

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - SPECIAL SESSION

JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT & TRANSPORTATION

Call to Order: By **REP. MARY LOU PETERSON, CHAIRMAN**, on
Wednesday, November 17, 1993, at 2 p.m.

ROLL CALL

Members Present:

Rep. Mary Lou Peterson, Chairman (R)
Rep. Marjorie Fisher (R)
Sen. Gary Forrester (D)
Rep. Joe Quilici (D)
Sen. Larry Tveit (R)

Members Excused: Sen. Harry Fritz, Vice Chairman (D)

Members Absent: None.

Staff Present: Jonathon Moe, Legislative Fiscal Analyst
Terri Perrigo, Legislative Fiscal Analyst
Clayton Schenck, Legislative Fiscal Analyst
Dan Gengler, Office of Budget & Program Planning
John Patrick, Office of Budget & Program Planning
Pat Bennett, Committee Secretary

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

Committee Business Summary:

Hearing: Judiciary
State Auditor
Legislative Branch
Commissioner on Political Practices
Transportation

Executive Action: None.

CHAIRMAN PETERSON presented the Committee's agenda. **EXHIBIT 1**
The Committee discussed when to hold executive action. It was a
consensus of the Committee to hold executive action on Thursday,
Nov. 18. **CHAIRMAN PETERSON** noted the Committee would address
fixed costs following the Department of Administration
(DOA)/Governor's Office presentation.

JUDICIARY

Jon Moe, LFA, gave a brief summary of Judiciary's budget
proposal. (Page A-11, LFA Budget Analysis)

Informational Testimony:

Pat Chenovick, Court Administrator, Supreme Court distributed a copy of a letter previously submitted to the Committee during the last special session in August of 1993. **EXHIBIT 2** In addition to the proposed cuts in the memo, there will be an additional savings of approximately \$8,000 as a result of one employee who will take advantage of the early retirement option. The executive budget proposal would delay the implementation of a pilot program for a foster review care panel under the Citizen Review Board. The program would require Judiciary to solicit any district court interested in starting a foster care review panel. Mr. Chenovick said he has had discussions about the program with Hank Hudson, Department of Family Services (DFS) and if the program proved to be successful, there would be a need to amend certain statutes. If the Committee decides to accept the budget proposal, there is a possibility of federal money being available through DFS to implement the program.

Questions From Subcommittee Members and Responses:

SENATOR TVEIT asked what foster placement screening is currently being done.

Mr. Chenovick stated that there are DFS review panels in place in various localities, however, it was felt by SENATOR JUDY JACOBSON and other concerned parties that there was a need for an independent, outside review panel. This Judiciary review panel would work with the Judge and the DFS.

SENATOR TVEIT asked if the review panel would serve more as an advisory committee or if they would have more authority.

Mr. Chenovick said the way SB 271 was written, rules could be made to enforce the law.

STATE AUDITOR

Terri Perrigo, LFA, gave a brief overview of the State Auditor's budget proposals (Page A-6, LFA Budget Analysis) informing the Committee that if they accept proposals reducing the State Auditor's budget and is dependant upon passage of other legislation, contingency language would be required. The only two not requiring the contingency language relate to eliminating state warrants of \$5 or less and the payee identification numbers.

Informational Testimony:

Mark O'Keefe, State Auditor, stated he was in support of the Governor's proposals. **EXHIBIT 3** Addressing the issue of privatizing medicaid, Mr. O'Keefe said he would be engaging in

discussions with the Department of Social and Rehabilitative Services (SRS). SRS is considering a proposal currently in the Human Services Subcommittee which would allow SRS to privatize the medicaid function they currently perform. If that proposal is accepted, there will be another 125,000 additional Montanans who will have insurance contracts. Currently with the approximate 450,000 people insured in Montana, the Auditor's Office receives 27,000 complaints per year. Under the SRS privatization proposal, the Auditor's Office would become the regulator of medicaid in Montana, resulting in an additional 125,000 medicaid insurees (considered a difficult population), relying on the Auditor's Office for help. **Mr. O'Keefe** concluded that the privatization would result in a need for more staff in the Auditor's Office and SRS has also confirmed this point. He also informed the Committee that the Auditor's Office reached an agreement with the Prudential Insurance Company regarding a fine, and a check for \$500,000 will be issued to the Auditor's Office which will be deposited in the general fund.

Questions From Subcommittee Members and Responses:

REP. JOE QUILICI asked if the banking services currently performed by the Department of Commerce (DOC) are transferred to the State Auditors, what would happen to the 25 FTE currently working at DOC.

Mr. O'Keefe stated that seven of those positions are in Helena, the remaining are bank auditors in the Billing's field office. That field office has dedicated funding from the banking industry and uses the fees that they generate from audits to cover their costs.

REP. JOE QUILICI asked if there will be a need to transfer the 7.0 FTE in the Helena office.

Mr. O'Keefe said currently DOC has a .25 FTE for legal staff, which would not be needed. The remaining FTE are all directly involved in bank examinations, auditing and regulating. He said an evaluation would be done regarding a duplication in services.

Dave Hunter, State Auditor's Office, addressing the legislation to eliminate DOC, stated that if the legislation passes there would be a total of 18.75 FTE eliminated within the director's office and central administration function of the DOC. The Auditor's Office can perform the banking function which is proposed to be transferred to them and absorb the overhead costs.

Mr. O'Keefe further explained, since the State Auditor's Office does the regulating of the insurance and security industry there is one insurance and securities compliance officer in place for statewide review. The bank auditors throughout the state would be able to perform the insurance and security functions as well. These people could be cross trained in all three industries. At the present time, the Auditor's Office does not have a field

staff, having field staff would provide better service.

SENATOR FORRESTER asked if advice letters would continue to be sent out if they go to the electronic transfer method.

Tom Crosser, Deputy Directory, Fiscal Control and Management, explained that if the same number of advice letters are sent out as the number of checks currently sent out, there will be no money saved in terms of mailing costs, however the processing costs will go down. It would be up to either the Public Employees Retirement System (PERS) or Teacher's Employee Retirement System (TERS) to determine whether they would eliminate the advice letters.

REP. FISHER asked why an advice letter would be sent out unless there had been a change made.

Tom Crosser said the advice employee's receive, either with their electronic fund transfer or their warrant, also provides their deductions for taxes and includes leave time accrued along with other information. Payroll advices are mailed out in bulk to each department and are distributed by a payroll clerk. Only retirement checks are mailed individually. **Mr. Crosser** explained his budget comprised of three costs: postage, data processing and personal services. Reducing the number of warrants issued substantially reduces the costs. If a property tax rebate proposal is approved, there will be an additional 176,000 warrants which are not figured into the budget. The savings reflected in the reduced warrants would be lost if this property tax rebate bill is passed due to the additional cost associated with issuing those warrants.

CHAIRMAN PETERSON referring to the sensitivity by some regarding the usage of their social security number, asked how debt collection would affect this concern.

Mr. O'Keefe stated that Fish, Wildlife and Parks (FWP) already requires a drivers license number when purchasing a game license. If a person chooses to use a number other than their social security number on their drivers license, those people do not appear on the report. There are an estimated 20% who do not use their social security number. The bad debt system is driven off of tax identification numbers, which in most cases is the social security number. The Internal Revenue Service gives the Auditor's Office the tax identification number of that individual in order to have warrants sent out. This also applies to the Department of Revenue or FWP.

REP. QUILICI asked if the Auditor's Office is required to send out the property tax rebates whether they can do it with operating costs and no personnel costs.

Tom Crosser said they can. The 176,000 additional warrants will not cause a problem in terms of personnel cost, however it will

cost 27 cents a piece for postage, offsetting the \$35,000 savings in the electronic fund transfer provision.

CHAIRMAN PETERSON commented that those instances such as with FWP and the property tax rebate are a one-time occurrence and will have to be handled through warrants, whereas regular transactions are done through electronic transfer.

Mr. Crosser said that was correct. The department is working with others in trying to reduce the number warrants. They are consolidating payments to one vendor who will issue them to other departments. SRS has the capability of making medicaid payments through electronic transfer which will reduce the number of warrants.

LEGISLATIVE BRANCH

Terri Perrigo gave a brief overview of the legislative agencies' budget proposal. (Pages A-1 thru 5, LFA Budget Analysis) The legislative branch is studying the possibility of consolidating support services.

Informational Testimony:

Bob Person, Director, Legislative Council, said the budget reduction options are neither opposed nor proposed by the Council, but rather are carry-over reductions from the previous special session in August, 1993.

Debbie Schmidt, Executive Director, Environmental Quality Council (EQC), explained that the EQC does not necessarily endorse the elimination of the annual report publication requirement, however, considering the fiscal constraint EQC is operating under, it was one option which could be considered. The other option which was discussed during the August special session was the possibility of reducing the number of council and subcommittee meetings. Since then, substantially more of these meetings have occurred and has put EQC ahead of themselves in terms of expenditures for travel and committee compensation. While this may still be an option, it would have a direct affect on EQC dealing with hazardous waste management and water quality nondegradation policy implementation. These two areas have required an extensive amount of work.

Clayton Schenck, Director, Legislative Fiscal Analysts Office (LFA), reported that, although there are no executive budget proposals, the five legislative directors combined their efforts to offer a reduction of approximately \$228,000 for the biennium. The Branch Efficiency Study is researching consolidation possibilities which may bring a savings in the future. **Mr. Schenck** explained the LFA's proposal. (#6 on Page A-4, LFA Budget Analysis) He stated that further reductions would result in a reduction of services.

Scott Seacat, Director, Legislative Auditors Office, OLA, referring to their proposed reductions, said their office would still be able to continue their services and maintain their workload.

Questions From Subcommittee Members and Responses:

REP. QUILICI asked **Mr. Schenck** if a legislative management committee is implemented, explain how it would interact with other committees.

Mr. Schenck said discussions were held by four legislators who propose to consolidate the three legislative agencies, excluding the auditor's office, into one agency with division directors. This proposal includes changing the makeup of current committees. The Legislative Council would be replaced by a Management Committee comprised of leadership and other members. The Management Committee would oversee the administrative affairs of the LFA, EQC and the Council. The Management Committee would oversee the hiring practices and budget. The Legislative Finance Committee would be combined with the Revenue Oversight Committee to make up the Legislative Budget Committee. In terms of relationship, one committee would be controlling budget issues and the other would handle the administrative functions.

REP. QUILICI asked **Mr. Person** what savings will result in the consolidation.

Mr. Person responded that as the bill stands drafted, there will be eight members in the Management Committee, two of whom will be elected by each caucus. This change would necessitate a salary policy structure in establishing a branch-wide pay plan/policy. This will have an affect on all the legislative agencies.

SENATOR TVEIT asked **Ms. Schmidt** to comment on the problems they have with the Pondera Hutterite Colony.

Ms. Schmidt informed the Committee that the issue with the Pondera Hutterite Colony stems from concern regarding construction of an addition on a high intensity hog feed operation which may or may not impact the water supply of the surrounding communities. It will definitely impact the ground water quality in a high nitrogen rich soil area. **Ms. Schmidt** noted that Rep. Harriet Hayne and her neighbors were concerned that the Health Department was not enforcing permit and water quality violations in the area. In the course of examining this issue it became apparent that the Department of Health and Environmental Science (DHES) is not able to inspect and enforce all issued permits. The Colony felt it was being singled out for unusual treatment because of their high profile nature of its activities and that normal feed lot operations have never had to undergo this type of scrutiny. The issue points to the fact that with new water quality laws and the re-authorization of the

Federal Clean Water Act, many activities that have been traditionally considered exempt from enforcement and review in Montana, i.e. feed lot operations, are going to come under greater scrutiny. Since DHES does not have the resources to inspect and enforce the existing permits, the EQC has been researching how Montana can enforce its existing laws and still be prepared for new federal legislation.

SENATOR FORRESTER asked **REP. TOM NELSON, BILLINGS, FINANCE COMMITTEE CHAIRMAN**, if this is the time to limit bills drafted.

REP. NELSON, speaking for himself and not the Committee, stated that considering the amount of mandated reports the LFA has to provide to the next session including the other reports already required and the work assigned during the interim, he would like to see the status quo of the Finance Committee. To cut further would be penny wise and pound foolish. At the present time, legislators are able to request computer runs which are costly. The Committee is down to \$1,000 per caucus, a total of \$4,000 for the legislature. There are proposals by individual legislators to do computer runs costing from \$2,000 to \$4,000 a piece.

SENATOR FORRESTER asked if there is a way to put a stop to some of the requests.

REP. NELSON said you get into a philosophic point with this type of discussion. There has been the argument that every constituent has a right to have their legislator submit a bill. In some cases it is these bills that exasperate the problem. He conceded there are some legislators who overdo it.

Mr. Seacat, commenting on this issue, stated due to budget cuts the Audit Committee has had to terminate six employees and the Committee has said no more. The Audit Committee has had to refuse requests in an attempt to complete the audits required by law. The Audit Committee has discussed the policing of legislators and has concluded it may have to refuse additional requests.

SENATOR FORRESTER asked if as a Department Director, has he brought this to the attention of the Speaker of the House (Rep. John Mercer) or President of the Senate (Senator Fred VanValkenberg) and how can the legislators regulate themselves. He said he continues to hear agencies say they can do more for less.

Mr. Seacat stated that as a legislative director all of the agencies have bent over backwards to provide support for the legislators who are their bosses. It is very difficult, for example, to tell the chairman of an appropriation subcommittee that work can not be done on the juvenile justice system when you know that work is very important and that information is needed.

Mr. Seacat noted that he has spoken with the Speaker regarding legislators policing themselves and to also inform the Speaker

that they had to get out of the education funding request business. There is a lot of audit work which needs to be done. He stated the staff is often put in a tough position. Often they are criticized for the work they are directed to do and as a result they contract out the work which costs more money. In the early 1980's the Legislative Auditor did not provide service to the legislators.

REP. QUILICI recalled discussions regarding this matter in the '80s. He noted that great strides are being made in limiting bill drafting requests. When these requests are made, the Council does it without questions as to why or if the bill is being duplicated. Due to certain legislators having a pride of authorship there is duplication. Legislators continue to tell their staff they have a right to get information because their constituency said they have a right to it and if you don't give it you'll be fired. **REP. QUILICI** said he has seen this for himself, and until legislators police themselves nothing will be done.

Mr. Person addressing **REP. FORRESTER'S** question, said it is true their agency is providing more services with less. Over a period of time the council has been allowed to employ technology for providing services making the sessions possible to complete in 90 days. Since 1980, the legislature when appropriating money to interim activities has been cutting back until they are at the point where the only proposals are those now before the Committee. Last session the interim policy committees were reduced by half or more. He stated that the legislature has treated themselves about as badly as the people of Montana could ask them to without essentially eliminating elected legislative officials from participation during the interim.

CHAIRMAN PETERSON concluded that the legislature needed to come to grips with this concern and it needed to be addressed during caucuses.

Mr. Seacat referred to the executive budget proposal where the local government services audit function would be moved from DOC to the OLA. This will add a substantial amount of work load and budget to the Legislative Auditor's Office. He noted that they are neither opponents or proponents. If this proposal is accepted, the OLA would need increased proprietary fund authority.

Bob Person said Rep. Mercer, Rep. Grinde, Senator Aklestad and Senator Crippen have made the bill drafting request and have made it very clear that they have open minds and are requesting participation by others.

COMMISSIONER OF POLITICAL PRACTICES

Terri Perrigo, LFA, gave a brief overview pointing out that there

are no executive budget proposals for the appropriations made to the Commission, but rather proposals to increase fees resulting in added revenue to the general fund. (Page A-18, LFA Budget Analysis)

Informational Testimony:

Ed Argenbright, Commissioner of Political Practices, announced his staff consists of himself and Dulcy Hubbert. Just during the last election cycle there were 691 city candidates, school bond issue committees, statewide ballot issue committees, lobbyist reports and as a new commissioner he stated he was amazed at the amount of work they do. In addition to handling elections, the office also must deal with official complaints which stem from all over the state. He stated that the budget they have allows for no reductions and as an example, he noted having a hard time dealing with Ms. Hubbert's impending maternity leave from the point of view they are at the bottom of the budget. **Commissioner Argenbright** said he had asked 12 prominent Montanans to serve on a task force committee at no cost to the state. This committee is researching how to make campaign reporting easier and the information more accessible and how to better inform Montanans as to the requirements of campaign finance reporting and political practices. The proposal made would increase the fees lobbyists pay from \$10 to \$25. This fee has remained the same since 1959.

Questions From Subcommittee Members and Responses:

Ms. Perrigo asked **John Patrick, OBPP**, whether the Committee needed to address the other item in the executive budget and if it would need administrative action.

Mr. Patrick said they are looking for approval from the Committee.

Commissioner Argenbright said the increased price for the Campaign Finance Report would be used to assist their office in finding the technology for computer access.

TRANSPORTATION

Clayton Schenck, LFA, gave a brief review of the Transportation budget proposal. (Page A-31, LFA Budget Analysis) There is a proposal this special session for property tax relief. If this proposal is accepted, there would be a reduction in Transportation's budget through the elimination of approximately \$5 million per year of coal tax interest.

Informational Testimony:

Marvin Dye, Director, Department of Transportation (DOT), said the Committee reviewed and approved the Department's budget last

August and at the time those expenditure levels were properly justified. However, since then, as the revenue bill generated the revenue there were a number of versions along the way. The bottom line is, based on its best projections, Dot is approximately \$7 million short each year. The Department's revenues are \$7 million less than their expenditures. **Mr. Dye** said the Department will do what they can to reduce expenditures as soon as possible. The Department has the SOS Program on hold pending the outcome of this special session.

Questions From Subcommittee Members and Responses:

SENATOR TVEIT asked why there was a shortage of \$7 million in revenue.

Mr. Dye said as the gas tax bill progressed through the session others got a percentage of it. Cities and towns got one cent which equals to approximately \$2.7 million per year; FWP received \$1.25 million per year; off road vehicles, motor boats, etc. got a windfall of approximately \$800,000 per year; and \$6 million went to support DOJ, which was supposed to be a one-shot deal but is still continuing. The Department now gets a smaller percentage of the total revenue collected than it did before the 4 & 3 cent gas tax was passed.

Dan Gengler, OBPP, said about 15% of the total revenue is used for other purposes other than DOT.

SENATOR FORRESTER asked **Mr. Dye** to comment on Dave Lewis' projection that the DOT had \$20 million in the highway's fund which could be better used. If this \$20 million pool was used to better utilize the \$5 billion in investments, how will this affect DOT.

Mr. Dye explained that the Department has to pay its bills before being reimbursed by the federal government, therefore, the DOT needs approximately \$20-30 million surplus in order to do that. When this cash balance got as high as \$100 million some of this cash has been loaned out to get other Departments through.

Mr. Gengler clarified that since the coal severance tax is \$5 million per year, then over a period of four years it would be \$20 million.

REP. FORRESTER asked how they intended to replace this money with better cash management in their \$5 billion investment portfolio.

Mr. Gengler said he was not prepared to speak about the proposal. He said he would speak with Director Lewis and would report back to the Committee.

REP. QUILICI asked how DOT's bill would get paid when after the four years there's no coal tax money to do it with.

Mr. Dye said it was his understanding that other state funds would be used to pay the bills and when DOT got reimbursed by the federal government they would repay those funds.

REP. QUILICI said there are no other funds to loan to DOT. The others have been borrowing from DOT to pay their trans.

Mr. Schenck noted that at one time up to \$60 million was loaned out from their highway special revenue fund resulting in their cash flow being low. With this cash management improvement act, the payment process has been further delayed. If the \$5 million is eliminated from their account, it will cause problems this biennium as far as DOT meeting their cash flow especially if the borrowing continues. The proposal for taking money for property tax relief would be feasible only if there is an opportunity made for DOT to borrow from other sources. One of the sources being the coal tax trust fund.

REP. FORRESTER commented that if the Committee were to go along with this scheme, the DOT would suffer irreparable damage.

SENATOR TVEIT noted that the RTF fund was put together with coal money to speed up the process for road repair. If the \$5 million is removed the funding for secondary roads is lost. Contracts are being held up because of the uncertainty of DOT's budget.

REP. QUILICI asked how much gas tax is going to FWP.

Mr. Dye answered it is around \$1.3 million per year.

Carl Schweitzer, Montana Contractor's Association, testifying on behalf of the DOT budget, said he was part of the coalition who worked with the legislature to raise fuel taxes to support the highway department for the next two bienniums. After meeting with DOT, the coalition was quite alarmed at the financial situation the DOT outlined. The contractor's who contract with the DOT are doing a good job. The SOS Program includes a number of small contractors. **Mr. Schweitzer** pointed out that while there is the revenue oversight committee working together with the appropriations committee, there is not this type of coordination for the DOT.

SENATOR TVEIT asked if the SOS program is for new overlays on the secondary roads.

Tom Barnard, Administrator Highways Division, DOT, said the RTF and SOS programs are highway preservation programs. Most of which is a thin overlay job with a sealant cover, the remainder being preservation, i.e. bridge decks.

Bill Salisbury, Administration Division, DOT, brought to the Committee's attention other bills which could affect DOT. There is a bill which deals with that statutory appropriation for cities' and counties' distributions. There is \$17 million which

goes out to cities and counties which was not appropriated and has been funded out of the Department's construction program. Last session there was a bill which changed the taxation point on the special fuel or diesel allowing for exemptions for over 200 gallons for agriculture, mining, logging, and other off road usage. Subsequent to that the federal government has made significant changes to the federal taxation. The EPA regulated high and low sulphur for on and off highway. No longer can anyone burn high sulphur fuel on the highway. This high sulphur fuel is marked with dye. The IRS has prohibited low sulphur fuel from being purchased without a tax. The use of high sulphur fuel on the highway is subject to a fine. Last session DOT had a bill for a special authorization so that anyone buying a number of tax fuel off the highway could run it on the highway if they bought the special permit which cost from \$130 to \$500 per year. This way they were not required to do anymore reports but in exchange they could use their untaxed fuel that was in bulk storage. However, now with the EPA and IRS revised laws, the DOT must now eliminate the \$500 authorization. Anyone using diesel pickups under 26,000 pounds will have to pay the tax up front. **EXHIBIT 4**

REP. QUILICI asked who is policing the use of off road diesel on the highway.

Mr. Salisbury said the rules are EPA rules and it is up to EPA to enforce it. DOT will include language in the bill authorizing the Department to check it.

ADJOURNMENT

Adjournment: 5:00 p.m.


REP. MARY LOU PETERSON, Chairman


PAT BENNETT, Secretary

MP/PB

HOUSE OF REPRESENTATIVES

GENERAL GOVERNMENT AND HIGHWAYS SUB-COMMITTEE

ROLL CALL

DATE 17 Nov. 93

NAME	PRESENT	ABSENT	EXCUSED
REP. MARY LOU PETERSON, CHAIRMAN	✓		
SEN. HARRY FRITZ, VICE CHAIRMAN			✓
REP. MARJORIE FISHER	✓		
SEN. GARY FORRESTER	✓		
REP. JOE QUILICI	✓		
SEN. LARRY TVEIT	✓		

EX 1
11-17-93

SPECIAL LEGISLATIVE SESSION

NOVEMBER-DECEMBER 1993

◆GENERAL GOVERNMENT & TRANSPORTATION APPROPRIATIONS SUBCOMMITTEE◆

Tentative Schedule (Revised 11-16-93)

Chairman: Representative Mary Lou Peterson
Vice Chairman: Senator Harry Fritz

Rep. Marjorie Fisher	Sen. Larry Tveit
Rep. Joe Quilici	Sen. Gary Forrester

Meeting Room 420
State Capitol

LFA Staff: Clayton Schenck (2986)
Terri Perrigo (5834)
Jon Moe (5392)
Secretary: Pat Bennett (4847)

<u>Weekday</u>	<u>Date</u>	<u>Time</u>	<u>Topic</u>	<u>LFA Analyst</u>
Wednesday	Nov. 17	11:00 AM	Committee discussion	
		11:30 AM	Judiciary	J. Moe
		1:00 PM	State Auditor	T. Perrigo
		2:00 PM	Legislative Branch	T. Perrigo
		3:00 PM	Comm. Political Practices	T. Perrigo
		3:15 PM	Transportation	C. Schenck
Thursday	Nov. 18	8:00 AM	Committee Discussion	
		8:30 AM	Secretary of State	J. Moe
		9:00 AM	Dept. of Military Affairs	J. Moe
		10:00 AM	Board of Crime Control	J. Moe
		10:30 AM	Highway Traffic Safety Div	J. Moe
		11:00 AM	Department of Justice	J. Moe
		1:00 PM	Department of Revenue	J. Moe
		2:00 PM	Department of Administration and Governor's Office	J. Moe
		2:15 PM	State Fund	J. Moe
		2:30 PM	Public Employees Retirement	J. Moe
Friday	Nov. 19	3:05 PM	Teachers' Retirement	J. Moe
		8:00 AM	Completion of schedule and committee discussion (if necessary)	

EA 1
11-17-93

SPECIAL LEGISLATIVE SESSION

NOVEMBER-DECEMBER 1993

◆GENERAL GOVERNMENT & TRANSPORTATION APPROPRIATIONS SUBCOMMITTEE◆

Tentative Schedule (Revised 11-17-93)

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		10:00 AM	Board of Crime Control	J. Moe
		10:30 AM	Highway Traffic Safety Div	J. Moe
		11:00 AM	Department of Justice	J. Moe
		1:00 PM	Department of Revenue	J. Moe
Friday	Nov. 19	2:00 PM	Department of Administration and Governor's Office	J. Moe
		8:00 AM	Completion of schedule and committee discussion (if necessary)	

The Supreme Court of Montana
Office of the Court Administrator



PATRICK A. CHENOVICK
Court Administrator

EXHIBIT 2
DATE 17 AUG 93
~~HB~~
SS GEN COURT
TRANSP

Justice Building Room 315
215 North Sanders
P.O. Box 203002
Helena, Montana 59620-3002
Telephone (406) 444-2621
FAX (406) 444-3274

August 2, 1993

Representative Mary Lou Peterson, Chairman
General Government Subcommittee
Room 420
State Capitol
Helena, Montana 59620

Dear Chairman Peterson and members of the Subcommittee:

The Judicial Branch recognizes that due to the success of the citizens petition drive to suspend the revenue enhancement package, the forth coming special legislative session will deal with fiscal short comings. Each branch of Montana government must evaluate functions under their control.

Before we presented our budget proposal to the 53rd Legislative session, we examined all of the operations of the Judiciary with belt tightening in mind. We presented during our subcommittee hearing a tight, skeletal budget that barely allows the Judiciary to perform it's constitutional and statutory functions.

The Judicial budget proposal for FY 94-95 was reduced a total of \$986,325. In addition, in the last weeks of the session our budget was cut \$117,867, for a 2% vacancy savings and a 1/2% budget balancing reduction.

The assessment of the 1/2% came against judicial salaries which cannot be reduced, Article VII, Section 7 (1) of the Montana constitution states;

"All justices and judges shall be paid as provided by law, but salaries shall not be diminished during terms of office".

Judicial salaries are \$6,715,131 of the \$10,934,146 general fund appropriation, or 61%. Because we have discretion over only 39% of the budget, the 1/2% reduction was compounded to close to 1%.

Our budget also was reduced due to the passage of the Old Fund Liability tax of .05% that was not funded. On judicial salaries alone (not including salaries of other employees) it requires an expenditure of \$33,576 for the biennium.

With these budget reductions, the Judiciaries FY 1994-95 budget is \$406,822 less than the FY 1992-93 budget. This reduction is significant due to the fact that the 44 elected judges received a salary increase of \$6,000 over the biennium, for a cost of approximately \$264,000.

These budget reductions forced the court to reduce expenditures in many areas. We have;

- 1) eliminated a statewide case tracking system for district courts,
- 2) reduced the number of volumes of Montana Reports that we buy,
- 3) reduced the rates that we pay investigators,
- 4) reduced the number of Bar examinations to a single examination each year,
- 5) reduced travel both in-state and out-of-state,
- 6) canceled and consolidated subscriptions,
- 7) forced vacancy savings even on critical positions,
- 8) removed telephones used by law clerks,
- 9) limited usage of automated law research tools.

While the Judiciary is divided for budgeting purposes into various programs and functions, we do not believe it is possible to slice the functions into categories whereby we can recommend significant cuts or complete elimination. We have no program or functions where "significant cuts or complete elimination" is possible. The proper functioning of the Judicial System as a whole relies entirely on the health of each of its parts.

The Judiciary is not just an 'agency' or 'department' of the Executive Branch. It is a separate and equal tri-partite member of our form of government. Article III, section 1 of the Montana Constitution states:

The power of the government of this state is divided into three distinct branches - legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

Article II, section 16 of the Constitution requires that

Courts of justice shall be open to every person, and speedy remedy afforded for every injury of person, property, or character....Right and justice shall be administered without sale, denial, or delay.

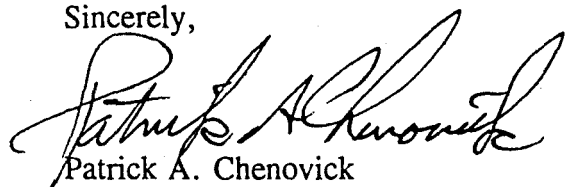
It must also be noted that the Clerk of Court is a statewide elected official. He has his own budget and has direct control over that budget as an elected official. This budget accounts for \$360,703 of our discretionary funds.

EX-
J.S. GEN GO
+ TRANSPORT

11-17-93

The Judicial Branch must perform constitutional duties and has always operated fiscally responsible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patrick A. Chenovick".

Patrick A. Chenovick
Court Administrator

Mark O'Keefe - Talking Points
General Government Subcommittee
November 17, 1993

Introduction - I am here to support Governor Racicot's Budget proposals for the Auditor's Office. We tried to come up with some proposals that would reduce long term expenditures in our office and still provide the same level of service.

We were able to work with the budget office and as a result the legislation that we will introduce is at the request of the State Auditor and OBPP. Let me outline the proposals for you briefly.

① Electronic Filing for Insurance Agents:

This bill provides for the electronic filing of appointments and terminations of insurance producers. Under the current law insurance companies must appoint producers and pay a \$10 fee for those producers to have the authority to sell the insurance products of that company.

In FY93 there were 14,000 licensed insurance producers. Insurance companies filed 12,000 appointments and 7,000 terminations for those producers. They paid a total of \$120,615 all of which is general fund revenue. Each appointment and termination has to be entered in the licensing system. Each check has to be endorsed and entered into SBAS.

Approximately 10 other states allow companies to electronically file appointments and terminations. This legislation would add Montana to that list. It allows the State Auditor to work with the insurance industry to specify standards for electronic filing that will be effective on July 1, 1994. Electronic filing will save companies work and money because most of them already prepare their appointments by computer. They could transfer that information to the insurance department electronically without printing and mailing paper forms.

Electronic filing also saves general fund expenditures for the insurance department because they can electronically confirm the appointments and terminations without mailing a form for each producer to the company. Electronic filing also reduces the amount of mail that has to be opened and sorted. Data entry to the licensing system is also reduced by electronic filing.

Can or will every company file electronically? No, probably not. This bill allows companies to continue to file on paper forms and send a paper check, but it encourages them to file electronically by increasing the fee for paper filings from \$10 to \$15.

The fiscal note for the bill shows that this legislation will allow us to reduce the appropriation by \$25,000 in fiscal year 1995 and a like amount in following years. General fund revenue will increase by \$23,000 per year starting in FY95.

I don't think the insurance industry has any objections to the bill. In fact, the idea for the legislation came from a company who asked to be allowed to file electronically like they do in some other states.

② Eliminate State Refunds of small dollar amounts

We spoke to you about this issue in August. Since then we have worked with Fish Wildlife and Parks and we believe that they will change their fee policy next year and reduce the number of small refunds they issue. The \$1,000 of cost savings are entirely dependent on FWP taking the action, but we believe we can reduce the budget in anticipation of their action.

This item does not take any legislative action to implement.

③ Payee file numbers

We have reached an agreement with FWP so that they will provide us with social security numbers from their files of game license refund warrants to be issued. Based on our collection history with other agencies we believe that we will collect \$50,000 of additional general fund revenue in FY94 and \$100,000 in FY95.

While this item does not take any legislative action to implement, both the Department of Fish, Wildlife and Parks and my office have solicited comments from sports groups around the state.

4) Require Electronic Fund Transfer for Payroll and Retirement

Legislation will be introduced to require electronic fund transfer for payroll and retirement warrants. By requiring EFT we can provide a better service to employees and retirees and do it at less cost.

Processing warrants create numerous costs for the state. We purchase warrant card stock, we setup programs to generate warrants from the accounting system, we print warrants and the associated advice, we run the printed warrant through signing, sealing and bursting equipment and then we mail them.

The cashed warrants are returned to the State Treasurer, who processes them and sends them to the State Auditor. Each cashed warrant is then processed through a document processor and put on microfiche. The warrant is then stored for three years and then destroyed in a supervised shredding process.

If the warrant is lost, damaged, returned, stolen, staledated or forged a series of actions are required to reissue the warrant. Each phase of this process adds costs for handling an individual warrant.

When we process the same transaction electronically (EFT), we reduce the processing costs, the paper costs and in some instances the mailing costs. This reduction in cost saves the state general fund in its direct appropriation to the State Auditor and in the amount billed back to non general fund programs.

Currently, Montana continues to issue about 110,000 payroll warrants annually and an additional 130,000 in PERD and Teacher's retirement warrants. Over half of payments made by these systems are currently paid electronically. Because we have the capability to do EFT for these groups, no programming costs would be associated with the proposal.

By mandating that all recipients of state payroll and retirement programs use EFT, the state could reduce the cost of making these payments. 28% of these costs are currently general fund expense.

Utilizing this technology, we could eliminate up to 240,000 warrants per year.

Projected saving if EFT were required amounts to \$35,500 per year in total savings.

General fund savings in FY 94 would be \$2,500 and in FY 95 \$9,800. In addition, agencies will be billed \$6,090 less in FY94 and \$24,585 less in FY95. This cost reduction would be ongoing in future budget cycles.

We do need legislation to implement this proposal. I believe that the PERS board and the TRS board have seen the bill and will support the legislation.

5) Allow Bad Debt Collections for Property Taxes and the IRS debts.

The bad debts bureau now offsets warrants issued by state agencies for debts owed state programs and IRS tax delinquencies. In FY 93, \$1,500,095 was collected for state agencies, with \$600,000 of that being general fund revenue. In a seven month test of offsets for the IRS, bad debts has collected \$350,000.

The cost of the program is divided among all agencies who submit bad debts for collection. The current rate is 12% of the amount of the funds collected. The rate varies by year depending on the level of debts assigned, revenue obtained, carryover and anticipated costs. (Private collection agencies rates are 18% and up.)

Currently, we don't collect bad debts for local governments. It would be possible to collect delinquent personal and real property taxes for counties through the offset process.

Statewide, approximately 40% of property tax revenue offsets state general fund expenditures through the school foundation program and the 6 mill university levy.

Bad debts, with the cooperation of Lewis and Clark County, has run a limited test to determine revenue collection potential at the county level. It is hard to project from the data how much money could be collected if all counties participated, but the range should be from \$200,000 to \$500,000 per year statewide. This revenue is dependent on the availability of valid taxpayer identification numbers for county tax delinquency records. The better the identification, the more revenue could be generated. Increased general fund revenue would be from \$100,000 to \$200,000 per year.

Legislation is required to clearly give our office the authority to collect bad debts for counties. The program should be optional for counties. Counties may not have the computer capability to send tapes that can be matched.

The legislation provides an exceptions to the current legal prohibition of partial payments on delinquent taxes.

Implementation of the legislation will increase computer, printing and mailing costs for our program, but should not require increased FTE. Revenue for costs will be covered by the 12% charge currently levied against collected funds. Because it is impossible to predict the level of county participation, and therefore the costs, it will be necessary to allow for a budget amendment that is dependant on the level of county participation.

This proposal requires legislation. If implemented, we believe it will result in \$100,000 of additional general fund revenue in FY95. The additional funds received from the IRS could help reduce the 12% rate for all agencies. This would also have a positive impact on general fund revenue collections. Because we can't estimate the costs associated with implementation, we would like language in the appropriations bill allowing us to bring a budget amendment to the 95 session to cover the costs of putting counties on the offset system.

Early Retirement

I want to speak briefly to a couple of other issues. The regular session passed the early retirement window. We have not had a single employee indicate they will take advantage of the window. As a result we will have to leave more positions vacant to meet our vacancy savings target. It is something we can deal with, but when we come back to this committee in the regular session you are going to see that we have had some vacant positions

because we have not had the retirements that some other agencies will experience.

Commerce Reorganization:

As you know there is legislation proposed to eliminate the Department of Commerce. We are not part of some conspiracy to dismantle the Department of Commerce, but there are a couple of issues I want to speak to. We have met with the budget office regarding the proposal. It would transfer to us banking regulation -- approximately 25 FTE's. That part of the proposal makes sense. Most banks now sell insurance and have licensed insurance agents. Most banks sell securities and have licensed securities salespersons. Regulation of banks, securities and insurance is combined in most states.

If banking regulation is transferred to the State Auditors Office we can take the operation without any increase in overhead staff. We can utilize our existing central administration staff, and our attorneys. We would not propose to add any supervisory staff to what exists in Commerce. We believe that indirect cost allocation currently in the banking regulation division's budget is adequate to cover the support costs we would incur for word processing, staff support, supplies etc. The transfer would eliminate a portion of a position in the directors office that creates some savings.

We would support the transfer of banking regulation. It makes sense from a regulatory standpoint. It makes sense from cost savings standpoint.

Rep Peterson, that concludes our presentation. I would be happy to answer questions.

Medicaid:

print 12 a to BC/BS

Securities Production fee:

\$500,000

EXHIBIT 4

DATE 17 Nov 93

S.S. GEN GOV'T +
TRANSPORTATION

DETAIL ON HB539
VERSUS
SPECIAL SESSION LEGISLATION

Recently passed federal legislation on diesel fuel creates situations which make it impossible for consumers to comply with the recently passed Montana HB539.

Effective October 1, 1993, the **FEDERAL GOVERNMENT (EPA)** requires high sulphur diesel be dyed blue and not used in on highway vehicles.

Effective January 1, 1994, the **FEDERAL GOVERNMENT (IRS)** imposes the following:

Diesel fuel (clear)

- Federal tax is charged on undyed diesel fuel (clear) at the terminal/refinery level.
- Federal tax on diesel fuel (clear), which would ordinarily be taxed, may still be purchased federal-tax free by farmers for tax exempt uses or by state and local governments. The fuel vendor, who is required to pay the federal tax, will claim refund on those gallons delivered to the farmer and governmental agencies.

Diesel fuel (dyed)

- No federal tax is charged for dyed diesel fuel. Dyed diesel fuel is **only** for off highway use. (This could be high or low sulphur.)
- If dyed diesel fuel is used in **highway vehicles**, the penalty is \$1,000.00 or \$10.00 per gallon -- whichever is greater.

The 53rd Legislative Session of the **STATE OF MONTANA** passed HB539 which moves the point of taxation on special fuel (effective January 1, 1994) from the retail level to the distributor level. The only exemptions from the Montana tax are as follows:

- The United States Government, State of Montana, any other state and any county, incorporated city, town or school district of this state
- Bulk delivery quantities of 200 gallons or more
- Exports

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The discrepancy between federal law and Montana law exists for two items: (1) exempt sales of 200 gallons or more, and (2) the restrictions on dyed fuel. If a consumer purchases special fuel (diesel) without the Montana tax and operates vehicles **under** 26,000 lbs, HB539 requires the consumer to purchase a special authorization permit since the consumer has access to untaxed special fuel. The special authorization permit is a prepayment of the Montana taxes which allows the consumer to use the untaxed special fuel in **on highway** vehicles.

Thus, Montana grants special authorization permit holders the right to use untaxed special fuel (which could be dyed) in the **on highway** vehicles. Federal law prohibits the use of dyed diesel fuel on the highway. Under current state law, the Montana consumer would be forced to purchase the special fuel from the retail station and also buy the special authorization permit to protect themselves from the federal government's fines. However, this results in double taxation of Montana's consumer.

The impact on the industries is explained in detail on the following pages:

- Agricultural - Page 3
- Motor Carriers (Trucking) - Page 4
- Contractors, Logging, Miners and Railroads - Page 5
- Special Fuel Dealers - Page 6
- Special Fuel Distributors - Page 7
- Governmental Agencies - Page 8

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• AGRICULTURAL

Current Montana law, effective January 1, 1994, allows the agricultural user to purchase bulk special fuel (diesel) in quantities of 200 gallons or more and not pay the Montana tax.

Montana law requires agricultural users, who fuel on highway vehicles over 26,000 lbs GVW, from bulk special storage, to keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

Agricultural users who own vehicles under 26,001 lbs GVW and has access to untaxed special fuel are required to purchase a special authorization permit which eliminates the record keeping for those vehicles.

• PROPOSED LEGISLATION

Agricultural users can purchase dyed special fuel (diesel) in any quantity without paying the Montana tax. Dyed special fuel cannot be used in on highway vehicles.

Agricultural users will pay the Montana tax on clear special fuel (diesel) regardless of usage, but will be allowed to apply for refund on those gallons used off highway.

Agricultural users who operate vehicles under 26,001 lbs GVW will not be required to permit or report the usage to the department.

Agricultural users who fuel on highway vehicles over 26,000 lbs GVW from bulk special storage must keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

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MOTOR CARRIERS (TRUCKING)

Current Montana law, effective January 1, 1994, allows the trucking industry to purchase bulk special fuel in quantities of 200 gallons or more and not pay the Montana tax.

Montana law requires carriers, who fuel on highway vehicles over 26,000 lbs GVW from bulk special fuel storage, to keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

Carriers who own vehicles under 26,001 lbs GVW and has access to untaxed special fuel are required to purchase a special authorization permit which eliminates the record keeping for those vehicles.

PROPOSED LEGISLATION

Carriers can purchase dyed special fuel (diesel) in any quantity without paying the Montana tax. Dyed special fuel cannot be used in on highway vehicles.

Carriers will pay the Montana tax on clear special fuel (diesel) regardless of usage, but will be allowed to apply for refund on those gallons used off highway.

Carriers who operate vehicles under 26,001 lbs GVW will not be required to permit or report the usage to the department.

Carriers, who fuel on highway vehicles over 26,000 lbs GVW from bulk special fuel storage, must keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

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CONTRACTORS, LOGGERS, MINERS, RAILROADS

Current Montana law, effective January 1, 1994, allows the contractor, logger, miner, and railroad to purchase bulk special fuel in quantities of 200 gallons or more and not pay the Montana tax.

Montana law requires consumers, who fuel on highway vehicles over 26,000 lbs GVW from bulk special fuel storage, to keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

The consumers, who own vehicles under 26,001 lbs GVW and have access to untaxed special fuel, are required to purchase a special authorization permit which eliminates the record keeping for those vehicles.

PROPOSED LEGISLATION

Contractor, logging, mining and railroad industries can purchase dyed special fuel (diesel) in any quantity without paying the Montana tax. Dyed special fuel cannot be used in on highway vehicles.

Contractor, logging, mining and railroad industries will pay the Montana tax on clear special fuel (diesel) regardless of usage, but will be allowed to apply for refund on those gallons used off highway.

Contractor, logging, mining and railroad industries who operate vehicles under 26,001 lbs GVW will not be required to permit or report the usage to the department.

Contractor, logging, mining and railroad industries, who fuel on highway vehicles over 26,000 lbs GVW from bulk special fuel storage, must keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

Contractors

All special fuel, regardless of color, consumed in conjunction with a highway project is subject to Montana tax.

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SPECIAL FUEL DEALER

Current Montana law, effective January 1, 1994, eliminates the special fuel dealer requirements to be licensed, bonded and report retail sales and remit payment to the department. This change is do to moving the point of taxation on special fuel to the distributor level.

Exemptions at the retail or bulk dealer level:

- Special fuel sold in quantities of 200 gallons or more not intended for resale, or
- Special fuel sold to governmental agencies.

Credits

- The fuel dealer, who is required to pay the Montana tax, will claim a refund on those gallons to the supplier.

PROPOSED LEGISLATION

The special fuel dealer will charge the Montana tax on all clear special fuel sold and not charge the Montana tax on dyed special fuel sold (regardless of quantities). The consumer can apply back to the State for refund on those gallons of clear special fuel used off highway.

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• **SPECIAL FUEL DISTRIBUTORS**

Current Montana law, effective January 1, 1994, requires the special fuel distributor to report and remit Montana tax on all sales of special fuel in this State.

Exemptions at the distributor level:

- Special fuel sold in quantities of 200 gallons or more not intended for resale, or
- Special fuel sold to governmental agencies.

Credits

- The distributor will claim a credit on the distributor's report for those gallons sold by the distributor and the gallons sold by the distributor's customer.

• **PROPOSED LEGISLATION**

The special fuel distributor will charge the tax on all **clear special fuel** sold and **not** charge the Montana tax on **dyed special fuel** sold (regardless of quantities). The consumer can apply back to the State for refund on those gallons of clear special fuel used off highway.

EX 7
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• GOVERNMENTAL AGENCIES

The United States government, State of Montana, any other state, and any county, incorporated city, town, or school district of this state are exempt from the tax on special fuel regardless of usage.

• PROPOSED LEGISLATION

The governmental agencies will pay the tax and apply to the department for refund on all gallons regardless of usage.

CA:diesel

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

General Gov. & Trans. SUBCOMMITTEE DATE 17 Nov 93
DEPARTMENT (S) _____ DIVISION _____

PLEASE PRINT

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NAME	REPRESENTING	
Sandra Ditzinger	MAC	
PATRICK CHENOVICK	JUDICIARY	
Paul O'Keefe	State Auditor O.	
Tom Cook	State Auditor	
MARK E NELSON	State Auditor	
Jody Bird	HD52	
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Carl Schweitzer	MT Cont Ass'n	
Sam Nelson	H. D. 95	
MARVIN DYE	MDT	

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