive amount of personnel vacancies that occurred during FY '92. The LFA budget reduces Program operating expenditures by a total of \$41,678.00 compared to the OBPP budget. The Program is severely impacted by reduced funding for travel expenses (-\$5112.00 each year), contracted services (-\$29,997.00 each year), and data processing supplies (-\$3,523.00 each year).

The amount of reduction in two categories, travel and contracted services, will keep the Program from being able to operate at even a minimum level. The reduction in travel costs alone will keep Program personnel in the office rather than out in the field.

The main problem line item areas are:

Line Item #	Fiscal Year '94		
	OBPP	LFA	Diff
2102 (Contracted Services)	30,000	3	-29,997
2245 (Data Processing Supplies)	3,935	412	-3,523

2404 (Motor Pool)	3,127	1,619	-1,508
2408 (In-state Lodging)	3,240	799	-2,441
2410 (In-state meals overnight)	1,674	511	-1,163

	Fiscal Year '95		
Line Item #	OBPP	LFA	Diff
2102 (Contracted Services)	30,000	3	-29,997
2245 (Data Processing Supplies)	3,935	412	-3,523
2404 (Motor Pool)	3,127	1,619	-1,508
2408 (In-state Lodging)	3,240	799	-2,441
2410 (In-state meals overnight)	1,674	511	-1,163

UNDERGROUND STORAGE TANK PROGRAM -

OE 2116, Medical Monitoring - Increase FY 94 \$1,442, FY 95 \$1,442

Fiscal Year	FY94		FY95		
Description	<u>LFA</u>	<u>OBPP</u>	<u>DIFF</u>	<u>LFA</u>	<u>OBPP</u>
	1,933	3,375	-1,442	1,933	3,375
					<u>DIFF</u>
					-1,442

Because the Program's professional personnel are exposed to hazardous materials routinely during field activities, medical monitoring is necessary to fulfill federal occupational health requirements. This funding increase was requested to provide for increased medical costs, the cost of monitoring of all field personnel, and exit medical exams for personnel terminating employment with the agency.

BUDGET MODIFICATIONS

REINSTATE 5% REDUCTION -

1.0 FTE - HAZARDOUS WASTE PROGRAM

The purpose for the modification is to reinstate a 1.0 FTE Environmental Specialist III position #414 to the Hazardous Waste Program. The FTE was eliminated from the base to comply with the mandated 5% personal services reduction. This position, assigned to the Regulatory Unit, functions to ensure that sites which generate, transport or otherwise handle hazardous waste are in compliance with applicable hazardous waste management requirements in order to protect public health and the environment from the harmful effects of mismanaged hazardous waste. Elimination of the position will result in an overall reduction in compliance evaluation inspections, less timely response to complaint investigations, and delays in providing information to the public and the regulated community regarding hazardous waste management. Funding is from the RIT Hazardous Waste/CERCLA Account and matching Federal Funds.

0.50 FTE - SOLID WASTE MANAGEMENT PROGRAM

The purpose for the modification is to reinstate the program with 0.50 FTE Environmental Specialist position #404 that was eliminated from the base due to the 5% personal services reduction. The 0.50 FTE Environmental Specialist position is funded by the state special revenue/solid waste fees and is assigned to the program's imported solid waste monitoring and review duties.

The loss of the program's 0.50 FTE Environmental Specialist position will effect the program's ability to monitor and review out-of-state solid waste importation activities.

1.0 FTE - UNDERGROUND STORAGE TANK PROGRAM

The purpose for the modification is to reinstate the Underground Storage Tank Section's Leak Prevention Program with 1.0 FTE Environmental Specialist position #452. The FTE was eliminated from the program's base to comply with the mandated 5% personal services reduction. This position will be funded by state special revenues (tank registration fees). The FTE is one of only two field inspector positions which the Program utilizes to assist tank owners with the identification and correction of deficiencies and to investigate violations of the underground storage tank management and operation regulations.

2.0 FTE - FEDERAL SUPERFUND PROGRAM

DHES has requested reinstatement of two positions in the Superfund Section that were part of the mandated 5% personnel services reduction. Position #359 is funded by Burlington Northern (BN) and provides essential oversight responsibilities at the BN Livingston and Mission Wye sites. This position will also assist in the oversight of BN investigation and cleanup actions at six other BN fueling facility sites. Position #473 is a federally-funded position that provides management assistance to the Environmental Protection Agency on federal Superfund sites. Without this position, the state will not participate in site decisions or be able to assure compliance with state regulations on some of the federal Superfund sites.

LUST COST-RECOVERY - EPA allows federal LUST Trust funds cost recovered from responsible parties to be utilized for additional LUST Trust investigations and remediations. This budget modification would allow \$200,000.00 per fiscal year of anticipated LUST Trust cost recovered funds to be utilized for LUST Trust investigations and remediations. No matching funds are required for LUST Trust cost recovered funds.

CLARK FORK BASIN MANAGER - This modification will allow expenditure of Hazardous Waste/CERCLA Account funds (\$49,880 in FY94 and \$49,989 in FY95) to increase Superfund Program resources to fulfill state responsibilities at Clark Fork Basin federal Superfund sites. An Administrative Officer will coordinate and communicate with local governments and citizen groups in the Clark Fork Basin and all state agencies involved in issues pertaining to Superfund cleanups in the Basin. A potential exists for expenditures

related to this position to be recovered from liable parties.

DSL ABANDONED MINE LIAISON - This modification will provide \$40,000 in operating services to help support a FTE with the DSL Abandoned Mine Reclamation Program. The position will coordinate the investigation and cleanup of abandoned mine sites to ensure that work is done in compliance with DSL and DHES standards. DSL is currently inventorying and ranking the over 6,000 abandoned mine sites in Montana. Of those, approximately 260 threaten public health and/or the environment because they have problems such as acid-mine drainage, tailings piles leaching into groundwater and surface water, or barrels of waste chemicals. Since DSL regulations are not retroactive and do not allow for cost recovery, DHES will assume responsibility for an estimated 50 to 100 sites where liable parties exist that can be held responsible for investigation, cleanup, and cost-recovery. Because the costs associated for this modification can be recovered from liable parties, DHES requests that the modification be funded by the Environmental Quality Protection Fund instead of the Resource Indemnity Trust Fund (12%/Hazardous Waste account) as originally proposed.

TANK INSTALLER - This modification is requested to fund Position 10499. The procurement of this position is crucial if the program is to effectively and timely review and issue permits for the installation, closure, modification, and repair of underground storage tank systems.

The UST Section received an OPS plan during FY 91 to add 1.0 FTE and the associated operating expenses to handle the increased workload generated by an unexpectedly large number of permit applications. Prior to the ops plan approval, the Permitting Work Unit had only 0.25 FTEs. Even with the unit's modified 1.25 FTEs', the unit's workload at times taxes the current staffing level. During FY92 (July 1, 1991 through June 30, 1992), the unit reviewed and issued 1464 permits. Current projections, based upon the number of permits issued in the first six months of FY93, indicate that in excess of 1800 permits will be reviewed and issued before June 30, 1993. Without this modification, 1.0 FTE will be eliminated which will seriously handicap the Program's ability to meet the current UST Permitting program's workload.

CECRA PROGRAM EXPANSION - This modification involves increasing the CECRA Staff by 4.0 FTE (one clerical, two environmental specialists, and one attorney). This increased staffing will allow the DHES to mitigate and eliminate potential health and environmental impacts at high priority sites currently not being addressed due to staff limitations. DHES proposes that \$191,576 in FY94 and \$182,863 in FY95 from the Environmental Quality Protection Fund (EQPF) be used for this modification. The EQPF, by statute, is to be used for the investigation and cleanup of contaminated sites. Due to past cost recovery and penalty actions from the Superfund Section, the EQPF has sufficient funds for this increase. All site-specific costs for the majority of sites can be recovered from liable persons.

SUPERFUND DOD MOA - This modification will allow DHES to spend Department of Defense (DOD) funds for overseeing investigation and cleanup at DOD contaminated sites.

Funding of \$100,000 per year for 1 FTE and contracted services will be provided through a Department of Defense/State Memorandum of Agreement (SMOA). Activities include the full range of field investigations, feasibility studies, treatability studies, and cleanup actions. This funding will allow DHES to assure that DOD complies with state laws and that the state participates in site decisions. Currently, Malmstrom Air Force Base and Great Falls International Airport are designated for the SMOA; however, other sites are expected to be designated in the future.

GIS ARCO - ARCO provides funding to DHES for Geographic Information System (GIS) and data management services relating to Superfund projects in the Clark Fork River Basin. DHES provides the data management services and contracts with the State Library for GIS services. The program requires 1.75 FTE for program management, implementation of the data base, contract management and interagency coordination. This recommended modification will fund 1.75 FTE at \$333,896 in FY94 (\$210,373 of which is transferred to the State Library) and \$336,542 in FY95 (\$209,251 of which is transferred to the State Library). The program has existed since 1987; this modification represents a change in funding source from EPA to ARCO effective September 1991.

BURLINGTON NORTHERN CLEANUP - This modification involving \$125,000 per year of additional spending authority. The oversight response is funded by BN so no state funding is involved. This modification will allow DHES to continue its responsibility under the DHES and Burlington Northern Railroad Modified Partial Consent Decree. The Decree requires DHES to oversee the remedial investigations, feasibility studies, risk assessments, and cleanup activities at the BN Livingston site.

LANGUAGE AND OTHER ISSUES

POSITIONS VACANT 12/29/92 -

1.0 FTE - HAZARDOUS WASTE PROGRAM

Position #411 which appears on the vacancy freeze list of 12/29/92, is assigned to the Permitting Unit in the Hazardous Waste Program. This position's primary duties involve the processing of applications for the operation of hazardous waste management facilities or for modifications of existing permits, and conducting compliance evaluation inspections of permitted facilities. The position was offered to Mark Mohorich on November 19, 1992. Mark began work on January 4, 1993. This position is funded by a combination RIT Hazardous Waste/CERCLA account and federal grant dollars.

2.0 FTE - SOLID WASTE MANAGEMENT PROGRAM

1. Position #00486 - Attorney Specialist II - 1.0 FTE

This vacant position is funded by the solid waste management fee - special revenue account. The position has been advertised, the Department has accepted

applications, and is prepared to fill the position as quickly as possible. The program's attorney position is critically important for the continued administration and implementation of the program. The attorney's direct input is needed in the areas of rule writing, rule adoption, and legal interpretations necessary to implement some of the eighteen pieces of solid waste legislation passed by the last legislative session. In addition, this attorney position is necessary for the preparation of the program's application for approval from the U.S. Environmental Protection Agency for primacy in solid waste management regulation. These reasons coupled with the need for the continued and increased enforcement of Montana's solid waste disposal regulations make this program attorney position necessary for the program's future.

2. Position #00484 - Environmental Specialist III - 1.0 FTE This vacant position is funded by the solid waste management fee - special revenue account. The position has been advertised, an offer was made and accepted, and the position has been filled as of December 30, 1992. The primary duties of this position are with the program's licensing unit which reviews, approves applications and licenses solid waste management systems. The retention of this position is critical to the program's ability to respond to licensing requests in a timely fashion. Without this position, the shortage of staff in the licensing unit would result in license application reviews requiring more time which may inconvenience or jeopardize local government's or private individual's efforts to establish waste management systems within Montana.

OTHER -

BN/ARCO SPECIAL PROJECTS (CV 40050 & 40049)

There seems to be a slight mixup between these programs that resulted in .50 FTE from the ARCO project being transferred to the BN project in the LFA budget. The total number of FTEs for these two projects together is comparable in the LFA and OBPP budgets except that the LFA budget does not subtract the one FTE identified for the 5% reduction in the BN budget.

RENT & COMMUNICATIONS INCREASE REQUESTS ~~SB SHWB~~

Note: FTE's are based on OBPP totals

RENT is cost per year and was calculated using the amount of square feet needed for each program at \$8.50/square foot.

Communications charges were calculated using an estimated \$39,000 during FY 94 to provide telephone and computer hook-up for 117 FTE's. (\$333/person x the number of FTE's in each program.)

Motor Vehicle Recycling & Disposal Program

CV 40041 - (3.86 FTE)	OBPP	LFA	REQUIRED FOR MOVE
RENT	4,187	4,062	7,909
Communications	0	0	1,285

Federal Superfund Program

CV 40042 - (13.79 FTE)	OBPP	LFA	REQUIRED FOR MOVE
RENT	24,000	19,508	36,800
Communications	0	0	4,592
92940 - (2.0 FTE)	OBPP	LFA	REQUIRED FOR MOVE
RENT	0	0	Included in current level
Communications	0	0	666

Hazardous Waste Program

CV 40043 - (13.97 FTE)	OBPP	LFA	REQUIRED FOR MOVE
RENT	13,778	13,147	26,024
Communications	0	0	4,592
92940 - (1.0 FTE)	OBPP	LFA	REQUIRED FOR MOVE
RENT	0	0	Included in current level
Communications	0	0	333

Underground Storage Tank Program

CV 40044 - (10.56 FTE)	OBPP	LFA	REQUIRED FOR MOVE
RENT	12,738	11,262	22,483
Communications	0	0	3,517
92940 - (1.0 FTE)	OBPP	LFA	REQUIRED FOR MOVE
RENT	0	0	Included in current level
Communications	0	0	333

Solid Waste Management Program

CV 40045 - (14.52 FTE)	OBPP	LFA	REQUIRED FOR MOVE
RENT	14,694	14,694	25,400
Communications	0	0	4,835
92940 - (0.50 FTE)	OBPP	LFA	REQUIRED FOR MOVE
RENT	0	0	Included in current level
Communications	0	0	166.50

CECRA Program

CV 40046 - (4.6 FTE)	OBPP	LFA
RENT	14,300	4,673
Communications	0	0

REQUIRED FOR MOVE
20,500 -(This includes CECRA Program
Expansion of 4.0 FTE)
1,562

Leaking Underground Storage Tank Program

CV 40047 - (5.25 FTE)	OBPP	LFA
RENT	3,665	3,709
Communications	0	0

REQUIRED FOR MOVE
5,089
1,748

ARCO

CV 40049 - (1.5 FTE)	OBPP	LFA
RENT	2,000	1,478
Communications	0	0

REQUIRED FOR MOVE
2,552
500

BN Sites

CV 40050 - (2.5 FTE)	OBPP	LFA
RENT	3,500	3,263
Communications	0	0

REQUIRED FOR MOVE
4,467
833

Clark Fork Basin Manager

CV 92098 - (1.0 FTE)	OBPP	LFA
RENT	0	0
Communications	0	0

REQUIRED FOR MOVE
Included in modified budget
333

Tank Installer Modification

CV 92104 - (1.0 FTE)	OBPP	LFA
RENT	924	0
Communications	0	0

REQUIRED FOR MOVE
1,955
333

CECRA Program Expansion

CV 92111 - (4.0 FTE)	OBPP	LFA
RENT	0	0
Communications	0	0

REQUIRED FOR MOVE
Included in modified budget
1,332

Superfund DOD MOA

CV 92134 - (1.0 FTE)	OBPP	LFA
RENT	0	0
Communications	0	0

REQUIRED FOR MOVE
Included in modified budget
333

GIS ARCO

CV 92349 - (1.75 FTE)	OBPP	LFA
RENT	0	0
Communications	0	0

REQUIRED FOR MOVE
Included in modified budget
583

WASTE MANAGEMENT SECTION

UNDERGROUND STORA

Env. Program Mgr. II
Roger Thorvilson

408

Env. Pro
Jr

HAZARDOUS WASTE PROGRAM

Environmental
Program Mgr. I
Jon Fridline

433

Data Base Tech
Nancy Jones

410

SOLID WASTE PROGRAM

Environmental
Program Mgr. I
Jon Dilliard

421

Admin Asst. II
Carol Jick

481

JUNK VEHICLE PROGRAM

Program Lead
Env. Spec. IV
Darrell Stankey

402

Env. Spec. III
Rick Thompson

(N) 403

Inf Sys Tech III
Bruce Arnold

405

ADMIN SUPPORT

Office Supv. III
Dona McClung

JV/SW 404

Program Asst. I
Sandi Ewing

SW 427

Admin Aide II
Cathy Rudolf

SW 496

Acct. Tech. II
Brenda Falconer

SW 485

Admin Aide II
Laura Hadden

SW 465

Admin Aide II
Vacant (1/2)

SW 463

LEAK PREVENTION PROGRAM

Environmental
Program Mgr. I
Frank Gessman

456

REGULATORY

Program Lead
Env. Spec. IV
Theresa Blazicevich

Env. Spec. III
Bill Hammer

Env. Spec. II
John Podolinsky

Env. Spec. II
Becky Holmes

Records Tech. I
Sally Bratlien

Admin Aide II
Tanny Peak

Env. Spec. III
Pierre Amicucci

Env. Spec. III
Susan McAnally

Program Asst. II
Janet Skarland

Env. Spec. III
Rick Dow

Env. Spec. III
Mike Hayes

Env. Spec. III
Ed Thame

Env. Spec. III
Lara Dando

Env. Spec. III
Pat Potts

Env. Spec. III
Chris Kautmann

Env. Spec. III
Peggy Nelson

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

REGULATORY

Program Lead
Env. Spec. IV
Bill Potts

Env. Spec. III
Vacant

Env. Spec. III
Bob Reinke

Env. Spec. III
Tom Halberg

Env. Spec. III
Rick Dow

Env. Spec. III
Mike Hayes

Env. Spec. III
Ed Thame

Env. Spec. III
Lara Dando

Env. Spec. III
Pat Potts

Env. Spec. III
Chris Kautmann

Env. Spec. III
Peggy Nelson

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

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Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

Env. Spec. III
Pat Potts

PERMITTING

Program Lead
Env. Spec. IV
Mark Hall

Env. Spec. III
Rich Chatterud

Env. Spec. III
Mark Monorchich

Env. Spec. III
Rick Dow

Env. Spec. III
Mike Hayes

Env. Spec. III
Ed Thame

Env. Spec. III
Lara Dando

Env. Spec. III
Pat Potts

Env. Spec. III
Chris Kautmann

Env. Spec. III
Peggy Nelson

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LICENSING

Program Lead
Env. Spec. IV
Jim Wilbur

Env. Spec. III
Craig Stagner

Env. Spec. III
Rick Thompson

Env. Spec. III
Louis Thompson

Env. Spec. III
Rick Dow

Env. Spec. III
Mike Hayes

Env. Spec. III
Ed Thame

Env. Spec. III
Lara Dando

Env. Spec. III
Pat Potts

Env. Spec. III
Chris Kautmann

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Peggy Nelson

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REGULATORY

Program Lead
Env. Spec. IV
Pat Crowley

Env. Spec. III
Ed Thame

Env. Spec. III
Lara Dando

Env. Spec. III
Pat Potts

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TECHNICAL

Env. Spec. III
Chris Kautmann

Env. Spec. III
Peggy Nelson

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Pat Potts

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Env. Spec. III
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Env. Pro
Mo

Env. Pro
Pat

Env. Pro
D

Env. Pro
Rand

Env. Pro
Soren

Env. Pro
A

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

HUMAN SERV

COMMITTEE

BILL NO. _____

DATE 2-15-93

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John WARDELL	EPN		
Bill Opitz	DHES		
Dale Taliaferro	DHES		
DENZEL DAVIS	DHES		
Steve Pitcher	DHES		
Cathy Siegner	DHES		
Kati Chisena	MT Women's Lobby		
Mark Johnson	Local Health Depts.		
Mike Craig	DHES		
Dave Depeew	177 P L A		
Jeff Claffer	DHES		

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