

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - SPECIAL SESSION ONE CONTINGENCY STARTUP

JOINT SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN ROGER DEBRUYCKER**, on July 26, 1993,
at 8:30 A.M.

ROLL CALL

Members Present:

Rep. Roger DeBruycker, Chairman (R)
Sen. Cecil Weeding, Vice Chairman (D)
Sen. Gerry Devlin (R)
Sen. Greg Jergeson (D)
Rep. John Johnson (D)
Rep. William Wiseman (R)

Members Excused: None

Members Absent: None

Staff Present: Roger Lloyd, Legislative Fiscal Analyst
Terri Perrigo, Legislative Fiscal Analyst
Florine Smith, Office of Budget & Program
Planning
Alyce Rice, Committee Secretary

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

Committee Business Summary:

Hearing: **PUBLIC SERVICE COMMISSION
DEPARTMENT OF LIVESTOCK
DEPARTMENT OF AGRICULTURE
DEPARTMENT OF STATE LANDS
DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
DEPARTMENT OF FISH, WILDLIFE AND PARKS
DEPARTMENT OF COMMERCE**

Executive Action: None

Announcement:

CHAIRMAN DEBRUYCKER announced there would be two hearings; the
present hearing, and one in August. The purpose of the hearings
is to get ideas from the departments, where cuts could be made if
the petition drive is successful.

Roger Lloyd, Legislative Fiscal Analyst, distributed an informational packet which REP. BILL WISEMAN had requested, on each department's funding and requirements by the federal government. **EXHIBIT 1.**

HEARING ON

Tape No. 1a

PUBLIC SERVICE COMMISSION

Bob Rowe, Vice Chairman, Public Service Commission (PSC) said the mission of the PSC is to fairly balance the interests of Montana utilities and transportation companies, and the customers they serve. He gave the following breakdown of department activities to the committee.

Overview

The PSC is required by statute to regulate rates and service for electricity, natural gas, telecommunications, water and sewer utilities, intrastate motor carriers, and railroads. Montana rate payers pay about one billion dollars a year to utilities that are directly regulated by the commission. Three of the industries PSC regulates, electricity, gas, and telecommunications, are undergoing very dramatic restructuring nationwide. In each of these industries there are Montana specific, regional, and national forces combining to affect the rates paid and the services received by Montana utility customers. Similarly, water and sewer utilities are facing a variety of new mandates and must also respond to very rapidly changing economic conditions. Most of the estimated 200 small Montana water systems are too small or undercapitalized, and are not equipped to meet these changes. PSC regulates these utilities through formal contested cases, and also through formal and informal investigations and rulemaking. This also applies to transportation. Because Montana has one of the smallest commission staffs in the nation, the commission must prioritize its efforts. The commission also attempts to coordinate its work with other Montana agencies such as the Department of Natural Resources and Conservation (DNRC), Montana Consumer Council (MCC), and public service commissions in other states.

Funding

PSC is funded by a tax on utilities and railroads which is deposited into a special revenue account, and the amount of tax is periodically adjusted to match the commission's appropriated budget. For FY 1994 the state's special revenue account budget is approximately \$2,300,000. When the utility tax is passed on to rate payers, a typical Montana household will pay about \$3.40 per year. The commission also receives small amounts of federal funds to operate the pipeline safety and master meter inspection programs. The FY 1994 federal funds will be \$29,727. The commission receives no state general funds. However, the

transportation division does generate approximately \$1.6 million per year which goes directly into the state general fund.

Staffing

With the elimination of 2.5 FTE the commission now has 39.5 FTE in addition to the commissioners. That reduction lowered the commission's staffing level back to the lowest point in the last ten years. In 1993 log hauling was deregulated by the Legislature, although the commission's responsibilities do continue through October 1, 1993. Effective July 1, 1993, the Legislature eliminated 1.5 FTE. These were filled positions in the transportation division. At the same time one vacant FTE rate analyst position in the utility division was eliminated. The commission has a division lead worker structure. This allows the commission to develop the necessary expertise, while also fulfilling management duties. Everyone at PSC, which includes commissioners and division administrators, have significant ongoing, substantive responsibilities. Commissioners sit in on cases rather than delegate that responsibility to lawyer hearing examiners as occurs in most states. Similarly, division administrators are engaged in substantive work on a daily basis. The Montana commission's structure is much leaner than most other states which frequently have separate divisions for gas, electricity, telecommunications, and in some cases, strategic planning. Montana has one utility division. Many states divide their legal divisions into hearings officers, advocacy staff, advisory staff, appellate staff, etc. Each of Montana's commission lawyers is expected to do a wide range of work. With the elimination of 1.5 FTE in transportation, three of the commission's four divisions are minimally staffed. Given the situation, the commission feels those staffing levels are appropriate. The utility division is significantly understaffed because of the elimination of 1.0 FTE. The 1993 Legislature did fund one of the two vacant positions, and eliminated the second position. In the utility and legal divisions, it is especially important to counterbalance the resources of the utilities which the commission regulates. Those utilities devote substantial numbers of highly skilled personnel to regulatory affairs. These personnel continue to represent the utilities over a period of many years. Understaffing, high turnover, or too great a reliance on less experienced staff by the commission potentially puts Montana rate payers at a severe disadvantage.

Activities to Promote Efficiency

The commission believes efficiency is doing the highest quality job with the resources available. One measure of efficiency would be promptly issuing decisions while respecting the due process rights of the parties who come before the commission. The commission's outstanding record when its decisions are appealed to district court, state Supreme Court, or the federal circuit courts, is a good indication of the commission's efficiency. The bottom line measure is the commission's ability

to protect the interests of Montana rate payers in fair prices and good services. The commission's efforts to enhance efficiency generally fall into one of three categories. The first category is that each expenditure brought before the full commission is scrutinized and weighed against all other important uses for the fund, and the option of not spending the money at all. Secondly, the commission and staff have focused on the efficient flow of information within the commission and internal procedures to ensure that work is done as efficiently and timely as possible. The third area of efficiency promotion, which is probably the biggest concern to utilities and rate payers, is that the commission has undertaken steps to improve its formal procedures. These include alternative filing requirements to expedite rate cases, new cost of service, rate design filing rules to clarify what parties have to present to the commission, cost planning guidelines, and rules to improve the processing of transportation cases.

The commission has made a series of adjustments necessary in order to meet the appropriated FY 1994-1995 budget. The commission was required to make approximately \$82,000 in reductions per year over the next two years to meet its targets for vacancy savings for application of the five percent across the board cut to staff, and sharer's salary, and for funding of only one-half of the commission secretary's salary.

Committee Questions and Comments

SEN. GERRY DEVLIN asked **Mr. Rowe** if the commission had any FTE slots that are not filled. **Mr. Rowe** said the commission is in the process of filling the rate analyst position in the utility division that was authorized by the Legislature. That is the only position that will be filled. **SEN. DEVLIN** asked **Mr. Rowe** how many FTE the commission has. **Mr. Rowe** said there are 39.5 FTE positions including the rate analyst position. Centralized services has 7 FTE, legal division 6 FTE, transportation 13.5 FTE including the field officers, and utilities has 13.

SEN. GREG JERGESON asked **Mr. Rowe** how much of the commission's time and budget is spent in regulating who hauls garbage in cities, and who hauls water to the oil and gas industry. **Mr. Rowe** said the transportation division spends a certain amount of its time on garbage haulers. The commission is looking at ways to more effectively regulate garbage haulers. There was a declaratory ruling proceeding in eastern Montana on the water issue. **Mr. Rowe** asked **Wayne Budt, Administrator, Transportation Division** if he had any information to add. **Mr. Budt** said he couldn't give a precise amount of time that is spent on these services. **SEN. JERGESON** asked **Mr. Budt** where the revenue comes from that is raised from the transportation companies. **Mr. Rowe** said the bulk of the revenue comes from the registration of interstate authorities of carriers that travel through Montana through the sale of vehicle identification stamps, also known as "bingo stamps." That accounts for approximately \$1.25 million

per year in revenue. **Mr. Rowe** pointed out that due to changes in the federal bingo stamp program, there is a danger that the amount of revenue generated for the Montana general fund may decrease.

SEN. CECIL WEEDING referred to **Mr. Rowe's** statement that the utilities division is still understaffed, and asked if that is still the case since the one rate analyst position has been filled. **Mr. Rowe** said there were two vacant slots; one was funded, and one was removed. He stated that his comment was based on his experience with the commission over a number of years. The commission does not have the resources to do the aggressive work planning in the telecommunications and electricity areas that Montana deserves; given the current situation, these resources will not be available in the near future. **Mr. Rowe** said his personal opinion is that the utilities division is understaffed and has been for some time.

REP. WILLIAM WISEMAN asked **Dave Lewis, State Budget Director**, if the Governor had sent a directive to all agencies to be careful about filling vacancies. **Mr. Lewis** said a letter was sent to all agencies suggesting it may be prudent to carefully examine the filling of any positions this fiscal year in case there is a special session. There would be more impact on the general fund agencies than on the special fund raising agencies such as PSC.

HEARING ON

DEPARTMENT OF LIVESTOCK

Tape 1a

Nancy Espy, Vice Chairperson, Board of Livestock, said the department is made up of a board of directors. The board acts as the director of the department. The department consists of animal health, brands-enforcement, diagnostic lab, meat, milk and eggs, and centralized services divisions. The department's constituents are the entire livestock industry, from the beehives of Montana to the game farm animals taxed by a special state revenue tax that goes to the department. The department operates under the direction and recommendations of the stockgrowers, woolgrowers, farm bureau, and farmer's union. The department's budget is prepared according to these unions' needs.

Ms. Espy said the per capita fees on livestock are the department's major revenue source. The department's general fund dollars have been cut to eight percent. In 1977 the department started out with 2,204,000 head of cattle, and ended with 1,591,000 head. In 1986 the Board of Livestock began to cut FTE, which resulted in the reduction of 17.9 FTE. In 1993 the department gained 3.0 FTE. The department anticipates an increase of two percent in livestock in 1993. Per capita fees were reduced due to the increase in livestock. Personnel services were cut 5 1/2 percent at the direction of the Legislature. The cuts consisted of two meat inspection

positions, a predator control pilot, a lab position, and two district veterinarians: one in the east and one in the west. Public relations work will be done by district brand inspectors who already have a very heavy workload. Veterinarian work will be contracted out to local veterinarians. The department has certain responsibilities to public health that have to be met, such as rabies. Brucellosis testing of cattle and bison is costly but necessary to ensure control of this disease. The dairymen replaced the general fund money for milk and eggs that was lost this past year by assessing themselves a fee on every gallon of milk.

Ms. Espy said **E. E. "Cork" Mortensen, Executive Secretary, Board of Livestock, and John Skufca, Administrator, Centralized Services** were also present and available to answer questions from the committee.

Committee Questions and Comments

SEN. JERGESON asked **Ms. Espy** if the meat inspection program is an assistance to the promotion of beef and pork products to the consumers. **Ms. Espy** said she believed the general public assumes that all edible products are inspected and safe. **SEN. JERGESON** asked **Ms. Espy** if the board or industry had discussed the possibility that the check-off program, which is a basis for advertising healthy products for consumers, could help support meat inspections. **Ms. Espy** said she didn't believe check-off funds could be used for any political type endeavor or inspection of a product. The check-off funds are for research, education, and promotion. The department cannot sacrifice its livestock state special revenue to support meat inspection. **Ms. Espy** said the meat inspection program is a consumer protection item and hoped the Legislature would keep it in the state. Meat inspection ensures the confidence of the consumer and the continuation of commerce.

SEN. WEEDING asked **Mr. Mortensen** for a breakdown of general fund costs and federal reimbursement for the meat inspection program. **Mr. Mortensen** said the state programs are financed by 50% of state general fund dollars and a matching 50% from the federal government. The cost to the state is \$300,000, and the federal government matches that for a total of \$600,000 for the meat inspection program.

SEN. DEVLIN asked **Mr. Mortensen** if a fee could be charged to businesses for meat inspection services in order to offset some of the costs to the general fund. **Mr. Mortensen** said it was his understanding that fees could not be charged since it is a public health service. **Tape 2b.** **Mr. Mortensen** said a veterinarian who is the coordinator for state programs at the federal level, told him that a fee cannot be identified as a specific user fee for meat inspection and be in compliance with the federal Meat Inspection Act. However, if for example, ten cents a head was assessed on all the sheep in Montana, reverted back to the

general fund and agreed upon to be used for the meat inspection program, it would be permissible. If the ten cents a head was identified as being for meat inspection, it would not be in compliance with the Act.

SEN. DEVLIN asked **Ms. Espy** if the department anticipates having to raise the per capita fee on livestock. **Ms. Espy** said the department feels it will be necessary to raise the fee. Approximately \$1,000,000 general fund dollars have been cut since 1992. **SEN. DEVLIN** asked **Ms. Espy** if the board had an attorney. **Ms. Espy** said the board has an attorney who also acts as a personnel officer. **SEN. DEVLIN** said there has been talk of an attorney pool that would be used by all state agencies. **Ms. Espy** said the department has discussed an attorney pool from time to time but there seems to be ongoing threats of a lawsuit, or a lawsuit that has kept their attorney very busy, and the department out of trouble. In addition, the attorney acts as a personnel officer. The department feels it can justify retaining its attorney. The livestock industry is a very specialized industry, and an attorney is needed on board who understands the problems. However, if a pool becomes necessary, the department can accommodate that too. **SEN. DEVLIN** suggested that an attorney pool would give the department a broader range of expertise for the complicated issues that arise. **Ms. Espy** agreed but said the attorney pool would cost the department more because it would be paying by the hour.

SEN. JERGESON referred to **REP. WISEMAN'S** column in the Great Falls Tribune about combining the 18 departments under the Governor's direction into six. He asked **Ms. Espy** for her reaction. **Ms. Espy** said that due to society and economics the departments have all become very specialized. The livestock industry which is the largest segment of the agriculture industry, would be up in arms if the department were to be merged. The livestock industry will not tolerate their money being blended into any other departments.

REP. WISEMAN said he understood \$300,000 of general fund dollars goes to meat inspection, and asked **Ms. Espy** where the remaining \$150,000 was used. **Ms. Espy** said the remainder goes to diagnostic lab and centralized services. **REP. WISEMAN** asked **Ms. Espy** if the brand inspection program was completely self-funded, to which she replied yes. **REP. WISEMAN** asked **Ms. Espy** how Montana compared with North and South Dakota in FTE and brand inspections vs. the number of cattle. **Ms. Espy** said she didn't have that information but would get it. She pointed out that South Dakota, North Dakota, and Wyoming operate under the stockgrowers association. Their programs are in disarray and having serious problems.

SEN. JERGESON asked **Ms. Espy** if he understood correctly that brand inspection in the aforementioned states is not state operated. **Ms. Espy** said it is partially privatized under supervision of state government, but the stockgrowers run the

program. It is a very political situation.

SEN. WEEDING asked **Ms. Espy** if brand inspectors were responsible for brucellosis tattoos. **Ms. Espy** said veterinarians are responsible for the tatoos.

HEARING ON

DEPARTMENT OF AGRICULTURE

Tape 2a

Ralph Peck, Deputy Director, Department of Agriculture, said an extensive review of the organizational structure of the Department of Agriculture has taken place. The review was in the areas of FTE, workload, funding, and increasing efficiency. A reorganization of the department eliminated the grain laboratory division, and included it in the agriculture development division. Marketing, hail insurance and the rural development programs were consolidated into one bureau in the agriculture development division. As a result one division, one bureau, and one unit were eliminated. The FTE are now cross-utilized for greater efficiency. The agriculture and biological sciences division's name was changed to agricultural sciences division which is less cumbersome. Position descriptions were redesigned in the plant industry, agriculture development, and central management divisions for better utilization of personnel.

Committee Questions and Comments

SEN. DEVLIN asked **Mr. Peck** what amount of savings was realized due to the reorganization. **Mr. Peck** said there wasn't any savings money-wise, but the department is able to use staff more efficiently. However, there was no additional financial cost.

REP. JOHNSON asked if FTE were cut as a result of the reorganization, to which **Mr. Peck** replied no.

REP. WISEMAN asked **Mr. Peck** for his comments on the feasibility of merging the Departments of Agriculture and Livestock. **Mr. Peck** said it is very hard to speak for the people of the agricultural and livestock industry.

SEN. WEEDING asked **Mr. Peck** how many other states have a Department of Livestock. **Mr. Peck** said many states have agriculture and livestock in one department. Functions vary in other states. For instance, Montana has its weights and measures division in the Department of Commerce. In some of the other states it is under the Department of Agriculture.

SEN. DEVLIN asked **Mr. Peck** how many attorneys the department employs. **Mr. Peck** said there is one attorney. He said he is serving on a commission that is reviewing the attorneys in Montana. Every state is being contacted to determine how their

legal services are run in relation to the Attorney General's office, the Governor's office, and state agencies. All the agency directors and attorneys in the state of Montana are also being surveyed.

SEN. JERGESON asked **Mr. Peck** why there is a Mustard Standards Act, which creates responsibilities for the department, when there isn't one for canola. **Mr. Peck** said canola is graded under Canadian standards. The Act gives the department the authority to set state standards for mustard. The department doesn't have much activity in the mustard grading area. **SEN. JERGESON** asked **Mr. Peck** if there were similar requirements for commercial feeds and fertilizers. **Mr. Peck** said there are similar requirements for commercial feeds and fertilizers. They are earmarked revenue programs. The programs have always been paid for by the industry from fees collected from that industry. They provide consumer and industry protection. **SEN. JERGESON** said these programs should to be looked at to see if they are still needed.

SEN. DEVLIN asked **Mr. Peck** for a general fund budget breakdown. **Mr. Peck** said the central management division has \$148,865 appropriated for FY 1994 and approximately \$145,000 for FY 1995. There is also \$30,569 appropriated for audit fees for FY 1994. The grain laboratory is entirely self supported. The agricultural sciences division has approximately \$55,000 for FY 1994 and \$62,800 for FY 1995. The nursery program has \$125,927 for FY 1994 and \$91,000 for FY 1995. The agriculture development division has approximately \$173,000 for FY 1994 and \$168,000 for FY 1995.

SEN. WEEDING asked **CHAIRMAN DEBRUYCKER** if the purpose of the meeting was to get recommendations from the departments for reductions in programs. **CHAIRMAN DEBRUYCKER** said the purpose of the July meeting is to come up with ideas, find out where the departments stand, and make the departments aware of what could happen if there is a special session. The departments should have some specific recommendations for the meeting in August.

SEN. DEVLIN said the agencies and departments participating in the meeting need to know the Legislature will be looking for money if there is a special session, and it would be better for these entities to be prepared to say where the money will come from rather than having the Legislature micro-manage the system.

SEN. JERGESON said sometimes the Legislature micro-manages the agencies by the guess method. It doesn't tell them what to cut or not to cut, and never seems to be satisfied with their proposals. The Legislature is either going to have to accept their proposed changes or tell the agencies what is expected of them.

REP. JOHNSON suggested that the departments be prepared to come up with reductions in FTE or priorities for elimination of programs.

SEN. JERGESON asked if **Dave Lewis, Budget Director**, could describe the directions he has given the departments.

Mr. Lewis said the Governor asked the budget office to prepare a budget that would reduce spending from \$70 to \$90 million. A letter has been sent to the agencies suggesting they set priorities for reducing spending. The analyst is setting up meetings with all the agencies to talk about what would happen if they had to reduce spending by 10%. The budget office is putting together a list of options to take to the Governor, who will use it to make some preliminary decisions within the next two weeks. This information will be given to the subcommittees at their next meeting. The objective is to simplify and streamline the process.

HEARING ON

DEPARTMENT OF STATE LANDS

Tape 2a. 47.6

Bud Clinch, Commissioner, Department of State Lands, said the land board manages the department. The board has delegated day to day responsibilities to the department. The department is made up of the lands division, forestry division, reclamation division, fields division, and central management division.

Mr. Clinch said the department manages approximately 5.2 million acres of state trust lands. The majority of acres are under the jurisdiction of the lands division. The lands division supervises agricultural, grazing, recreational access, homesites, outfitting activities, oil and gas leasing, and right of way applications for utilities and other uses. Annually, revenues generated are in excess of \$32,000,000. Each year public interest, regulatory attention, and direction increase in all of these areas. Presently there is increased concern about the surface rental fees charged on state lands. Consequently, internal monitoring activities have increased.

Mr. Clinch said the forestry division manages the fire protection program. The forestry division manages 600,000 acres of trust land which includes timber sales production and revenue generation for the school trust funds. Forestry is also actively involved in regulatory statutes concerning streamside management zones and slash hazard reduction. The forestry division operates a fully functional nursery in Missoula that provides conservation planting stock for the department's lands activities, forested regeneration, and other agencies.

Mr. Clinch said the reclamation division is responsible for regulating coal, hard rock, open pit, and abandoned mine lands on all ownerships. The division oversees the permitting and enforcement of mining regulations on 90 hardrock permitted mines, as well as over 1,000 small miners' exclusion permits,

approximately 2,000 open pit mines which are primarily gravel pits scattered across the state, and 1,000 abandoned mine sites.

In addition, **Mr. Clinch** said, there is a field division which is responsible for staffing and assignment of workloads in field offices, and the internal management division that is responsible for all accounting activities.

CHAIRMAN DEBRUYCKER asked **Mr. Clinch** if the nursery was efficient, a necessary function, and what priority he would give it. **Mr. Clinch** said in terms of the end product, the department is trying to produce, it would put its nursery up against any other nursery. He said the nursery is not top priority. It could be eliminated or replaced the same as any other department or government function. **Mr. Clinch** said **Don Artley, Forestry Division Administrator**, was in attendance, and could answer any questions concerning the nursery.

Mr. Artley said that during the regular session, all general fund support for the nursery was eliminated. The nursery now operates totally on receipts from charges for seedlings. FTE have been reduced to eight employees most of which are seasonal.

CHAIRMAN DEBRUYCKER asked **Mr. Artley** how fees were handled when state lands are reforested. **Mr. Artley** said the forest management program was charged. The division charges a fee in addition to the stumpage rate when timber is sold which goes into the forest improvement fund. The fund is used to buy seedlings from the division's nursery.

SEN. WEEDING asked **Mr. Artley** what the predicted yield is from state forests for next year. **Mr. Artley** said there is a theoretical sustained yield of approximately 50,000,000 board feet which is not considered a realistic level. There are too many other constraints that would prohibit selling at that level. With full funding of the timber program, 35,000,000 board feet could easily be cut. HB 652 allowed the department to use \$312,000 per year of timber sale revenues to fund six additional positions in the timber program.

SEN. DEVLIN asked **Mr. Artley** if he anticipated an increase of money to the trust due to the rising cost of timber. **Mr. Artley** said at this time there are unprecedented price levels. In eastern Montana timber prices have risen tremendously. Now is the time to be in the market. However, since the timber program is minimally staffed in eastern Montana it is difficult to take full advantage of these prices. Last fiscal year the program produced over \$6,000,000 in timber sales. If the department can keep the sales volume up it will be more this year. **SEN. DEVLIN** said HB 652 authorized the division 4.5 FTE in FY 1994 and six FTE in 1995 for the increased timber harvest the Legislature requested. He asked **Mr. Artley** if the extra FTE would continue to be needed. **Mr. Artley** said yes, because the program's production level is directly proportional to the number of people

working in the field. The additional 6.0 FTE will result in approximately 5,000,000 board feet over what would normally be produced. Approximately ten positions will have to be kept vacant throughout the year to meet the \$277,000 cut the division has to take. Some of those positions will have to come out of the timber sales program. Therefore, even though there will be six new positions, the current level program will not be fully staffed. **SEN. DEVLIN** asked **Mr. Artley** if the funding for the additional staff is from the general fund or receipt money. **Mr. Artley** said the funding is from receipts. Funding for the remainder of the staff in the timber sales program is from the general fund.

Mr. Clinch said he is faced with the decision of whether to make cuts from programs that are revenue generating, a position that has regulatory responsibilities, or a position that is more service oriented. That is the direction all departments need from the Legislature in terms of putting together a package that will provide government at a level the public and Legislature wants, as well as meeting revenue expectations.

REP. JOHNSON said the forestry division has the largest amount of general fund which is \$12,000,000. He asked **Mr. Clinch** where he would cut, if it became necessary to cut general funds. **Mr. Clinch** said he would like to have support from the Legislature in repealing some of the statutes. Reducing a certain percentage of revenue from a host of programs has become an unacceptable way of doing business. Departments are strapped with statutory mandates on many programs that need to be evaluated to determine if state government should be providing those services, or if they could be transferred to a funding process or the private sector. There has been reluctance on the part of the Legislature to repeal previous statutes and mandates. **REP. JOHNSON** asked **Mr. Clinch** if he would provide a list of the statutes that need to be evaluated at the next meeting, to which he replied yes.

SEN. JERGESON asked **Mr. Artley** how much the slash program costs. **Mr. Artley** said the slash on state-owned lands is not part of the slash program. It is paid for by the forest improvement account from a fee charged for harvesting timber. The slash program is on private lands, which is mostly funded through fees to operators. There is some general fund support. Historically it has been 50% general fund and 50% from fees charged to individual landowners who are selling timber. General fund support to the slash program could be eliminated by requiring landowners who are selling timber to cover the complete cost. The slash program has approximately \$66,000 this year in general funds. This is less than normal because the program is spending down a cash balance it has been accumulating. The total program is approximately \$366,000 per year. The remaining \$300,000 are from funds taken out of the account landowners pay into. **SEN. JERGESON** asked **Mr. Artley** if fees could be gauged to the value of the timber the private timber owners harvest, to make the fees higher when the price of timber is higher. **Mr. Artley** said that would be

reasonable.

SEN. DEVLIN asked **Mr. Clinch** if it would take a statutory change to increase fees to private timber owners. **Mr. Clinch** said in the slash program the fees are set in statute. The department cannot set fees through rules. A statutory change would have to be made. **SEN. DEVLIN** asked **Mr. Clinch** if fire protection assessment fees could be increased to relieve general fund. **Mr. Clinch** said the statutes require that one-third of the costs of the basic fire protection program must be funded from private forest landowners. This is based on the number of acres of forest land a person owns. There is a minimum fee of \$21 per year plus 17 cents per acre for every acre above 20. These rates are set administratively based on the size of the budget, so no more than one-third of it is covered by private forest landowners. Increasing the amount of the fire protection program that is paid by landowners is an option to reduce the general fund burden.

SEN. DEVLIN asked **Mr. Clinch** if he had any other ideas for making adjustments in the forestry program. **Mr. Clinch** said there are some good opportunities to reduce general fund dependence. One would be to fund trust management out of receipts completely. That would save \$2,000,000 per year in the forestry program and \$1,000,000 in the lands program. The department is also considering having landowners pay the complete costs of the slash program, having them pick up an increased cost of the fire program, and having the people the department regulates pay the cost of the regulatory program. **SEN. DEVLIN** commented that any part of the trust that is used would cause a reduction to the schools. **Mr. Clinch** said at present, timber sale revenues are totally distributable. He agreed that there would be less money going to the school equalization account.

SEN. JERGESON said there are reclamation standards for coal mining, a different set of reclamation standards for hard rock mining, and another set of standards for open pit mining. He asked **Mr. Clinch** if the department has considered developing a consistent set of standards for all types of mining. **Mr. Clinch** said he wasn't convinced that consolidation into a single set of standards would cause a reduction of staff, inspections, or enforcement actions. There is considerable difference between some gold mining operation and some open pit coal mines. **Mr. Clinch** asked **Gary Amestoy, Administrator, Reclamation Division**, for his comments.

Mr. Amestoy said the main difference between the programs has to do with the fact that the coal program is regulated by a federal law from which the Montana law has to be patterned. The laws for hard rock and open cut programs are the result of state legislation, and considerably different than what they are in the federal program. **SEN. JERGESON** asked **Mr. Amestoy** if there was anything that would prevent the state from establishing hard rock standards as stringent as the coal mining standards. **Mr. Amestoy**

said there would be nothing to prevent that from happening and it could be done.

SEN. DEVLIN asked **Mr. Amestoy** if federal funds are used. **Mr. Amestoy** said as a result of implementing the federal law, the coal program is funded by approximately 76% federal dollars, and 24% state dollars. **SEN. DEVLIN** asked **Mr. Amestoy** whether, if the state didn't do the regulatory part of reclamation and mining, the federal government would do it. **Mr. Amestoy** said the department has discussed that issue when trying to develop priorities within the reclamation division. There are two sections in the Surface Mining Control Reclamation Act that deal with coal mining and abandoned mine reclamation. Title IV deals with abandoned mine reclamation. Title V deals with active coal mine permitting and reclamation. To be able to have an abandoned mine program, the federal law requires the state to have a coal program. It's an incentive for the state to take the coal regulatory program because the abandoned mine program, is 100% federally funded at about \$5,000,000 a year. If Montana were to give the federal government the coal regulatory program back, the federal government would implement a coal reclamation program in the state. The monitoring from the federal government would be minimal.

SEN. JERGESON asked **Mr. Lewis** if he could compile a report of the number of positions eliminated in all departments as a result of the regular session, to make the public aware of what actions have already have been taken. He said he felt the public was making decisions about signing the petition without being fully aware of the cuts the Legislature has already made for the next biennium during the last regular session. **Mr. Lewis** said it is a little early because most agencies are still trying to find out how many retirements they are going to have, but he could get an update on how many vacant positions there are by agencies at the present time.

SEN. DEVLIN said he would like to have **Mr. Clinch** consider the consolidation of field offices which would combine departments throughout the state. For example, the same secretarial staff could be utilized by all departments. **Mr. Clinch** said that would be taken into consideration. **SEN. DEVLIN** asked **Mr. Clinch** how many lawyers the department had, and if he thought using a pool of lawyers for like agencies would be more beneficial. **Mr. Clinch** said that the four lawyers employed by the department are constantly busy with litigation measures for the department and there is no surplus of capacity, so no other department would have access to them. He said the department's attorneys are specialized, and he would be reluctant to use a pool of attorneys that have historically worked cases for the Department of Revenue.

SEN. JERGESON asked **Mr. Lewis** if there is a document that shows a comparison of the number of FTE located in Helena and those located in the field by agencies, because many people think the

majority of state employees live in Helena. Mr. Lewis said he could get that information from the state payroll system.

HEARING ON

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Tape 3a.

Wayne Wetzel, Deputy Director, Department of Natural Resources and Conservation, said the department is made up of water resources, energy, conservation and resource development, centralized services, oil and gas conservation, and reserved water rights divisions.

Mr. Wetzel said a workers' compensation claim by an employee of the department triggered an audit. As a result, it has been determined that employees need to be reclassified and the department needs to pay a higher rate. For example, maintenance workers' rates have gone from 72 cents per hundred workers, to \$4.35 per hundred workers. The department owes a liability for the past two fiscal year of \$132,000, which has been carried into this biennium, and was not presented as part of the budget. The department is appealing the audit. If the department is required to pay the liability, it will change the 5.5% vacancy savings target to about 6.9%.

Mr. Wetzel said some of the professional employees the department thought met the Fair Labor Standards Act exemption had to be changed to nonexempt. As a result, overtime must be paid instead of compensation time.

Mr. Wetzel said the department has eliminated two regional office manager positions, one section supervisor, one assistant bureau chief position, and two bureau chief positions.

Committee Questions and Comments:

SEN. DEVLIN asked Mr. Wetzel how many attorneys are employed by the department. Mr. Wetzel said there are six attorneys. SEN. DEVLIN asked Mr. Wetzel if he had considered consolidating field offices with other state department field offices. Mr. Wetzel said the department has looked at the possibility of consolidating field offices. Space is not available in some locations. SEN. DEVLIN asked Mr. Wetzel for a report on any statutes that could be changed to relieve the department of some responsibilities and save money.

SEN. JERGESON said some of the proponents of the petition drive with respect to HB 671 suggested that privatization offers a painless way to achieve savings. He asked Mr. Wetzel if the department had analyzed potential privatization. Mr. Wetzel said the department has always favored privatizing water projects.

REP. WISEMAN asked Mr. Wetzel how many agencies besides DNRC and the Department of Commerce are involved in economic development, and if any consideration has been given to consolidating these activities into one department. Mr. Wetzel said he didn't know but would get that information for him.

SEN. WEEDING asked Mr. Wetzel how many water projects the state has, and if they pay their own way or are subsidized. Mr. Wetzel said there are 38 water projects. There are 26 active projects, of which 12 are on a list to be privatized by 1995. It was intended that the state would be involved in the subsidization of the water projects when they were initially built. The contracts that were entered into in the 1930's and 1940's provide water to water users at a set rate for the life of the project. The state cannot make any money from the water projects without breaking the contracts. SEN. WEEDING said he thought some of the laws had been rewritten to allow water charges to be raised. He said he recalled the Daly Ditch Water Project was selling water very cheap, and that was rectified. Mr. Wetzel said that was rectified by transferring the project to the water users.

SEN. JERGESON asked Mr. Wetzel if the conservation districts are at their maximum allowable local mill levy. Mr. Wetzel said he didn't know for sure, but didn't think all of them were at the maximum mill levy. SEN. JERGESON asked Mr. Wetzel if the conservation districts were authorized to establish their own mill levy rates. Mr. Wetzel said he didn't know but would get that information.

CHAIRMAN DEBRUYCKER asked Mr. Wetzel to prepare a list of ways the department can save money and have it ready for the next meeting. Mr. Wetzel said the department had already submitted a list of priorities.

SEN. WEEDING asked Mr. Wetzel if there were any services that could be assessed at a higher rate. Mr. Wetzel said the department has doubled the fees for water rights permitting functions. This still doesn't pay for half of the operating expenses or salaries. SEN. WEEDING asked Mr. Wetzel to find out what the actual cost is of granting water permits.

HEARING ON

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Tape 4a.

Al Elser, Deputy Director, Department of Fish, Wildlife and Parks, distributed and explained an informational budget packet to the committee. EXHIBIT 2.

Committee Questions and Comments:

SEN. DEVLIN asked Dave Mott, Associate Director, Administration

and Finance Division, how the state agencies are assessed for the Capitol grounds maintenance. Mr. Mott said the cost to agencies is calculated on a square footage basis. The more square footage an agency has, the more it pays.

REP. WISEMAN asked Mr. Mott if federal funds would be lost if the general license fee was de-earmarked. Mr. Mott said if the general license account funds or earmarked license revenue is diverted and used for purposes other than hunting and fishing license programs, the department would likely lose 28% of their budget funded with federal funds, which is approximately \$9,000,000. One way to get around that would be to take all the license money away and replace it with general fund money in a like amount.

SEN. DEVLIN asked Mr. Mott how much federal and state license money could be spent on the upkeep of parks if there is an area in the park people use to go hunting. Mr. Mott said it is permissible in some cases to use license funds for the parks areas if it is also being used for hunting purposes. It is a judgment call on a case-by-case basis.

HEARING ON

DEPARTMENT OF COMMERCE

Tape 4a.

Jon Noel, Director of Commerce, said economic development is major function of the department. Economic development is a result of someone taking the risk to meet a payroll and invest in a business. Although economic development is a state-wide problem, and will broaden the tax base, it is a local issue. The solutions are local, the problems are state-wide. Economic development problems vary in different areas of the state. Therefore, the roll of the department should be to support the local efforts.

Mr. Noel said the department has been restructured by taking six existing employees who have previously been specialists in business plans and marketing plans, and assigning them to specific geographic regions of the state. Their role is to be supportive of the resource needs of businesses. The department is in the process of putting together a business development resource data base. The department will use the Montana Entrepreneurship Center, which has an electronic data base of university resources. The data base will be expanded to include electronic access to all of the available funding programs. This information will be available to the people of Montana through extension centers.

Mr. Noel said the department is looking at similar kinds of restructuring in other areas of the department. In the next few weeks recommendations will be submitted regarding further

restructuring, or elimination of programs if there are funding cuts.

Committee Questions and Comments:

SEN. JERGESON referred to the increase of FTE and asked **Mr. Noel** if more responsibilities were added to the department during the last session. **Mr. Noel** said the economic development division had a decrease of 7.0 FTE. The increase in FTE was for six bank auditors, four in professional licensing, two in Montana promotions, six in the HOME program, one for decennial census work, and five additional building inspectors. The decennial census position is the only one that is a general fund position.

SEN. JERGESON asked **Mr. Noel** if he had considered using privatized legal counsel instead of retained counsel. **Mr. Noel** said he had not looked into that. Most of the department's retained counsel is bond counsel for the Board of Investments, the Board of Housing, and Health Facilities Authority. In addition, there are seven staff lawyers.

SEN. JERGESON asked **Mr. Noel** if the required licensing of approximately 30 professions is necessary, or if licensing requirements for some of them could be eliminated. **Mr. Noel** said his personal opinion is that some of the licensing requirements are not necessary. Some of the licensing requirements are an obstacle to economic development. He said it is a fact that a person can become a brain surgeon in less time than it takes to become a master plumber in Montana. This is an area that needs to be looked into and would need statute changes.

SEN. DEVLIN said he remembered when the business development division had been eliminated, and now it seems to have been resurrected. He said it doesn't bring in much revenue. **Mr. Noel** said there was an attempt to eliminate the division during the last session but it was not successful. He agreed that the division hasn't brought in much revenue, and said that is why the division has been completely reorganized.

SEN. DEVLIN asked **Mr. Noel** if building permits were required for all building projects. **Mr. Noel** said permits are required for any commercial building. There are cities that require permits for residential buildings. Outside the city limits permits are not required for residential building or anything smaller than a four-plex, except electrical permits. **SEN. DEVLIN** said the Department of Health and Environmental Sciences has to approve septic systems and water. He said permitting should all be under one department. **Mr. Noel** said the department is analyzing all regulatory functions related to public safety to determine if they should all be under one department.

REP. WISEMAN asked **Mr. Noel** to brief the committee on what has been done in the international trade area. **Mr. Noel** said the Tokyo and Calgary offices have been closed in response to the need to make cuts. The Taipei and Kumamoto offices remain open

and are funded by the general fund, Travel Montana, and Growth through Agriculture funds.

CHAIRMAN DEBRUYCKER suggested that **Mr. Noel** present a list of statutes that could be eliminated at the next regular session, . **Mr. Noel** said he has set a goal to have every legislator carry one bill to eliminate an obstacle to economic development. The statutes will be included.

Other Business:

A tentative date of August 27, 1993 was set for the next meeting. **CHAIRMAN DEBRUYCKER** said it's possible a joint meeting could be approved for all committees in September, rather than having another meeting in August. Committee members will be notified.


REP. JOHNSON said he had compiled a list of the main topics discussed with more than one department. He said the list should be sent to the departments to prepare them for what information has to be brought to the next meeting.

REP. DEVLIN said a letter, which includes the list, should be signed by **CHAIRMAN DEBRUYCKER** and sent to the departments. He said an exchange of information should be made with other subcommittees before the next meeting.

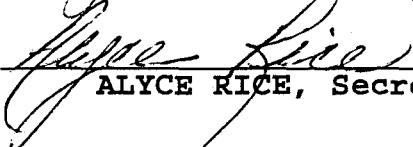
Motion/Vote: **REP. JOHNSON** moved that a list of topics discussed during the meeting be sent to department directors, with a request for information. **REP. WISEMAN** seconded the motion.
MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 3:55 P.M.



REP. ROGER DEBRUYCKER, Chairman



ALYCE RICE, Secretary

DB/ar

PUBLIC SERVICE REGULATION								
Agency Summary								
Budget Item	LFA Fiscal 1994	HB 2 Fiscal 1994	HB 2 - LFA Fiscal 1994	LFA Fiscal 1995	HB 2 Fiscal 1995	HB 2 - LFA Fiscal 1995	HB 2 95 Biennium	HB 2 - LFA 95 Biennium
FTE	47.00	44.50	(2.50)	47.00	44.50	(2.50)	44.50	(2.50)
Personal Services	1,740,942	1,588,308	(152,634)	1,743,804	1,590,906	(152,898)	3,179,214	(305,532)
Operating Expenses	442,510	658,494	215,984	430,151	443,602	13,451	1,102,096	229,435
Equipment	27,738	125,208	97,470	17,862	17,862	0	143,070	97,470
Total Costs	\$2,211,190	\$2,372,010	\$160,820	\$2,191,817	\$2,052,370	(\$139,447)	\$4,424,380	\$21,373
Fund Sources								
General Fund	2,181,463	0	(2,181,463)	2,163,649	0	(2,163,649)	0	(4,345,112)
State Revenue Fund	0	2,342,283	2,342,283	0	2,024,202	2,024,202	4,366,485	4,366,485
Federal Revenue Fund	29,727	29,727	0	28,168	28,168	0	57,895	0
Total Funds	\$2,211,190	\$2,372,010	\$160,820	\$2,191,817	\$2,052,370	(\$139,447)	\$4,424,380	\$21,373

Agency Description

The Department of Public Service Regulation (PSR) regulates the public utility, motor carrier, and railroad industries to provide consumers with safe, reliable, and adequate services at the lowest cost while providing the regulated industries with a fair and reasonable return on their investment. The department is provided for in sections 2-15-2601 and 69-1-102, MCA, and operates under one program, the Public Service Commission. This program is overseen by five commissioners elected from districts throughout Montana.

Budget For The 1995 Biennium

Pay Plan - Funding for the pay plan for fiscal 1994 and fiscal 1995 (HB 198) is not included in the table above. A description of the pay plan increase is provided in the summary section of Volume I of this report.

Current Level Differences

Vacancy Savings - The legislature reduced total non-federally funded personal services by 5 percent in each fiscal year, resulting in a state special revenue reduction of \$71,021 in fiscal 1994 and \$71,192 in fiscal 1995. The salaries and benefits of four of the five commissioners were exempted from this reduction. At the request of the commission, the chairman's salary and benefits were included in the vacancy savings calculation.

The legislature appropriated funds in the Department of Administration to provide some additional funds to executive branch agencies that did not experience anticipated vacancy savings. These contingency funds equal 10 percent of the total general fund and 20 percent of total other funds vacancy savings for executive branch agencies.

FTE Reduction - While the legislature eliminated 2.50 FTE, it reduced funding (\$81,613 in fiscal 1994 and \$81,706 in fiscal 1995) for 3.00 FTE.

Capitol Grounds Maintenance - The legislature adopted revised estimates for these costs and continued the current allocation method, resulting in a decrease of \$469 in fiscal 1994 and \$472 in fiscal 1995.

Consulting and Professional Services - The legislature included \$5,000 each year above fiscal 1992 actual expenditures for natural gas master meter operators, court reporter fees, and natural gas BTU analysis.

July 26, 1993

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The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

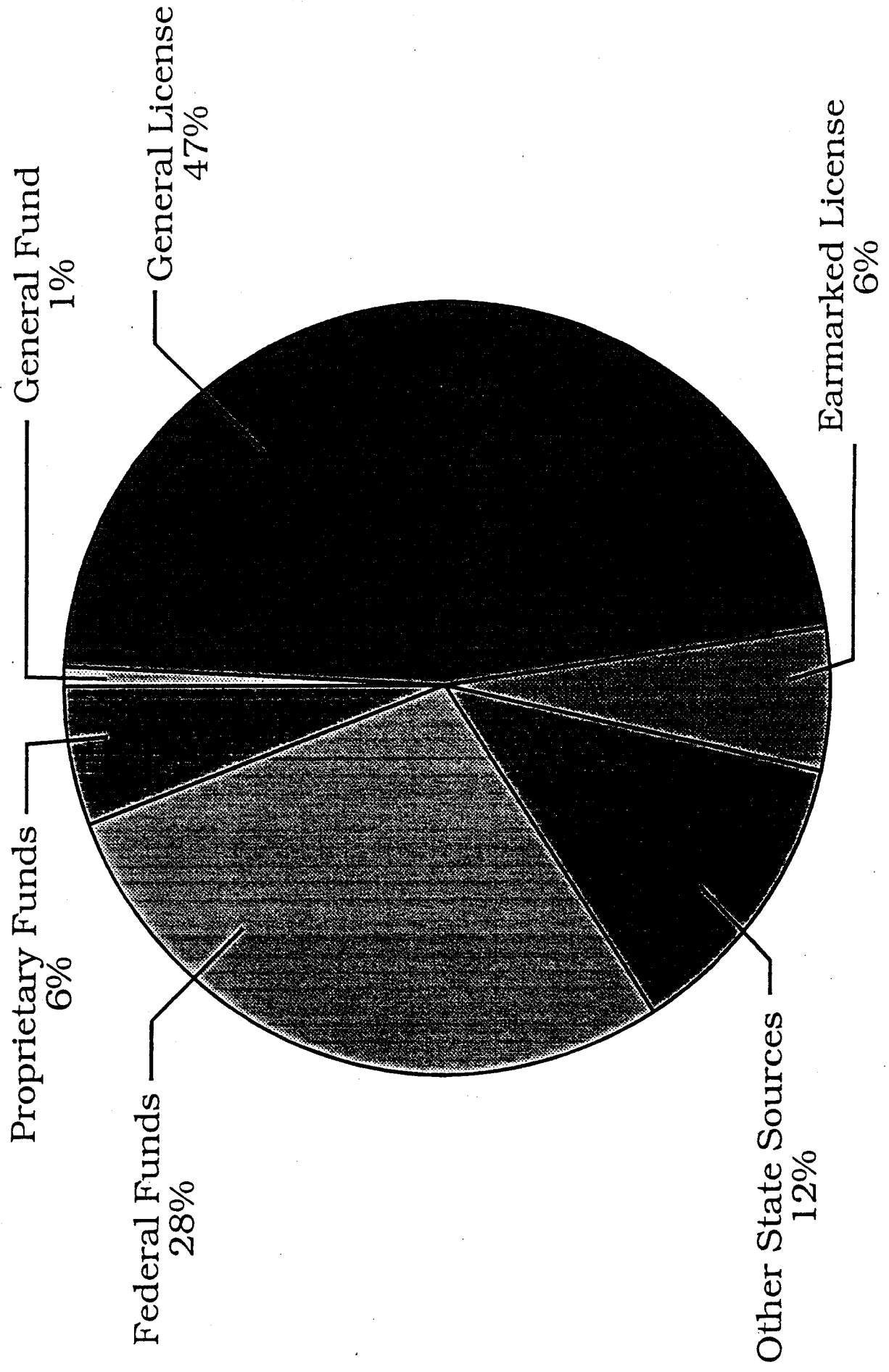


Montana Fish, Wildlife & Parks

July 26, 1993
Meeting with
Natural Resources Appropriations Sub-Committee

Fish, Wildlife & Parks FY 94 Operations Budget

By Revenue Source



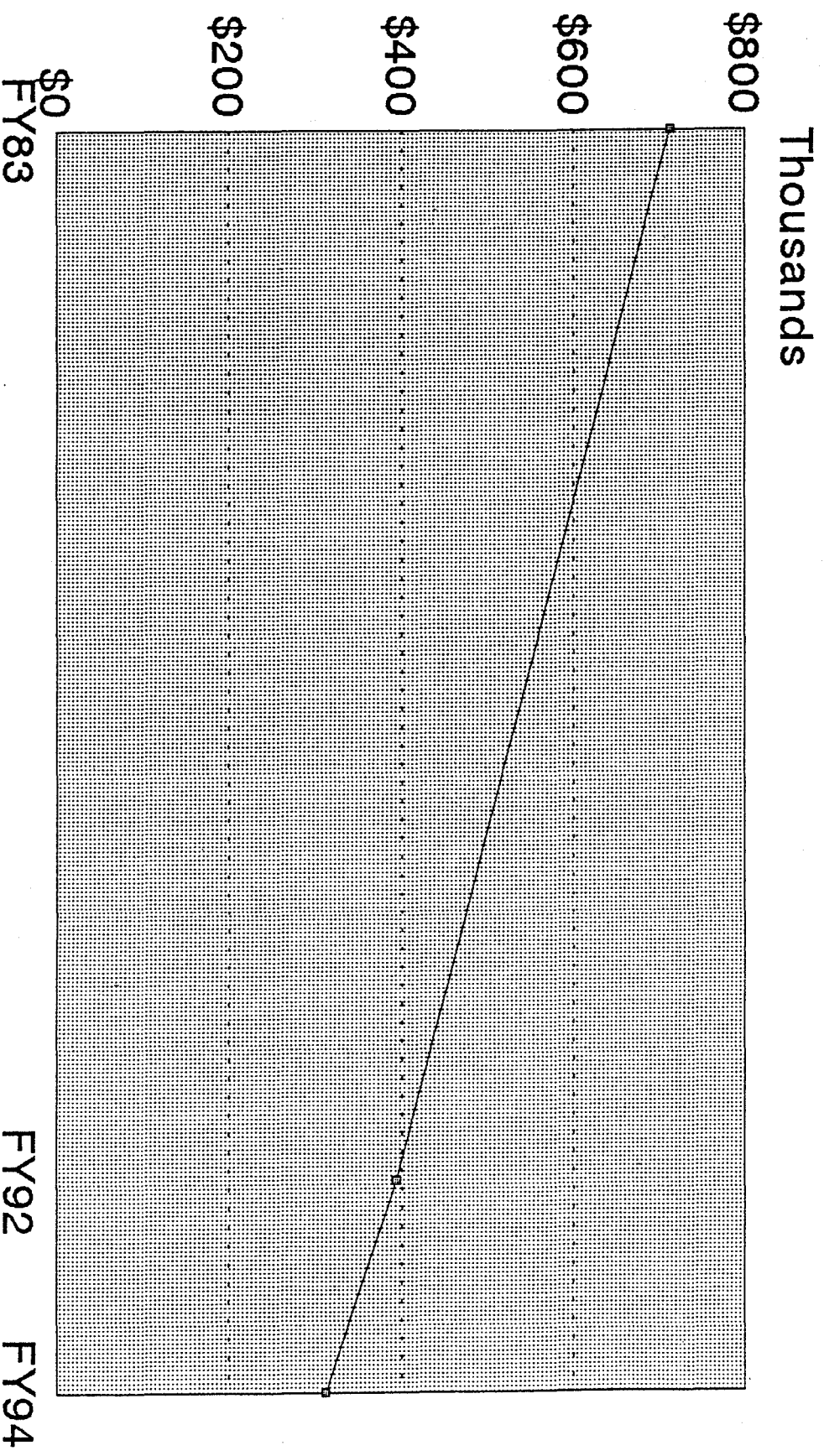
PRIORITIZED LIST OF GENERAL FUND ACTIVITIES

Priority	Description	FY92 Actual	FY93 Budgeted	FY94	FY95
1	<u>Park Maintenance and Repair</u> This priority involves road, campsite and dock repairs, maintenance equipment, park utilities, weed control, and trail repairs and maintenance. (23-1-102; 7-22-2116, MCA)	\$213,738	\$175,389	\$194,552	\$199,132
2	<u>Visitor Services and Safety</u> Park resource protection, visitor protection, park care, water quality testing, site security, safety improvements, directional signs, volunteer support, fire protection, native american and university student interns. (23-1-121; 75-6-104, MCA)	\$ 64,165	\$ 82,432	\$116,553	\$116,805
3	<u>Montana Conservation Corps (MCC) Program</u> This priority involves program coordination and grant oversight of the National Community Service Act (\$500,000) and coordination with MCC Inc. and HRDC's, our private non-profit partners. Other internal support is provided to field projects using youth crews from this funding source. (23-1-301 through 314, MCA)	\$ 47,590	\$ 54,272	0	0
4	<u>Park Partnership Support</u> FWP has turned control of various parks over to other agencies to manage. These funds reduce FWP's site development and maintenance responsibilities thus making a substantial savings to our system. (23-1-107; 87-1-209, MCA)	\$ 4,500	\$ 4,500	0	0
5	<u>Tourism Enhancement</u> These funds are used to investigate and establish links between State Parks and Montana's tourism industry. Examples include the economic development and tourism report done for three state parks and surrounding communities. This project also includes joint tourist information publications with Commerce. (23-1-107; 23-2-101, MCA)	\$ 8,758	\$ 8,918	0	0
6	<u>Information, Education and Interpretation</u> Includes park directional and internal signing, education and interpretation materials for youth, school groups and tourists. Special events and programming such as Bannack Days, park brochures, and a campsite reservation and information system. (87-1-210; 23-1-101, MCA)	\$ 54,671	\$ 59,087	0	0
TOTAL		\$393,422	\$384,598	\$311,105	\$315,937

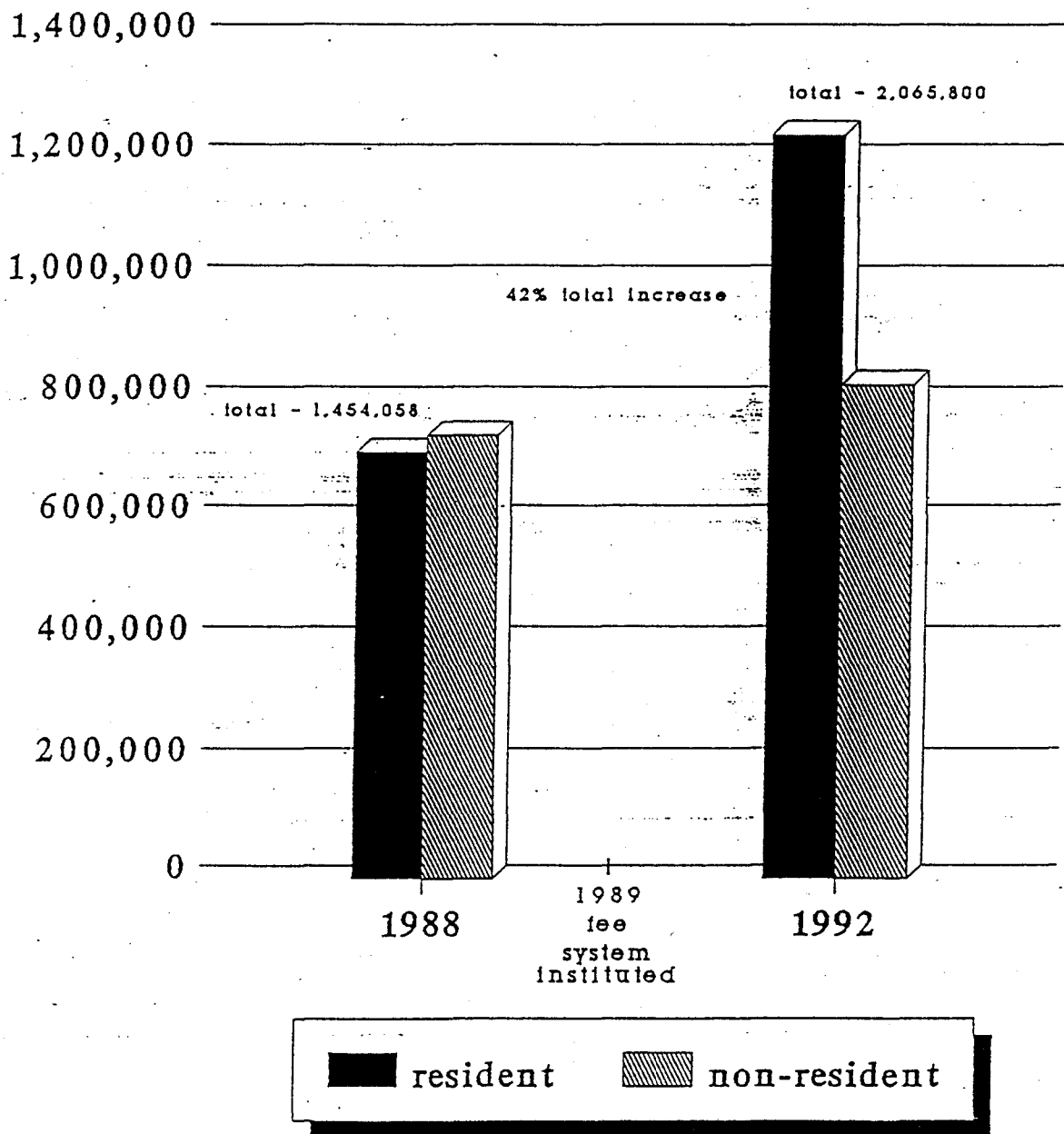
Shaded projects were cut by the 1993 Legislature.

Fish, Wildlife & Parks

General Fund Ten Year Trend



Visitation Montana State Parks



1988 - 1992

State Parks Cost Saving Measures

1. Site Transfers

Holter Lake Sites to Bureau of Land Management
Les Mason Park to City of Whitefish
Nelson Reservoir to Bureau of Reclamation
7 Wild and Scenic Missouri River Sites to BLM
Natural Bridge to USFS
Bears Paw Battlefield to National Park Service

Pending Site Transfers

Deadman's Basin to DNRC/FWP Fisheries Division
Painted Rocks to USFS

2. Partnerships

Canyon Ferry - BLM
Hell Creek - BLM
Ulm Pishkun - Local Friends Group
Hauser - Montana Power Company

3. Fund Raising Projects and Private Grants

4. Increased Usage of Student Interns and Volunteers

5. Better Partnerships With Other State Agencies

6. Internal Efficiency Reviews