

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN ROGER DEBRUYCKER, on February 9, 1995, at 8:00 a.m. in Room 402 of the State Capitol.

ROLL CALL

Members Present:

Rep. Roger DeBruycker, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Judy H. Jacobson (D)
Sen. Loren Jenkins (R)
Rep. John Johnson (D)
Rep. William R. Wiseman (R)

Members Excused: none

Members Absent: none

Staff Present: Roger Lloyd, Legislative Fiscal Analyst
Florine Smith, Office of Budget & Program
Planning
Debbie Rostocki, Committee Secretary

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

Committee Business Summary:

Hearing: Department of Commerce
- Building Codes Bureau
- Board of Horse Racing
- Montana Lottery
- Coordinator of Indian Affairs
- Director/Management Services
Executive Action: Department of Commerce
- Building Codes Bureau
- Board of Horse Racing
- Montana Lottery
- POL Bureau reconsidered
- Coordinator of Indian Affairs
- Director/Management Services

HEARING ON Department of Commerce Building Codes Bureau

Mr. Roger Lloyd, Legislative Fiscal Analyst (LFA), gave an overview of the Bureau (pp. C-175-177, LFA Budget Analysis book).

Mr. Jim Brown, Building Codes Bureau Chief, then spoke. **EXHIBIT 1** The bureau provides a service to the state by ensuring that buildings and their components are safe and meet minimum safety standards. The duties of the board include enforcement of the building codes statutes and the issuance of building, plumbing, electrical and mechanical permits. The bureau also has the legal responsibility to review and certify all local government code enforcement programs in the state, which totaled 54 in FY 1994-5 (see p. 2 of **EXHIBIT 1**).

The Flathead County code enforcement program was decertified involuntarily by the voters of Flathead County on August 3, 1994. The bureau puts a high priority on encouraging local governments to become certified to enforce codes in place of the bureau. However, there is reluctance to do this on the part of the counties because they do not want to be viewed as regulatory agencies any more than they have to. Last year the bureau put special efforts into meeting with Lincoln County, Flathead County, Lake County, Ravalli County, Lewis & Clark County, Missoula County and Gallatin County to encourage them to become certified. Primarily because of the Flathead County experience, he doesn't expect any of them to try to become certified in the near future.

The bureau has six major programs: The Plumbing/Mechanical Program, Building Standards Program, Electrical Program, Passenger Elevator Program, Factory-built Building/Recreational Vehicle Program and the Local Government Code Enforcement Program. The organizational chart contained on p. 1 of **EXHIBIT 1** contains the eight additional FTE requested so the committee can see where they would go. He stressed that the bureau is a very lean organization, with only three managerial positions out of 37. The figure of 37 FTE contains three FTE hired on an emergency basis in 1994.

In 1994 they issued 765 building permits and completed 4,540 building inspections. They issued 1,151 plumbing permits and completed 3,990 plumbing inspections. They issued 506 mechanical permits, with 1,742 inspections. 13,516 electrical permits were issued, with 29,142 inspections. Plan reviews were completed on 54 factory-built buildings and 481 recreational vehicles. They issued insignias on 204 factory-built buildings and 2,830 recreational vehicles. They completed 28 elevator plan reviews, with 1,101 inspections. They completed 1,351 plumber license checks and 3,655 electrician license checks. In total the bureau completed 41,000 inspections. They expect to do over 50,000 in each year of the upcoming biennium.

Because of the sustained building boom in Montana and the decertification of Flathead County, FY 95 production figures are running significantly ahead of the 1994 levels. The chief electrical inspector position has been eliminated and a regular inspector position was created in its place. At the end of FY94 the department gave the bureau approval to add three of the seven

inspectors they are requesting for the coming biennium, on an emergency basis. This brings their workforce up to 18, which is still insufficient.

Flathead County had assured them they would take on the job of issuing their own electrical permits. The cities of Columbia Falls and Kalispell had offered the same. The combined load of those three entities represents 20% of the bureau's total workload. However, only Columbia Falls has begun doing this.

Tape No. 1:B:000

The bureau's 26 inspectors operate out of 23 separate locations around the state and they all work out of their homes. **Mr. Brown** pointed out that the number of inspections performed is much greater than the number of permits issued. For example, electrical permits require an average of three inspections and building permits require a minimum of five inspections.

In addition to the three electrical inspectors which the bureau has already added, three plumbing/mechanical inspectors and one building inspector plus one plan reviewer are proposed to be added. Eight years ago the two plan reviewers were overloaded and handled 430 plans per year; in 1994 they handled almost 1,000. The overload condition, if not corrected, will put property and lives at risk and subject the state to liability.

Mr. Brown then reviewed the Present Law (PL) Adjustments and New Proposals. There are several reasons why they did not fill the six positions approved by the Legislature in 1993. Some \$50,000 in vacancy savings was needed and one of the positions was left vacant for almost an entire year to fulfil this need. The other positions were not staffed for the entire year due to a lengthy hiring process.

Historically, the bureau has always put in for a \$5,000 contracted services appropriation for plan review services. In FY94 this amount was not used. This is not expected to be the case in FY96 due to the upcoming maternity leave of one of the plan review inspectors.

Questions: **REP. WISEMAN** wanted to know what had been learned from the experience in Flathead County. **Mr. Brown** said he felt that when one starts a new program in an area which has essentially been unregulated it has to be eased into carefully. In Flathead County this did not occur.

Mr. Jon Noel, Director of the Department of Commerce, then spoke up. A critical factor to understand, as far as whether or not other counties can be expected to become certified, is that the chances are nil. If a person is within a certified area, permits are required for virtually everything. If a person is only under state jurisdiction all that is needed is an electrical permit. In some jurisdictions the city has jurisdiction 3.5 miles outside of town and there is a bill before the Legislature to reduce this

to one mile. All of this will put an additional load on the bureau. A one-mile limit would translate into an additional 200 permits and 1,000 inspections.

Mr. Brown explained that within the state's jurisdictions, certain buildings are exempt from the application of building codes: single-family dwellings (four-plexes and less), private garages and storage buildings associated with the dwellings, mining buildings on mining property and farm and ranch buildings. When a local government becomes certified they have the choice of no longer exempting those buildings. In rural Montana, the bureau typically only handles commercial, public and large residential dwellings.

Tape No. 2:A:000

Mr. Brown explained to **SEN. JENKINS** the details of the FTE transfers which had occurred in the current biennium (PL No. 1). The \$139,000 which was transferred over to the POL Bureau included all of the charges that the two boards made to this bureau including legal assistance. Although they kept one of the two FTE associated with the two boards, all of the funding was transferred.

In response to **CHAIRMAN ROGER DEBRUYCKER**, **Mr. Brown** stated that the bureau will not have to raise any fees to pay for the additional eight FTE being requested. In fact, fees have been reduced twice over the last three years. The state building inspection fee is about half of what the typical local government charges.

In response to **SEN. JENKINS**, **Mr. Lloyd** explained that the three FTE hired at the end of FY94 are not in the present law budget. The Office of Budget and Program Planning (OBPP) established these positions through the budget amendment process. Those three FTE are three of the eight being requested under New Proposal No. 1. **Mr. Noel** explained that the FTE which was not transferred to the POL bureau was kept on board with this bureau because he was doing inspections.

REP. WISEMAN questioned the need for three inspections for electrical permits. **Mr. Brown** said the inspections occurred at three different stages: construction-related temporary power, the rough-in phase (during sheetrocking) and the final inspection. On many occasions only two inspections occur but on big projects as many as 20 can take place. The rough-in inspection is more for the convenience of the contractor.

SEN. JENKINS submitted that dollar-wise, the FTE increase was for nine positions because the one unfunded FTE the bureau had retained was proposed to be funded under PL No. 1. **Mr. Noel** conceded that nine FTE were proposed to be funded; however, the funding was being provided from inspections income and the position itself is not a new one. He stressed that the number of

FTE in the budget request is what the bureau believes it needs to do the job that the people paying for the service require.

SEN. JENKINS questioned whether the POL Bureau needed the entire \$139,000 which they had received. **Mr. Brown** said the enforcement of the plumbing and electrical licensing laws has always been a source of criticism by the licensed people, who have felt the department was not doing a good enough job seeking out unlicensed electricians and plumbers. One of the main reasons the bureau has not been able to do this is because the state has no reason to be in the towns which have certified programs, other than to check licenses. Because of limited resources the bureau cannot waste its time just checking licenses. From the perspective of the licensed plumbers and electricians, the bureau was not policing essentially half of the jobs. When the bureau agreed to do all of the license law enforcement at no cost to the POL Bureau, it enabled that bureau to use the money it previously would have paid to the Building Codes Bureau. The money will be used to fund a position that will investigate complaints in the certified areas. **Mr. Noel** pointed out that a position had been added in the POL to do this. **Ms. Florine Smith, OBPP**, said there were two positions transferred into the POL Bureau: one from this bureau and one from the Local Government Division, which transferred just the position and no funding.

EXECUTIVE ACTION ON Department of Commerce
Building Codes Bureau

Motion/vote: **REP. JOHNSON** moved and **SEN. JACOBSON** seconded by proxy, to accept PL Adjustments No. 4 - 8 on p. C-176. The motion carried with **SEN. JENKINS** opposed and **SEN. KEATING** excused.

Motion/vote: **REP. WISEMAN** moved to accept New Proposals No. 1 and 2 on p. C-177; **REP. JOHNSON** seconded the motion. The motion carried unanimously, with **SEN. KEATING** excused.

HEARING ON Department of Commerce
Board of Horse Racing

Mr. Lloyd gave a brief overview of the budget for the Board of Horse Racing (pp. C-195-6). **Tape No. 2:B:000**

Mr. Sam Murfitt, Executive Secretary of the Board of Horse Racing, then spoke. The horse racing industry is composed of one part agriculture and one part gambling. The bureau is concerned with the day-to-day regulation of eight live racetracks with a total of 80-90 racing days and 10 simulcast network sites across the state offering approximately 150 days of simulcast wagering annually. In 1994 the bureau was responsible for ensuring the correct distribution of \$5 million wagered live on tracks and \$5 million wagered through simulcast. The bureau is responsible for

the adoption, administration and enforcement of all racing rules.

In addition to the funding the program receives from the tax on betting, it is also supported by license fees, medication fees, and fines.

Since 1988, horse racing in Montana has experienced a decrease in revenue based on dollars wagered. This source of revenue has decreased as other forms of gambling have expanded their operations. In addition, increased Workers' Compensation costs have reduced revenues. Cost-cutting measures have been utilized by the bureau to balance its budget. With the addition of simulcast wagering, 1994 became the first year in many to have income slightly exceed expenses.

The origination of the Budweiser \$100,000 stakes race has rekindled interest in the breeding and ownership of thoroughbred horses. Restructuring of the Montana Thoroughbred Breeders' Organization has paid for the Montana Cup Championship Racing Series. The industry is aware of the financial problems and is working to help solve them by increasing the emphasis on creating a new fan base and increased family promotion.

At present there are five persons on the Board of Horse Racing. A bill has been introduced to increase this to seven, which would necessitate about a \$5,000 increase in the budget.

In 1994 the bureau realized revenue of some \$244,000 and expenses were \$226,000.

In response to **REP. WISEMAN**, **Mr. Murfitt** pointed out that horse racing is, among the legalized forms of gambling that exist in the state, one of the only ones which is family-friendly. He said it was difficult to determine the cost of horse racing at the State Fair, due to the way costs were allocated in the Fair budget.

EXECUTIVE ACTION ON Department of Commerce
Board of Horse Racing

Motion/vote: **REP. JOHNSON** moved and **SEN. JACOBSON** seconded by proxy, to accept PL Adjustments No. 4, 5, 6, 7 and 8 on p. C-196. The motion carried unanimously, with **SEN. KEATING** excused.

HEARING ON Department of Commerce
Montana Lottery

Mr. Lloyd gave his overview of the Montana Lottery (pp. C-190-194). The Montana Lottery is funded entirely from lottery proceeds. The biggest decrease in this budget, totaling over \$2.2 million over the biennium, is related to an estimated decrease in both the cost and the number of transactions involving vendor fees. The OBPP provided the Lottery with an

additional \$1.5 million in statutory spending authority in 1994, mainly related to the creation of the Tri-West Lotto Game. The statutory authority was invalid because the funding was used for administrative expenses. The base should be reduced by about \$1 million (the amount which was expended) because statutory appropriations, valid or not, are not supposed to be figured into the base. Consequently, PL No. 4 on p. C-192 should also be reduced.

Tape No. 3:A:000

Dues for the Tri-West Lotto Game are being requested under New Proposal No. 1 but \$60,019 is already contained in the present law base.

Regarding the statutory requirement that the Montana Lottery maximize its net revenue, the LFA questions the revision of the Sales Staff Incentive Plan and the failure of the Lottery Commission to provide cost/benefit analyses regarding the Tri-West Lotto-related appropriation increases.

Since FY89, the Montana Lottery's profits have increased at an annual rate of 26.3%. In 1994, profit was over 33% of total costs.

Mr. Noel gave some introductory comments regarding the lack of cost/benefit analyses. He assured the committee that the proposals were not being made for the sake of spending money and the Lottery Commission was trying specifically to maximize profit. He cautioned the committee that it is unlikely the growth of the Lottery will continue as it has in the past: the gambling dollar is a finite entity.

Ms. Charmaine Murphy, Director of the Montana Lottery, then spoke. Since the sales of the first scratch tickets in June of 1987, the Lottery has generated over \$41 million for Montana's education system and nearly \$2 million for crime control. The five-member Lottery Commission and the Lottery Director are appointed by the Governor. 45% of the sales revenue goes for prizes, 5% to retailer commissions, and a portion pays for operating and ticket costs, with the remainder going for crime control and education. The 800 retailers across the state which sell lottery products have generated a record \$9.4 million to the state in 1994.

Ms. Murphy reviewed the accomplishments of the Lottery in its 7 1/2 year history, which include the adoption of its multiple game strategy. The Lotto America game was introduced in 1989 and replaced by the 19-state Powerball game in 1992. The Montana Cash game was introduced in 1991 and the drawing dates for these two games were increased from weekly to semiweekly in 1992. The Tri-West Lotto game was launched in February 1994.

In the past year the Lottery was able to set up a toll-free phone number to provide information for players. Savings were realized in printing costs: a 23% decrease was negotiated on their per-

ticket on-line costs. The Lottery has complied with the Legislature's request in 1993 to not replace their vehicles until they have 130,000 miles on them, but they have experienced an increase in maintenance costs and have had to hire wreckers on two occasions.

Ms. Murphy then outlined the goals of the Lottery for the committee which include maximizing revenues, broadening the player base, maintaining the integrity of the games, providing the necessary support services and working to maximize potential and encourage excellence in the workplace.

Questions: In response to **SEN. KEATING**, **Ms. Murphy** explained that the decrease in their per-ticket on-line costs was not so much due to an increase in volume as it was related to an extension in their contract.

REP. WISEMAN wanted to know if the Lottery had compiled any information comparing the problems caused by this kind of gambling compared to casino gambling. **Ms. Murphy** said it has been found that the lottery is not as addictive as some other forms of gaming. When instant gratification and a life-changing experience both occur a game can become addictive but this is not the case with the lottery.

SEN. JENKINS wanted to know the history of ticket sales volume. **Ms. Murphy** said there has been a steady increase. **EXHIBIT 2**

In response to **CHAIRMAN DEBRUYCKER**, **Ms. Leslie Darfler**, Montana Lottery Operations Director, said they would like to reduce the amount of New Proposal No. 1 to \$60,000. In the past they have always been able to assimilate the expenses associated with the addition of new games into their operating budget. However, the operating budget is now completely expended.

The \$60,000 that was paid for dues in FY94 was for a six-month period and they projected \$120,000 would be needed for a full year's dues. The Tri-West Association has discontinued televising the game in Idaho, however, and this has resulted in dues being reduced to \$60,000.

CHAIRMAN DEBRUYCKER wanted to know the amount of the Lottery's advertising budget. **Ms. Darfler** said it was about \$600,000. She cautioned the committee that reducing this budget would most likely reduce revenues as well; this has been the trend.

SEN. KEATING wanted to know if the games weren't competing against each other when more than one was offered. **Ms. Murphy** said their projections have shown that there would be a net increase in sales with the additional games. Dropping a game runs the risk of losing the business of persons who had played that game exclusively.

REP. WISEMAN asked Mr. Noel about the status of talks regarding privatization of the Lottery. **Tape No. 3:B:000**

Mr. Noel said the bill the department plans to introduce would exempt the Lottery from certain of the purchasing requirements which government agencies are directed to follow and would permit the Lottery Commission to privatize any portion of the operation of the Lottery except security. The fact is that parts of the Lottery are already privatized, such as the on-line ticket sales.

In response to SEN. KEATING'S question about dropping old games, he testified that it is really a gamble trying to decide whether or not to drop old products when new ones are added.

EXECUTIVE ACTION ON Department of Commerce
Montana Lottery

Motion/vote: REP. WISEMAN moved to accept PL Adjustments No. 4, 5 and 6 on p. C-191; SEN. KEATING seconded the motion. The motion **carried** unanimously.

Motion: SEN. JENKINS moved to accept New Proposals No. 1 and 2 on p. C-191; with No. 1 at the level of \$60,000 per year.

Discussion: SEN. KEATING requested that the vote be segregated.

Vote: The question was called for on New Proposal No. 1. The motion **carried** with CHAIRMAN DEBRUYCKER and SEN. KEATING opposed and SEN. JACOBSON voting "yes" by proxy.

Vote: The question was called for on New Proposal No. 2. The motion **carried** unanimously.

EXECUTIVE ACTION ON Department of Commerce
POL Bureau

Motion/vote: SEN. KEATING moved that the committee reconsider its action on the POL Bureau; SEN. JENKINS seconded the motion. The motion **carried** unanimously.

Additional testimony: At the invitation of the Chairman, Mr. Tom Harrison, representing the Montana Society of Certified Public Accountants (CPA's), requested that the committee add an additional FTE to the Board of Accountancy for handling complaints and licensing questions. At present a part-time person is hired sporadically to do the job and this is not a satisfactory solution.

SEN. KEATING pointed out to Mr. Harrison that adding staff is perceived as growth in government. REP. WISEMAN pointed out that this bureau already had a 14% increase in its personnel budget. He asked about the possibility of the Board reducing its

dues. **Mr. Harrison** said the people paying the dues would rather have the service than have their dues reduced.

Mr. Lloyd said the committee has approved an increase in the Board's budget of \$53,780 per year in contracted services. There is \$1,676 in the contracted services base as well. **Mr. Andy Poole**, Deputy Director of the Department of Commerce, pointed out that the Board of Accountancy has the services of an FTE from the proprietary pool of employees within the POL Bureau. **Mr. Harrison** said the Society of CPA's had not been aware of the committee's action but their concerns remain.

Mr. Noel explained that the contracted employee that deals primarily with investigations is a CPA. Resources are shared within the POL Bureau and there is one full-time FTE just for the Board of Public Accountants although this person is not a CPA. The primary function of the contract is investigations. **Mr. Poole** said the request presented by **Mr. Harrison** is in addition to what the Board is asking for in present law.

Tape No. 4:A:000

HEARING ON Department of Commerce
Coordinator of Indian Affairs

Ms. Kathleen Fleury, Coordinator of Indian Affairs, gave an overview. **EXHIBIT 3** She announced that **SB 4** was probably going to be signed by Governor Racicot very soon. This bill transfers the Coordinator of Indian Affairs office from the Department of Commerce to the Governor's Office.

She requested that the federal special funding for this program be changed to state special. They are currently working with the Travel Montana Program on developing a Coordinator of Indian Tourism Development position to work with that program. The federal funding they had was through the Department of Transportation and this contract is no longer in effect.

Their office has been involved in trying to assist and bring together the various Tribal leaderships and the state in terms of negotiating agreements rather than going into litigation in such areas as taxation, gaming, etc. Their office serves on various state agency advisory committees, organizations, associations and related federal agencies.

In response to **CHAIRMAN DEBRUYCKER**, **Ms. Fleury** said their office represents all Native Americans in the state, regardless of whether or not they live on a reservation. She pointed out that her office works very closely with the urban Indian organizations.

SEN. KEATING said the practice of approaching problems from a Tribal perspective was inferior to the one-on-one approach. He suggested that dictating to the Tribes what they needed should be

replaced with a more mutual approach to addressing issues. **Ms. Fleury** agreed with **SEN. KEATING** and pointed out that in the recent past there has been a great change in terms of self-determination. There are currently two self-governing Tribes: the Rocky Boy Chippewa/Cree and the Confederated Salish and Kootenai Tribes, who are now doing their own federal contracts. The Tribes' priority is economic development.

In response to **SEN. JENKINS**, **Ms. Fleury** explained that they had a contract to get Indian people certified for state and federal highway contracts. They administered this federal contract for three years. The funding provided for outreach on the reservations to work with the Indian businesses that could get certified with the state and participate in highway construction projects. The contract was put out for bid this year and a private business got the contract.

It was brought out that the state funding which would replace the federal would come from the Lodging Facility Use ("Bed") tax if the Travel Promotion coordinator program is approved.

SEN. JACOBSON pointed out that the funding for the Montana Promotion Division is statutorily appropriated and she questioned whether it would be appropriate to use the funding in this capacity. **Mr. Noel** said no details had been worked out as yet. He pointed out that all the reservations had applied to participate in the Community Tourism Development Program. Rather than have them all competing for this money, it was felt the Indian tourism picture as a whole needed to be examined. None of the three entities accepted for the Community Tourism Development Program were reservations, but the department made a commitment to develop a program. He anticipated that funds from the Travel Montana Program would be transferred into the Coordinator of Indian Affairs program. **Mr. Poole** said he thought the Coordinator would probably have to contract with Travel Montana. **Mr. Lloyd** said that if the Montana Promotion Division grants or gives through contracts bed tax funds to any state agency, the money would need to be put into a state special revenue account.

SEN. JACOBSON suggested that two FTE from the Coordinator of Indian Affairs remain within the Department of Commerce to perform Travel Promotion-related duties. **Mr. Noel** was in support of this suggestion. **Mr. Lloyd** said the Travel Promotion Program had the authority to add FTE as long as it fell within the requirements of the statutory appropriation. **Ms. Smith** suggested that when the actual FTE and funding transfer was made the number could be changed from four to two. **Mr. Lloyd** pointed out that the committee's action to remove the bed tax statutory appropriation from the Montana Promotion Division had in essence removed any reference to FTE from that budget. **Mr. Noel** said he was comfortable with this scenario and felt it made sense to keep all travel promotion-related work in the Montana Promotion Division.

Tape No. 4:B:000

EXECUTIVE ACTION ON Department of Commerce
Coordinator of Indian Affairs

Motion/vote: SEN. KEATING moved to accept PL Adjustments No. 4 and 5 on p. C-179; REP. WISEMAN seconded the motion. The motion carried unanimously.

Discussion: In response to SEN. JACOBSON, Mr. Lloyd said if the federal funds were removed from this budget, two FTE would go with that. Discussion took place about when HB 2 should be amended: now or after the bill moving the Coordinator of Indian Affairs office was signed.

Motion/vote: SEN. JACOBSON moved to remove two FTE and the federal funding from the budget; SEN. KEATING seconded the motion. The motion carried unanimously.

HEARING ON Department of Commerce
Director/Management Services

Mr. Lloyd gave an overview of the budget (pp. C-197-199). He pointed out that the executive budget does not include the true source of the funds that are paid into the proprietary account which will fund New Proposals No. 1 and 3. Table 7 on p. C-199 details this further.

Mr. Noel explained that the Department of Commerce is unique in state government in that the Director's Office and Management Services is funded by the rest of the department via a charge-back system. **EXHIBIT 4**

Mr. Bill Hoffmann, Budget Officer for the Department of Commerce, gave a run-down on the activities of this part of the department. The Management Services Division is comprised of four functional areas: personnel services, accounting and financial services, budgeting services and information technology services.

He pointed out that the Management Services Division's former administrator retired at the end of 1993 and that position was permanently eliminated. That person's work responsibilities were reallocated to existing staff. As a result the division is asking for increased operating authority to allow for the use of contracted services and temporary assistance during critical workload periods. The division is requesting funding to convert from Excel to Lotus computer software, in order to facilitate interactions with the OBPP and the LFA, which both use Lotus (PL No. 5).

Mr. Noel said this division, measured either in the number of employees compared to the total number in the department or as budget compared to total budget, is the absolute lowest in state government.

Ms. Annie Bartos, Chief Legal Counsel for the department and Administrator of the Office of Consumer Affairs, gave a presentation of the activities of that office. In addition to a copy of a report on the office **EXHIBIT 5**, two pamphlets available through the office as part of its educational efforts were distributed to the committee members. **EXHIBITS 6 and 7**

Tape No. 5:A:000

The Office of Consumer Affairs protects Montana consumers from fraud. The staff consists of 2.25 FTE: an investigator, a compliance technician and .25 legal counsel (**Ms. Bartos**).

Ms. Bartos described a recent recovery of \$6,000 from an Oklahoma company which was selling small appliance warranties for \$15 each. The Consumer Affairs office received complaints that the company was not providing the promised service. The office coordinated its efforts with the Federal Trade Commission (FTC) and was able to recover the money in this company's bankruptcy proceedings.

The office received over 4,000 telephone calls in the last year and 2,000 written complaints. The increase in telephone calls has caused an increase in the office's operating expenses.

She explained two bills and proposed amendments currently before the Legislature. One bill pertains to the funding of the New Vehicle Warranty Act Program. The other bill proposes to transfer the oversight of the Postsecondary Proprietary School Program to the Commissioner of Higher Education's office.

Mr. Poole addressed New Proposals No. 1 and 3. The department requests that the committee consider putting this appropriation authority directly into the various programs listed on **EXHIBIT 4** and removing the appropriation from the Director/Management Services budget. This will avoid a doubling of appropriation authority. He added that this money did not belong in the indirect charges category anyway because those charges are based on the number of employees and this schedule reflects which programs are getting the work done and which are getting equipment.

In response to **CHAIRMAN DEBRUYCKER**, **Mr. Poole** listed the possible changes in the number of employees the department may have, which will affect indirect costs calculations.

In response to **SEN. JENKINS**, **Mr. Lloyd** said the \$100,000 appropriated by the 1993 Legislature (LFA narrative, New Proposal No. 3) was not in the base because the expenditures were in the equipment budget, which is 0-based.

SEN. KEATING expressed the hope that there was sufficient oversight of the Department of Administration's Information Services Division regarding which kind of computer equipment and software was the best for the state to convert to. **Mr. Noel** said

the department has been moving towards the use of personal computers and away from mainframes. The cost of pc's is coming down. He testified that the proposed changes represented the most cost-effective approach.

SEN. JENKINS questioned providing funding for computer maintenance in light of all the replacement which was going on. Mr. Noel said the maintenance dollars will actually be spent for spare computers.

EXECUTIVE ACTION ON Department of Commerce
Director/Management Services

Motion/vote: SEN. KEATING moved to accept PL Adjustments No. 4, 5, 6 and 7 on p. C-198; REP. WISEMAN seconded the motion. The motion carried unanimously.

Motion/vote: SEN. KEATING moved to accept New Proposals No. 1, 2, 3 and 4, amending Nos. 1 and 3 from 100% proprietary funding to a combination of general fund, state special revenue, federal and proprietary funding, as detailed on EXHIBIT 4, and to restrict that New Proposals No. 1 and 3 be line-itemed as one-time-only appropriations. SEN. JENKINS seconded the motion. The motion carried unanimously.

EXECUTIVE ACTION ON Department of Commerce
POL Bureau

Motion: SEN. KEATING made a motion that one FTE be added to the Board of Public Accountants.

Substitute motion: SEN. JENKINS made a substitute motion to add one FTE to the Board of Public Accountants, but that no funding be provided for the increase.

Discussion: Mr. Noel objected to SEN. JENKINS' motion, stating that it would force the department to take an FTE from some other program and put it in this one. Tape No. 5:3:000

Withdrawn motions: Both SEN. KEATING and SEN. JENKINS withdrew their motions.

Motion/vote: It was moved and seconded to close the section on the Department of Commerce. The motion carried unanimously.

ADJOURNMENT

Adjournment: 12:00 noon.



ROGER DEBRUYCKER, Chairman

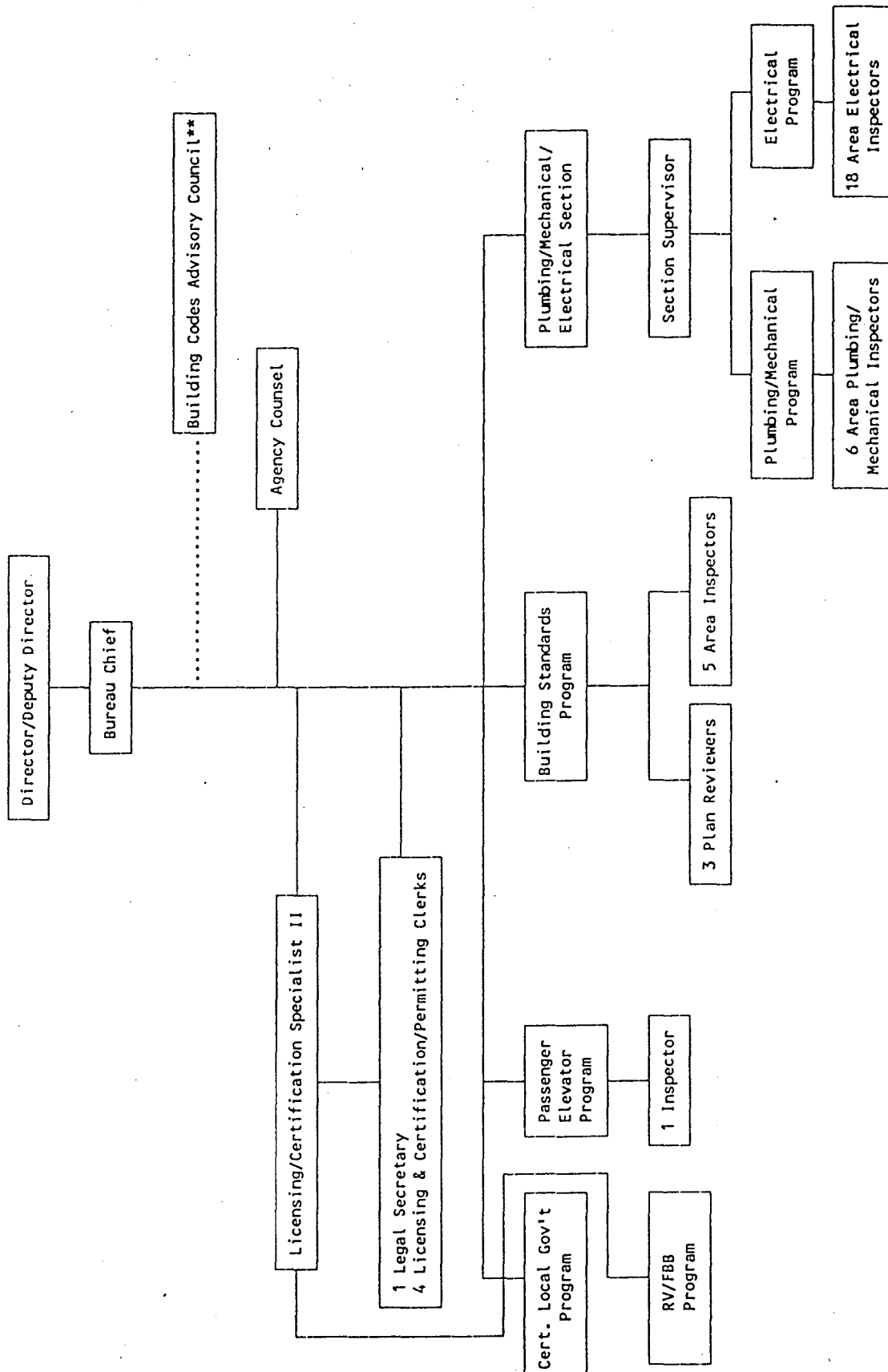


DEBBIE ROSTOCKI, Secretary

RD/dr

This meeting was recorded on five 60-minute audiocassette tapes.

ORGANIZATIONAL CHART
BUILDING CODES BUREAU



EXHIBIT

DATE

HB

2/9/95

**Advisory to Bureau

Certified Local Gov't Programs
August 1, 1994

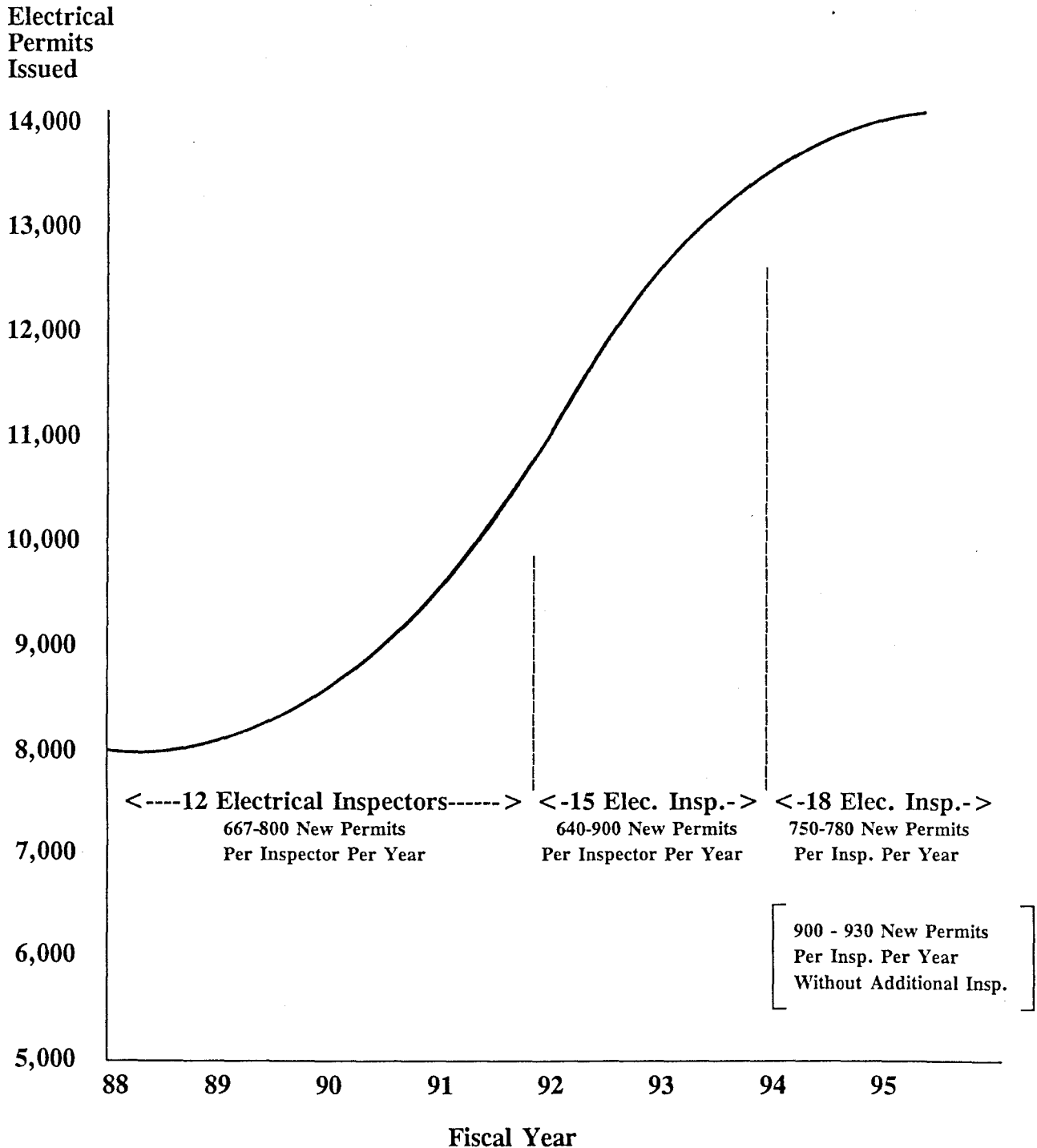
Anaconda/Deer Lodge County	B, En, H, D *(entire county)
Belgrade	B, En, H, D, P
Belt	B, En, H, D
Big Sandy	B, En, H, D
Billings	B, En, H, D, El, P, M *(4 1/2 miles)
Bozeman	B, En, H, D, El, P, M *(4 1/2 miles)
Broadus	B, En, H, D
Butte-Silver Bow County	B, En, H, D, El, P, M *(except Walkerville)
Chester	P
Chinook	B, En, H, D
Choteau	B, En, H, D
Columbia Falls	B, En, H, D, P, M, El *(1 mile)
Conrad	B, En, H, D
Cut Bank	B, En, H, D
Darby	B, En, H, D
Deer Lodge	B, En, H, D *(1 mile)
East Helena	B, En, H, D, El, P, M
Flathead County	B, En, H, D, P, M
Forsyth	B, En, H, D
Fort Benton	B, En, H, D *(1 mile)
Glasgow	B, En, H, D, El, P, M
Glendive	B, En, H, D
Great Falls	B, En, H, D, El, P, M
Hamilton	B, En, H, D, P
Hardin	B, En, H, D
Harlem	B, En, H, D
Havre	B, En, H, D, P, M
Helena	B, En, H, D, El, P, M
Hot Springs	B, En, H, D
Hysham	B, En, H, D
Kalispell	B, En, H, D, P, M *(variable - up to 3 1/2 miles)
Laurel	B, En, H, D, P
Lewistown	B, En, H, D
Libby	B, En, H, D
Livingston	B, En, H, D, P, M
Malta	B, En, H, D
Miles City	B, En, H, D *(1 mile)
Missoula	B, En, H, D, El, P, M, *(4 1/2 miles)
Pinesdale	B, En, H, D, El, P, M
Plains	B, En, H, D
Polson	B, En, H, D, M
Red Lodge	B, En, H, D
Richland County	B, En, H, D *(except Fairview)
Ronan	B, En, H, D
Roundup	B, En, H, D
St. Ignatius	B, En, H, D, El, P, M
Shelby	B, En, H, D
Sidney	B, En, H, D
Stevensville	B, En, H, D, El, P, M
Three Forks	B, En, H, D
Townsend	B, En, H, D
Troy	B, En, H, D, M
West Yellowstone	B, En, H, D, M
Whitefish	B, En, H, D, P, M *(1 mile)
Wolf Point	B, En, H, D

Codes enforced by the Jurisdiction

B Building	E Elevator	D Dangerous Bldg
El Electrical	H Housing	M Mechanical
En Energy	P Plumbing	* city extended jurisdiction

GRAPHICAL REPRESENTATION OF INCREASING CONSTRUCTION ACTIVITY ELECTRICAL PERMITS (FY 88 - FY 95) BUILDING CODES BUREAU

Manageable Electrical Inspector Workload - 600± New Permits Per Year



MANAGEABLE WORKLOADS BUILDING CODES BUREAU INSPECTION/PLAN REVIEW STAFF

Electrical Inspectors:

Target Workload (Ave.) - 450 \pm New Permits/Yr./Inspector

Manageable Workload (Ave.) - 600 \pm New Permits/Yr./Inspector

Present (1995) Workload (Ave.) - 750 New Permits/Yr./Inspector (With 3 Emergency Inspectors)

Plumbing/Mechanical Inspectors:

Target Workload (Ave.) - 300 \pm New Permits/Yr./Inspector

Manageable Workload (Ave.) - 400 \pm New Permits/Yr./Inspector

Present (1995) Workload (Ave.) - 670 New Permits/Yr./Inspector

Building Inspectors:

Target Workload (Ave.) - 140 \pm New Permits/Yr./Inspector

Manageable Workload (Ave.) - 180 \pm New Permits/Yr./Inspector

Present (1995) Workload (Ave.) - 220 New/Permits/Yr./Inspector

Plan Reviewers:

Target Workload (Ave.) - 250 \pm Plans/Yr./Reviewer

Manageable Workload (Ave.) - 300 \pm Plans/Yr./Reviewer

Present (1995) Workload (Ave.) - 450 Plans/Yr./Reviewer

BUILDING CODES BUREAU PERMITTING ACTIVITY SUMMARY

<u>BUREAU PERMITS</u>	<u>ACTUAL FY 88</u>	<u>ESTIMATED FY 95</u>	<u>'88-'95 CHANGE</u>	<u>PROJECTED FY 96 & 97</u>
BUILDING PERMITS	431	890	+ 106%	1,000
ELECTRICAL PERMITS	8,005	14,000	+ 75%	14,000
PLUMBING PERMITS	903	2,000	+ 121%	2,400
MECHANICAL PERMITS	314	650	+ 107%	700
PASSENGER ELEVATOR/ ESCALATOR CERTIFICATES	853	1,150	+ 35%	1,200

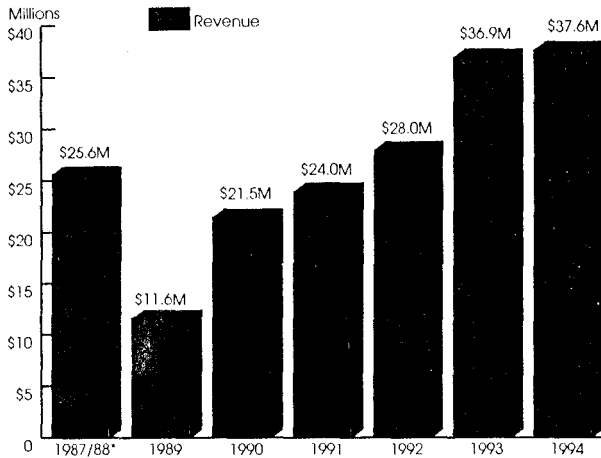
EXHIBIT 1
DATE 2-9-95

BIG things HAPPEN

you play the Montana Lottery

Montana Lottery Revenue

Fiscal Year Figures

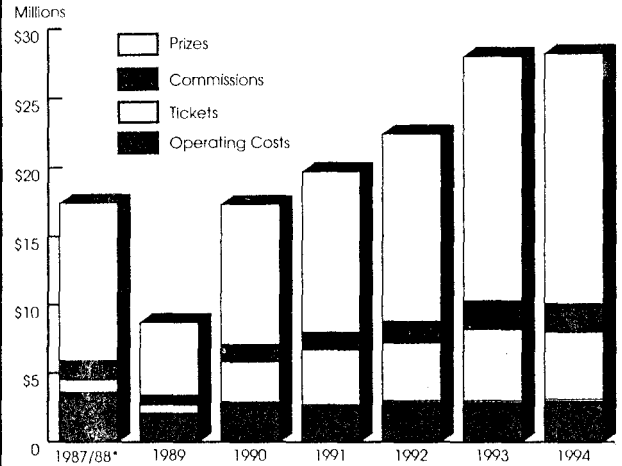


*Combines first month of Sales in FY 1987 and all of FY 1988.

Total revenue for fiscal year 1994 increased 2% setting a new record.

Montana Lottery Expenses

Fiscal Year Figures



*Combines first month of Sales in FY 1987 and all of FY 1988.

Expenses directly related to increased sales (prizes, commissions, ticket costs) continue to rise in relation to revenue generated, while operating costs remain virtually flat.

Explanation of categories:

Revenue: Ticket sales, earnings on investments and licensing fees.

Prizes: A minimum of 45 percent of all sales revenue is returned to players in the form of prizes.

Tickets: Each SCRATCH ticket costs the Lottery approximately 5 cents to produce and each on-line ticket costs approximately 15 cents.

In November 1989, midway through fiscal year 1990, the Lottery introduced the first of its on-line

The beneficiaries of the Montana Lottery extend well beyond the Office of Public Instruction and the Board of Crime Control. In fiscal year 1994, prizes awarded to Lottery players exceeded \$18 million, and over 700 retailers who sell the Lottery's SCRATCH and Lotto games earned more than \$2.1 million in commissions and bonuses. These funds help fuel our local economies.

The Lottery's mission is to "Maximize revenues as well as transfers and ensure that policies and rules adopted further revenue maximization." By offering an increased variety of SCRATCH games, and continuing to enhance Lotto products, the Montana Lottery experienced its most successful year. The Lottery ended fiscal year 1994 by transferring a record \$9.4 million to the Office of Public Instruction and the Board of Crime Control.

The Lottery's overall approval rating continues to rise.

EXHIBIT

DATE

HB

2
2/9/95

Montana

The Lottery ended fiscal year 1994 by transferring a record \$9.4 million!

The Montana Lottery, a multi-million-dollar revenue-generating business, is operated by the State of Montana. A five-member commission, appointed by the Governor, oversees the Lottery's activities and procedures. The Governor also appoints a Lottery Director who coordinates the Lottery's four divisions: Administration, Security, Operations and Marketing.

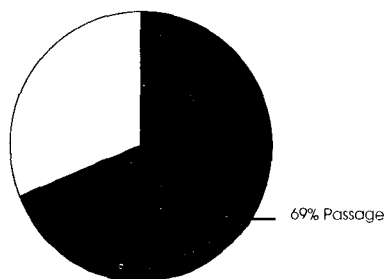
Montana voters approved the Montana Lottery Act on November 4, 1986. The referendum passed by nearly 70 percent of the popular vote and carried in all 56 counties. ***A baseline study conducted early in 1994 with Montanans across the state indicates that the Lottery's approval rating has grown to 77 percent.***

In terms of total revenue and transfers, the Lottery's fiscal year 1993 financial success was repeated in fiscal year 1994. With a 2 percent increase in total revenue, to \$37.6 million, and an increase in net revenue of 5 percent, to \$9.4 million, the Lottery continues to meet its mandate. ***Since startup in June of 1987, the Lottery has transferred over \$41.6 million to help fund elementary and secondary public schools; and over \$1.7 million to the Board of Crime Control.***

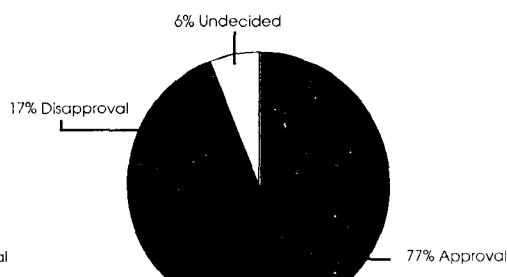
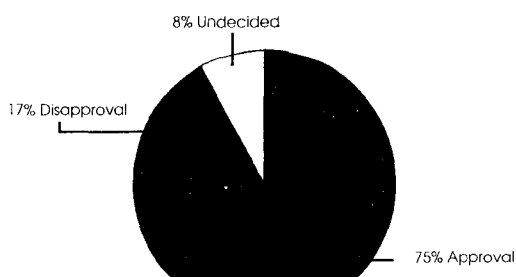
In 1989, the Montana Lottery expanded its product line and introduced its first Lotto game, Lotto*America, which offered multi-million-dollar jackpots. MONTANA CASH was introduced to Montanans in May 1991 and the

multi-state Lotto*America game was replaced by POWERBALL in April 1992. In February 1994, Montana joined with Idaho and South Dakota to offer TRI-WEST LOTTO to their players. ***Since the introduction of the Lotto*America game in fiscal year 1990, the Montana Lottery has increased revenue by 75 percent and transfers to the state by 124 percent.*** Operating costs have remained nearly constant, increasing just 3 percent over fiscal year 1993 despite the addition of the new TRI-

Lottery Approval Ratings Rising



1986 Referendum Passage



OFFICE OF INDIAN AFFAIRS

FEBRUARY 1995

OVERVIEW:

Current census figures (1990) indicate that the Native American population of Montana is 47,679, or 5.97% of the state's total population of 799,065. The number of Native Americans that actually reside within the boundaries of the seven reservations is 30,026 (63% of the Native American population). For varying reasons, one of which is the mostly isolated geographic location of the reservations, the economic and social conditions for the Native Americans residing on the reservations are in a critical state. The manifold efforts by individuals and governments (Tribal, State and Federal) that seek solutions to the problems faced by Native Americans in Montana are hampered by a severe lack of coordination or a unified approach.

As a way to battle the existing problems and serve the best interests of the Native Americans of Montana, the State Legislature established the office of Coordinator of Indian Affairs. The office and accompanying statutory policy were set up to foster a plan that provides the Native American citizens of Montana the opportunity to take their rightful place in this society and in this state.

The resulting mandate of the Coordinator of Indian Affairs is to serve as liaison between the several governments (Tribal, State and Federal) and the Native American peoples of Montana for purposes of enabling them to achieve, individually and collectively, economic and social well-being.

PRIMARY RESPONSIBILITIES:

The office of the Coordinator of Indian Affairs shall:

- (a) have a thorough and updated knowledge of the problems facing Native Americans and problems facing the state of Montana with regards to Native Americans;
- (b) advise and respond to the executive and legislative branches of state government on Native American issues;
- (c) advise and respond to tribal governments and individual Native Americans on state and federal issues;
- (d) advise and respond to Montana's Congressional delegation on Native American issues;

- (e) serve as advocate for all Native Americans and Native American groups, both public and private; and
- (f) promote cooperation and good relations between all Native Americans and all non- Native American individuals, organizations and governments.

GOAL STATEMENT:

Provide all services possible that promote positive economic progress, cooperation and governmental agreements for the Native Americans of Montana.

Coordinator
Program Officer
Secretary

Kathleen M. Fleury
Lori McGowan
Evelyn Martin

Room 202, State Capitol Building
Helena, Montana 59620

Telephone: (406)444-3702

Fax: (406) 444-1350

JUSTIFICATION FORM OBJECT OF EXPENDITURE

AGENCY NAME DEPARTMENT OF COMMERCE AGENCY NUMBER 6501

PROGRAM NAME DIRECTOR/MANAGEMENT SERVICES PROGRAM NUMBER 81

CONTROL VARIABLE NAME EQUIPMENT CONVERSION TO LAN C.V. NUMBER 92181

DATE 2-9-95
HB

OBJECT OF EXPENDITURE	Base Adj	Com Serv	Zero Base	Accounting Entry	DOCUMENT ADJUSTMENT	FY94 ACTUALS	REQUESTED	
							FY96	FY97
3106			X		Equipment Conversion to LAN.		\$292,809.00	\$43,200.00
PROGRAM				A/E	PROGRAM NAME	CN	FY 96 AMT	FY 97 AMT
51				01100	Economic Development	5100001	\$10,955.00	\$0.00
70				01100	Indian Affairs Coordinator	7070001	\$6,260.00	\$0.00
78				02029	Board of Horse Racing	7800001	\$11,095.00	\$1,309.00
02				02805	Weights & Measures	0200001	\$11,095.00	\$1,309.00
51				02116	Economic Development	5100001	\$2,348.00	\$0.00
39				02824	POL - Medical Examiners	3939013	\$6,000.00	\$0.00
39				02832	POL - Pharmacy	3939019	\$3,000.00	\$0.00
65				02448	Building Codes	6565001	\$51,631.00	\$0.00
73				02121	MT Science & Technology Alliance	7300001	\$9,390.00	\$7,200.00
36				02077	Banking & Financial Division	3600001	\$15,929.00	\$0.00
37				02817	Milk Control	3700001	\$13,512.00	\$1,964.00
52				02116	Montana Promotion	5200001	\$25,505.00	\$0.00
60				03059	Community Development CDBG	6060600	\$3,130.00	\$0.00
51				03207	Economic Development SBDC	5100001	\$2,348.00	\$0.00
77				06001	MT Lottery	7700001	\$44,760.00	\$7,200.00
75				06527	Board of Investments	7500001	\$13,459.00	\$7,200.00
81				06542	Management Services	8108110	\$18,802.00	\$7,200.00
81				06542	Directors Office	8108190	\$6,260.00	\$0.00
62				06043	Local Government Services - Systems	6262006	\$3,130.00	\$0.00
39				06552	POL - Pool	3939040	\$34,200.00	\$7,200.00
TOTALS							\$292,809.00	\$43,200.00

JUSTIFICATION FORM OBJECT OF EXPENDITURE

AGENCY NAME	DEPARTMENT OF COMMERCE	AGENCY NUMBER	6501
PROGRAM NAME	DIRECTOR/MANAGEMENT SERVICES	PROGRAM NUMBER	81
CONTROL VARIABLE NAME	ORACLE DATABASE PROGRAMMING	C.V. NUMBER	92003

OBJECT OF EXPENDITURE	Base Adj	Contr Serv	Zero Base	Accounting Entry	DOCUMENT ADJUSTMENT	FY94 ACTUALS	REQUESTED	
							FY96	FY97
3106			X		Oracle Database Programming. If this proposal is ultimately accepted please establish appropriation authority within the following programs; control variables; and amounts.		\$150,000.00	\$0.00
PROGRAM				A/E	PROGRAM NAME	C/V	FY 96 AMT	FY 97 AMT
60				01100	Community Development CTAP	6060300	\$188.00	\$0.00
51				01100	Economic Development	5100001	\$33,802.00	\$0.00
78				02029	Board of Horse Racing	7800001	\$2,620.00	\$0.00
65				02448	Building Codes	6565001	\$14,240.00	\$0.00
52				02116	Montana Promotion	5200001	\$30,718.00	\$0.00
02				02805	Weights & Measures	0200001	\$2,420.00	\$0.00
37				02817	Milk Control	3700001	\$531.00	\$0.00
36				02077	Banking & Financial Division	3600001	\$1,587.00	\$0.00
60				03059	Community Development CDBG	6060600	\$856.00	\$0.00
74				06031	Board of Housing	7400001	\$184.00	\$0.00
62				06042	Local Government Services - Audit Review	6262200	\$1,938.00	\$0.00
62				06043	Local Government Services - Systems	6262006	\$2,906.00	\$0.00
81				06542	Management Services	8108110	\$10,164.00	\$0.00
39				06552	POL - Pool	3939040	\$47,846.00	\$0.00
TOTALS							\$150,000.00	\$0.00



MONTANA DEPARTMENT OF COMMERCE

Director's Office
1424 9th Avenue PO Box 200501
Helena, MT 59620-0501

EXHIBIT 5
DATE 2-9-95
HB _____

Phone: (406) 444-3494
FAX: (406) 444-2903
TDD: (406) 444-2978

Report to the Legislative Appropriations Subcommittee Office of Consumer Affairs Department of Commerce

I. Consumer Advocacy Provided by Office of Consumer Affairs

Last year, the Office of Consumer Affairs recovered almost \$600,000 for Montana consumers. This amount includes recoveries for cash refunds, cancellation of contracts, and replacement or repair of products. This recovery also reflects the savings to Montana consumers because the Office advised Montanans not to participate in specific deceptive or unfair business transactions offered to them.

II. Consumer Education Provided by Office of Consumer Affairs

The Office educates Montana consumers about consumer protection. Presentations have been made to high school classes, consumer advocacy groups, senior citizen groups, and attorney conferences pertaining to consumer fraud and consumer protection.

A. Information provided to Montana consumers by the Office in 1993:

- (a) Small claims court procedure brochures mailed to consumers
- (b) Landlord-Tenant Act brochures mailed to consumers
- (c) Consumer Protection Act mailed to consumers
- (d) New Vehicle Warranty Act mailed to consumers
- (e) Personal Solicitation Sales Act mailed to consumers
- (f) Unfair Trade Practices Act mailed to consumers

B. Public and media warnings of consumer scams provided by the Office of Consumer Affairs for 1993:

- (a) Yellow pages
- (b) free vacations
- (c) overseas employment
- (d) winning trips or vacations
- (e) employment opportunities
- (f) child protection
- (g) Milestone Educational Institute - Massachusetts
- (h) credit repair
- (i) telemarketing
- (j) elder fraud
- (k) lemon law

III. The Montana New Vehicle Warranty Act - Title 61, MCA

Over four hundred consumers have sought the assistance of the Office regarding automobile problems. The Department issues certification to companies in compliance with federal law - Magnuson Moss Act - and Montana's New Vehicle Warranty Act. The Office provides information to consumers regarding the New Vehicle Warranty Act and manufacturer arbitration programs.

IV. Postsecondary Proprietary School Program

The Office oversees the function of Postsecondary Private Proprietary School law. The Office assures that adequate bonding of agents and schools exists prior to licensure or renewal. The Department also preserves school and student records following school closure.

EXHIBIT 6

DATE 2/9/95

HR

Scams

HOW SMALL BUSINESSES CAN SURVIVE

Schemes



Deceptive

THE GREAT AMERICAN RIP-OFFS

Offers

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

TELEMARKETING FRAUD

HOW TO SPOT IT
HOW TO AVOID IT

Presented as a public service by:
Federal Trade Commission
National Association of Attorneys General

EXHIBIT 7
DATE 2-9-95

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



HOUSE OF REPRESENTATIVES
VISITOR REGISTER

COMMITTEE _____

BILL NO. _____

DATE 219

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jon Nae	Commerce	✓	
Bill Hoffmann	Commerce	✓	
Bill Tellison	Commerce	✓	
Sam Murfitt	Commerce	✓	
Jim Brown	Commerce	✓	
Nudy Poole	Commerce	✓	

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