

## MINUTES

### MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

#### CONFERENCE COMMITTEE ON SENATE BILL 398

**Call to Order:** By CHAIRMAN DELWYN GAGE, on April 9, 1995, at 10:30 A.M.

#### ROLL CALL

**Members Present:**

Sen. Delwyn Gage (R)  
Sen. Bruce D. Crippen (R)  
Sen. Greg Jergeson (D)  
Rep. H.S. "Sonny" Hanson (R)  
Rep. Larry Hal Grinde (R)  
Rep. Vicki Cocchiarella (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Bob Person, Legislative Council  
Judy J. Keintz, Committee Secretary

**Discussion:** CHAIRMAN DELWYN GAGE stated the House struck the enacting clause and put a new bill together for SB 398. The entire bill is now amended so the committee is free to do whatever they like. He presented a copy of House Rules Committee bill, **EXHIBIT 1**. He used the Committee of the Whole Amendments and keyed them by number to the Rules Committee Amendments in the House, **EXHIBIT 2**. He suggested the Senate not accept the amendments because this bill was quite different from the bill the Senate looked at and several members had concerns about the Revenue Oversight Committee and the Legislative Finance Committee being combined. There were also concerns about the makeup of the Legislative Council's members. There was also concern about how the Environmental Quality Council would fit into the process. Their branch was the only legislative branch which faced substantial changes. Bob Person drafted a list of items for the committee to consider. **EXHIBIT 3**

**SENATOR BRUCE CRIPPEN** stated he had been on the Revenue Oversight Committee for many years and has come to the conclusion that it should be a separate committee. There could be a budget committee consisting of a Revenue Oversight Committee and an Interim Finance Committee and the budget committee could meet once or twice a year during the interim. The functions of both committees are different. They are staffed differently. The Revenue Oversight Committee deals with the rules and regulations of the Department of Revenue and the legislature assigns to them

different tasks. This is during the interim and even though there seems to be enough time, two day committee meetings are well attended until 3:00 p.m. the first day; however, the next day after 10:30 or 11:00 a.m., the members are ready to leave for home. The problem with a large overall budget committee is that they will have to meet for at least two days or longer or perhaps meet more frequently to accomplish the necessary work. There will not be the quality of work necessary by combining the committees in that way. The same accomplishments could be reached by having two separate committees who were required to meet as a budget committee during the interim.

**SENATOR GREG JERGESON** stated he agreed with **SENATOR CRIPPEN**. The defined duties for the legislative fiscal analyst and the Revenue Oversight Committee are entirely different. They are able to come together during the legislative session and revenues are matched with expenditures. It is difficult for a sixteen member committee to develop expertise in two different worlds. Another issue is the treatment of the Environmental Quality Council. Their work is concentrated and some of the issues they deal with are very controversial. As the bill is currently set up, the Environmental Quality Council is still faced with trying to satisfy two masters. If the Environmental Quality Council would like study and analysis done in a particular area and the membership of the Legislative Council has a different view, who would the analyst answer to?

**REPRESENTATIVE H.S. "SONNY" HANSON** asked if there were only two issues which needed to be resolved?

**SENATOR GAGE** stated the only issues mentioned to him were the memberships of the legislative council membership in EQC and the Revenue Oversight and Finance Committee and whether or not there should be more members added to the audit committee.

**SENATOR JERGESON** commented that on the summary dated March 28, one of the issues was the Council's responsibility to adopt personnel and administrative policy and assign responsibility. He went through the bill and found that referenced in one location. He is not sure which conflicts it would resolve which might be in existence or which conflicts it may create. He is trying to get a feel for what powers the Council has over the other agencies with respect to personnel policies. Does this deal with pay plan and classification only or assignment of work space, duties and responsibilities, decisions about promotions, hiring, sick leave, vacation time, and comp time? In some respects he can see the Finance, Audit, or other committees finding some cause to not be satisfied with what the Legislative Council may decide. This is not very clear in the bill.

**REPRESENTATIVE LARRY GRINDE** asked Mr. Person to comment on this.

**SENATOR GAGE** stated he had discussions with Mr. Person about the need for a personnel officer for the legislative branch.

**Bob Person, Executive Director of the Legislative Council,** explained that the items discussed are spread out in three general areas in the bill. The first four sections contain general language in which the fundamental notion of the administrative consolidation is discussed. That attempts to provide a separation between the substantive activities of the entities which are remaining independent and governed by their committees. The way the bill is currently structured, the EQC loses the independent relationship to their committee: It defines a policy role for the Legislative Council and an implementation role for the separate entities. The other place it is reflected in the bill is in the amendments which are made to the general personnel laws of the state which, up until this point, the legislative branch has been totally exempt from parts one and two of the classification and pay plan laws. This has been a rather unartful manner of exempting. The amendments here remove the general exemption and put the legislative branch under these laws, but then assigns the responsibility for administration to the Legislative Council within the branch. That establishes policy wherein they would adopt a generally applicable pay plan and rules for administering the same. The third place the bill addresses this issue is in the Legislative Council statutes which amend the duties and responsibilities of the Legislative Council with regard to establishing a pay plan and administrative rules. Staffing becomes an issue. The responsibility for involving, maintaining and administering the types of activities which are handled in the personnel division in the executive branch is not an inconsiderable responsibility or duty. If this responsibility ends up in the branch, resources will be need to adequately fulfill that. Space allocation is referred to in the early section of the bill. There is a Supreme Court case and other precedent that suggests the space which is occupied by the House and Senate is determined by the House and Senate. This should be determined within the Legislative Branch with regard to the space which is occupied because if it is left silent, the Department of Administration will decide. Fundamentally, there should be a division between broad policy establishment and specific implementation and responsibility being split between the legislative council and the directors of the agencies.

**SENATOR JERGESON** asked if there would be policy issues involved with matters of overtime, comp time, sick leave and vacation insofar as implementation issues?

**Mr. Person** stated there clearly would be policy issues involved. There have been differences in which each of the agencies determine what is compensatory time policy. This deals with limits of accrual and when comp time may be taken. The Legislative Branch is covered under a different set of laws than the Executive Branch, thus their policies are different. Auditors would have a different work pattern in comparison to the fiscal analysts in his office and the EQC office accrue and use comp time because of the effect of the legislative sessions. Any

policy which will work in this branch will have to recognize the differences and work patterns.

**SENATOR GAGE** stated that if they wanted to get a central organization responsible for the legislative branch, a personnel officer would address each of those items in consultation with **Ms. Smith, Executive Director of EQC; Mr. Person, Executive Director of the Legislative Council and Mr. Seacat, Legislative Auditor.** It didn't appear to him that there would be a lot of changes in the day to day operation of the legislative personnel except putting as much centralization and common operating guidelines for each of the different agencies.

**REPRESENTATIVE GRINDE** stated that he understood that all the people would be brought together to arrive at a uniform policy on all of the things which were mentioned.

**Ms. Smith** commented the three executives have an extremely good working relationship. The policy differences can be worked out. There are concerns about unique situations among the agencies; however, those could be worked out.

**Mr. Seacat** stated it is a question of whether or not they would want to mandate to their directors in areas such as the pay plan for an example. In the interim, the directors prepared a pay plan for the branch. The Audit Committee decided whatever the legislature passed for the Executive Branch, they would follow. Should the pay plan be mandated by law or by the Council? The same issues should be addressed regarding personnel policies. There are differences between the departments. Most of his auditors travel so his staff works four 10 hour days. They earn comp time after 40 hours of work. The question they need to address is exactly what do they want their directors to do and should that be mandated by law. Administratively, an issue which needs to be dealt with in this bill is **Mr. Person's** administration of salaries in the branch. **Mr. Seacat** stated he has the authority, in law, to hire and fire people. The Audit Committee approves his budget and then lets him do his job which is defined by federal and state law. He hires the people he needs to get the job done and he fires people who do not get the job done. He hires entry level and promotes from within. **Mr. Person** does not have that authority. The Council handles the hiring for **Mr. Person.** The Council approves raises for people they do not even know. He believed there were good items in the bill.

**REPRESENTATIVE GRINDE** stated he wanted to leave policy setting to the people downstairs; however, they would still need to have a central location which is what the Council would be under. He does not feel this should be mandated in law but there should be policies set which would be reported to the legislators to keep them apprised of their work.

**Mr. Seacat** commented the issues which have brought forth this bill are issues which have involved the control of the branch. The Directors are concerned about that. The issues on pay plan seem to be resolved. A branch plan will be submitted to the Council. He asked exactly what they are after in the bill?

**REPRESENTATIVE GRINDE** stated it is his direction that they do as many things alike as possible to come up with a central policy. They do not want to micromanage anyone. He commended them on the computer program they set up. He feels the pay plan would be the next issue they should deal with and he is comfortable with their progress.

**SENATOR GAGE** commented one of the things he tried to do as Chairman of the Council was to see more harmony between the various groups downstairs. The problem he saw was when legislators questioned why a certain director would receive a raise while another director would get no raise. Those problems can be avoided with more central organization in this branch. This bill came about because everyone seemed to be doing their own thing downstairs without any coordination.

**REPRESENTATIVE GRINDE** asked if the bill, as currently written, would give them the authority to handle the organizational portion of policy setting?

**Mr. Seacat** said they could do that without the bill.

**SENATOR GAGE** asked **Ms. Smith** how she would feel about working through the Council instead of dealing with **Mr. Person**. He also asked **Mr. Person** how much freedom **Ms. Smith** would have in the areas dealing with addressing the Council.

**Mr. Person** asked if they wanted him to compare two different versions of how the EQC would be organized?

**SENATOR GAGE** commented that per the bill, as currently written, the EQC would be under the Legislative Council which would mean **Mr. Person** would be directing **Ms. Smith** as to what Council policies would be. He believes that to be the only change. **Ms. Smith** would speak for the EQC as opposed to speaking to **Mr. Person** before coming to the Council. The EQC would be responsible to get clearance from the Council as to their policy issues.

**Mr. Person** stated he did not see a significant difference in terms of the direct working relationship between the Executive Director of the Council and the EQC staff. The difference would be in an operational area. He has always felt the staff organization in relation to the committees was the crux of the issue. He doesn't see the administrative side as being a big issue.

**Jerry Noble** explained he felt it would be important for their branch to get their direction from the Council. He has spent the last four years on the Council. The directors worked very closely with the Council. The Council is very good at finding the direction they want their staff to follow. The staff has been very responsive to them. It is important to keep this intact.

**REPRESENTATIVE VICKI COCCHIARELLA** stated there were a couple of overriding issues involved with reorganization. They have term limits to face. They have valuable work which continues in the interim. They need to have more freshmen legislators involved and also have more committee involvement. They also need to make it possible for people to participate. The EQC has two issues to address. They have the laws which they are responding to as well as the need to maintain an entity which responds to the laws which are already out there. The staff which they rely on needs to have the autonomy in the sense where they have integrity. It is important to her that the staff responds to all parties. That has been the value of EQC. The Council makes decisions at every meeting for the direction of the staff. They have both the EQC and the law dictating the staff's responsibilities. This can create major conflict.

**Ms. Smith** stated she is very uncomfortable in this situation. She and **Mr. Person** work well together and whatever they decide, they will make it work. From an administrative and practical perspective, they have a long history of working together so there would be no problem. However, when the people change there could be some problems down the road.

**Mr. Noble** stated they have a mandate in the legislature to deal with things which need to be accomplished and addressed.

**SENATOR CRIPPEN** asked **Mr. Person** how he would see his responsibilities in dealing with **Ms. Smith** and the **EQC**. Does he see any problems?

**Mr. Person** stated that, organizationally, they have three divisions which would be the research division, the legal services division, etc. This group would become another division of that nature and the person who would be the Legislative Environmental Analyst would be the lead staff person for that group. As long as the legislature chose to support that kind of organizational arrangement, that is how he would see it being implemented. The question comes if one or the other person would change. Now everyone has a relationship and a known style of operating so there wouldn't be much of a change in day to day operations.

**SENATOR CRIPPEN** asked how he would view his responsibility towards them?

**Mr. Person** stated his responsibility would be to generally see that the EQC was getting the services which it needed. If both he and **Ms. Smith** changed jobs, whoever would be selected to be the executive director of the Legislative Council would become the supervisor, and perhaps be the person who would select the environmental analyst and then assign them to support the EQC. There would be the question of who would be the boss.

**SENATOR JERGESON** asked if there would be a way to take an ideal relationship between two personalities which are known and trusted and somehow institutionalize it so that when those people do change there would be a harmonious working relationship.

**REPRESENTATIVE GRINDE** asked **Mr. Person** if he could come up with something for the policy statement which would address the relationship with the EQC. Specifically this could address the duties of each person.

**Mr. Person** stated that the Legislative Council, under this structure, by selecting the director has the responsibility to set up the specific job duties and responsibilities. With the folding in process, it becomes an inherent responsibility for the director to supervise the other position. Skillful administrators can make it work either way. The issue he sees is the relationships between the staffers and the legislative groups which they serve directly.

**REPRESENTATIVE GRINDE** stated the EQC discussed the problem of losing experienced staffers. He asked if the EQC people would still be working on environmental issues.

**Mr. Person** stated the bill requires that they be identified and he feels that it was purposely left to be a budget question. What has caused some concern is that the Revenue Oversight Committee is poorly staffed in comparison to some of the other independently staffed committees. Will other committees be staffed in this same manner? The bill requires that separately identified staff will continue to operate as far as funding is concerned.

**REPRESENTATIVE HANSON** stated he only has heard about two issues so far: keeping the separation in ROC and folding in of EQC.

**SENATOR JERGESON** stated there was concern about the construction of the budget bill. There has been a problem comparing the governor's budget book to the LFA's analysis book. Last session they passed the truth in budgeting law. The LFA has been making considerable progress and he is not sure they should put in statute another step.

**Karen Berger, Office Manager, Legislative Auditor's Office,** commented that right now they have cooperation between the two offices, which has not always been the case, and they would not want something in statute which might be dependent upon

personnel. Their primary concern is in the issue of independence of the analysis. They feel that the bill gives them some latitude to take some control over the budget book. This bill requires a level of cooperation which may not even be desirable between the two offices. They would not want to compromise the potential independence of the analysis.

**REPRESENTATIVE HANSON** stated he would like to have a list of the issues which need to be discussed. He stated he liked to use one budget book. Because of term limits, they need to simplify the approach so that new legislators can go through one book for the necessary information. He does not see where the books have been improved this session. Once he has gone through the governor's book, why should he spend the time going through another set of three books to compare to the governor's budget? A lot of this is duplication. Perhaps there could be a supplemental section included which deals with the LFA as they address each particular issue. It will only be a short time before they have one book. He asked if they could give this idea a two year try and if it didn't work, they could change this next session. Presenting the information in one concise manual must be the goal for future operations. We will have people here a maximum of eight years. This is an efficiency item.

**SENATOR CRIPPEN** stated that at one point in the amendments, the LFA was to be brought under the umbrella of the Legislative Council. He asked if that was taken out?

**REPRESENTATIVE HANSON** stated that was correct.

**SENATOR JERGESON** stated there are members of the legislature who would have had trouble being restricted to one document when Dave Hunter was budget director. He is nervous about this idea; however, if it was sunsetted and didn't prove to be working it would be easy to change back to the old system. If it did work, the legislature would be convinced of the value of that change and it wouldn't take much to run a bill through the legislature to make this a permanent feature of the statute.

**REPRESENTATIVE HANSON** commented that instead of sunseting, they could run a bill very quickly and kill it.

**SENATOR GRINDE** asked for the issues they need to be concerned about.

The committee came up with the following issues:

1. LFA/ROC Relationship
2. EQC
3. Membership of the Legislative Council
4. Personnel



5. Budget Book
6. Committee Elimination
7. Section 33 Amendment

**SENATOR JERGESON** commented that he was concerned about the amendment in the House which would have increased the Legislative Audit Committee to twelve members. With term limits in place, they need to commit themselves to making this work. As soon as they are able to do so, freshman legislators should be moved into interim committees. Expanding the audit committee is a good idea because then new people can start learning the process. He also would not be adverse to increasing the size of the Legislative Council for the same reason. The people who will be moving into leadership roles will need to know the lay of the land at the legislature and expanding the committees to accommodate that is an important part of what they could do to make sure that term limitations do work for the benefit of all.

**SENATOR CRIPPEN** stated it would be more expensive, but that would be the trade off.

**Mr. Person** stated some of the same issue came up in the HB 2 conference. The amendments in Section 33 are important because this section is strengthening the Legislative Council's responsibility with relationship with the National Conference of State Legislatures while maintaining its responsibility for the Council of State Governments. For a number of years, the Council has been responsible in terms of submitting budgets to the legislature for its consideration. The legislature has had a hard time in terms of how to react to those. This bill is increasing the responsibility and the commitment of the legislature while the rest of the funding action is going in the other direction and it is a significant problem.

The committee recessed until 4:30 P.M.

*{Tape: 1; Side:B; Approx. Counter: 16.5}*

**REPRESENTATIVE GRINDE** asked how many members would make up the EQC?

**SENATOR GAGE** stated this bill did not deal with staff or members of the committee.

**REPRESENTATIVE HANSON** asked how many members were on the Water Quality Committee.

**REPRESENTATIVE COCCHIARELLA** stated there were eight members and twelve on the EQC.

**SENATOR CRIPPEN** stated if they were combined, they could add more members.

**REPRESENTATIVE GRINDE** stated they would have 6 Senators, 6 House Members and 4 members at large.

**SENATOR CRIPPEN** asked how the four at-large members would be chosen?

**SENATOR JERGSON** stated the eight legislators are chosen by the Speaker in the House and the Committee on Committees in the Senate. The public members are chosen by the Speaker and the Minority Leader.

**REPRESENTATIVE GRINDE** presented a handout of concerns and options requested by **REPRESENTATIVES GRINDE** and **HANSON**, **EXHIBIT 4**.

**SENATOR CRIPPEN** addressed issue 1. He stated they would propose to leave the committees separate under current law but would increase the membership by one party from each House. Instead of twelve member committees, there would be sixteen members. They realize there is a cost factor involved. He asked how they would keep the people involved in the interim. He is due to be chairman of the Revenue Oversight Committee; however, he will decline so there will be room for more new people on the committee. They have to deal with term limitations. The Legislative Council will handle the staffing. For Revenue Oversight they do not want the LFA or the budget office to handle the staffing because they are all resource people.

**REPRESENTATIVE COCCHIARELLA** asked how this is handled now?

**SENATOR CRIPPEN** stated that the Legislative Council staffs it now. There are 12 members currently.

**REPRESENTATIVE GRINDE** stated they would agree to split the committees as current law states. Part of the idea was to save some money. If members are added to all the committees, they will be spending more money than they are spending now. The committees to be increased are the Audit Committee and the EQC. He doesn't see where they need more members.

**SENATOR JERGSON** commented that the bill currently increases the Audit Committee. He is interested in increasing the Legislative Council.

**REPRESENTATIVE COCCHIARELLA** asked what committees they would be losing and what the memberships would be on those committees?

**REPRESENTATIVE GRINDE** stated that they are adding to committees so they have actually lost ground.

**SENATOR GAGE** stated that the committee would go with option 1 on issue three. On issue 2, the House Majority would like to go with option 1.

**SENATOR JERGESON** stated their caucus felt strongly about going with option 2.

**SENATOR GAGE** stated the people he had discussed this with felt they should consider leaving the Water Policy Committee separate from the EQC because of the multitude of services.

**SENATOR HANSON** asked if the Senate would support option no. 1.

**SENATOR GAGE** stated they did not have a problem leaving this under the Legislative Council but they wanted the Water Policy Committee separate.

**REPRESENTATIVE HANSON** stated the House would like item 1 and 2 together but would go with the separation.

**SENATOR CRIPPEN** stated option 1 is a given. He asked how they would like to negotiate with option 2.

**SENATOR GAGE** stated there are a number of Senators on his part of the isle who do not care if the bill passes or not. Other than the pay plan and some policy matters, he feels they are going in the opposite direction of their original plan.

**SENATOR CRIPPEN**, referring to issue 3, option 3, asked if the 4 ex officio would be the leadership?

**REPRESENTATIVE HANSON** stated they would agree with option 3.

**SENATOR CRIPPEN** asked if the ex officio members would be voting members?

**SENATOR JERGESON** stated ex officio means by virtue of their office they are automatically on the committee.

**Mr. Person** stated they would be voting members unless the language read ex officio non-voting.

**SENATOR GAGE** stated he felt leadership needed to be more involved in the interim but he had a problem with adding more members. The whole purpose of the bill was to eliminate as much expense as possible. Term limits will be making an impact soon because they will be losing a lot of expertise in the legislature.

**SENATOR CRIPPEN** commented that the House preferred option no. 3 of issue 3.

**REPRESENTATIVE HANSON** stated they had preferred no. 1, but would go with no. 3.

**SENATOR CRIPPEN** stated their caucus would not go along with that. There is a lot to be said for having leadership involved.

**SENATOR GAGE** stated there are some in their caucus which would like to see leadership as strong in the interim as they are during the session.

**SENATOR CRIPPEN** stated if the House wanted to have the leadership involved, they could agree if leadership is less than 50% of the voting membership of the Legislative Council.

**REPRESENTATIVE HANSON** stated the House would go along with that.

**SENATOR JERGESON**, referring to issue 4, stated he raised the issue of what constitutes policy and implementation. The options presented address this. They had hoped for no. 4 wherein the directors would draft and propose to the committees pay plans, personnel policies, etc. This would be along the lines of the additional language suggested on the next page which would put the same independence language in for the fiscal analyst as is in for the legislative auditor. He could accept no. 2 which would have the Council adopt the policy and then work with the various committees to make sure this is working for everyone concerned.

**SENATOR GAGE** stated that what would happen in no. 2 would happen in no. 4 first. The staff people and directors will make that recommendation to the Council to adopt.

**REPRESENTATIVE COCCHIARELLA** stated she was concerned about nos. 2 and 4 because to get this process to work they need to be as inclusive as possible of legislators to make sure that they are part of those decisions. She could go with either option.

**SENATOR GAGE** stated that as far as policy is concerned, they have told **Mr. Person** to bring them recommendations. There is no question in his mind that **Mr. Person** discussed this with the other people concerned and brought back recommendations. He would not anticipate a change at all under either option.

**REPRESENTATIVE HANSON** felt that no. 2 covered everything and that no. 4 would be included automatically before they got to no. 2.

The committee decided on no. 2.

**SENATOR GAGE** stated the only person he talked to regarding issue 5 was **SENATOR SWYSGOOD** and he likes the current situation with the budget book.

**REPRESENTATIVE HANSON** stated the House likes the single book for the new members in the legislature. He spent a lot of time searching through the governor's book and never did find the same sections in the LFA books. He could not take the section and the page number and reference the same material in the LFA book. There is a lot of duplication. They feel very strongly on the single book and would ask that it be given a try for two years. The LFA stated that after the amendment on the floor they could give it a try.

**REPRESENTATIVE COCCHIARELLA** explained the amendment. She has a concern with the issue of using one book. Her concern is that they would lose the LFA's autonomy by forcing them to work directly with the budget office. They need to work together to coordinate their efforts on how the material is presented. She and **Mr. Seacat** came up with the language in the amendment, **EXHIBIT 5**. They wanted some protection for the LFA so that their territories were not being invaded and there was no undue pressure from the budget office. She felt it important that they be a part of the legislative branch rather than a subdivision of the executive budget's office. If the single book idea was adopted, she would like to see some language protecting their autonomy.

**Clayton Schenk, Legislative Fiscal Analyst**, commented the bill did state that the budget office and the LFA have to agree on the format for the book. To him that leaves an awful opening. He can work with Dave Lewis quite well; however, down the road there will be new personalities. If they did not like the LFA's format, that could influence how this would be presented. There is nothing which prohibits the LFA from what they could include.

**SENATOR GAGE** stated that what they were agreeing to is that the Budget Office and the LFA would put out one book.

**REPRESENTATIVE HANSON** stated they work together currently in the process of developing their books. They pass information back and forth.

**Mr. Schenk** stated they worked very closely this biennium with the Budget Office.

**REPRESENTATIVE COCCHIARELLA** stated the Governor's budget book came out first. Would the language in this bill allow for preparation of one book?

**Mr. Schenk** stated this would not change anything in existing statute about when the Budget Office needs to have their work completed which is November 15. At that point in time, they do respond to their book and information. They now have a deadline of a week before the session. The Budget Office still needed to give them all the details on the 15th, but necessarily in a predetermined format. They are required to give the legislature a summary of the book but the detail would be given to them which would be incorporated in the joint book.

**SENATOR JERGSON** asked when the Budget Office gives the Fiscal Analyst Office the budget so they can begin the analysis which results in their book, does it become a public document when it is transferred from the Executive Branch to the Legislative Branch? If the House is expecting this book to be produced jointly, does it not become a public document on November 15? Could there be a potential public right to know problem with the press?

**REPRESENTATIVE HANSON** stated this should not be a complex process. The Fiscal Analyst's Office has worked together with the Budget Office so the information given them is not news to them.

**Mr. Schenk** stated that is how they worked this biennium; however, that is not necessarily how it would always happen in the future.

**REPRESENTATIVE HANSON** stated they want to set this up so that communication continues. A notebook should not be difficult to develop which would have sections which are a different color or font to explain which items the LFA disagrees with. It could be in one compact unit instead of having five books.

**SENATOR GAGE** stated that very early in the process he asked the Governor if he would have any problems putting language in statute which stated that the Budget Office and the Revenue Department must be more responsive to legislative agency requests than they have been in the past. He stated that he understood from the language added last session that both the Budget Office and the LFA were going to use the same format in putting their books out. Mr. Lewis thought they were working with the LFA's format because that is the format they wanted. If **Mr. Schenk** put in the budget from the Governor in the Budget Office's format and then responded narratively they still would not have what they wanted.

{Tape: 2; Side: A}

**REPRESENTATIVE HANSON** commented he is not looking for one particular book feeding another. He doesn't care which book is predominate. What he wants is one book which will contain the information which will facilitate their new members being able to understand it. That is the problem. A legislator should not have to work with the book for 90 days before it is understood. **SENATOR CRIPPEN** stated the LFA book does not mean anything to him at the beginning of the session. He is more interested in what will happen at the end of the session. The proposal would be a combination of books in such a manner wherein the LFA comments would follow right along with every section of the Governor's Budget Book. He asked **Mr. Schenk** if they would be able to keep their autonomy under this process?

**Mr. Schenk** stated if this bill was passed as is, he would be able to work with it. He is concerned with the language which states they must agree on the format. This is a good idea and he has been interested in this concept for some time. The Budget Office book cannot be used to deliberate in subcommittees. That is what the LFA book is made for. He and Mr. Lewis are both interested in accomplishing this. He is concerned with the fact that it leaves them with less flexibility to work on these matters. They may come up with a better option in the next interim. This would

tie them down to loose-leaf. He is also concerned of the cost of loose-leaf system.

**REPRESENTATIVE HANSON** asked if he would prefer the language read that they prefer a single combined book but leave the option open to come up with a different format.

**Mr. Schenk** stated that would be fine.

**REPRESENTATIVE JERGESON** stated the language could read that the LFA shall work with the Budget Office to develop alternatives which would result in budget presentations of comparable format.

**REPRESENTATIVE HANSON** stated there should be a sunset to exclude this provision if it did not work.

**REPRESENTATIVE COCCHIARELLA** stated she did not like this put into law. She can see computer terminals for their desks. The goal of this legislation should be to create efficiency and save money. It is difficult for legislators to have three or four books. Maybe there is a different idea or approach to this which could save money. Perhaps there would not need to be four books for every legislator.

**SENATOR GAGE** stated that before long this will all be computerized. It is available now but the legislature does not have the hardware to access this. The Finance and Claims Committee wants to have the LFA's format. It's possible to state that the Governor should give his budget to the LFA and then the legislature could distribute the LFA's version, that would be one book. Other than the people who have served on Finance and Claims or Appropriations, there are not enough legislators who understand the information currently nor will they with one book.

**REPRESENTATIVE HANSON** stated he should be able to open up a particular section of the book and see the expressions from both the Governor's side and the LFA if there is a difference. If they are the same, there is no reason to produce this twice.

**SENATOR CRIPPEN** asked how they deal with subcommittees? They do not use the Governor's budget. They use the LFA's budget.

**REPRESENTATIVE HANSON** commented there would be no problem with using the LFA as the driving force. If the Governor puts out information and they spend time reading it, they should be able to correlate it with the LFA. There was a bill passed to accomplish this last session. He is simply asking them to go a step further and try to accomplish this with one book.

**SENATOR CRIPPEN** stated if the main concern is correlation, maybe during the next interim they should concentrate on that and direct the LFA that they work with the Budget Office and come up with a similar format which is easily correlated.

**SENATOR GAGE** commented maybe the thing to do would be to tell the Budget Office how the format should be presented.

**SENATOR JERGESON** stated there was a lot of argument in previous sessions about what constituted current level. This wasn't a problem this session. The LFA book, with respect to the Governor's new proposal, included what the Governor was suggesting as compared to the base which was agreed to in the present law adjustments. The LFA book this session brought more into the focus the items which the Governor wanted than they had ever had in any previous session.

**Mr. Schenk** explained that the two books are similar in terms of the order which the agencies are shown in as well as the fact that the tables are virtually the same. He would like to work toward only one set of tables. The executive book would be largely policy. There are items which the Executive Branch is required to do by other statutes which need to be put in the budget book.

**REPRESENTATIVE HANSON** stated he would like to go ahead with a one book presentation but take out some of the specific requirements.

**REPRESENTATIVE COCCHIARELLA** stated she was not sure that was the least expensive, most efficient way to handle this. She wanted language stating that they approach this process with expense, efficiency and usefulness to meet the purpose. One book may not be the way to handle this.

**SENATOR GAGE** commented the book prepared by the Budget Office and the book prepared by the LFA have different ends in view, thus it would be difficult to end up with one book. LFA's book explains the amounts the Governor had in base '94 and then explains what additional options he would like to have, followed by options which the legislature may wish to consider.

**SENATOR JERGESON** stated that the Governor, in the presentation of his budget, is the key policymaker in that branch of our government. The legislative agencies try to maintain an objective analysis of the options and choices. He doesn't see where this information could end up in a single book. He would like to see similar formats developed which would be easily understandable on the part of all legislators.

**REPRESENTATIVE HANSON** suggested there be one source or presentation given to the legislature from both entities.

**Mr. Seacat** recommended a modified option no. 2 on issue 5. On page 24, line 8, he would strike the word "report" and use the word "presentation". He would then strike the words "provided to the legislature in a format mutually agreed upon between the budget office and the legislative fiscal analyst." On line 10 he would strike "in a loose-leaf format not later than 1 week". He would include **REPRESENTATIVE COCCHIARELLA's** language following



line 13, which may be found in **EXHIBIT 5**. This would send a signal to the Executive Branch that the fiscal analyst will put in that book what he feels is appropriate. On line 11, he would change the word "report" to "presentation".

**Motion:** REPRESENTATIVE HANSON MOVED THE AMENDMENTS AS DESCRIBED.

**Discussion:** REPRESENTATIVE HANSON asked how they felt about the sunset provision.

**Mr. Schenk** commented if they would be required to prepare a joint book, he would like to see it sunsetted.

REPRESENTATIVE HANSON suggested they place a sunset provision on the bill.

**Vote:** The motion CARRIED UNANIMOUSLY on oral vote.

**Motion:** REPRESENTATIVE COCCHIARELLA MOVED THE AMENDMENTS.

**Vote:** The motion CARRIED UNANIMOUSLY on oral vote.

**Motion:** REPRESENTATIVE COCCHIARELLA MOVED THE ITEM 5 ISSUE BE REMOVED FROM THE BILL.

**Discussion:** REPRESENTATIVE HANSON and GRINDE opposed the motion.

**Vote:** The motion FAILED on oral vote.

**Discussion:** REPRESENTATIVE COCCHIARELLA, referring to item no. 6, stated she would like to go with option no. 2. She felt that this committee would not go along with that suggestion. She proposed the membership of the EQC be increased to six Senators, six Representatives, and then the four new members. The Water Policy Committee has eight members. If the EQC takes on that additional work, it is necessary to have additional members. In the last two interims, the EQC has divided its members into subcommittees to work on individual issues. Last session all the House members ended up on the Hazardous Waste Subcommittee. No one in the House ended up working on the water side of EQC. The big issue here is those are issues which take a lot of education, learning, hearing and time. They need more members to deal with a broader scope in the EQC.

**SENATOR CRIPPEN** stated that if the two were combined, they would need a larger committee.

**REPRESENTATIVE HANSON** asked how the Senate felt about combining EQC and Water Policy?

**SENATOR GAGE** stated he has not talked to anyone who thinks they should be combined without adding more members.

**REPRESENTATIVE HANSON** stated the Republican House members would support combining and increasing members.

**Motion:** **SENATOR CRIPPEN** MOVED THE EQC AND THE WATER POLICY COMMITTEES BE COMBINED AND THE MEMBERSHIP BE INCREASED TO SIX SENATORS, APPOINTED BY THE COMMITTEE ON COMMITTEES, SIX REPRESENTATIVES APPOINTED BY THE SPEAKER AND FOUR AT-LARGE MEMBERS ONE TO BE PICKED BY THE SPEAKER, ONE PICKED BY THE MINORITY LEADER OF THE HOUSE, ONE PICKED BY THE PRESIDENT, AND ONE PICKED BY THE MINORITY LEADER OF THE SENATE.

**Discussion:** **Ms. Smith** stated the Governor's representative is still ex officio.

**Vote:** The motion **CARRIED UNANIMOUSLY** on oral vote.

**Discussion:** **Mr. Person**, referred to item no. 7, and stated the Senate had refused to pay partial dues to NCSL and the conference committee dropped it. The same legislature added the statutory responsibility to be a member of the NCSL and keeping its statutory responsibility. CSG is an agency of state government.

**REPRESENTATIVE HANSON** suggested a qualifier be added to state "to the extent of the availability of funds".

**SENATOR GAGE** stated they would put language in there with regard to NCSL, CSG, Pacific Northwest Economic Region and those areas which they had been paying dues to continue to the extent of the availability of funds.

**Motion:** **SENATOR JERGESON** MOVED THE FUNDING OF NCSL, CSG, PACIFIC NORTHWEST ECONOMIC REGION AND THOSE AREAS WHICH THEY HAD BEEN PAYING DUES TO CONTINUE TO THE EXTENT OF THE AVAILABILITY OF FUNDS.

**Vote:** The motion **CARRIED UNANIMOUSLY** on oral vote.

**Discussion:** **SENATOR JERGESON** stated he had withdrawn item no. 8.

**SENATOR CRIPPEN** stated the Revenue Oversight Committee has had a problem getting information from the LFA. An Interim Finance Committee Chair directed the LFA not to release information pertaining to revenue or expenditures until the Interim Finance Committee met. That presented a problem. He asked if that was required by law?

**Mr. Schenk** stated it was not. The only thing which would preclude them from doing so would be the extreme time crunch from the time they receive the executive budget to the time it would take to prepare it.

**Motion:** **SENATOR JERGESON** MOVED ITEM NO. 4, OPTION 2.

**Vote:** The motion CARRIED UNANIMOUSLY on oral vote.

**Motion:** SENATOR HANSON MOVED ITEM NO. 3, OPTION 3.  
**REPRESENTATIVE COCCHIARELLA** commented on the need for the language to include equal party representation.

**Vote:** The motion CARRIED UNANIMOUSLY on oral vote.

**Motion:** SENATOR HANSON MOVED THAT EQC BE FOLDED IN UNDER THE STAFF OF THE LEGISLATIVE COUNCIL.

**Discussion:** SENATOR CRIPPEN stated he had concerns about the independence of the EQC staff.

**Ms. Smith** commented the EQC hires the executive director for a term of two years and the executive director with the consent of the EQC hires the staff. Under this legislation there would be a legislative environmental analyst position which would supervise any staff assigned by the Legislative Services Division. The Legislative Services Division would hire the legislative environmental analyst and would hire the staff who would serve the EQC.

**SENATOR LORENTS GROSFIELD** state the issues the EQC deals with are issues sent to them by the legislature. It takes continuity of staff to produce a quality study. The staff needs to be experienced with the environmental laws. The EQC has statutory obligations which go beyond an interim study. It is important that the Council have direct input into the staffing.

**SENATOR GAGE** stated those statutory requirements will have to be met regardless of who the director is. He felt there should be language which stated the hiring should be with recommendations from the environmental quality analyst. A large portion of the language in the bill is to comply with what is happening currently.

**REPRESENTATIVE HANSON** stated he sees EQC as a permanent standing committee and should be treated as the same. It has the additional authority, by statute, and their members influence and review that report as do all standing committees. If EQC becomes a permanent standing committee within the organization, the Legislative Council would be able to send staff to EQC if they needed additional staffing.

**REPRESENTATIVE COCCHIARELLA** stated the EQC is more than a standing committee because they implement MEPA and handle all the training of all agencies for MEPA. She doesn't see where it is parallel with the legal or research functions of the Legislative Services Division. It is a separate entity like the Legislative Fiscal Analyst Office. She doesn't see any efficiency involved. She doesn't see what problem is being addressed. They have the same staff they had ten years ago. They are very cost effective. If the plan of the new Legislative Council is to get rid of EQC,

a very convenient way of accomplishing that is through the budgeting process.

**SENATOR JERGESON** stated his preference is to leave the EQC as a regular permanent statutory committee as it is now. They have combined it with the Water Policy Committee and expanded the membership. The caucus he represents would have that preference. This is the last outstanding issue in this bill. The language has been adopted to get a branch pay plan and personnel policy in place. Progress has been made on the clarification of the budget presentation. If the EQC was left as it is in current law with the changes of combining Water Quality and the size of it, there are some major accomplishments in this bill.

**REPRESENTATIVE HANSON** stated he has to vote for it. His caucus will not compromise on this issue.

**SENATOR CRIPPEN** asked if the EQC was in with the Legislative Council, could they provide that the staff would be appointed by the Quality Council subject to confirmation by the Executive Director of the Legislative Council?

**Mr. Person** commented that with the kind of arrangement which is being proposed in the bill, the committee has to be seen as a client more so than an employer.

**SENATOR CRIPPEN** questioned the amount of autonomy the EQC could have if it was folded in with the Legislative Council?

**Mr. Person** stated the structure of the bill folds everything together at an administrative level. If it is provided that the EQC has an independent charge over their staff, they would then have the direct responsibility of supervision and operation of that staff. If that responsibility is then assigned to the executive director, then the responsibility for seeing to it that that operates smoothly changes to that director. If it is provided by statute that they collaborate on hiring either by the EQC having the veto power over the executive director's decisions or vice versa that would be a middle ground. The more people who are involved in making decisions, the more difficult the process becomes.

**SENATOR CRIPPEN** stated if the EQC was folded in, the recommendations would have to come down from the Executive Director of the Legislative Council with the advice and consent of the EQC so they would have the veto power.

**Ms. Smith** stated the existing law provides for certain qualifications which are all wiped out in the bill as it stands right now and this decision is completely up to the Legislative Services Division's Executive Director, without any parameters. If things were not working well between the Executive Director and the Legislative Council and the EQC, the situation could arise where they would only have a list of unqualified people to

submit to the EQC. She questioned what the problem is with the existing system?

**SENATOR GAGE** stated there was no question in his mind that the Council would ask the EQC who they would like hired for the environmental quality analyst. They would then ask that person who they would like for staff. He didn't feel anything would change with this bill. The original intent of the bill was to put a mechanism together whereby they might be able to retain the expertise of the EQC staff as part of the Legislative Council inasmuch as they do draft bills other than environmental bills. As a result of the people working together, some of the environmental expertise would rub off on some of the other people on the Council staff. They want the Legislative Branch to look like a coordinated single branch of government.

**Ms. Smith** stated that once the Legislative Council Director, with the consent of the EQC, hires the Legislative Environmental Analyst, who does the Legislative Environmental Analyst answer to? Would this person answer to the EQC or the Executive Director?

**SENATOR GAGE** stated that could be a conflict they may be setting up between those two positions. As long as the current employees remain in these two positions, there should not be any problems. However, this could change with new personalities in these positions.

**SENATOR JERGESON** stated that kept separate the EQC would be like the other agencies under the language on the pay plan, personnel policy, computer systems, etc. He feels that combining the EQC into the Legislative Council creates a potential for a conflict which would be inherently inefficient. How much energy will the two chairmen expend making sure the two staff people are working together? On the other hand, how much effort will the two staff people have to expend if there are two strong willed chairmen? These conflicts do not exist when they are separate agencies.

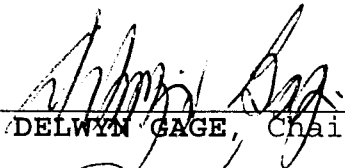
**REPRESENTATIVE HANSON** stated he would like to see more consolidation.

**SENATOR JERGESON** commented he did not see where consolidation would be more efficient. He does not see a problem with five agencies in the Legislative Branch with the other improvements which have been made.

**SENATOR GAGE** stated the Senate would be in favor of leaving the EQC as it currently exists. The House would like to bring them under the Council.

ADJOURNMENT

Adjournment: The meeting adjourned at 6:30 P.M.

  
\_\_\_\_\_  
SENATOR DELWYN GAGE, Chairman

  
\_\_\_\_\_  
JUDY J. KEINTZ, Secretary

DG/jjk

Conference  
Committee

DATE 4/9/95

Senator Delwyn Sage	✓
Senator Bruce Crippen	✓
Sen. Greg Jorgeson	✓
Rep. Sonny Hanson	✓
Rep. Larry Grinde	✓
Rep. Vicki Cocchiarella	✓

ROLLCALL.F08

Conference Committee  
on SB 398  
Report No. 1, April 11, 1995

Page 1 of 5

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 398, met and considered:

1. House Committee on Rules amendments to the third reading copy, dated March 21, 1995; and
2. House Committee of the Whole amendments to the third reading copy, dated March 28, 1995.

We recommend that SB 398 (reference copy as amended - salmon) be amended as follows:

1. Title, line 22.  
Strike: "2-4-402,"
2. Title, line 25.  
Strike: "5-12-202,"
3. Title, line 27.  
Following: "5-15-104,"  
Insert: "5-16-101,"  
Strike: "5-18-108," through "5-18-115,"
4. Title, line 28.  
Strike: "15-70-234, 16-2-101,"
5. Title, lines 29 and 30.  
Strike: "72-16-447," through "72-16-450,"
6. Title, page 2, line 1.  
Following: "90-4-310,"  
Insert: "AND"  
Following: "90-4-313"  
Strike: "AND 90-8-311"
7. Title, page 2, lines 2 and 3.  
Strike: "5-18-101," through "5-18-107,"
8. Page 4, line 5.  
Strike: "and"
9. Page 4.  
Following: line 5  
Insert: "(10) the revenue oversight committee established by 5-18-102; and"

ADOPT

REJECT

831114CC.SPV



Renumber: subsequent subsection

10. Page 5, line 1 through line 17.

Strike: Section 8 in its entirety

Renumber: subsequent sections

11. Page 11, line 19.

Following: "~~party~~"

Strike: "a member"

Insert: "two members"

Following: "and"

Strike: "a member"

Insert: "two members"

12. Page 11, lines 23 and 24.

Following: line 22

Strike: "a member"

Insert: "four members"

Following: "by the"

Strike: "president" through "senate" on line 24

Insert: "committee on committees, no more than two of whom may be  
of the same political party"

13. Page 11, line 25.

Strike: "two"

Insert: "three"

14. Page 12, line 15.

Following: "(b)"

Insert: "with the concurrence of the legislative audit committee  
and the legislative finance committee,"

15. Page 12, line 17.

Following: "(c)"

Insert: "with the concurrence of the legislative audit committee  
and the legislative finance committee,"

16. Page 18, line 15.

Following: "council"

Insert: ", within the limits of appropriations,"

17. Page 20, line 13 through line 29.

Strike: section 37 in its entirety

Renumber: subsequent sections

18. Page 21, line 16.

Strike: "i"

Insert: "."

19. Page 21, line 17 through page 23, line 16.

Strike: subsections (4) through (9) in their entirety

20. Page 24, line 5.

Following: "(4)"

Insert: "for the legislative session convening in January 1997,"

21. Page 24, lines 8 and 9.

Strike: "report" on line 8 through "analyst" on line 9

Insert: "presentation"

Following: "analysis"

Strike: "report"

Insert: "presentation"

22. Page 24, line 10.

Strike: "in a" through "1 week"

23. Page 24, line 11.

Strike: "report"

Insert: "presentation"

24. Page 24, line 13.

Following: "analyst."

Insert: "This section does not prohibit the legislative fiscal analyst from including any analysis and comments on any portion of the executive budget in the combined budget and budget analysis presentation."

25. Page 24, line 16.

Strike: "and"

26. Page 24, line 18.

Strike: "."

27. Page 24, line 20.

Following: "-"

Insert: "; and (7) assist the revenue oversight committee in performing its revenue estimating duties under 5-18-107(5)."

28. Page 29, line 4.

Following: line 4

Insert: "Section 49. Section 5-16-101, MCA, is amended to read:  
"5-16-101. **Appointment and composition.** The environmental quality council ~~shall consist~~ consists of ~~13~~ 17 members ~~to be~~ as follows:

(1) the governor or ~~his~~ the governor's designated representative ~~shall be~~ is an ex officio member of the council and shall participate in council meetings as a nonvoting member;

(2) ~~four~~ six members of the senate and ~~four~~ six members of

the house of representatives appointed before the 50th legislative day in the same manner as standing committees of the respective houses are appointed. No more than ~~two~~ three of the appointees of each house ~~shall~~ may be members of the same political party.

(3) four members of the general public. Two public members ~~shall~~ must be appointed by the speaker of the house with the consent of the house minority leader, and two ~~shall~~ must be appointed by the president of the senate with the consent of the senate minority leader.""

Renumber: subsequent sections

29. Page 29, line 20 through page 30, line 14.  
Strike: sections 52 through 55 in their entirety  
Renumber: subsequent sections

30. Page 33, line 5 through page 37, line 3.  
Strike: sections 61 and 62 in their entirety  
Renumber: subsequent sections

31. Page 47, line 23 through page 49, line 16.  
Strike: sections 74 through 76 in their entirety  
Renumber: subsequent sections

32. Page 52, line 9.  
Strike: "assign"  
Insert: "provide"  
Strike: "employees"  
Strike: "to"  
Following: "support"  
Insert: "to"

33. Page 52, line 11.  
Strike: "committee"  
Insert: "environmental quality council"

34. Page 52, line 13.  
Strike: "coordinate"  
Insert: "supervise"

35. Page 52, line 14.  
Strike: "support services provided"  
Insert: "assigned"  
Following: "council."  
Insert: "The environmental quality council shall select the legislative environmental analyst with the concurrence of the legislative council."

36. Page 63, line 30 through page 64, line 3.

Strike: section 90 in its entirety  
Renumber: subsequent sections

37. Page 64, lines 9 and 10.  
Strike: "must" through "appointed" on line 10

38. Page 64, line 10.  
Following: "5-11-101,"  
Strike: "and"


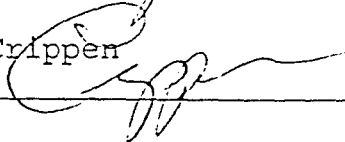
39. Page 64, line 11.  
Following: "5-12-202,"  
Insert: "the members of the legislative audit committee, as  
provided in 5-13-202, and the members of the environmental  
quality council, as provided in 5-16-101, must be appointed"



40. Page 64, line 27.  
Strike: "5-18-101" through "5-18-107,"

41. Page 64, line 30.  
Strike: "17, 37, 92,"  
Insert: "16, 42, 49, and 81"

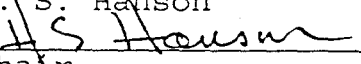
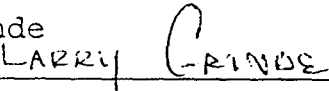
And that this Conference Committee report be adopted.

For the Senate:

Gage   
Chair  
Crippen 

Jergeson  
  
Amd. Coord.  
  
Sec. of Senate

For the House:

H. S. Hanson  
  
Chair  
Grinde  


Cocchiarella  
\_\_\_\_\_



## HOUSE STANDING COMMITTEE REPORT

March 21, 1995

Page 1 of 59

Mr. Speaker: We, the committee on Rules report that Senate Bill 398 (third reading copy -- blue) be concurred in as amended.

Signed:

Larry Grinde  
Larry Grinde, Chair

Carried by: Rep. Grinde

And, that such amendments read:

1. Title, line 6.

Following: "SECTIONS"

Strike: the remainder of line 6 through "DATE." on line 22

Insert: "1-11-201, 1-11-303, 2-4-401, 2-4-402, 2-15-401,  
2-15-1514, 2-15-1523, 2-18-103, 2-18-201, 5-1-106, 5-2-301,  
5-5-215, 5-11-101, 5-11-102, 5-11-103, 5-11-105, 5-11-106,  
5-11-107, 5-11-111, 5-11-112, 5-11-201, 5-11-202, 5-11-203,  
5-11-205, 5-11-206, 5-11-207, 5-11-208, 5-11-209, 5-11-301,  
5-11-402, 5-11-404, 5-11-405, 5-12-202, 5-12-204, 5-12-205,  
5-12-301, 5-12-302, 5-12-303, 5-12-304, 5-13-202, 5-13-301,  
5-13-302, 5-13-304, 5-13-305, 5-14-103, 5-15-104, 5-16-104,  
5-18-108, 5-18-109, 5-18-110, 5-18-115, 5-19-104, 5-19-107,  
13-27-201, 13-27-202, 13-27-504, 15-70-234, 16-2-101,  
17-5-1650, ~~17-7-123~~, 17-7-402, 17-7-404, 18-1-118, 22-1-218,  
39-30-103, 41-3-1002, 44-12-206, 44-13-103, 60-11-111,  
72-16-447, 72-16-448, 72-16-450, 75-1-201, 75-1-323,  
75-1-324, 85-1-203, 85-1-621, 85-2-105, 85-2-436, 90-4-302,  
90-4-305, 90-4-307, 90-4-308, 90-4-310, 90-4-313, and  
90-8-311, MCA; repealing sections 1-13-101, 1-13-102,  
1-13-103, 1-13-105, 1-13-111, 5-12-402, 5-18-101, 5-18-102,  
5-18-103, 5-18-104, 5-18-105, 5-18-106, 5-18-107, 17-7-114,  
23-7-203, 75-1-321, 75-1-322, and 90-4-303, MCA; and  
providing effective dates."

SB 398

Committee Vote:

Yes \_\_, No \_\_.

HOUSE

2. Page 1, line 24.

Following: the enacting clause

Strike: everything following the enacting clause

Insert: "NEW SECTION. Section 1. Declaration of policy and purpose. It is the public policy of this state and the purpose of [sections 1 through 4]:

(1) to create a structure of the legislative branch of state government that is efficient and responsive to the needs of the people of this state and is sufficiently flexible to meet changing conditions;

(2) to strengthen the legislative branch capacity to administer its affairs effectively and efficiently on behalf of the people of the state;

(3) to provide means for coordination of branch activities; and

(4) to eliminate unnecessary overlapping and duplication of effort within the legislative branch of state government.

NEW SECTION. Section 2. Structure of legislative branch. The legislature established in Article V, section 1, of the Montana constitution and the committees established by law constitute the legislative branch. The functional organization of the legislative branch is governed by the joint rules of the legislature and the laws governing the several components of the branch. The administrative organization of the legislative branch is consolidated as provided in [sections 1 through 4].

NEW SECTION. Section 3. Consolidation of legislative branch entities for specified purposes. (1) An entity of the legislative branch that is consolidated with the legislative council as provided in [section 4] shall:

(a) exercise its substantive functions independently as provided by law;

(b) adhere to administrative policies, including personnel policies, adopted by the legislative council;

(c) submit its budget proposals through the legislative council; and

(d) submit reports required of it as provided in 5-11-210.

(2) The legislative council shall:

(a) coordinate budgeting, recordkeeping, reporting, and related administrative and clerical functions as a consolidated entity, including acknowledgment of actions by the approving authority of the consolidated entity;

(b) include within the legislative council budget the budget proposals for the legislature and the consolidated entities, separately identified; ~~and~~

(c) provide personnel administration for the legislative branch. The senate and the house of representatives or a

1. (c)

2. (d)

3.

consolidated entity with statutory hiring authority may hire its own ~~nonadministrative~~ personnel, subject to administrative procedures established by the legislature and legislative council. ~~The legislative services division shall initially hire administrative support personnel on behalf of a consolidated entity of the legislative branch.~~ 4.

(3) The legislative council shall allocate office space occupied by the legislative branch for the use of a consolidated entity as necessary. Space occupied by the senate or the house of representatives may not be reallocated except upon approval of the respective house as provided in the rules of that house. The location of the chambers of the house of representatives and the senate must be determined as provided by 2-17-101.

NEW SECTION. Section 4. Legislative branch consolidated. The following legislative branch entities are consolidated with the legislative council, as provided in [section 3] and this section:

- (1) the senate and the house of representatives provided for in Article V, section 1, of the Montana constitution;
- (2) the legislative council established by 5-11-101;
- (3) the legislative services division established by 5-11-111;
- (4) the legislative finance committee established by 5-12-201;
- (5) the legislative fiscal division established by 5-12-301;
- (6) the legislative audit committee established by 5-13-201;
- (7) the legislative audit division established by 5-13-301;
- (8) the administrative code committee established by Title 5, chapter 14, part 1;
- (9) the environmental quality council established by 5-16-101; and
- (10) the committee on Indian affairs established by 5-19-102.

Section 5. Section 1-11-201, MCA, is amended to read:

"1-11-201. ~~Office of code~~ Code commissioner created. There is created within the legislative council services division the ~~office of a~~ code commissioner."

Section 6. Section 1-11-303, MCA, is amended to read:

"1-11-303. Authority to issue ancillary publications. The ~~legislative council code commissioner~~ may issue supplementary and ancillary publications as ~~it considers~~ necessary or desirable in aid of the general use and purposes of the Montana Code Annotated and the supplements or replacements to the Montana Code

Annotated. The ~~legislative council code~~ commissioner shall publish a legislative review containing a summary of enactments of each session of the legislature. The ~~legislative council code~~ commissioner shall publish a history and final status of all bills and resolutions of each session of the legislature that 302 contains corrected voting records for bills and resolutions."

Section 7. Section 2-4-401, MCA, is amended to read:

"2-4-401. Administrative code committee -- staff, meetings, and compensation. (1) The legislative ~~council~~ services division shall provide staff assistance to the administrative code committee. The committee may ~~retain whatever employees, consultants, or counsel as are necessary to carry out the provisions of this chapter and to~~ advise the publisher in relation to the text and legal authority of the material published in the register or ARM, within the limitations of legislative appropriations.

(2) The committee shall meet as often as may be necessary during and between legislative sessions.

(3) Committee members are entitled to receive compensation and expenses as provided in 5-2-302."

Section 8. Section 2-4-402, MCA, is amended to read:

"2-4-402. Powers of ~~the~~ committee -- duty to review rules -- exception for revenue rules. (1) Except for rules proposed by the department of revenue, the administrative code committee shall review all proposed rules filed with the secretary of state.

(2) The ~~revenue oversight~~ legislative finance committee shall review all rules proposed by the department of revenue.

(3) The administrative code committee may:

(a) request and obtain an agency's rulemaking records for the purpose of reviewing compliance with 2-4-305;

(b) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit those recommendations to the department proposing the rule and submit oral or written testimony at a rulemaking hearing;

(c) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;

(d) institute, intervene in, or otherwise participate in proceedings involving this chapter in the state and federal courts and administrative agencies;

(e) review the incidence and conduct of administrative proceedings under this chapter."

Section 9. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state. In addition to the duties prescribed by the constitution, it is the duty of the



March 21, 1995

Page 5 of 59

secretary of state to:

(1) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform ~~such~~ other duties as may be devolved upon ~~him~~ the secretary of state by resolution of the two houses or either of them;

(2) keep a register of and attest the official acts of the governor, including all appointments made by ~~him~~ the governor, with date of commission and names of appointees and predecessors;

(3) affix the great seal, with ~~his~~ the secretary of state's attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required;

(4) record in proper books all articles of incorporation filed in ~~his~~ the secretary of state's office;

(5) take and file ~~in his office~~ receipts for all books distributed by ~~him~~ the secretary of state and direct the county clerk of each county to do the same;

(6) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(7) furnish, on demand, to any person paying the fees ~~therefor~~, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in ~~his~~ the secretary of state's office;

(8) keep a fee book in which must be entered all fees, commissions, and compensation ~~of whatever nature or kind by him~~ earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which ~~book~~ must be verified annually by ~~his~~ the secretary of state's affidavit entered ~~therein~~ in the fee book;

(9) file in ~~his~~ the secretary of state's office descriptions of seals in use by the different state officers;

(10) discharge the duties of member of the board of examiners and of the board of land commissioners and all other duties required ~~of him~~ by law;

(11) register marks as provided in Title 30, chapter 13, part 3;

(12) report annually to the legislative ~~council~~ services division all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

(13) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application."

Section 10. Section 2-15-1514, MCA, is amended to read:

"2-15-1514. State library commission -- natural resource data system advisory committee. (1) (a) There is a state library commission which is created in Title 22, chapter 1.

(b) The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of commission members remain as prescribed by law.

(2) (a) There is a natural resource data system advisory committee consisting of an employee of the ~~environmental quality council legislative services division~~, of the state library, and of each principal data source agency, appointed by the head of the respective state agency, and by the board of regents of higher education for the Montana university system.

(b) The state library shall provide staff support to the committee, within the limits of the library's available resources."

Section 11. Section 2-15-1523, MCA, is amended to read:

"2-15-1523. Ground water assessment steering committee. (1) There is a ground water assessment steering committee consisting of an employee of each of the following state agencies having responsibility for ground water protection, management, or information who must be appointed by the head of the respective state agency:

- (a) the department of natural resources and conservation;
- (b) the department of health and environmental sciences;
- (c) the department of agriculture;
- (d) the department of state lands; and
- (e) the Montana state library, natural resource information system.

(2) The ground water assessment steering committee may include representatives of the following agencies and units of government with expertise or management responsibility related to ground water and representatives of the organizations and groups specified in subsection (2)(h), who shall serve as ex officio members:

(a) the ~~environmental quality council legislative services division~~;

- (b) the board of oil and gas conservation;
- (c) the Montana bureau of mines and geology;
- (d) a representative from a unit of the university system, other than the Montana bureau of mines and geology, appointed by the board of regents of higher education for the Montana university system;

(e) a county government, appointed by an organization of Montana counties;

(f) a city, town, or city-county government, appointed by an organization of Montana cities and towns;

(g) each principal federal agency having responsibility for ground water protection, management, or research, appointed by the Montana head of the respective federal agency; and

(h) one representative of each of the following, appointed

by the governor:

- (i) agricultural water users;
- (ii) industrial water users; and
- (iii) a conservation or ecological protection organization.
- (3) The ground water assessment steering committee shall elect a chairman presiding officer from its voting members.
- (4) The Montana bureau of mines and geology shall provide staff support to the committee."

Section 12. Section 2-18-103, MCA, is amended to read:

"2-18-103. Officers and employees excepted. (1) Parts 1 and 2 do not apply to the following positions in state government:

- ~~(1)~~ (a) elected officials;
- ~~(2)~~ (b) county assessors and their chief deputy;
- ~~(3)~~ ~~officers and employees of the legislative branch;~~ J. (c)
- ~~(4)~~ (c) judges and employees of the judicial branch;
- ~~(5)~~ (d) members of boards and commissions appointed by the governor, the legislature, or other elected state officials;

- ~~(6)~~ (e) officers or members of the militia;
- ~~(7)~~ (f) agency heads appointed by the governor;
- ~~(8)~~ (g) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;

- ~~(9)~~ (h) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;

- ~~(10)~~ (i) teachers under the authority of the department of corrections and human services or family services;

- ~~(11)~~ (j) investment officer, assistant investment officer, executive director, and three professional staff positions of the board of investments;

- ~~(12)~~ (k) four professional staff positions under the board of oil and gas conservation;

- ~~(13)~~ (l) assistant director for security of the Montana state lottery;

- ~~(14)~~ (m) executive director and senior investment officer of the Montana board of science and technology development;

- ~~(15)~~ (n) executive director and employees of the state compensation insurance fund;

- ~~(16)~~ (o) state racing stewards employed by the executive secretary of the Montana board of horseracing;

- ~~(17)~~ (p) executive director of the Montana wheat and barley committee; and

- ~~(18)~~ (q) commissioner of banking and financial institutions

(2) Employees of an entity of the legislative branch are exempt from the application of 2-18-1011 through 2-18-1013. With respect to entities of the legislative branch: 6.

(a) as used in parts 1 through 3 of this chapter, references to the "department of administration" or "department" apply to the legislative council established by 5-11-101, which may delegate administrative duties to the legislative services division established by 5-11-111;

(b) as used in 2-18-102, the term "governor" applies to the legislature; and

(c) as used in 2-18-204, the term "budget director" applies to the "approving authority" as defined in 17-7-102."

Section 13. Section 2-18-201, MCA, is amended to read:

"2-18-201. Development of personnel classification plan. The department shall develop a personnel classification plan for all state positions and classes of positions in state service following hearings involving affected employees and employee organizations, except those exempt in 2-18-103 and 2-18-104. The legislative council shall in a like manner develop a classification plan for employees of the legislative branch." 1

Section 14. Section 5-1-106, MCA, is amended to read:

"5-1-106. Legislative council services division to provide technical and clerical services. The executive director of the legislative ~~council~~ services division, under the direction of the commission, shall provide the technical staff and clerical services ~~which~~ that the commission needs to prepare its districting and apportionment plans."

Section 15. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Except as provided in subsection (7), legislators are entitled to a salary commensurate to that of the daily rate of an entry grade 8 classified state employee in effect when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The president of the senate and the speaker of the house shall receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Legislators are entitled to \$50 a day, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments ~~shall~~ must stop when the legislature recesses for more than 3 days and ~~shall~~ resume when the legislature reconvenes.

(4) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(5) In addition to the mileage allowance provided for in

March 21, 1995  
Page 9 of 59

subsection (4), legislators, upon submittal of an appropriate claim for ~~such~~ mileage reimbursement to the legislative services division office of the legislative council, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) ~~such~~ additional round trips as are authorized by the legislature during special session.

(6) Legislators are not entitled to any additional mileage allowance under subsection (4) for a special session if it is convened within 7 days of a regular session.

(7) In lieu of the salary provided for in subsection (1) and the expense allowance provided for in subsection (3), a legislator may receive remuneration for services performed during a legislative session. A legislator choosing to receive remuneration for services performed shall file a request to receive payment under this subsection with the accounting legislative services division office of the legislative council. A legislator exercising the option to receive remuneration for services performed may not receive more remuneration than legislators paid pursuant to subsections (1) and (3). Remuneration for services performed must be reduced \$50 a day when the legislature recesses for more than 3 days."

Section 16. Section 5-5-215, MCA, is amended to read:

"5-5-215. Duties of subcommittees. (1) Each subcommittee shall accumulate, compile, analyze, and furnish ~~such~~ information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work. important issues of policy and questions of statewide importance, including but not limited to:

~~(a) the possibilities of consolidations of departments, commissions, boards, and institutions in state government for:~~

~~(i) the elimination of unnecessary activities and duplications in office personnel and equipment,~~

~~(ii) the coordination of activities,~~

~~(iii) the purpose of increasing efficiency of service or effecting economies, and~~

~~(iv) the purpose of studying and inquiring into the financial administration of state governments and subdivisions thereof, including the problems of assessment and collection of taxes, and~~

~~(b) all other matters pertaining to the function of the departments and branches of state government.~~

(2) Each subcommittee shall prepare ~~such~~ bills and resolutions as that, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.

(3) ~~Each subcommittee~~ The legislative services division shall keep accurate records of ~~its~~ the activities and proceedings of each subcommittee."

Section 17. Section 5-11-101, MCA, is amended to read:

"5-11-101. Appointment and composition of council. (1) There is a legislative council ~~which~~ that consists of:

~~(1)(a) four members of the house of representatives appointed by the speaker of the house, with the advice of the majority and the minority leaders leader of the house, no more than two of whom may be of the same political party a member chosen by the speaker of the house, and a member chosen by the minority leader of the house; and~~

~~(2)(b) four members of the senate appointed by the committee on committees the president of the senate, no more than two of whom may be of the same political party the minority leader of the senate, a member chosen by the president of the senate, and a member chosen by the minority leader of the senate.~~

(2) No more than two members of each house may be of the same political party."

Section 18. Section 5-11-102, MCA, is amended to read:

"5-11-102. Term. Membership on the council is for 2 years ~~while the member remains qualified and until a successor is appointed and qualified and terminates with the appointment of a new council or on the 50th legislative day of the next regular session following the one in which the appointment was made, whichever event occurs first. A new council~~ Members required to be appointed by leadership under 5-11-101, shall must be appointed no later than the 50th day of each regular session immediately following organization of the senate and the house of representatives as provided in 5-2-212 and 5-2-213."

Section 19. Section 5-11-103, MCA, is amended to read:

"5-11-103. Vacancies. A vacancy on the legislative council ~~occurring when the legislature is not in session shall~~ must be filled by the selection of another member by the same method as the original appointment."

Section 20. Section 5-11-105, MCA, is amended to read:

"5-11-105. Powers and duties of council. (1) The legislative council shall:

(a) employ and, in accordance with the rules for classification and pay established as provided in this section, set the salary of an executive director of the legislative services division, who serves at the pleasure of and is responsible to the legislative council;

(b) adopt rules for classification and pay of legislative

branch employees;

(c) adopt rules governing personnel management of branch employees;

(d) adopt procedures to administer legislator claims for reimbursements authorized by law for interim activity; and

(e) perform other duties assigned by law.

(2) If a question of statewide importance arises when the legislature is not in session and a ~~subcommittee has not~~ legislative committee has not been appointed assigned to consider the question, the legislative council shall assign the question to an appropriate subcommittee as provided in Title 5, chapter 5, part 2, or to the appropriate statutorily created committee.

~~(2) The legislative council shall supervise the activities of the council staff.~~

~~(3) The legislative council shall assist in the preparation and submission of all standing and select committee and subcommittee reports and recommendations to the legislature.~~

~~(4) This section shall not be construed to permit the council to approve or disapprove of any substantive portions or recommendations of a standing or select committee or subcommittee report."~~

Section 21. Section 5-11-106, MCA, is amended to read:

"5-11-106. Authority to investigate and examine. The legislative council services division, on behalf of standing and select committees and subcommittees, ~~shall have authority to may~~ investigate and examine the costs of state governmental activities and may examine and inspect all records, books, and files of any department, agency, commission, board, or institution of the state of Montana."

Section 22. Section 5-11-107, MCA, is amended to read:

"5-11-107. Powers relating to hearings. (1) In the discharge of its duties or on behalf of standing statutory committees ~~and or~~ subcommittees, the legislative council may hold hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in district court.

(2) If a person disobeys a subpoena issued by the council ~~on behalf of a standing committee or subcommittee~~ or if a witness refuses to testify on any matters regarding which ~~he~~ the witness may be lawfully interrogated, the district court of any county ~~or a judge thereof~~ shall, on application of the legislative council, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from ~~such a~~ a district court or a refusal to testify ~~therein~~ in the district

court."

Section 23. Section 5-11-111, MCA, is amended to read:

~~"5-11-111. Executive director, personnel, and consultants Legislative services division. The legislative council may employ an~~ There is a legislative services division under the direction of an executive director employed by the legislative council under 5-11-105 and such other personnel, not members of the council, as it considers necessary to assist in the preparation of proposed legislative acts and standing and select committee and subcommittee reports and recommendations and to carry out other council activities. The executive director may engage personnel and consultants to fulfill the duties of the legislative services division within the limits of appropriations to the legislative services division. The council executive director shall fix the compensation of such the employees of the legislative services division in accordance with the rules for classification and pay adopted by the legislative council. It may also employ the services of any research agency which it considers necessary in the discharge of its duties."

Section 24. Section 5-11-112, MCA, is amended to read:

~~"5-11-112. Functional divisions organization and responsibilities. (1) The legislative council may establish a functional divisions organization within the council staff legislative services division in order to effectively and efficiently carry out all of the responsibilities delegated to the council division by law or legislative rule. The divisions shall responsibilities of the legislative services division include the following:~~

- ~~(1)(a) legislative document services division:~~
  - ~~(i) bill drafting and preparation for introduction;~~
  - ~~(a)(ii) engrossing and enrolling;~~
  - ~~(b)(iii) mailroom distribution of legislative bills and information;~~
  - ~~(c)(iv) coordination of legislative printing; and~~
  - ~~(v) publication of legislative records;~~
  - ~~(d) data processing;~~
- ~~(2)(b) research and reference services division:~~
  - ~~(a)(i) general and specialized legislative research; and~~
  - ~~(b)(ii) legislative reference and information;~~
  - ~~(c) committee staffing, including staffing for interim committees organized under Title 5, chapter 5, part 2;~~
- ~~(3)(c) legal services division:~~
  - ~~(a)(i) bill drafting legal review of draft bills;~~
  - ~~(b)(ii) legal counseling on legislative matters;~~
  - ~~(c)(iii) committee staffing legal support for consolidated entities; and~~



March 21, 1995  
Page 13 of 59

(iv) support for the functions of the code commissioner provided in 5-11-201;

(d) committee services:

(i) research, legal, and administrative staff support for consolidated committees as assigned, including support for interim committees organized under Title 5, chapter 5, part 2; and

(ii) research and legal support for legislative standing and select committees;

~~(4)(e) management and business services division, which shall:~~

~~(a)(i) maintain bookkeeping financial records;~~

~~(b)(ii) sign claims and payrolls;~~

~~(c)(iii) order all coordination of procurement of printing, supplies, and equipment; and~~

~~(d)(iv) serve the house and senate during the session maintenance of property inventories;~~

(f) personnel and administrative services:

9. and (i) legislative branch rules for classification and pay;

(ii) branch personnel and administrative policies; and

(g) information technology services:

(i) branch network support services;

(ii) application support and development;

(iii) communications support and coordination; and

(iv) information technology planning.

(2) The responsibilities of the legislative services division must be fulfilled collaboratively with consolidated entities whenever the efficient operation of the branch is served."

*LEGISLATIVE*

Section 25. Section 5-11-201, MCA, is amended to read:

"5-11-201. Journals -- how authenticated -- filing. The journal of the senate must be authenticated by the signature of the president and the journal of the house of representatives by the signature of the speaker. Each authenticated journal must be filed with the secretary of state. A copy of each authenticated journal must be filed with the legislative ~~council~~ services division."

Section 26. Section 5-11-202, MCA, is amended to read:

"5-11-202. Printing of session laws. The legislative ~~council~~ services division shall deliver to the appropriate printer, at the earliest practicable day after the final adjournment of each session of the legislature, copies of all laws and resolutions passed or adopted during the session. The session laws must be delivered to the appropriate printer in the form provided for in 5-11-205 and 5-11-206."

Section 27. Section 5-11-203, MCA, is amended to read:

"5-11-203. Distribution of session laws -- inspection of journals. (1) Immediately after the session laws are published, the legislative ~~council~~ services division shall distribute them.

(2) The ~~council~~ legislative services division shall make the house and senate journals available for inspection or copying by the public as provided in Title 2, chapter 6, part 1. The ~~council~~ legislative services division may publish the journals in an electronic format.

(3) The following entities may receive the number of copies of session laws listed at no cost:

(a) to the library of congress, eight copies;

(b) to the state library, two copies;

(c) to the state historical library, two copies;

(d) to the state law librarian, four copies for the use of the library and additional copies as may be required for exchange with libraries and institutions maintained by other states and territories and public libraries;

(e) to the library of each custodial institution, one copy;

(f) to each Montana member of congress, each United States district judge in Montana, each of the judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102(8), one copy;

(g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;

(h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;

(i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the Montana university system, one copy;

(j) to each county clerk, one copy for the use of the county; and

(k) to each county attorney and to each clerk of a district court, one copy."

Section 28. Section 5-11-205, MCA, is amended to read:

"5-11-205. Publication of laws -- format. (1) The legislative ~~council~~ services division shall publish all laws and resolutions passed or adopted by each session of the legislature in a publication to be known as the Laws of Montana.

(2) Laws of each session must be printed in the Laws of Montana in the order that they have been filed in the office of the secretary of state with the chapter number assigned by the secretary of state as the heading. The chapter number must also appear as part of each page heading. In all laws containing

amendments to an existing law, the new parts designated in the act by underlining must be printed in italics in the Laws of Montana and deleted provisions must be shown as stricken. The senate or house bill number may be omitted from each act.

(3) Reference to the laws of a legislative session may be made as follows: "Chapter .... (giving number), Laws of .... (giving the year enacted)".

(4) Resolutions adopted by each session of the legislature must be printed in a separate section of the Laws of Montana with the type of resolution and its number as a heading.

(5) The legislative ~~council~~ services division shall also publish in the Laws of Montana the indexes required by 5-11-206."

Section 29. Section 5-11-206, MCA, is amended to read:

"5-11-206. Index -- list. (1) The legislative ~~council~~ services division shall prepare a suitable index of all the laws and resolutions passed or adopted at each session of the legislature. The index ~~shall~~ must be a thorough index of the laws and resolutions and of each subject contained in or covered by the laws and resolutions, together with a cross-index to assist in readily finding any subject contained in each volume. A separate index must be prepared for appropriation bills passed by each session of the legislature.

(2) For the purpose of uniformity in indexes, the index of each succeeding publication of the session laws ~~shall~~ must conform as nearly as practicable with those of the volumes preceding it.

(3) There ~~shall~~ must also be prepared for each publication of the session laws a "code sections affected list" showing what sections of the Montana Code Annotated have been amended or repealed by any laws enacted by that session of the legislature."

Section 30. Section 5-11-207, MCA, is amended to read:

"5-11-207. Description of county boundaries included in session laws. The legislative ~~council~~ services division shall include in the published session laws a description of the county boundaries of any new counties of the state created by petition and election, commencing with counties created after January 1, 1921, by inserting in each set of session laws new counties that have been created since the publication of the laws of the previous session."

Section 31. Section 5-11-208, MCA, is amended to read:

"5-11-208. Expenses. The expenses incurred by the legislative ~~council~~ services division in carrying into effect 5-11-202, 5-11-203, and 5-11-205 through 5-11-207, ~~as amended,~~ must be paid out of money specifically appropriated for that purpose."

Section 32. Section 5-11-209, MCA, is amended to read:

"5-11-209. Codes -- availability to legislators -- reserved for use by legislative committees. (1) Immediately after the Montana Code Annotated statute text and histories are bound following each legislative session, the legislative ~~council~~ services division shall make available one set of these volumes to each member of the legislature at a charge of \$10.

(2) The legislative ~~council~~ services division shall reserve 50 sets of the Montana Code Annotated statute text and histories for the use of the standing and select committees of the legislature.

(3) Costs associated with providing code sets as required by this section ~~shall~~ must be paid out of the state special revenue fund account established under 1-11-301."

Section 33. Section 5-11-301, MCA, is amended to read:

"5-11-301. Functions of legislative council -- interstate and international cooperation. It ~~shall be~~ is a function of the legislative council to:

(1) carry forward the participation of the state of Montana as a member of the council of state governments and the national conference of state legislatures, and the legislative council is ~~hereby~~ designated as the Montana commission on interstate and international cooperation;

(2) encourage and assist the government of this state to develop and maintain friendly contact by correspondence, by conference, and otherwise with the other states, with the federal government, and with local units of government, as well as tribal governments, bordering Canadian provinces, and regions designated as sister states by the legislature;

(3) establish ~~such~~ delegations and committees as may be ~~deemed~~ considered advisable to confer with similar delegations and committees from other states, provinces, and countries concerning problems of mutual interest. The membership of ~~such~~ the delegations and committees may consist of legislators and employees of the state other than members of the legislative council. ~~Members~~ Legislative members of ~~such~~ the delegations and committees ~~shall~~ must be reimbursed and compensated as provided in 5-2-302.

(4) endeavor to advance cooperation between this state and other units of government whenever it seems advisable to do so by formulating proposals for interstate compacts and reciprocal or uniform legislation and by facilitating the adoption of uniform or reciprocal administrative rules and regulations, informal cooperation of governmental offices, personal cooperation among governmental officials and employees, interchange and clearance of research and information, and any other suitable process;

(5) make appointments to any policy committee established

March 21, 1995

Page 17 of 59

by the Pacific Northwest economic region as provided in 5-11-703(2)."

Section 34. Section 5-11-402, MCA, is amended to read:

"5-11-402. Legislative branch computer system planning council. There is a legislative branch computer system planning council composed of:

(1) the secretary of the senate or another representative of the senate designated by the president;

(2) the chief clerk of the house of representatives or another representative of the house designated by the speaker;

(3) the sergeants-at-arms in the two houses or another representative of each house designated by the ~~chairman~~ presiding officer of the legislative administration committee of that house;

(4) the executive director of the legislative ~~council~~ services division, who shall chair the planning council;

(5) the legislative auditor;

(6) the legislative fiscal analyst;

~~(7) the executive director of the environmental quality council;~~

~~(5)~~ (7) the consumer counsel; and

~~(5)~~ (8) a person designated by the director of the department of administration to represent the data processing policy and planning functions of the department, who shall serve as a nonvoting member of the planning council."

Section 35. Section 5-11-404, MCA, is amended to read:

"5-11-404. Technical support. (1) The executive director of the legislative ~~council~~ services division shall provide technical staff support to the legislative branch computer system planning council. In performing this duty, the legislative ~~council staff~~ services division shall assist the planning council by:

(a) developing or having developed analyses of existing and alternate systems;

(b) providing technical solutions and advice related to the standards set by the planning council;

(c) assisting in assessing benefits and costs of optional solutions;

(d) apprising the planning council of developments and directions in the industry;

(e) maintaining a liaison with and informing the planning council of plans and directions within the executive branch; assisting in the selection and purchasing of supplies and equipment; and

(f) providing other assistance as may be requested.

(2) The executive director shall encourage participation of appropriate personnel of the senate, the house of

representatives, and other legislative ~~agencies~~ entities in the provision of technical support."

Section 36. Section 5-11-405, MCA, is amended to read:

"5-11-405. Legislative branch computer system plan -- adoption. The legislative branch computer system plan must be approved and adopted ~~jointly~~ by the legislative administration ~~committees of the senate and the house of representatives~~ council."

Section 37. Section 5-12-202, MCA, is amended to read:

"5-12-202. Appointment of members. (1) The legislative finance committee consists of:

(a) ~~four~~ two members of the senate finance and claims committee appointed by the ~~chairman~~ presiding officer, no more than one of whom may be from the same political party;

(b) ~~two~~ four members of the senate appointed at large by the committee on committees, no more than two of whom may be from the same political party;

(c) two members of the senate taxation committee appointed by the presiding officer, no more than one of whom may be from the same political party;

(c) ~~four~~ two members of the house of representatives appropriations committee appointed by the ~~chairman~~ presiding officer, no more than one of whom may be from the same political party; and

(d) ~~two~~ four members of the house appointed at large by the speaker, no more than two of whom may be from the same political party; and

(e) two members of the house taxation committee appointed by the presiding officer, no more than one of whom may be from the same political party.

(2) These members ~~shall~~ must be appointed before the end of each legislative session. No more than ~~three~~ four members of each house, ~~two committee members and one at large member,~~ may be from the same political party."

Section 38. Section 5-12-204, MCA, is amended to read:

"5-12-204. Vacancies. If a vacancy occurs on the committee when the legislature is not in session, the remaining members shall select a member of the appropriate political party and appropriate committee, as provided in 5-12-202, to complete the unexpired term. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under 5-12-202."

Section 39. Section 5-12-205, MCA, is amended to read:  
 "5-12-205. Powers and duties of committee. The committee

may:

(1) organize, adopt rules to govern its proceedings, and meet as often as necessary, upon the call of the ~~chairman~~ presiding officer, to advise and consult with the legislative fiscal analyst;

(2) employ and, in accordance with the rules for classification and pay adopted by the legislative council, set the salary of the legislative fiscal analyst, ~~who~~. The legislative fiscal analyst shall serve at the pleasure of and be responsible to for providing services to the committee, and.

(3) exercise the investigatory powers of a standing committee under chapter 5, part 1, of this title;

(4) review all proposed rules of the department of revenue that are filed with the secretary of state;

(5) when considered necessary:

(a) request and obtain the department's rulemaking records for the purpose of reviewing compliance with 2-4-305;

(b) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit the recommendations to the department;

(c) submit oral or written testimony at a rulemaking hearing;

(d) require the department to appear before the committee and respond to the committee's recommendations for the adoption, amendment, or rejection of a rule;

(e) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;

(f) recommend to the legislature the adoption, amendment, or repeal of a rule as provided in 2-4-412;

(g) institute, intervene in, or otherwise participate in proceedings involving the legality of a rule under the Montana Administrative Procedure Act in the state and federal courts and administrative agencies;

(h) review the incidence and conduct of the department's administrative proceedings;

(i) require the department to publish the full or partial text of any pertinent material adopted by reference under 2-4-307;

(j) by an affirmative vote of at least six members of the committee, contract for the preparation of an economic impact statement or require the department to prepare an economic impact statement, following the provisions of 2-4-405;

(k) petition the department to promulgate, amend, or repeal a rule. Within 60 days after submission of a petition, the department shall either deny the petition in writing, stating its reasons for the denial, or shall initiate rulemaking proceedings

in accordance with 2-4-302 through 2-4-305.

(l) make written objection to a proposed rule of the department for lack of substantial compliance with 2-4-302 through 2-4-305. The provisions of 2-4-406 govern the objection procedure, the department's response, and the procedure for and effect of publication of the objection in the Montana Administrative Register and the Administrative Rules of Montana.

(m) petition the department for a declaratory ruling as to the applicability of any statutory provision or of any rule or order of the department. A copy of a declaratory ruling must be filed with the secretary of state for publication in the register. A declaratory ruling or the refusal to issue a ruling is subject to judicial review in the same manner as decisions or orders in contested cases under the Montana Administrative Procedure Act.

(n) petition for judicial review of the sufficiency of the reasons for the department's finding of imminent peril to the public health, safety, or welfare, cited in support of an emergency or temporary rule proposed by the department under 2-4-303; and

(o) require the department to conduct the biennial review of its rules as required in 2-4-314 and report its findings to the committee;

(6) exercise legislative oversight of the department of revenue, including without limitation the review of:

(a) proposed budgets;

(b) proposed legislation;

(c) pending litigation; and

(d) major contracts and personnel actions of the department;

(7) when considered necessary, investigate and issue reports on any matter concerning taxation or the department of revenue;

(8) prepare by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation. The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(9) when considered necessary:

(a) review the programs financed by coal severance tax funds;

(b) consider any matters relating to coal taxation; and



March 21, 1995

Page 21 of 59

(c) prepare for the legislature a report, as provided in 5-11-210, on potential uses of the coal tax trust fund to develop a stable, strong, and diversified Montana economy that meets the needs of present and future generations of Montanans while maintaining and improving a clean and healthful environment as required by Article IX, section 1, of the Montana constitution."

Section 40. Section 5-12-301, MCA, is amended to read:

"5-12-301. ~~Office of legislative~~ Legislative fiscal analyst division. There is ~~an office of a~~ a legislative fiscal division analyst. The legislative fiscal analyst shall manage the legislative fiscal division to support the legislative finance committee and carry out the provisions of this chapter."

Section 41. Section 5-12-302, MCA, is amended to read:

"5-12-302. Fiscal analyst's duties. The legislative fiscal analyst shall:

(1) provide for fiscal analysis of state government and accumulate, compile, analyze, and furnish ~~such~~ information bearing upon the financial matters of the state that is relevant to issues of policy and questions of statewide importance, including but not limited to investigation and study of the possibilities of effecting economy and efficiency in state government;

(2) estimate revenue from existing and proposed taxes;

(3) analyze the executive budget and budget requests of selected state agencies and institutions, including proposals for the construction of capital improvements, and submit comments and recommendations regarding the proposed executive budget to the budget director by December 15 preceding the 1997 legislative session. The comments and recommendations must be in a jointly prescribed format and must be included in the budget document prepared under 17-7-123.

13. (4) make the reports and recommendations ~~he deems that the legislative fiscal analyst considers~~ desirable to the legislature and make reports and recommendations as requested by the legislative finance committee and the legislature; and

(5) assist committees of the legislature and individual legislators in compiling and analyzing financial information, and

~~(6) assist the revenue oversight committee in performing its revenue estimating duties under 5-18-107(5)."~~

Section 42. Section 5-12-303, MCA, is amended to read:

"5-12-303. Fiscal analysis information from state agencies.

(1) The legislative fiscal analyst may investigate and examine the costs and revenues of state government activities and may examine and obtain copies of the records, books, and files of any

state agency, including confidential records.

(2) When confidential records and information are obtained from a state agency, the legislative fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential records and information provided for under the laws administered by the state agency. The legislative fiscal analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from state agencies.

(3) The legislative fiscal analyst may not obtain copies of individual income tax records protected under 15-30-303. The department of revenue shall make individual income tax data available by removing names, addresses, occupations, social security numbers, and taxpayer identification numbers. The department of revenue may not alter the data in any other way. The data is subject to the same restrictions on disclosure as are individual income tax returns.

(4) The budget director shall furnish the legislative fiscal analyst with copies of all budget requests, in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst, at the time of submission to the budget director as provided by law and, if requested, all underlying and supporting documentation. In preparing the executive budget for the next biennium for submission to the legislature, the budget director shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

(5) In the year preceding each legislative session, the budget director shall furnish the legislative fiscal analyst, ~~on a confidential basis and~~ in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst:

(a) by October 10, a preliminary budget reflecting the base budget and, by November 1, a present law base for each agency and a copy of the documents that reflect the anticipated receipts and other means of financing the base budget and present law base for each fiscal year of the ensuing biennium;

(b) by November 15, a preliminary budget that must meet the statutory requirements for submission of the budget to the legislature and a summary of the preliminary budget designed for distribution to members and members-elect of the legislature;

(c) by November 12, a paper copy and an electronic copy of the documents that reflect expenditures to the second level, as provided in 17-1-102(3), by funding source and detailed by accounting entity; and

(d) by December 15, all amendments to the preliminary budget.

(6) Within 1 day after the legislative finance committee presents its budget analysis to the legislature, the budget

director and the legislative fiscal analyst shall exchange expenditure and disbursement recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This information must be filed in the respective offices and be made available to the legislature and the public. In preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

(7) This section does not authorize publication or public disclosure of information if the law prohibits publication or disclosure."

Section 43. Section 5-12-304, MCA, is amended to read:

"5-12-304. Employees and consultants. The legislative fiscal analyst may ~~employ~~ engage personnel and consultants to fulfill the duties of the division within the limits of appropriations for the division. The legislative fiscal analyst may define the duties of personnel engaged and shall fix the salaries of employees in accordance with the rules for classification and pay adopted by the legislative council, and define the duties of such staff and consultants as may be necessary, within the limits of his appropriation."

Section 44. Section 5-13-202, MCA, is amended to read:

11. "5-13-202. Appointment and term of members -- officers -- vacancies. (1) The legislative audit committee consists of ~~four~~ <sup>SIX</sup> members of the senate and ~~four~~ <sup>three</sup> members of the house of representatives appointed before the ~~60th~~ <sup>END</sup> legislative day of each regular session in the same manner as standing committees of the respective houses are appointed. No more than ~~three~~ <sup>THE MEMBERS.</sup> of the appointees of each house may be members of the same political party.

(2) A member of the committee shall serve until ~~his~~ <sup>A</sup> term of office as a legislator ends or until ~~his~~ <sup>A</sup> successor is appointed, whichever occurs first.

RESIDING CHAIRMAN  
FICER (3) The committee shall elect one of its members as chairman and such other officers as it considers necessary.

(4) A vacancy on the committee occurring when the legislature is not in session shall be filled by the selection of a member of the legislature by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under subsection (1)."

Section 45. Section 5-13-301, MCA, is amended to read:

"5-13-301. ~~Office of legislative auditor~~ Legislative audit division. There is ~~an office of the a~~ a legislative audit division ~~auditor~~. The legislative auditor is responsible ~~for performing to~~ manage the division in order to perform the duties imposed by this chapter."

Section 46. Section 5-13-302, is amended to read:

"5-13-302. Appointment and qualifications. (1) The committee shall appoint the legislative auditor and set ~~his the~~ the legislative auditor's salary in accordance with the rules for classification and pay adopted by the legislative council.

(2) The legislative auditor shall hold a degree from an accredited college or university with a major in accounting or an allied field and shall have at least 2 years' experience in the field of governmental accounting and auditing."

"Section 47. Section 5-13-304, is amended to read:

"5-13-304. Powers and duties. The legislative auditor shall:

(1) conduct a financial and compliance audit of every state agency every 2 years covering the 2-year period since the last audit, unless otherwise required by state law;

(2) conduct a special audit whenever the legislative auditor determines it necessary and shall so advise the members of the legislative audit committee;

(3) make a complete written report of each audit. A copy of each report must be furnished to the department of administration, the state agency ~~which that~~ that was audited, each member of the committee, and the legislative ~~council~~ services division.

(4) report immediately in writing to the attorney general and the governor any apparent violation of penal statutes disclosed by the audit of a state agency and furnish the attorney general with all information available relative to the violation;

(5) report immediately in writing to the governor any instances of misfeasance, malfeasance, or nonfeasance by a state officer or employee disclosed by the audit of a state agency;

(6) report immediately to the surety upon the bond of an official or employee when an audit discloses a shortage in the accounts of the official or employee. Failure to notify the surety does not release the surety from any obligation under the bond.

(7) have the authority to audit records of organizations and individuals receiving grants from or on behalf of the state to determine that the grants are administered in accordance with the grant terms and conditions. Whenever a state agency enters into an agreement to grant resources under its control to others,

March 21, 1995

Page 25 of 59

the agency shall obtain the written consent of the grantee to the audit provided for in this subsection."

Section 48. Section 5-13-305, MCA, is amended to read:

"5-13-305. Employees, consultants, and legal counsel -- cure for impairment. (1) The legislative auditor may appoint and define the duties of ~~whatever~~ employees and consultants who are necessary to carry out the provisions of this chapter, within the limitations of legislative appropriations. The legislative auditor shall set the pay for employees in accordance with the rules for classification and pay adopted by the legislative council. The legislative auditor may employ legal counsel to conduct proceedings under this chapter.

(2) The legislative auditor shall inform the legislative council and the legislative audit committee in writing of an administrative policy or rule adopted under 5-11-105 that may impair the independence of the division, along with a statement of the reasons for the opinion and suggested changes to cure the impairment. The legislative council shall review the rule in question and adopt a revision that is generally applicable to the legislative branch and that is designed to cure the impairment. While the impairment exists, the legislative audit committee may adopt a specific exemption to the questioned rule that states the alternative rule to be employed under the exemption."

Section 49. Section 5-14-103, MCA, is amended to read:

"5-14-103. Vacancies. A vacancy on the committee occurring when the legislature is not in session shall be filled by the selection of a member of the legislature by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under 5-14-101."

Section 50. Section 5-15-104, MCA, is amended to read:

"5-15-104. Vacancies. A vacancy on the committee occurring when the legislature is not in session shall be filled by the selection of a legislator by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under 5-15-101."

Section 51. Section 5-16-104, MCA, is amended to read:

"5-16-104. Vacancies. (1) A vacancy on the council of a member appointed under 5-16-101(2) occurring when the legislature is not in session shall be filled by the selection of a member of the legislature by the same method as the original appointment. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under 5-16-101.

(2) (a) When a vacancy on the council of a member appointed under 5-16-101(3) has occurred or is expected to occur, the appointing authority shall have posted in a conspicuous place in the state capitol a notice announcing the actual or anticipated vacancy and describing the procedure for applying for appointment.

(b) A copy of the notice required under subsection (2) (a) must be sent to the lieutenant governor, who may publish the notice in an appropriate publication."

Section 52. Section 5-18-108, MCA, is amended to read:

"5-18-108. Biennial critique. The legislative finance committee shall prepare a biennial critique of the department of revenue's activities that the department shall publish as an appendix to the biennial report of the department."

Section 53. Section 5-18-109, MCA, is amended to read:

"5-18-109. Legislative intent -- poll. (1) If the legislature is not in session, the legislative finance committee may poll the members of the legislature by mail to determine whether a proposed rule of the department of revenue is consistent with the intent of the legislature.

(2) If 20 or more legislators object in writing to any rule of the department of revenue, the committee shall poll the members of the legislature.

(3) The poll ~~shall~~ must include an opportunity for the department of revenue to present a written justification for the rule to the members of the legislature."

Section 54. Section 5-18-110, MCA, is amended to read:

"5-18-110. Evidentiary value of legislative poll. (1) The results of a poll conducted by the legislative finance committee are admissible in a court proceeding involving the validity of a rule.

(2) If the results of the poll show that the majority of the members of both houses find a rule contrary to the intent of the legislature, the rule ~~shall~~ must be conclusively presumed to be contrary to the legislative intent in a court proceeding

involving its validity."

Section 55. Section 5-18-115, MCA, is amended to read:

"5-18-115. Report to ~~revenue oversight~~ legislative finance committee. The department of revenue shall at the request of the ~~revenue oversight~~ legislative finance committee report to the ~~revenue oversight~~ committee on the department's progress in completing the revaluation cycle."

Section 56. Section 5-19-104, MCA, is amended to read:

"5-19-104. Vacancies. (1) A vacancy occurring during a legislative session must be filled in the same manner as the original appointment. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment no later than the 10th legislative day.

(2) A vacancy occurring when the legislature is not in session must be filled by the selection of a member from the appropriate house and political party by the remaining members of the committee.

(3) An appointment to the committee under this section is for the unexpired term of the original member."

Section 57. Section 5-19-107, MCA, is amended to read:

"5-19-107. Staff assistance. The legislative ~~council~~ services division shall provide staff assistance to the committee. The legislative ~~council~~ services division has the same authority of investigation and examination as it has for other committees under 5-11-106, and the legislative council has the same authority to hold hearings on behalf of the committee as it has for other committees under 5-11-106 and 5-11-107."

Section 58. Section 13-27-201, MCA, is amended to read:

"13-27-201. Form of petition generally. (1) A petition for the initiative, the referendum, or to call a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the measure to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the front and back of a petition sheet, the information required

above must appear on both the front and back of the sheet. The complete text of the measure proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the measure must be in the bill form provided in the most recent issue of the bill drafting manual furnished by the legislative ~~council~~ services division. If sheets are circulated in sections, the complete text of the measure must be attached to each section."

Section 59. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations -- approval of form required.

(1) Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:

(a) The text of the proposed measure must be submitted to the legislative ~~council~~ services division for review.

(b) The ~~council~~ legislative services division staff shall review the text for clarity, consistency, and any other factors the council staff considers when drafting proposed legislation.

(c) Within 14 days after submission of the text, the ~~council~~ legislative services division staff shall make to the person submitting the text written recommendations for changes in the text or a statement that no changes are recommended.

(d) The person submitting the text shall consider ~~any such~~ the recommendations and respond in writing to the ~~council~~ legislative services division, accepting, rejecting, or modifying each of the recommended changes. If no changes are recommended, no response is required.

(2) The legislative ~~council~~ services division shall furnish a copy of the correspondence provided for in subsection (1) to the secretary of state, who shall make a copy ~~thereof~~ of the correspondence available to any person upon request.

(3) Before a petition may be circulated for signatures, a sample sheet containing the text of the proposed measure must be submitted to the secretary of state in the form in which it will be circulated. The sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for filing the signed petition with the secretary of state. The secretary of state shall refer a copy of the petition sheet to the attorney general for ~~his~~ approval. The secretary of state and attorney general ~~must~~ shall each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any. The secretary of state or the attorney general may not reject the petition solely because the text contains material not submitted to the legislative ~~council~~ services division unless the material not submitted to the legislative ~~council~~ services division is a substantive change not suggested by the legislative ~~council~~



March 21, 1995

Page 29 of 59

services division.

(4) The secretary of state shall review the comments and statements of the attorney general received pursuant to 13-27-312 and make a final decision as to the approval or rejection of the form of the petition. The secretary of state shall send written notice to the person who submitted the petition sheet of the approval or rejection within 28 days after submission of the petition sheet. If the petition is rejected, the notice must include reasons for rejection.

(5) A petition with technical defects in form may be approved with the condition that those defects will be corrected before the petition is circulated for signatures.

(6) The secretary of state shall upon request provide the person submitting the petition with a sample petition form, including the text of the proposed measure, the statement of purpose, and the statements of implications, all as approved by the secretary of state and the attorney general. The petition may be circulated in the form of the sample prepared by the secretary of state."

Section 60. Section 13-27-504, MCA, is amended to read:

"13-27-504. Copy of approved issues to be sent to legislative council services division. The secretary of state shall send a certified copy of all ballot issues ~~which~~ that have been approved by a majority of those voting on the issue and a copy of the statement of the canvass to the ~~executive director of the legislative council~~ legislative services division at the same time ~~he transmits that~~ a certified copy of the statement of the canvass is transmitted to the governor."

Section 61. Section 15-70-234, MCA, is amended to read:

"15-70-234. Cooperative agreement -- motor fuels taxes. In order to prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the department of transportation and an Indian tribe may enter into a cooperative agreement. The department of transportation may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters. The department of transportation shall report the status of cooperative agreement negotiations to each meeting of the ~~revenue oversight~~ legislative finance committee. After negotiations are complete, the agreement must be presented to the ~~revenue oversight~~ legislative finance committee for review and comment before the final agreement is submitted to the attorney general for approval pursuant to 18-11-105."

Section 62. Section 16-2-101, MCA, is amended to read:

"16-2-101. Establishment and closure of state liquor stores -- agency franchise agreement -- kinds and prices of liquor and table wine. (1) (a) The department shall establish and maintain one or more stores, to be known as "state liquor stores", as the department finds feasible for the sale of liquor and table wine in accordance with the provisions of this code and the rules adopted under this code.

(b) The department shall enter into an agency franchise agreement or employ the necessary help to operate the stores and shall designate the duties to be performed by the agent or employees.

(c) Once established, a store may not be closed, converted to an agency store, or sold by the department unless:

(i) the store is returning less than a 10% profit to the state; or

(ii) the closure or sale is approved by the legislature.

(2) The department may from time to time fix the prices at which the various classes, varieties, and brands of liquor and table wine may be sold, and prices must be the same at all state stores.

(3) (a) State liquor stores must be considered for closure, conversion, or sale only when a store lease expires. Prior to the expiration of a lease, the department may conduct a financial profitability analysis using the criteria in subsection

(1)(c)(i). In computing profit levels of state-operated stores, the costs of the licensing bureau and the legal and enforcement division, other than inspection costs directly attributable to liquor stores, may not be included as expenses. The ~~revenue oversight~~ legislative finance committee must be informed of all plans for conversion, sale, or closure of state liquor stores.

(b) Agency stores may not be located in or adjacent to grocery stores in communities with populations over 3,000. This provision is applicable only to agency agreements entered into after May 11, 1987.

(4) Agency stores must receive commissions based on adjusted gross sales as follows:

(a) a 10% commission for agencies in communities with less than 3,000 in population;

(b) a commission established by competitive bidding for agencies in communities with 3,000 or more in population.

(5) An agency franchise agreement must:

(a) be effective for a 10-year period and may be renewed every 10 years if the requirements of the agency franchise agreement have been satisfactorily performed;

(b) require the agent to maintain comprehensive general liability insurance and liquor liability insurance throughout the term of the agency franchise agreement in an amount established by the department of administration. The insurance policy must:

(i) declare the department as an additional insured; and  
(ii) hold the state harmless and agree to defend and indemnify the state in a cause of action arising from or in connection with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement.

(c) require the agent to provide performance security in an amount equal to the average monthly value of inventory at cost based on the most recent 12-month period of inventory value at the agency store location or, if a 12-month history is not available, the department's estimate of the average value; and

(d) specify the reasonable service and space requirements that the agent will provide throughout the term of the agency franchise agreement.

(6) The commission percentage that the department pays the agent under an agency franchise agreement may be reviewed every 5 years at the request of either party. If the agent concurs, the department may adjust the commission percentage to be paid during the remaining term of the agency franchise agreement to a commission percentage that is equal to the average commission percentage being paid agents with similar sales volumes if:

(a) the agent's commission percentage is less than the average; and

(b) all the requirements of the agency franchise agreement have been satisfactorily performed.

(7) The liability insurance and performance security requirements may be reviewed every 5 years at the request of either the agent or the department. If the agent concurs, the department may adjust the requirements to be effective during the remaining term of the agency franchise agreement if the adjustments adequately protect the state from risks associated with the loss of state assets or from the agent's negligent acts or activities in the execution and performance of the agency franchise agreement. The amount of insurance coverage may not be less than the minimum requirements of the department of administration.

(8) (a) Except as provided in subsection (8)(b), an agency franchise agreement must be renewed for additional 10-year periods if the agent has satisfactorily performed all the requirements of the agency franchise agreement. Except for establishing the new term and except for a commission percentage that may be negotiated as provided in subsection (8)(b), changes in the agency franchise agreement as a result of a renewal may not be made unless the agent and the department mutually agree.

(b) If at least 90 days prior to the expiration of a 10-year agency franchise agreement, the department determines that an adjustment of the commission percentage paid to the agent is in the best interests of the state, the department shall notify the agent of that determination.

(c) If the agent does not concur with the department's commission percentage adjustment, the department shall advertise for bids for the agency franchise at the adjusted commission percentage, subject to the provisions of this chapter. If bids from persons who meet the criteria provided in this chapter are received by the department for the agency franchise at the adjusted commission percentage, the agent under the existing franchise agreement has a preference right to renew the franchise agreement by concurring in the adjusted commission percentage.

(d) If the agent under the existing franchise agreement declines to exercise the preference right under subsection (8)(c), the department shall enter into an agency franchise agreement as provided in this chapter with a person who accepted the adjusted commission percentage.

(e) If the agent exercises the preference right and believes the adjusted commission percentage to be inadequate or not in the best interests of the state, the agent may request an administrative hearing. The request must contain a statement of reasons why the agent believes the commission percentage to be inadequate or not in the state's best interests. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the adjusted commission percentage is inadequate or not in the state's best interests. The department may, after the hearing, adjust the commission percentage if the agent shows that the commission percentage is inadequate or not in the best interests of the state. If the department increases the commission percentage rate, the department shall set forth its findings and conclusions in writing and inform the agent and the other persons who offered to enter into an agency agreement at the adjusted commission rate.

(9) The department may terminate an agency franchise agreement if the agent has not satisfactorily performed the requirements of the agency franchise agreement or in the following cases:

(a) Except in the case of suspected theft or unauthorized use of state assets, the department shall give an agent 30 days' notice of its intent to terminate the agency franchise agreement for cause and specify the unmet requirements. The agent may contest the agency franchise agreement termination and request a hearing within 30 days. If a hearing is requested, the department shall suspend its termination order until after a final decision has been made pursuant to the Montana Administrative Procedure Act.

(b) If an agent is suspected of theft or unauthorized use of state assets, the department may terminate the agency franchise agreement and retrieve its assets immediately. If an agency franchise agreement is terminated, the agent may contest the agency franchise agreement termination and request a hearing

within 30 days of the department's retrieval of assets. The agency store shall remain closed until a final decision has been reached following a hearing held pursuant to the Montana Administrative Procedure Act.

(10) An agency franchise agreement may be terminated upon mutual agreement by the agent and the department.

(11) An agent may assign an agency franchise agreement to a person who, upon approval of the department, is named agent in the agency franchise agreement, with the rights, privileges, and responsibilities of the original agent for the remaining term of the agency franchise agreement. The agent shall notify the department of an intent to assign the agency franchise agreement 60 days before the intended effective date of the assignment. The department may not unreasonably withhold approval of an assignment request.

(12) An agency agreement in effect on March 30, 1993, must be converted upon request of the agent and approval of the department to a 10-year agency franchise agreement pursuant to subsections (5) through (11) without competitive bids or proposals.

(13) The department shall maintain sufficient inventory in the state warehouse in order to meet a monthly service level of at least 97%."

Section 63. Section 17-5-1650, MCA, is amended to read:

"17-5-1650. Annual report. By December 31 of each year, the board shall publish a financial report for distribution to the governor, the legislature, and the public. Distribution to the legislature is accomplished by providing two copies to the ~~office of the legislative fiscal analyst, two copies to the legislative council services division~~, and a copy to a legislator on request. The report must include a statement of the board's current financial position with respect to its activities under this part, a summary of its activities pursuant to this part during the previous year (including a listing of the local governmental securities purchased by the board, a listing of the bonds and notes sold by the board, and a summary of the performance of any other investments of the board's funds received under this part), an estimate of the levels of activities for the next year, and a comparison of the activities during the previous year with the estimates of those activities that were made in the previous annual report."

14. Section 64. Section 17-7-123, MCA, is amended to read:

~~"17-7-123. Form of executive budget. The budget submitted must set forth a balanced financial plan for the state government for each fiscal year of the ensuing biennium, which plan must consist of:~~

- (1) a consolidated budget summary setting forth the aggregate figures of the budget in a manner that shows a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by explanatory schedules or statements, classifying receipts and disbursements contained therein by fund and, when applicable, organizational unit;
- (2) an analysis of the actual and projected receipts, disbursements, and solvency of each accounting entity within each fund for the current and subsequent biennium;
- (3) a detailed analysis of receipts by accounting entity within fund indicating classification and source of funds;
- (4) a departmental analysis summarizing past and proposed spending plans by agency and the means of financing the proposed plan. Information presented must include the following:
  - (a) a summary of departmental goals and objectives and a statement of goals and objectives for each program of the department;
  - (b) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the current base budget and the current base budget plus new proposals, if any, for each department and each program of the department;
  - (c) a reference for each program as required under 17-7-111(2)(e); and
  - (d) a statement containing recommendations of the governor for the ensuing biennium by program and disbursement category and other matters considered necessary; and
- (5) detailed recommendations for the state long-range building program. Each recommendation must be presented by department, institution, agency, or branch by funding source, with a description of each proposed project. An appropriation measure must be presented by project, source of funding, and department, agency, institution, or branch for which the project is primarily intended.
- (6) the comments of the legislative fiscal analyst submitted to the budget director as provided in 5-12-302; and
- (7) for the 1997 legislative session, a document prepared in accordance with this section presented in a loose-leaf binder."

**Section 65.** Section 17-7-402, MCA, is amended to read:  
"17-7-402. Budget amendment requirements. (1) Except as provided in subsection (6), a budget amendment may not be approved:

(a) by the approving authority ~~to spend a new source of revenue that was available for legislative consideration during the most recent legislative session open to that matter~~, except a budget amendment to spend; 6.

(i) additional federal revenue; <sub>i</sub>

(ii) additional tuition collected by the Montana university system; <sub>i</sub>

(iii) additional revenue deposited in the internal service funds within the department or the office of the commissioner of higher education as a result of increased service demands by state agencies; <sub>i</sub>

(iv) Montana historical society enterprise revenue resulting from sales to the public; <sub>i</sub> or

(v) additional revenue deposited in funds, other than the general fund, from the sale of fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91, ~~or a new source of revenue that was not available for legislative consideration during the most recent legislative session open to that matter~~;

(b) by the approving authority, which if the budget amendment contains any significant ascertainable commitment for any present or future increased general fund support;

(c) by the approving authority, for the expenditure of money in the state special revenue fund unless an emergency justifies the expenditure;

(d) by the approving authority, unless it will provide additional services;

(e) by the approving authority, for any matter of which the requesting agency had knowledge at a time when the proposal could have been presented to an appropriation subcommittee, the house appropriations committee, or the senate finance and claims committee of the most recent legislative session open to that matter; or

(f) to extend beyond June 30 of the last year of any biennium.

(2) All budget amendments must itemize planned expenditures by fiscal year.

(3) Each budget amendment must be submitted by the approving authority to the budget director and the ~~office of the legislative fiscal analyst~~.

(4) Money from nonstate or nonfederal sources that would be deposited in the state special revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or donation, ~~is subject to the review process provided in 17-7-114 and is exempt from the requirements of this part~~.

(5) An appropriation that would usually be the subject of a budget amendment that is submitted to the legislature for

approval during a legislative session may not include authority to spend money beyond the first fiscal year of the next biennium.

(6) A budget amendment to spend state funds, other than from the general fund, required for matching funds in order to receive a grant is exempt from the provisions of subsection (1)."

Section 66. Section 17-7-404, MCA, is amended to read:

"17-7-404. Budget amendment procedures. (1) Upon receiving a proposed budget amendment, the approving authority shall immediately forward a copy of the entire budget amendment to the legislative fiscal analyst.

(2) If the approving authority denies the request for a budget amendment, ~~he the approving authority~~ shall immediately forward a notice of denial to the legislative fiscal analyst.

(3) If the approving authority intends to make certification of the budget amendment, immediately upon his completion of the certification ~~he the approving authority~~ shall forward the certification and all supporting documentation to the legislative fiscal analyst. ~~The approving authority may not approve the budget amendment until he receives the legislative finance committee's written report for that budget amendment unless-~~

~~(a) the report is not received within 90 calendar days from the date the certification and supporting documentation were forwarded to the finance committee, in which case the approving authority may approve the budget amendment, or~~

~~(b) there has been a waiver of review and report as provided in subsection (6).~~

~~(4) The legislative fiscal analyst shall review each proposed budget amendment that has been certified by the approving authority for compliance with statutory budget amendment requirements and standards and shall present a written report of this review to the legislative finance committee. Within 10 days after the meeting of the legislative finance committee that considered the budget amendment, the legislative fiscal analyst shall submit the committee's report to the approving authority.~~

~~(5) Upon receipt of the legislative finance committee's written report, the approving authority may approve or deny the budget amendment or may return the budget amendment to the requesting agency for further information. If the approving authority has returned the budget amendment to the requesting agency and the requesting agency resubmits the budget amendment to the approving authority, all procedures set out in this section apply to the resubmitted budget amendment.~~

~~(6) If an emergency occurs that poses a serious threat to the life, health, or safety of the public, the legislative fiscal analyst may waive his written review and the legislative finance~~



March 21, 1995

Page 37 of 59

~~committee's written report required by this section. Upon receipt of such waiver, the approving authority may approve the budget amendment on completion of his certification. Such a waiver, however, affects only the legislative fiscal analyst's written review and the legislative finance committee's written report on the budget amendment, and all other budget amendment requirements and standards remain in effect. After such a waiver, the legislative fiscal analyst may complete the written review.~~

~~(47)(4) Nothing in this~~ This part confers does not confer any authority on the legislative finance committee to approve or deny budget amendments."

Section 67. Section 18-1-118, MCA, is amended to read:

"18-1-118. Access to records of contracting entities. Money may not be spent by a state agency under a contract with a nonstate entity unless the contract contains a provision that allows the legislative auditor ~~and the legislative fiscal analyst~~ sufficient access to the records of the nonstate entity to determine whether the parties have complied with the terms of the contract. The access to records is necessary to carry out the functions provided for in Title 5, chapters ~~12 and~~ 13. A state agency may terminate a contract, without incurring liability, for the refusal of a nonstate entity to allow access to records as required by this section." 10.

Section 68. Section 22-1-218, MCA, is amended to read:

"22-1-218. Exemptions. This part does not apply to officers of or affect the duties concerning publications distributed by:

- (1) the state law library;
- (2) the code commissioner in connection with ~~his~~ duties under Title 1, chapter 11, as amended; and
- (3) the legislative ~~council~~ services division in connection with its duties under 5-11-203, as amended."

Section 69. Section 39-30-103, MCA, is amended to read:

"39-30-103. Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Eligible spouse" means the spouse of a handicapped person determined by the department of social and rehabilitation services to have a 100% disability who is unable to use ~~his~~ an employment preference because of ~~his~~ the disability.

(2) "Handicapped person" means an individual certified by the department of social and rehabilitation services to have a physical or mental impairment that substantially limits one or more major life activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to obtain, retain, or advance in employment.

(3) (a) "Initial hiring" means a personnel action for which

applications are solicited from outside the ranks of the current employees of:

(i) a department, as defined in 2-15-102, for a position within the executive branch;

(ii) a legislative agency, ~~such as the consumer counsel, environmental quality council, office of the legislative auditor, legislative council, or office of the legislative fiscal analyst,~~ for a position within the legislative branch;

(iii) a judicial agency, such as the office of supreme court administrator, office of supreme court clerk, state law library, or similar office in a state district court for a position within the judicial branch;

(iv) a city or town for a municipal position, including a city or municipal court position; and

(v) a county for a county position, including a justice's court position.

(b) A personnel action limited to current employees of a specific public entity identified in subsections (a)(i) through (a)(v) of this subsection (3), current employees in a reduction-in-force pool who have been laid off from a specific public entity identified in subsections (a)(i) through (a)(v) of this subsection (3), or current participants in a federally authorized employment program is not an initial hiring.

(4) (a) "Mental impairment" means:

(i) suffering from a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other neurologically handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals; or

(ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(b) The term mental impairment does not include alcoholism or drug addiction and does not include any mental impairment, disease, or defect that has been asserted by the individual claiming the preference as a defense to any criminal charge.

(5) "Position" means a permanent or seasonal position as defined in 2-18-101 for a state position or a similar permanent or seasonal position with a public employer other than the state. However, the term does not include:

(a) a temporary position as defined in 2-18-101 for a state position or similar temporary position with a public employer other than the state;

(b) a state or local elected official;

(c) employment as an elected official's immediate secretary, legal advisor, court reporter, or administrative, legislative, or other immediate or first-line aide;

(d) appointment by an elected official to a body such as a

board, commission, committee, or council;

(e) appointment by an elected official to a public office if the appointment is provided for by law;

(f) a department head appointment by the governor or an executive department head appointment by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local government; or

(g) engagement as an independent contractor or employment by an independent contractor.

(6) (a) "Public employer" means:

(i) any department, office, board, bureau, commission, agency, or other instrumentality of the executive, judicial, or legislative branch of the government of the state of Montana; and

(ii) any county, city, or town.

(b) The term does not include a school district, a vocational-technical center or program, a community college, the board of regents of higher education, the Montana university system, a special purpose district, an authority, or any political subdivision of the state other than a county, city, or town.

(7) "Substantially equal qualifications" means the qualifications of two or more persons among whom the public employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons."

Section 70. Section 41-3-1002, MCA, is amended to read:

"41-3-1002. Establishment of pilot program Interest in local review board. ~~(1)~~ The office of the supreme court administrator shall solicit written indication of interest from each youth court judge interested in having a local citizen review board established pursuant to this part within the jurisdiction of the youth court.

~~(2) (a) There is a local citizen review board screening committee. The committee is composed of the following members:~~

~~(i) a member of the house of representatives, designated by the speaker of the house;~~

~~(ii) a member of the senate, designated by the president of the senate;~~

~~(iii) a representative of the Montana judges' association, designated by the association; and~~

~~(iv) a representative of the office of the supreme court administrator, designated by the chief justice of the supreme court.~~

~~(b) The members designated pursuant to subsections (2) (a) (i) and (2) (a) (ii) must be from different political parties.~~

~~(3) The committee shall meet at a time agreeable to its members, and the members shall serve without additional compensation.~~

~~(4) The committee shall review the responses of youth court judges received pursuant to subsection (1) and shall designate judicial districts to operate a local citizen review board pilot program from among those courts expressing an interest in the program."~~

Section 71. Section 44-12-206, MCA, is amended to read:

"44-12-206. Disposition of proceeds of sale ~~report~~. (1) Whenever property is seized, forfeited, and sold under the provisions of this chapter, the net proceeds of the sale must be distributed as follows:

(a) to the holders of security interests who have presented proper proof of their claims, if any, up to the amount of their interests in the property;

(b) the remainder, if any, to the county treasurer of the county in which the property was seized, who shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(c) through (1)(e);

(c) if the property was seized within the corporate limits of a city or town by a law enforcement agency of that city or town, the remainder, if any, to the city or town treasurer, who shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(d) and (1)(e);

(d) if the property was seized by an employee of the state, the remainder, if any, to the account established in subsection (3), except as provided in subsection (1)(e); and

(e) if the property was seized as a result of the efforts of more than one law enforcement agency, the remainder, if any, to the accounts required by this subsection (1), pro rata in the proportions represented by the agencies' expenses of investigation, as determined by the attorney general.

(2) All proceeds from any source that are deposited into a county, city, or town drug forfeiture account must in each fiscal year be appropriated to and remain available until expended by the confiscating agency for drug laws enforcement and education concerning drugs.

(3) Net proceeds received by the state under subsections (1)(d) and (1)(e) must be deposited in an account in the state special revenue fund to the credit of the department of justice. The department may expend the money in the account only for purposes of enforcement of drug laws. An amount up to \$125,000 each year is statutorily appropriated, as provided in 17-7-502, to the attorney general for enforcement of drug laws. Any

expenditure in excess of \$125,000 each fiscal year requires approval through budget amendment, as provided in Title 17, chapter 7, part 4.

~~(4) The attorney general shall provide the legislative finance committee and the legislative auditor with a detailed, written report of the amounts and property credited to the account no later than 4 months after the end of each fiscal year. The attorney general may not disclose any information that would compromise any investigation or prosecution."~~

Section 72. Section 44-13-103, MCA, is amended to read:

"44-13-103. Limitations on use of special law enforcement assistance account — ~~report~~. (1) After property is credited to the account, the attorney general may:

(a) transfer the property to any local or state law enforcement agency to be used for criminal investigation purposes;

(b) sell the property by public sale;

(c) destroy any illegal or controlled substances and sell or destroy raw materials, products, and equipment used or intended for use in manufacturing, compounding, or processing a controlled substance;

(d) compromise and pay claims against the property; and

(e) make any other disposition of the property authorized by law.

(2) Money and proceeds from property credited to the account may be used by the attorney general for:

(a) the payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell seized, detained, or forfeited property, including but not limited to payment for contract services and reimbursement to a federal, state, or local agency for its expenses;

(b) the payment of awards for information or assistance leading to a criminal proceeding or a civil forfeiture proceeding;

(c) the compromise and payment of claims against property;

(d) the payment of sums for criminal investigation purposes, including but not limited to:

(i) payment of informants;

(ii) use by undercover agents to purchase unlawful substances, including, without limitation, counterfeit or real controlled substances, pornographic materials, stolen property, or other contraband;

(iii) use by undercover agents as gambling front money; and

(iv) payment of overtime to state or local law enforcement officers when engaged in special criminal investigations;

(e) the payment of funds into the account created by 53-9-109; and

(f) matching federal grants for criminal investigation purposes.

~~(3) The attorney general shall submit to the legislative finance committee and the legislative auditor a detailed written report of the amounts and property credited to the account and of the disposition of money and property credited to the account, but may not make any disclosure that would compromise any investigation or prosecution."~~

Section 73. Section 60-11-111, MCA, is amended to read:  
 "60-11-111. Identification and acquisition of railroad rights-of-way -- identification of railroad lines for rehabilitation. (1) Identification of those railroad lines proposed for abandonment in the state of Montana that may have potential for local transportation service or future use as transportation corridors is necessary to determine the feasibility of acquisition by the state and to allow the state to negotiate for acquisition of those railroad lines or easements therein in the lines.

(2) Identification of those railroad branch lines in the state that may have potential for local rail freight transportation service is necessary to determine the feasibility of providing loans or grants to the owner or operator of the railroad line as provided in 60-11-120.

(3) The department of transportation:

(a) shall identify railroad rights-of-way in this state that may be abandoned and research the feasibility of acquisition by the state of Montana of those rights-of-way that may be abandoned;

(b) shall identify, under the state rail planning program, railroad branch lines that should be preserved for continued operation;

~~(c) shall report periodically to the legislative finance committee, created in 5-12-201, on the progress of the duties imposed upon it pursuant to subsections (3)(a) and (3)(b);~~

~~(d)(c)~~ may negotiate for and acquire easements in the rights-of-way or the railroad rights-of-way and attendant facilities identified pursuant to subsection (3)(a) and:

(i) hold all acquired lands in trust for transportation purposes; and

(ii) upon creation of an appropriate local authority, other than an agency of state government, shall transfer to the local authority all attendant facilities and all rights and responsibility to operate and maintain transportation services over the lands acquired in subsection ~~(3)(d)~~ (3)(c);

~~(e)(d)~~ shall cooperate with and assist persons representing recreational, transportation, and utility interests and other interested persons, including adjacent landowners, in acquiring

ownership or easement of abandoned railbeds; and

~~(f)~~(e) shall establish procedures, including the use of federal funds received for rail freight assistance programs under 49 U.S.C. 1654, for providing loans and grants under 60-11-120.

(4) Abandoned rights-of-way acquired and held in trust pursuant to subsection ~~(3)(d)(i)~~ (3)(c)(i) must be administered by the department of state lands, as prescribed in Title 77, until the land is needed for transportation purposes."

Section 74. Section 72-16-447, MCA, is amended to read:

"72-16-447. Application for in-kind payment -- in-kind review committee -- review process. (1) Upon written application from a receiving entity, the department of revenue shall notify the ~~revenue oversight legislative finance~~ committee that such an application has been received.

(2) Upon receipt of ~~such the~~ notification, the ~~revenue oversight legislative finance~~ committee shall appoint an in-kind review committee. The in-kind review committee ~~must be comprised~~ is composed of the following persons, appointed by the ~~revenue oversight legislative finance~~ committee:

(a) a representative of the receiving entity; and

(b) six members representing the county in which the property proposed for in-kind payment lies or was situated at the time of death of the person whom the donor represents, as follows:

(i) one member of the county commission;

(ii) one state senator;

(iii) one state representative; and

(iv) three residents from the community at large.

(3) The in-kind review committee is a voluntary review committee and is entitled to no compensation or reimbursement of expenses for its review, recommendation, or any other activity.

(4) The in-kind review committee ~~will~~ shall advise the department and the ~~revenue oversight legislative finance~~ committee as to the following:

(a) proposed and potential uses of the property;

(b) where applicable, methods and potential sources for rehabilitation, maintenance, and general support of the property alternative to the statement submitted by the receiving entity pursuant to 72-16-448.

(5) Upon completion of its review, the in-kind review committee shall submit a report in written form to the ~~revenue oversight legislative finance~~ committee and the department, ~~which~~ that must be considered in determining whether to recommend that the legislature approve the in-kind payment.

(6) The in-kind review committee has 180 days from the date written application is received by the department from the receiving entity within which to make its report.

(7) The department shall, as provided in 72-16-438, defer payment of inheritance or estate tax that is under review for in-kind payment, so that the tax due is exempt from the interest penalty imposed under 72-16-441."

Section 75. Section 72-16-448, MCA, is amended to read:

"72-16-448. Receipt of application for in-kind payment -- limitations. (1) Upon receipt of the written application of a receiving entity and the report, if any, of the in-kind review committee, the department of revenue, after consultation with the ~~revenue oversight~~ legislative finance committee, may recommend that the legislature approve acceptance by the department as in-kind payment of all or a portion of estate or inheritance taxes property consisting of any object of significant artistic merit, any site of significant historical interest, or any interest in real property having recreational, conservation, or wildlife value.

(2) A written application pursuant to subsection (1) must be accompanied by a statement from the receiving entity concerning the methods available for the maintenance, supervision, and care of the object, site, or interest in real property.

(3) The department may accept an in-kind payment if:

(a) the total estate and inheritance taxes due exceed \$100,000;

(b) the value of the in-kind payment does not exceed \$400,000; and

(c) it has received the approval of the legislature."

Section 76. Section 72-16-450, MCA, is amended to read:

"72-16-450. Receipts of in-kind payments -- recording. Title or possession of the in-kind payment must be taken in the name of the state of Montana by the receiving entity. The receiving entity shall promptly notify the department of revenue and the ~~revenue oversight~~ legislative finance committee of the receipt of the in-kind payment and the proper recording of any interest in real property. Upon ~~such~~ notification, the department shall notify the county treasurer and state treasurer of the in-kind payment. The in-kind payment must be recorded and credited as if money had been received for payment of the inheritance or estate tax."

Section 77. Section 75-1-201, MCA, is amended to read:

"75-1-201. General directions -- environmental impact statements. (1) The legislature authorizes and directs that, to the fullest extent possible:

(a) the policies, regulations, and laws of the state ~~shall~~ must be interpreted and administered in accordance with the



policies set forth in parts 1 through 3;

(b) all agencies of the state, except as provided in subsection (2), shall:

(i) ~~utilize~~ use a systematic, interdisciplinary approach ~~which that~~ will ~~insure~~ ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking ~~which that~~ may have an impact on ~~man's~~ the human environment;

(ii) identify and develop methods and procedures ~~which that~~ will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(iii) include in every recommendation or report on proposals for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment, a detailed statement on:

(A) the environmental impact of the proposed action;

(B) any adverse environmental effects ~~which that~~ cannot be avoided ~~should if~~ the proposal ~~be is~~ implemented;

(C) alternatives to the proposed action;

(D) the relationship between local short-term uses of ~~man's~~ the human environment and the maintenance and enhancement of long-term productivity; and

(E) any irreversible and irretrievable commitments of resources ~~which that~~ would be involved in the proposed action ~~should if~~ it ~~be is~~ implemented;

(iv) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal ~~which that~~ involves unresolved conflicts concerning alternative uses of available resources;

(v) recognize the national and long-range character of environmental problems and, where consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize national cooperation in anticipating and preventing a decline in the quality of ~~man's~~ the world environment;

(vi) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(vii) initiate and ~~utilize~~ use ecological information in the planning and development of resource-oriented projects; and

(viii) assist the environmental quality council established by 5-16-101; and

(c) prior to making any detailed statement as provided in subsection (1)(b)(iii), the responsible state official shall consult with and obtain the comments of any state agency ~~which that~~ has jurisdiction by law or special expertise with respect to

any environmental impact involved. Copies of ~~such the~~ statement and the comments and views of the appropriate state, federal, and local agencies ~~which that~~ are authorized to develop and enforce environmental standards ~~shall must~~ be made available to the governor, the environmental quality council, and the public and ~~shall must~~ accompany the proposal through the existing agency review processes.

(2) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

~~(3) (a) Until the board of oil and gas conservation adopts a programmatic environmental statement, but no later than December 31, 1989, the issuance of a permit to drill a well for oil or gas is not a major action of state government as that term is used in subsection (1) (b) (iii).~~

~~(b) The board of oil and gas conservation shall adopt a programmatic statement by December 31, 1989, that must include but not be limited to:~~

~~(i) such environmental impacts as may be found to be associated with the drilling for and production of oil and gas in the major producing basins and ecosystems in Montana;~~

~~(ii) such methods of accomplishing drilling and production of oil and gas as may be found to be necessary to avoid permanent impairment of the environment or to mitigate long term impacts so that the environment and renewable resources of the ecosystem may be returned to either conditions similar to those existing before drilling or production occurs or conditions that reflect a natural progression of environmental change;~~

~~(iii) the process that will be employed by the board of oil and gas conservation to evaluate such environmental impacts of individual drilling proposals as may be found to exist;~~

~~(iv) an appropriate method for incorporating such environmental review as may be found to be necessary into the board's rules and drill permitting process and for accomplishing the review in an expedient manner;~~

~~(v) the maximum time periods that will be required to complete the drill permitting process, including any environmental review; and~~

~~(vi) a record of information and analysis for the board of oil and gas conservation to rely upon in responding to public and private concerns about drilling and production.~~

~~(c) The governor shall direct and have management responsibility for the preparation of the programmatic statement, including responsibility on behalf of the board of oil and gas conservation for the disbursement and expenditure of funds necessary to complete the statement. The facilities and personnel of appropriate state agencies must be used to the extent the~~

~~governor deems necessary to complete the statement. The governor shall forward the completed draft programmatic statement to the board of oil and gas conservation for hearing pursuant to the provisions of the Montana Administrative Procedure Act, Title 2, chapter 4. Following completion of a final programmatic statement, the governor shall forward the statement to the board for adoption and use in the issuance of permits to drill for oil and gas.~~

~~(d) Until the programmatic environmental statement is adopted, the board of oil and gas conservation shall prepare a written progress report after each regular meeting of the board and after any special board meeting that addresses the adoption or implementation of the programmatic environmental statement. A copy of each report must be sent to the environmental quality council."~~

Section 78. Section 75-1-323, MCA, is amended to read:

"75-1-323. Appointment of employees Staff for environmental quality council. The executive director, subject to the approval of the council, may appoint whatever legislative services division shall assign sufficient and appropriate employees are necessary to support the environmental quality council in order that it may to carry out the provisions of parts 1 through 3, its statutory duties, within the limitations of legislative appropriations. The committee staff is a principal subdivision within the legislative services division. There is within the legislative services division a legislative environmental analyst. The legislative environmental analyst is the primary staff person for the environmental quality council and shall coordinate staff support services provided to the environmental quality council."

Section 79. Section 75-1-324, MCA, is amended to read:

"75-1-324. Duties of executive director and staff environmental quality council. It shall be the duty and function of the executive director and the staff to The environmental quality council shall:

(1) gather timely and authoritative information concerning the conditions and trends in the quality of the environment, both current and prospective, analyze and interpret ~~such the~~ information for the purpose of determining whether ~~such the~~ conditions and trends are interfering or are likely to interfere with the achievement of the policy set forth in 75-1-103, and compile and submit to the governor and the legislature studies relating to ~~such the~~ conditions and trends;

(2) review and appraise the various programs and activities of the state agencies, in the light of the policy set forth in 75-1-103, for the purpose of determining the extent to which ~~such~~

the programs and activities are contributing to the achievement of ~~such~~ the policy and make recommendations to the governor and the legislature with respect ~~thereto~~ to the policy;

(3) develop and recommend to the governor and the legislature state policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the state;

(4) conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(5) document and define changes in the natural environment, including the plant and animal systems, and accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(6) make and furnish ~~such~~ studies, reports ~~thereon~~ on studies, and recommendations with respect to matters of policy and legislation as the legislature requests;

(7) analyze legislative proposals in clearly environmental areas and in other fields where legislation might have environmental consequences and assist in preparation of reports for use by legislative committees, administrative agencies, and the public;

(8) consult with and assist legislators who are preparing environmental legislation to clarify any deficiencies or potential conflicts with an overall ecologic plan; and

(9) review and evaluate operating programs in the environmental field in the several agencies to identify actual or potential conflicts, both among ~~such~~ the activities and with a general ecologic perspective, and suggest legislation to remedy ~~such~~ the situations."

**Section 80.** Section 85-1-203, MCA, is amended to read:

**"85-1-203. State water plan.** (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from the information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may conduct studies; adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies; perform research or employ other competent agencies to perform research on a contract basis; and hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and, with the approval of the board, adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be formulated and adopted

in sections, these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, and utilization of the state's water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses. Before adopting the state water plan or any section of the plan, the department shall hold public hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

(3) The department shall submit to the ~~water policy committee~~ environmental quality council established in ~~85-2-105 5-16-101~~ and to the legislature at the beginning of each regular session the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

(4) The legislature, by joint resolution, may revise the state water plan.

(5) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(6) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(7) In developing and revising the state water plan as provided in this section, the department shall consult with the ~~water policy committee~~ environmental quality council established in ~~85-2-105 5-16-101~~ and solicit the advice of the committee in carrying out its duties under this section."

Section 81. Section 85-1-621, MCA, is amended to read:

"85-1-621. Report. The department shall prepare a biennial report describing the status of the renewable resource grant and loan program. The report must describe ongoing projects and projects that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report must be submitted to the ~~water policy committee~~ environmental quality council established in ~~85-2-105 5-16-101~~."

Section 82. Section 85-2-105, MCA, is amended to read:

"85-2-105. ~~Water policy committee~~ Environmental quality council -- water policy duties. (1) ~~There is a permanent water policy committee of the legislature. The committee consists of eight members. The senate committee on committees and the speaker of the house of representatives shall each appoint four members on a bipartisan basis. The committee shall elect its chairman and vice chairman. The environmental quality council committee shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.~~

(2) On a continuing basis, the ~~committee~~ environmental quality council shall:

(a) advise the legislature on the adequacy of the state's water policy and of important state, regional, national, and international developments ~~which~~ that affect Montana's water resources;

(b) oversee the policies and activities of the department of natural resources and conservation, other state executive agencies, and other state institutions, as they affect the water resources of the state; and

(c) communicate with the public on matters of water policy as well as the water resources of the state.

(3) On a regular basis, the ~~committee~~ environmental quality council shall:

(a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;

(b) analyze and comment on the report of the status of the state's renewable resource grant and loan program required by 85-1-621, when filed by the department;

(c) analyze and comment on water-related research undertaken by any state agency, institution, college, or university;

(d) analyze, verify, and comment on the adequacy of and information contained in the water resources data management system maintained by the department under 85-2-112; and

(e) report to the legislature as provided in 5-11-210.

(4) ~~The environmental quality council legislative services division shall provide staff assistance to the committee~~ environmental quality council to carry out its water policy duties. ~~The committee may contract with experts and consultants, in addition to receiving assistance from the environmental quality council, in carrying out its duties under this section."~~

Section 83. Section 85-2-436, MCA, is amended to read:

"85-2-436. (Temporary) Water leasing study. (1) The department of fish, wildlife, and parks and the department, in consultation with the environmental quality council ~~water policy committee~~ environmental quality council, shall conduct and

coordinate a study that, at a minimum:

(a) provides the following data for each designated stream reach and each pilot lease entered into under subsection (2):

(i) the length of the stream reach and how it is determined;

(ii) technical methods and data used to determine critical streamflow or volume needed to preserve fisheries;

(iii) legal standards and technical data used to determine and substantiate the amount of water available for instream flows through leasing of existing rights;

(iv) contractual parameters, conditions, and other steps taken to ensure that each lease in no way harms other appropriators, particularly if the stream is one that experiences natural dewatering; and

(v) methods and technical means used to monitor use of water under each lease;

(b) based on the data provided under subsection (1)(a), develops a complete model of a water lease and lease authorization that includes a step-by-step explanation of the process from initiation to completion.

(2) For purposes of undertaking the study described in subsection (1) and as authorized by law, the department of fish, wildlife, and parks and the department may engage in the activities described in this subsection. For purposes of this study, this section is the exclusive means by which the department of fish, wildlife, and parks may seek to change an appropriation right to an instream flow purpose.

(a) The department of fish, wildlife, and parks, with the consent of the commission, may lease existing rights for the purpose of maintaining or enhancing streamflows for the benefit of fisheries in stream reaches determined eligible by the board pursuant to 85-2-437.

(b) Upon receipt of a correct and complete application for a lease from the department of fish, wildlife, and parks, the department shall publish notice of the application as provided in 85-2-307. Parties who believe they may be adversely affected by the proposed lease may file an objection as provided in 85-2-308. A lease may not be approved until all objections are resolved. After resolving all objections filed under 85-2-308, the department shall authorize a lease of an existing right for the purpose of maintaining or enhancing streamflows for the benefit of fisheries if the applicant submits a correct and complete application and meets the requirements of 85-2-402.

(c) The application for a lease authorization must include specific information on the length and location of the stream reach in which the streamflow must be maintained or enhanced and must provide a detailed streamflow measuring plan that describes the points where and the manner in which the streamflow must be

measured.

(d) The maximum quantity of water that may be leased is the amount historically diverted by the lessor. However, only the amount historically consumed, or a smaller amount if specified by the department in the lease authorization, may be used to maintain or enhance streamflows below the lessor's point of diversion.

(e) The lease may not be issued for a term of more than 10 years, but it may be renewed once for up to 10 years, except that a lease of water made available from the development of a water conservation or storage project is restricted to a term of not more than 20 years. Upon receiving notice of a lease renewal, the department shall notify other appropriators potentially affected by the lease and shall allow 30 days for submission of new evidence of adverse effects to other water rights. A lease authorization is not required for a renewal unless an appropriator other than an appropriator described in subsection (2)(i) submits evidence of adverse effects to the appropriator's rights that has not been considered previously. If new evidence is submitted, a lease authorization must be obtained according to the requirements of 85-2-402.

(f) During the term of the lease, the department may modify or revoke the lease authorization if an appropriator other than an appropriator described in subsection (2)(i) proves by a preponderance of evidence that the appropriator's water right is adversely affected.

(g) The priority of appropriation for a lease under this section is the same as the priority of appropriation of the right that is leased.

(h) Neither a change in appropriation right nor any other authorization is required for the reversion of the appropriation right to the lessor's previous use.

(i) A person issued a water use permit with a priority of appropriation after the date of filing of an application for a lease authorization under this section may not object to the exercise of the lease according to its terms or the reversion of the appropriation right to the lessor according to the lessor's previous use.

(j) The department of fish, wildlife, and parks shall pay all costs associated with installing devices or providing personnel to measure streamflows according to the measuring plan submitted under this section.

(3) (a) The department of fish, wildlife, and parks shall complete and submit to the board, commission, and ~~water policy committee~~ environmental quality council an annual study progress report by December 1 of each year. This report must include the applicable information listed in subsection (1) for each lease, a summary of stream reach designation activity under 85-2-437, and



a summary of leasing activity on all designated streams. If the department of fish, wildlife, and parks has not leased additional water rights under this section by December 1 of any year, the department of fish, wildlife, and parks shall provide compelling justification for that fact in the study progress report.

(b) A final study report must be adopted by the board and commission and submitted to the ~~water policy committee~~ environmental quality council, which shall complete the final report by December 1, 1998.

(4) This section does not create the right for a person to bring suit to compel the renewal of a lease that has expired. (Terminates June 30, 1999--sec. 4, Ch. 740, L. 1991.)"

Section 84. Section 90-4-302, MCA, is amended to read:

"90-4-302. Definitions. As used in this part, the following definitions apply:

(1) "Bulk pipeline terminal" means a facility that is primarily used for storage for marketing of petroleum products and that has total bulk storage capacity of 50,000 gallons or more.

~~(2) "Committee" means the energy policy committee established in 90-4-303.~~

~~(3)~~ (2) "Distributor" means any person, private corporation, partnership, producer, individual proprietorship, public utility, joint operating agency or cooperative ~~which that~~ engages in or is authorized to engage in the activity of generating, producing, transmitting, or distributing energy in this state.

~~(4)~~ (3) "Energy" means petroleum or other liquid fuels, natural or synthetic fuel gas, or electricity.

~~(5)~~ (4) "Energy emergency" means an existing or imminent domestic, regional, or national shortage of energy ~~which that~~ will result in curtailment of essential services or production of essential goods or the disruption of significant sectors of the economy unless action is taken to conserve or limit the use of the energy form involved and the allocation of available energy supplies among users.

~~(6)~~ (5) "Energy facility" means a facility ~~which that~~ produces, extracts, converts, transports, or stores energy.

~~(7)~~ (6) "Energy supply alert" means a condition of energy supply on a national, regional, state, or local basis ~~which that~~ foreseeably will affect significantly the availability of essential energy supplies within the ensuing 90-day period unless action is taken under 90-4-309 to reduce energy usage by state agencies and political subdivisions.

~~(8)~~ (7) "Person" means an individual, partnership, joint venture, private or public corporation, cooperative, association, firm, public utility, political subdivision, municipal corporation, government agency, joint operating agency, or any

other entity, public or private, however organized.

~~(9)~~ (8) "Petroleum pipeline company" means a person who owns or operates in Montana any pipeline used for the transportation of petroleum products or their derivatives. This definition does not include pipelines used to transport crude petroleum from producing wells to refineries.

~~(10)~~ (9) "Petroleum products" means propane, butane, propane/butane mix, motor gasoline, kerosene and other middle distillates, aviation gasoline, jet fuel, number 4 fuel oil, residual fuel oil, and alcohol fuels, whether in natural or synthetic form.

~~(11)~~ (10) "Prime petroleum supplier" means the person who makes the first sale of a petroleum product into the state distribution system. Any person who is considered to be a Montana prime supplier by the U.S. department of energy is included in this definition.

~~(12)~~ (11) "Refiner" means a person that owns, operates, or controls the operations of one or more refineries located in Montana.

~~(13)~~ (12) "Refinery" means an industrial plant, regardless of capacity, that processes fossil or renewable feedstock or manufactures refined petroleum products, except when the plant exclusively produces petrochemicals."

Section 85. Section 90-4-305, MCA, is amended to read:

"90-4-305. Information obtainable by governor. (1) The governor may obtain information on a regular basis from energy resource producers, suppliers, public agencies, and consumers and from political subdivisions in this state that is necessary for him the governor, with advice of the committee, to determine the need for energy supply alert and emergency declarations. ~~Such~~ The information may include but is not limited to:

(a) sales volumes by customer classifications other than for petroleum products;

(b) forecasts of energy resource requirements for the particular type of energy involved for a period not to exceed 2 years; and

(c) inventory of energy resources and reserves available for use in meeting a shortage in a particular energy source.

(2) In order to help anticipate and mitigate the effects of shortages of petroleum products, the governor may monitor the supply of and demand for these products by obtaining the following monthly reports submitted no later than 20 days after the last day of the month, on forms prescribed by the governor, from the following persons:

(a) Each refiner shall submit Montana refinery processing data by fuel type in custody including:

(i) inventory stocks at the beginning and end of the month;

(ii) receipts during the month;  
(iii) inputs during the month;  
(iv) production during the month;  
(v) shipments, losses, and refinery fuel use during the month.

(b) Each prime petroleum supplier shall submit:

(i) 3-month projections of his Montana supply and stock of petroleum products that ~~he~~ the supplier anticipates supplying to Montana customers; and

(ii) the actual volume of petroleum products delivered in the state the previous month.

(c) Each petroleum pipeline company shall submit reports by fuel type of Montana pipeline terminal delivery, throughput, and export.

(d) Each bulk pipeline terminal operator shall submit end-of-month reports of inventory stock levels of finished petroleum products in custody in Montana by type of product and storage location.

(e) Each prime petroleum supplier shall submit quarterly reports of ~~his~~ monthly marketing sales in Montana by standard point locator index, or other method prescribed by the governor, and fuel type of petroleum products designated by the governor.

(3) In obtaining information under subsections (1) and (2) ~~of this section~~ during a state of energy emergency, the governor may subpoena witnesses, material, and relevant books, papers, accounts, records, and memoranda; administer oaths; and cause the depositions of persons residing within or without Montana to be taken in the manner prescribed for depositions in civil actions in district courts, to obtain information relevant to energy resources that are the subject of the proclaimed emergency or associated disaster.

(4) In obtaining information under this section, the governor shall:

(a) avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state, or local regulatory authority that is available for ~~his~~ the governor's study; and

(b) cause reporting procedures, including forms, to conform to existing requirements of federal, state, and local regulatory authorities.

(5) Except as provided in subsection (2), ~~nothing in this part requires~~ does not require the disclosure by a distributor of confidential information, trade secrets, or other facts of a proprietary nature.

(6) (a) The information required under subsection (2) ~~of this section~~ is subject to the following restrictions:

(i) Except in accordance with a proper judicial order, ~~no~~ a public officer or employee charged by the governor with the

custody of this information may not divulge or make known in any manner any information that is specific to a particular distributor.

(ii) The public officers and employees charged by the governor with the custody of the information provided for in subsection (2) may not be required to produce any of it or evidence of anything contained in it on behalf of any party to any action or proceeding under this part, except when the information concerned is directly involved in the action or proceeding, in which case only that information directly pertinent to the action or proceeding may be admitted.

(b) ~~Nothing in this~~ This section ~~shall~~ does not preclude access to ~~such the~~ information by the legislative auditor in carrying out ~~his the~~ functions under Title 5, chapter 13.

~~(7) The governor shall forward to the committee such information collected under this section as the committee may request and shall advise the committee of the progress of the information gathering process."~~

Section 86. Section 90-4-307, MCA, is amended to read:

"90-4-307. Submission and approval of curtailment plans.

(1) The governor may at any time require a distributor of an energy resource to prepare for ~~his the~~ the governor's approval a plan for the curtailment of the distribution of that resource in the event of a state of energy emergency. Plans ~~shall~~ must be submitted in ~~such the~~ form and within ~~such~~ limits ~~as that~~ the governor shall specify and ~~shall~~ must recognize the obligations and duties ~~which that~~ may be placed upon distributors subject to this part by other jurisdictions, both state and federal.

(2) Approval of plans for curtailment ~~shall~~ must be based on the following factors:

(a) the consistency of the plan with the public health, safety, and welfare;

(b) the technical feasibility of implementation of the plan;

(c) the effectiveness with which the plan minimizes the impact of any curtailment;

(d) the needs of commercial, agricultural, retail, professional, and service establishments whose normal function is to supply goods or services, or both, of an essential nature, including but not limited to food, lodging, fuel, and medical care facilities; and

(e) the regional agreements or contracts of the distributors; and

~~(f) the advice of the committee."~~

Section 87. Section 90-4-308, MCA, is amended to read:

"90-4-308. Governor's considerations. In determining

March 21, 1995

Page 57 of 59

whether to declare an energy supply alert or energy emergency, the governor shall consider:

- (1) availability of regional and national energy resources;
- (2) local, state, regional, and national energy needs and shortages;
- (3) availability of short-term alternative supplies on a local, state, regional, and national basis;
- (4) the economic effect of ~~such~~ the declaration and the implementation of any curtailment or conservation plans;
- ~~(5) the advice of the committee, and~~
- ~~(6)~~ (5) any other relevant factors."

Section 88. Section 90-4-310, MCA, is amended to read:

"90-4-310. Energy emergency powers of governor. In addition to ~~his~~ existing powers and duties, the governor ~~shall have~~ has the following duties and special energy emergency powers, subject to the definitions and limitations in this part:

(1) The governor ~~with the advice of the committee~~ may, upon finding that a situation exists ~~which~~ that threatens to seriously disrupt or diminish energy supplies to the extent that life, health, or property may be jeopardized, declare a condition or state of energy emergency, at which time all of the general and specific emergency powers ~~further~~ enumerated in this section ~~shall~~ become effective.

(2) The condition of energy emergency terminates after 45 consecutive days unless extended by a declaration of the legislature by joint resolution of a continuing condition of energy emergency of a duration to be established by the legislature.

(3) The conditions of an energy emergency alternatively cease to exist upon a declaration to that effect by either of the following:

(a) the governor; or

(b) the legislature, by joint resolution if in regular or special session.

(4) In a declared state of energy emergency, the governor may, ~~with the advice of the committee:~~

(a) implement ~~such~~ programs, controls, standards, priorities, and quotas for the production, allocation, conservation, and consumption of energy, including plans for the curtailment of energy, ~~provided that~~ However, in so doing, the governor shall impose controls, quotas, or curtailments according to the nature of the end use to be made of the energy consistent with existing transmission and distribution systems serving the geographic area affected by the energy emergency.

(b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air

or water quality control; and

(c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states, localities, and other persons.

(5) ~~Nothing in this~~ This part means ~~does not mean~~ that any program, control, standard, priority quota, or other policy created under the authority of the emergency powers authorized by this part has any continuing legal effect after the cessation of a declared state of energy emergency.

(6) Because of the emergency nature of this part, all actions authorized or required ~~hereunder~~ under this part or taken pursuant to any order issued by the governor are exempted from all requirements and provisions of the Montana Environmental Policy Act of ~~1971~~, including but not limited to the requirement for environmental impact statements.

(7) Except as provided in this section, ~~nothing in this part exempts~~ does not exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor, or unless impossibility of compliance is a direct result of an order of the governor."

Section 89. Section 90-4-313, MCA, is amended to read:

"90-4-313. Compliance. Notwithstanding any provision of law or contract to the contrary, all persons who are specifically ordered by the governor ~~with the advice of committee~~ to comply with an order issued or action taken pursuant to this part shall comply."

Section 90. Section 90-8-311, MCA, is amended to read:

"90-8-311. Legislative review and oversight. The department shall report on an annual basis to the ~~revenue oversight~~ legislative finance committee ~~of the legislature~~ concerning Montana capital companies and the Montana small business investment capital company."

NEW SECTION. Section 91. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 5, chapter 2, and the provisions of Title 5 apply to [sections 1 through 4].

NEW SECTION. Section 92. Transition. (1) The members of the legislative council must be appointed, as provided in 5-11-101, and the members of the legislative finance committee, as provided in 5-12-202, as soon as possible following [the effective date of this section].

(2) To implement the changes provided in [this act], the office of the legislative council, the office of budget and

program planning, and the department of administration shall establish all necessary authorizations during the accounting preparation process known as the "turnaround" process, beginning in April or May 1995, to administer the several appropriations made by any means to programs of the legislative branch agencies consolidated under [sections 3 and 4] for fiscal year 1996 or 1997 or the biennium ending June 30, 1997, as appropriations to a single legislative agency while maintaining the specific identification, legislative intent, and purpose for which the appropriations were made. During this transition, the executive director may authenticate documents as required to accomplish the purposes of [this act]. Appropriate changes on the statewide budgeting and accounting system and the payroll, personnel, and position control system must also be made and authorized as required to accomplish the purposes of [this act].

(3) Personnel and property of the environmental quality council are transferred to the legislative services division effective July 1, 1995.

NEW SECTION. Section 93. Repealer. Sections 1-13-101, 1-13-102, 1-13-103, 1-13-105, 1-13-111, 5-12-402, 5-18-101, 5-18-102, 5-18-103, 5-18-104, 5-18-105, 5-18-106, 5-18-107, 17-7-114, 23-7-203, 75-1-321, 75-1-322, and 90-4-303, MCA, are repealed.

NEW SECTION. Section 94. Effective dates. (1) [Sections 17, 37, 92, and this section] are effective on passage and approval.

(2) Except as provided in subsection (1), [this act] is effective July 1, 1995."

-END-



SEPARATE RECOMMENDATION  
EXHIBIT NO. 2  
DATE 4/9/95  
BILL NO. SB 398

# HOUSE COMMITTEE OF THE WHOLE AMENDMENT

SB 398

Representative Grinde

March 28, 1995 7:56 am

Page 1 of 2

Mr. Chairman: I move to amend SB 398 (third reading copy -- blue).

Signed: Larry Grinde  
Representative Grinde

And, that such amendments to SB 398 read as follows:

AMEND HOUSE COMMITTEE ON RULES COMMITTEE REPORT DATED MARCH 21, 1995, AS FOLLOWS:

Amendment No. 2

1. NEW SECTION. Section 3.

Subsection (2)(b).

Following: "identified;" at the end of subsection (2)(b)

Strike: "and"

1. Insert: "(c) provide separate identification for appropriations and expenditures for the legislature and for each of the consolidated entities;

(d) establish procedures for approval of expenditures by the legislature and by each of the consolidated entities; and"

2. Renumber: subsequent subsection

Subsection (2)(c).

3. Strike: "nonadministrative"

4. Strike: "The legislative services division shall initially hire administrative support personnel on behalf of a consolidated entity of the legislative branch."

2. Section 12, amending 2-18-103, MCA.

Subsection (1).

Following: "~~legislative branch~~;"

5. Insert: "(c) employees of the office of consumer counsel;"

Renumber: subsequent subsections

Subsection (2), introductory paragraph.

Following: "an entity of the legislative branch"

ADOPT

88-S

SB 398

HOUSE

REJECT



6. Insert: ", other than the office of consumer counsel,"  
Following: "entities of the legislative branch"  
Insert: ", other than the office of consumer counsel"

3. Section 13, amending 2-18-201, MCA.

7. Following: "employees of the legislative branch"  
Insert: ", other than those of the office of consumer counsel"

4. Section 20, amending 5-11-105, MCA.

Subsection (1)(b).

8. Following: "branch employees"  
Insert: ", other than those of the office of consumer counsel"  
Subsection (1)(c).  
Following: "branch employees"  
Insert: ", other than those of the office of consumer counsel"

5. Section 24, amending 5-11-112, MCA.

Subsection (1)(f)(i).

9. Strike: "legislative branch"  
Subsection (1)(f)(ii).  
Strike: "branch"  
Subsection (1)(g)(i).  
Following: "(i)"  
Insert: "legislative"  
Subsection (2).  
Following: "operation of the"  
Insert: "legislative"

6. Section 67, amending 18-1-118, MCA.

10. Strike: "chapters 12 and"  
Insert: "chapter"

-END-

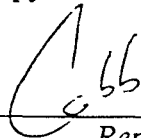


# HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 398  
Representative Cobb

March 28, 1995 11:03 am  
Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 398 (third reading copy -- blue).

Signed:   
Representative Cobb

And, that such amendments to Senate Bill 398 read as follows:

THE HOUSE STANDING COMMITTEE ON RULES REPORT DATED MARCH 21, 1995, IS AMENDED AS FOLLOWS:

1. Amendment No. 2, page 23, section 44, amending section 5-13-202, MCA, is amended as follows:

"Section 44. Section 5-13-202, MCA, is amended to read:

"5-13-202. Appointment and term of members -- officers -- vacancies. (1) The legislative audit committee consists of four ~~four~~ six members of the senate and four ~~four~~ six members of the house of representatives appointed before the 60th legislative day end of each regular session in the same manner as standing committees of the respective houses are appointed. No more than two ~~two~~ three of the appointees of each house may be members of the same political party.

(2) A member of the committee shall serve until his ~~his~~ the member's term of office as a legislator ends or until his ~~his~~ a successor is appointed, whichever occurs first.

(3) The committee shall elect one of its members as chairman ~~chairman~~ presiding officer and such ~~such~~ other officers as it considers necessary.

(4) A vacancy on the committee occurring when the legislature is not in session shall be filled by the selection of a member of the legislature by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political

ADOPT

94-1

SB 398

HOUSE

REJECT

March 28, 1995

Page 2 of 2

party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under subsection (1)."

-END-

711103CW.Hbk



EXHIBIT 2  
DATE 4-9-95  
1 SB 398

# HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 398  
Representative Kadas

March 28, 1995 12:55 pm  
Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 398 (third reading copy -- blue).

Signed: Kadas  
Representative Kadas

And, that such amendments to Senate Bill 398 read as follows:

AMEND HOUSE COMMITTEE ON RULES COMMITTEE REPORT DATED MARCH 21, 1995, AS FOLLOWS:

Amendment No. 1

1. In the insert.

12. Strike: "17-7-123,"

Insert: "17-7-122,"

Amendment No. 2

1. Section 41, amending 5-12-302.

Subsection (3).

Strike: "and" through "17-7-123."

13. Insert: "; (4) following receipt of the information required in 17-7-122 from the governor and in 17-7-123 from the budget director in a mutually prescribed format, publish the governor's budget and incorporate the information required by 17-7-123 in a combined governor's budget and legislative fiscal analyst's budget analysis report provided to the legislature in a format mutually agreed upon between the budget office and the legislative fiscal analyst. The combined budget and budget analysis report must be made available to the legislature in a loose-leaf format not later than 1 week prior to the convening date set for a regular session of the legislature. The cost of printing the combined budget and budget analysis report must be shared proportionally by the office of budget and program planning and the office of the legislative fiscal analyst."

Renumber: subsequent subsections

ADOPT

REJECT

SB 398

HOUSE

2. Section 64, amending 17-7-123.

Strike: section 64 in its entirety

Insert: "Section 64. Section 17-7-122, MCA, is amended to read:

"17-7-122. Submission Preparation of budget to legislature.

14 (1) The governor shall, following the receipt of the preliminary budget from the budget director, have prepared a budget for the ensuing biennium and shall submit the budget to each member of the legislature at the time of the convening of the legislature the legislative fiscal analyst in accordance with 5-12-303 for inclusion in the combined governor's budget and budget analysis report.

(2) Legislative branch ~~requests~~ budget proposals must be included in the budget submitted by the governor without changes.

(3) Judicial branch ~~requests~~ budget proposals must be included in the budget submitted by the governor, but expenditures above the current base budget need not be part of the balanced financial plan pursuant to 17-7-123."

-END-

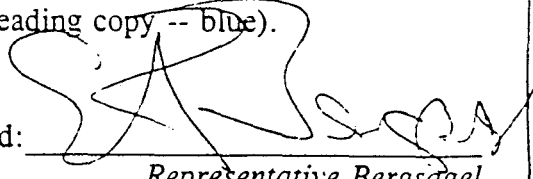


# HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 398  
Representative Bergsagel

March 28, 1995 12:57 pm  
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 398 (third reading copy -- blue).

Signed: 

*Representative Bergsagel*

And, that such amendments to Senate Bill 398 read as follows:

AMEND HOUSE COMMITTEE ON RULES COMMITTEE REPORT DATED MARCH 21,  
1995, AS FOLLOWS:

Amendment No. 2

Section 65, amending 17-7-402.

Subsection (1)(a).

Strike: "to spend" through "that matter"

-END-

ADOPT

REJECT

SB 398

HOUSE

Senate Members  
DELWYN GAGE  
CHAIRMAN  
GARY C. AKLESTAD  
MIKE HALLIGAN  
J.D. LYNCH



SENATE JUDICIARY COMMITTEE  
COMMIT NO. 3  
DATE 4/9/95  
HOUSE MEMBERS  
RED MENAHAN  
VICE CHAIRMAN  
H.S. "SONNY" HANSON  
HARRIET HAYNE  
DON LARSON  
SB398

Executive Director  
ROBERT B. PERSON

## Montana Legislative Council

### Office of the Executive Director

Room 138 • State Capitol  
Helena, Montana 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

April 4, 1995

TO: Sen. Del Gage  
FROM: Bob Person  
RE: Possible amendments to SB 398

Yesterday I took some time to go through SB 398 as it came out of the House to determine what would need to be amended to accomplish options that have been discussed and of which I am aware. Here is a summary you may find useful in reviewing these options. If you are aware of other options, I think it would be useful to consider those as well; let me know.

1. Changing Council membership. This is among the easiest options. Simply amending section 17 (5-11-101) as desired will accomplish this option. Some of the options have included removing the leadership as automatic members and simply allowing them to appoint, leaving the status quo, or increasing the size to 12 so the status quo could be blended with the automatic leadership participation. (Note: if the Senate were to take issue with the House expansion of the Audit Committee to 12 members, the Council could be increased to 12 with no net change in interim membership activity from the House version.)

2. Keep the EQC staff separately governed (status quo, more or less) instead of folding them in with the Council staff. The House version of the bill sets up the basic staff structure for the consolidated staff in section 78 (75-1-323). The section has two major features: the staff is to be a "principal subdivision" in legislative services and a "legislative environmental analyst" is to be the primary staff for the EQC. The legislative environmental analyst is understood to be the reorganized analog of the current EQC executive director. The position would, however, be responsible to the executive director of legislative services to coordinate staff work and services to the EQC rather than to the EQC directly for that. The main option is a version of the status quo as far as responsibility to the committee. This change could be done with or without reversing the House

decision to change the name of the Executive Director position to Legislative Environmental Analyst. Also, should a status quo option be chosen, I recommend following the pattern for the other entities and naming the staff unit separately from the committee. Legislative Environmental Policy Office (Division) has been used in other versions prepared (see below).

To unfold the EQC staff, we would need to look at changes to sections 4, 10, 11, 78, 79, and 82. Also sections 75-1-321 and 75-1-322 would be removed from the repealer and added to the amended sections.

3. Separate LFC and ROC. The House version of the bill both combines the duties of the committees and increases the size of the resulting Finance Committee to 16 members.

To undo the combination of these committees, section 4 would be amended to include ROC in the list. These section would be stricken from the bill: 52, 53, 54, 58, 61, 62, 74, 75, 76, and 90. Section 37 would be removed if the size of the Finance Committee is status quo or kept if it is to be the same as the House version or otherwise changed. Section 39 would be amended to remove subsection (4) through the end of the section. The repeal of 5-18-101 through 5-18-107 (ROC statutes) would be stricken.

4. Use "Office" rather than "Division." The House version of the bill uses the term "division" to describe the principal statutory staff units within the consolidated portion of the branch. The main option to this is to use the term "office." The choice is primarily aesthetic. While there is no real pattern around the country, I think it is more common to refer to "offices." I have commonly been asked if our office is the "LSO," which is commonly understood to mean the general legislative staff unit. LSD is more commonly understood to be a hallucinogenic drug. (Our Legislative Services staff had fun with this when they sponsored the Data Retrieval Users' Group, or DRUG for short, here in Helena with the motto: High in the Rockies. Data Retrieval Corporation was not amused.)

This change requires amendments (albeit simple ones) to most sections of the bill. Were options 1 or 3 above chosen along with this, it would be simplest to report a substitute bill out of the conference.

An alternative substitute bill was prepared for House second reading that includes this change as well as the others in this paper. That version includes most other House Rules Committee changes and technical amendments made on the floor. It does not include the single budget book, or the increased size of the Audit Committee.

5. Clayton and I are continuing to look at some final technical concerns that may need attention. One issue is the House floor amendment to section 65 (17-7-402(1)(a)). That amendment is designed to interact with another bill, and Clayton



was unsure whether it ends up doing that properly. Also, we are looking at whether we have a logical problem with tying the branch salaries to an executive matrix that is by law based on a survey of jobs in each classification that are similar in other states but that does not include legislative branch positions. This fallacy may be relieved somewhat in that the use of the survey really is a fallacy since it has been politically manipulated at the policy level ever since the system was adopted. Thus the survey is mostly an objective demonstration of what we cannot afford to do.

6. Finally, I need to mention that we have never discussed how the personnel responsibility in the consolidated agency will be staffed. I suspect the option of funding an administrative services director position (probably Grade 16 level) with personnel and staff administration responsibilities is out of the question. Internal options would be to divert personnel resources to do this work. Solely within the current Legislative Council staff, it would be easiest to divert a researcher at least to attend to the necessary personnel work at the beginning. There could be other resources diverted, but in each case it means other work not being done. A third option would involve contracting out some or all of the work. There are several private sector options in this regard, local and national. This option would involve diversion of funding from other activities to personnel contracting. Some combination of the above could also be entertained. The ability to achieve the consolidated personnel management and administrative policy is of crucial importance. However we can solve the problem, it will require commitment.

SB 398: Legislative Branch Reorganization  
Summary of House Version adopted March 28, 1995

March 29, 1995

- Consolidates legislative agencies.

New sections 1 through 4 are generally like the introduced version, but more firm about the administrative consolidation of the agencies. House amendments in section 3 specifically address certain accounting practices.

Consolidated: Senate, House, Legislative Council, Office of Legislative Auditor; Office of Legislative Fiscal Analyst, and Environmental Quality Council. The Consumer Counsel is not involved. Associated committees are also consolidated administratively.

Establishes a single budget entity on SBAS for all entities that are consolidated or administratively attached. This would be a budget "agency" that could be named "Legislative Council" as a matter of intent.

- Eliminate separately governed staff

? Folds EQC staff into Legislative Services Division with a transfer of the staff and establishment of a Legislative Environmental Analyst position. 75-1-323

- Provide for a branch pay plan and personnel administration

Policy stated to follow statewide policy (2-18-103; 2-18-201).

(See also revised Council duties below)

- Revise membership and appointment of Legislative Council

Includes leadership *ex officio*. Specifies bipartisan make-up of Council. 5-11-101

- Revises duties of Legislative Council

? Council to adopt personnel and administrative policy and assign responsibility (5-11-105).

Separates policy and staff management functions in Council laws (generally Title 5, Chapter 11, i.e. 5-11-xxx statutes).

Removes Council duty as LRBC for Capitol (5-11-115).

Clarifies and expands Council responsibilities for interstate and international cooperation (5-11-301).

? Assigns branch computer system plan adoption responsibility to Council in place of Joint Legislative Administration Committees (5-11-405).

- Combines Finance Committee with Revenue Oversight Committee

Combines with no name change and increases the committee size to 16 members. 5-12-202

- Combines Environmental Quality Council with Water Policy Committee

Combines the Water Policy Committee into the Environmental Quality Council with no name change for EQC. Membership remains the same as current EQC. There are numerous amendments to Water Policy Committee statutes.

- Eliminates committee outright:

Eliminates the Montana Western Canadian Provinces Boundary Advisory Committee. Repeal of 1-13-101 through 1-13-111.

- Reduces the level of legislative participation outside of the branch:

Eliminates the Legislative Liaison Committee (Lottery) (23-7-203).

Eliminates the Local Citizen Review Board Screening Committee (for local youth courts) (41-3-1002).

Eliminates the Legislative Energy Policy Committee (90-4-303). SB 398 all versions; both amendments.

- Create distinction between staff and legislators by renaming staff agencies distinctively

Using the form "Division" for all staff units to distinguish the offices from the committees: Legislative Services Division (Legislative Council); Audit Division (Office of the Legislative Auditor); Fiscal Division (Office of the Legislative Fiscal Analyst). Internal organization of Legislative Services Division is a management responsibility, not statutorily prescribed. 5-11-111; 5-12-301; and 5-13-301

- Eliminate duties

Reduces budget amendment review (5-12-402). (May be a technical problem with amendment to 17-7-402)

Eliminates obsolete interim committee duties. 5-5-215(1)(a) and (1)(b)

Eliminates certain reporting duties to branch activities, e.g. 44-12-206 and 44-13-103.

- Miscellaneous issues

Includes some improved independence of auditor under consolidation. 5-13-305(2)

Provides for a single, loose leaf budget book jointly prepared by OBPP and LFA, and a summary of the Governor's budget prepared for legislators and the public; 5-12-302(3) and 17-7-122. This provision was changed with floor amendments to make it easier to accomplish while protecting the identity of the Governor's budget.

Provides for a transition plan and effective dates. Section 92 of bill

Does not eliminate Administrative Code Committee or legislative participation on Gaming Advisory Committee or Microbusiness Advisory Council.

Provides for the interim (temporary) appointment of a member to a statutory committee when there is a vacancy due to the term of a legislator-member ending by amendments to the various sections governing vacancies on statutory committees.

Increases the membership of the Audit Committee from 8 to 12.

CONFERENCE COMMITTEE ON SB398  
OPTIONS REQUESTED BY REPRESENTATIVES GRINDE AND HANSON

1. Crippen Concern: Combining Revenue Oversight Committee with the Finance Committee.

- Options:
1. Leave combined with a 16 member committee (current bill)
  2. Leave combined but increase to a 18 or 20 member committee that could be divided into two subcommittees.
  3. Leave separate as current law.

2. Cocchiarella Concern: Independence of the Environmental Quality Council.

- Options:
1. Leave current bill placing EQC staff under the Legislative Council.
  2. Leave EQC staff independent as current law.

3. Jergeson concern: Makeup of the Legislative Council.

- Options:
1. Leave bill in current form with an 8 member committee of the 4 leadership (ex officio) plus 4 at large.
  2. 8 members appointed by leadership but leadership not ex officio.
  3. Expand the Legislative Council to include 12 members, 4 ex officio, 4 appointed by the committee on committees, and 4 appointed by the Speaker.
  4. Leave committee structure as current law.

4. Jergeson concern: Legislative Council control over personnel and pay plan policies.

- Options:
1. Leave bill in current form with Legislative Council setting policy.
  - ② Have Legislative Council adopt policy subject to concurrence and implementation by the individual statutory committees.
  3. Have an ad hoc committee of the chairs and vice chairs of the individual statutory committees adopt policy.
  4. Require the directors to draft and propose to the individual statutory committees uniform pay plan and personal policies.
  5. Leave as current law with each committee establishing policy.

(Note: Any of these options could include a provision that policy should be consistent with

policy of the executive branch where appropriate.)

5. Jergeson concern: Loss of LFA independence with respect to the single budget book.

Options: 1. Leave bill in current form with single budget book.  
2. Leave bill in current form with single budget book and include a sunset.  
3. Leave as current law with the finance committee setting policy.

6. Cocchiarella Concern: Combination of EQC and Water Policy Committees.

Options: 1. Leave combined as in current bill.  
2. Leave separate as current law.

7. Person Concern: Financial Support for NCSL and CSG and Personnel functions.

#### ADDITIONAL SENATOR JERGESON REQUEST

8. Include language relative to the independence of the Legislative Fiscal Analyst as follows:

"The legislative fiscal analyst shall inform the legislative council and the legislative finance committee of an administrative policy or rule adopted under 5-11-105 that conflicts with the statutory duties of legislative fiscal analyst or limits the ability of the legislative fiscal analyst to objectively perform statutory duties, along with a statement for the opinion and the requested changes to resolve the conflict. The legislative council shall review the rule and adopt a revision that is generally applicable to the legislative branch and that is designed to resolve the conflict. While the conflict exists, the legislative finance committee may adopt a specific exemption to the questioned rule that states the alternative rule to be employed under the exemption."

CONFERENCE COMMITTEE ON SB398  
OPTIONS REQUESTED BY REPRESENTATIVES GRINDE AND COCCHIARELLA

Insert for Section 41, Subsection 4 (page 24, Salmon)

"Nothing in this subsection prohibits the Legislative Fiscal Analyst from including any analysis and comments on any portion of the executive budget request in the combined governor's budget and legislative fiscal analyst's budget analysis report."