

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT & TRANSPORTATION

Call to Order: By CHAIRMAN ED GRADY, on February 16, 1995, at
8:15 a.m.

ROLL CALL

Members Present:

Rep. Edward J. "Ed" Grady, Chairman (R)
Sen. Thomas A. "Tom" Beck, Vice Chairman (R)
Rep. Gary Feland (R)
Sen. Eve Franklin (D)
Rep. Joe Quilici (D)

Members Excused: None

Members Absent: None

Staff Present: Lorene Thorson, Legislative Fiscal Analyst
Shirley Benson, Office of Budget & Program
Planning
Rosa Fields, Committee Secretary

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

Committee Business Summary:

Hearing: Legislative Agencies
Executive Action: None

{Tape: 1; Side: A; Approx. Counter: 20; Comments: n/a.}

HEARING ON LEGISLATIVE AGENCIES

Legislative Opinions:

SEN. DELWYN GAGE explained and handed out a flow chart that showed the makeup of the legislative branch. **EXHIBIT 1** He then passed out a graph showing the legislative agencies portraying the FTE level from 1980 to the present. **EXHIBIT 2** The next handout he discussed covered agency leave time. **EXHIBIT 3** He submitted written testimony regarding the Pacific Northwest Economic Region. **EXHIBIT 4**

CHAIRMAN GRADY asked if the Senator was proposing that the budget be moved back up to the levels where they used to be before cuts

were made. **SEN. GAGE** denied that and said that many cuts could be made and still have adequate funding.

REP. JOE QUILICI clarified that the travel was going to be cut by \$25,000 each year.

REP. TOM NELSON stated that as chairman of the legislative finance committee he felt that the staff's budget has been cut down as far as it can.

REP. QUILICI asked how much comp time the LFA's office puts in. **REP. NELSON** answered that he did not know and referred to the third exhibit.

{Tape: 1; Side: A; Approx. Counter: 535; Comments: n/a.}

REP. HAL HARPER said that there are overwhelming duties that are required from the EQC and the amount of work should be considered when cuts in FTE are proposed. He asked that the committee not separate the budgetary support from the statutory duties that are required.

REP. QUILICI asked if the federal Clean Water Act has any effect on involvement. **REP. HARPER** explained that there are monitoring and interacting duties that will become more efficient upon reorganization.

CHAIRMAN GRADY mentioned that all agencies should be treated the same and that the public wants less government so the committee needs to make some budget cuts. **REP. HARPER** said that there should be a relative balance between the executive, legislative and judiciary branches.

{Tape: 1; Side: a; Approx. Counter: 880; Comments: n/a.}

Agency Presentations:

Clayton Schenck, Legislative Fiscal Analyst, explained the legislative agencies unified presentation beginning on page A-1 of the Legislative Fiscal Analyst (LFA) book.

{Tape: 1; Side: B; Approx. Counter: 000; Comments: n/a.}

Mr. Schenck stated that these perspectives were being represented from the branches based on what is best for the legislature and not each agency. He continued with his explanation of the employees and their workloads.

{Tape: 1; Side: B; Approx. Counter: 130; Comments: n/a.}

Bob Person, Legislative Council, presented information regarding legislative agencies alternating between **EXHIBIT 5** and **EXHIBIT 6**.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: NA.}

Bob Person continued with his overview.

{Tape: 2; Side: A; Approx. Counter: 440; Comments: NA.}

Bob Person gave an introduction to the new proposals for the legislative branch as listed on page A-2 of the LFA book.

Hank Trenk, Legislative Services Division, walked the subcommittee through the Central Network System Enhancement starting on page A-2 of the LFA book. He handed out and explained the Legislative Branch Technological Achievements.
EXHIBIT 7

{Tape: 2; Side: B; Approx. Counter: 00; Comments: NA.}

Scott Seacat, Legislative Auditor, said that all the legislative agencies have put their budgets for computer systems in the council budget. He described the FTE data for his office from the second and sixth exhibit. He gave a brief overview of the individual agency budgets as shown in the LFA book.

{Tape: 1; Side: B; Approx. Counter: 230; Comments: NA.}

Mr. Schenck gave testimony regarding his office starting on page A-7 of the LFA book.

SEN. EVE FRANKLIN gave positive testimony about using the information from the LFA book.

{Tape: 2; Side: B; Approx. Counter: 600; Comments: NA.}

Mr. Person added that the legislature has the opportunity to set up priorities or not and there needs to be a structure that looks at everything from the legislative policy through the complete implementation of that policy. He went over the budget priorities handout. **EXHIBIT 8**

Jerry Noble, Environmental Quality Council (EQC), gave testimony regarding his agency budget with the data from the LFA book starting on page A-17.

{Tape: 3; Side: A; Approx. Counter: 00; Comments: NA.}

Bob Nelson, Consumer Council, gave testimony regarding his agency budget with the data from the LFA book starting on page A-21.

Terry Johnson, LFA, clarified that the interest from an earmarked account would be turned back into the general fund.

Mr. Noble resumed his testimony with the EQC budget.

REP. GARY FELAND asked if the Consensus Council could take on the EQC responsibilities. **Mr. Noble** explained that the two agencies are not close enough to interchange responsibilities.

CHAIRMAN GRADY asked if the legislature should look at cutting the budget when there are many studies before the legislature now that are going to require a lot of work. **Mr. Noble** said that they should not cut the staff when they are going to be needed for the studies.

CHAIRMAN GRADY asked if the legislative council had any expertise in the drafting of the environmental laws. **Mr. Noble** stated that the expertise is at the EQC and the two agencies work together.

CHAIRMAN GRADY inquired if any other agency could handle the Montana Environmental Policy Act (MEPA). **Mr. Noble** replied that someone would have to do it and they have a staff lawyer that does that job. They do the overview and education of MEPA and they do the best job that anyone could on it.

Deborah Schmidt, EQC, stated that Montana is the only state that does not have a Mandatory Forest Practices Act because of the study done by the EQC and they have an effective program that polices itself with Best Management Practices. She presented the budget for the EQC and explained why there was a separate legislative agency on the environment. The Water Policy Program is the same and has not changed.

{Tape: 3; Side: B; Approx. Counter: 00; Comments: NA.}

Ms. Schmidt explained the duties of her position at EQC. She said that the EQC has a two-pronged function: MEPA and legislative services.

CHAIRMAN GRADY questioned the 0.5 FTE reduction and **Ms. Schmidt** replied that it would mean a layoff.

SEN. TOM BECK asked if there could be a \$10,000 reduction in personal services and if the 0.5 FTE could be taken with the reduction. **Ms. Schmidt** explained that it could not and the 6.5 FTE were allocated for payroll and not actual staff. She went on to further explain the reorganization of staff between the legislative council and EQC.

REP. FELAND asked where the overflow of drafting bills goes if the EQC had too many. **Ms. Schmidt** said that the overflow went into comp hours. She stated that the EQC must draft the bills having to do with the environment and the legislative council already has enough overtime. The EQC has oversight and works with the executive branch to draft model rules and then the agencies adopt them. She went on to explain the hardships that the EQC may face if there are further cuts.

SEN. BECK added that there are some major reorganization plans coming up and they might help address some of the problems. He said that the committee was trying to make their workload compatible to the FTE they have. **Ms. Schmidt** said that the study of HJR 10 by **REP. DICK KNOX** is very important.

CHAIRMAN GRADY asked why people could not come forward and say that a law is unenforceable and get rid of it. He questioned why there were housekeeping bills and said to get rid of a law if they can't administer it.

SEN. FRANKLIN stated that there needs to be some oversight of the big picture.

{Tape: 3; Side: B; Approx. Counter: 410; Comments: NA.}

Dave Bohyer, Research Division, explained the budget for the legislative council interim studies and conferences program (5).

EXHIBIT 9

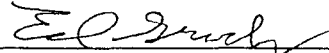
{Tape: 4; Side: A; Approx. Counter: 00; Comments: NA.}

Mr. Person gave a short overview of the budget.


{Tape: 4; Side: A; Approx. Counter: 50; Comments: Meeting adjourned.}

ADJOURNMENT

Adjournment: 11:50 a.m.



ED GRADY, Chairman



ANDREA SMALL, Recording Secretary



EG/as

ELECTORATE

EXHIBIT

DATE

2/16/95

LEGISLATURE

ATTACHES

HOUSE

SENATE

HB

ATTACHES

COMMITTEES

COMMITTEES

CONSUMER
COMMITTEE

AUDIT
COMMITTEE

LEGISLATIVE
COUNCIL

NCSL

CSG

PNWER

OTHERS

CONSUMER
COUNSEL

LEGISLATIVE
AUDITOR

LEGISLATIVE
SERVICES
OFFICE

EXECUTIVE
DIRECTOR

CODE
COMMISSIONER

LEGISLATIVE
FISCAL ANALYST

JOINT
INTERIM
SUBCOMMITTEES

BUDGET
COMMITTEE

INDIAN
AFFAIRS
COMMITTEE

ELIMINATED COMMITTEES

FINANCE COMMITTEE

ROC

ACC

EQC

WPC

MT-Western Canadian Provinces
Boundary Committee

JTPA
REVIEW
COMMITTEE

ENVIRONMENT &
WATER POLICY
COMMITTEE

OTHER
COMMITTEES
AS CREATED

LEGEND



Organizational entity



Legislature-committee relationship



Committee/staff hierarchy



Administrative/Policy coordinator/Services
through legislative council/LSO



Intergovernmental entities



Staff services

HB

Montana Legislative Agencies
 Authorized FTE Levels

Fiscal Year -->	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Auditor	50	50	58	65	65	65	60	60	60	60	60	67.5	67.5	63.5	63.5	
Fiscal Analyst	9	9	15	15	15	15.5	17.5	18	18.5	19	19	17.5	17.5	16.8	16.8	
Council	53.33	62.83	51.5	60.25	43.5	55	43.5	44.7	54.45	53.7	53.7	45.7	45.7	42.97	48.14	
EOC	0	0	4.75	4.75	6.25	6.25	6.25	6.5	6.5	6.25	6.25	7	7	0.5	0.5	
Consumer Counsel	4	4	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.25	5.25	5.25	
Total	122.33	131.83	133.5	140.25	134	146	131.5	146.5	133.05	144.2	133.2	143.2	141.95	150.45	135.02	140.19

Legislative Agencies
 Authorized FTE

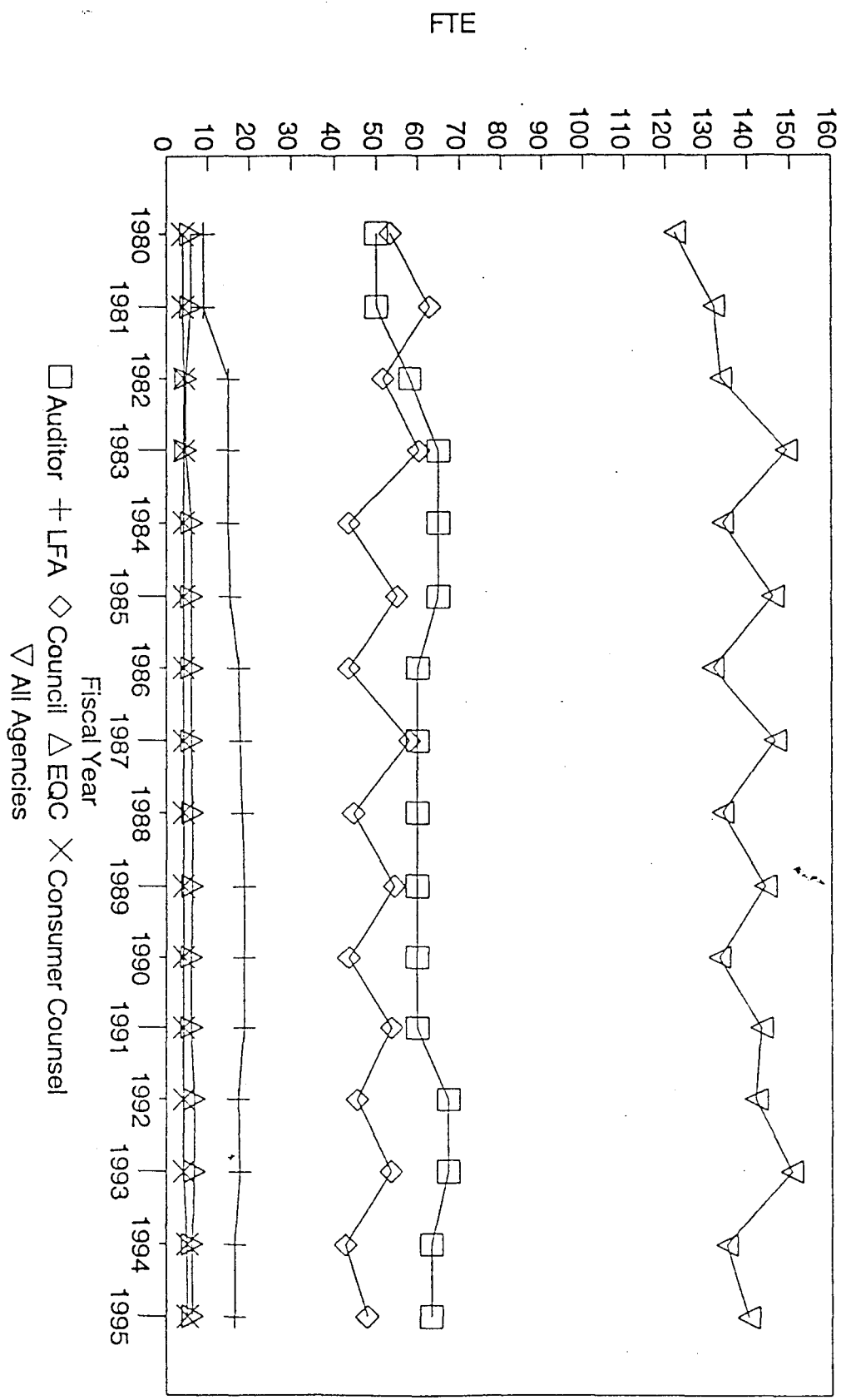


EXHIBIT 3
DATE 2/16/95
HB _____

Selected Legislative Agency Leave Liability
Pay Period Ending 2/3/95

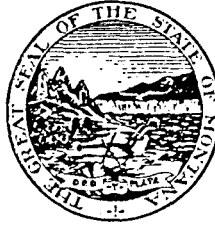
Agency	Annual Leave -- Hours	Compensatory Time -- Hours	Sick Leave -- Hours
Leg. Council	4,594	5,484	11,246
EQC	677	549	1,678
Leg. Auditor	6,583	1,164	15,162
Fiscal Analyst	3,230	6,594	6,706
Total	15,084	13,791	34,792

Montana State Senate

EXHIBIT 4

DATE 2/14/95

HB _____



SENATOR DELWYN GAGE
SENATE DISTRICT 43

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CAPITOL BUILDING
HELENA, MONTANA 59620-0500

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COMMITTEES:
TAXATION
EDUCATION
LOCAL GOVERNMENT

The Big Sky Country

TO: SUB-COMMITTEE ON GENERAL GOVERNMENT
COMMITTEE ON HIGHWAYS AND TRANSPORTATION

FROM: SENATOR DEL GAGE *MD*

RE: LEGISLATIVE BRANCH BUDGET
PACIFIC NORTHWEST ECONOMIC REGION

DATE: FEBRUARY 13, 1995

CHAIRMAN ED GRADY, VICE-CHAIRMAN TOM BECK, & COMMITTEE MEMBERS:

I have been involved with this organization from the initial meeting in 1989 to the present time. The legislature in past years eliminated nearly all of the travel appropriation and half of the dues to this organization. The dues for Montana, Idaho, and Alaska are \$15,000 per year for each state and for Washington, Oregon, British Columbia, and Alberta, it is \$25,000 per year for each.

It is my opinion that the potential benefit to Montana from membership in this organization is tremendous. The organization has been expanded to include the Governors of all five states and the premiers of the two Canadian provinces. There is also a private sector council to advise and help with the efforts for businesses in this region to compete on a global basis.

The budget for the committee is \$46,168 as proposed by the executive. I urge you not to reduce the dues of \$30,000. The balance is for travel. It has been my experience from the past that only one or two of the legislators attend the meetings. There are usually two meetings per year. It seems to me that a travel budget of \$10,000 is sufficient. I have been attending meetings the past year at my own expense. The organization has allowed full participation even though our dues have not been paid in full for some time.

Thanks for your consideration of this input. If I can answer any questions you may have, let me know.

**Presentation of Bob Person
Executive Director, Montana Legislative Council
to the
General Government Subcommittee of the Committees on
Appropriations and Finance and Claims**

Good morning. I thank Chairman Grady and the Subcommittee for working with us to present this information to you this morning.

Recent years have seen almost continual discussion regarding the organization of the branch. This subcommittee has a major role in those discussions. Reorganization is among the most popular tools used in the eternal search to improve government. Those who would craft reorganization do better when they understand what they are about to reorganize and have a clear vision of what result they wish to achieve. I first prepared the material on our organizational development for the Legislative Reorganization and Improvement Commission.

Then last October, at the request of the Legislative Leadership, I spoke to the Commission to Renew Government on this issue.

Over the course of the Commission's work, they discussed at some length whether to recommend reducing the number of legislators and decided against that. A side issue apparently developed that Chairman Buchanan had a lot of fun with. While he had a lot of fun, that fun

was at your expense and that of your staff. Simply put, Buchanan promulgated a thesis around the state that I have paraphrased as follows:

The legislature's agencies are growing excessively, and the legislature seems to have no control over the growth.

This thesis statement was apparently accepted by Mr. Buchanan but it is simply not supported by the facts. The thesis is truly troublesome in that it was stated so often and quoted so often with no support. It also bothers me that it in essence slandered the Legislature as a body that had no control of itself or its agencies. In a moment, I will demonstrate the falsehood of the thesis for you with some graphic data. While I do challenge the thesis to the extent that it falsely describes the present, I do not deny that the agencies have grown. In fact, there were no agencies in the early fifties. So after we review the data, I want to talk about our organizations and how they came to be. Mine is not an effort to defend the *status quo* (*status quo* -- President Reagan said that is Latin for "the mess we're in) or to attack it. It is for you to understand the situation and together we can work toward meaningful change.

Growth Data

Let's look at some data. The first slide shows authorized FTE levels for the Legislative agencies. The data show ups and downs related mostly to the temporary employees hired by the Legislative Council for session work. But the overall trend is really flat in the 1980's.

As far as current trends are concerned, these data dismiss the thesis of excessive growth. There just has not been any at all. (With no growth, what is it the Legislature can't control?) QED.

But, you say, let's go back further. Here you have it. Lots of growth. This chart compares FTE to the state population, but the conclusions are clear. There was lots of growth in the 1970's and the trend is now stable or slightly downward.

Quickly, a couple of other measures.

Feed Bill Appropriations per \$1,000 of personal income show a peak in 1979 and a continual drop since then. The numbers are very high in 1973, but I have only a guess what that means.

Comparing feed bill appropriations to inflation, we see we are not increasing at the rate of inflation.

I suppose I could have gotten more numbers, but the point should be clear, the Legislature and its agencies are not on a runaway. Costs and activities are fairly stable and controlled.

How did things get like this?

What happened in the 1970's? What happened before then? Where did all this come from and what is going on?

First, let me share a few ideas on organization and reorganization with you.

People organize to accomplish bigger things than one person can. An organization that achieves goals supported by society in a better way than a competing organization is thought of as a better organization. "Better" has many connotations. The organization's goals must be accomplished effectively and with relative efficiency. However, the goals must make sense. For example, efficient production of 1959 Nash Ramblers is not going to support much of an organization nowadays. Therefore, judging the merit of any organizational structure or its reorganized model entails looking at organizational goals and determining the degree to which they make sense and are or can be met with effectiveness and efficiency. In any reorganization effort, then, it is crucial to have established very clear and widely accepted organizational goals to ensure that structural reforms are done in pursuit of those goals. I hope that is how you would evaluate both current organization and proposed changes.

Montana currently has five staff agencies in the Legislative Branch. The House and Senate are also recognized as "agencies" within the state system, and for administrative reasons they should be considered. Of the five staff agencies, two (the Legislative Council and the Office of the Legislative Fiscal Analyst) exist primarily to serve the legislative function, two (the Office of the Legislative Auditor and the Environmental Quality Council) exist for other purposes but also to serve the Legislature, and one (the Office of Consumer Counsel) has primarily a nonlegislative function. The Legislature established these agencies over the years since 1957. Whether or not the current organization is the best that can be, it did not come to be by accident. I have prepared a brief history of this subject, which I will leave with you today.

That history shows six broad eras of interest to us here:

1. The 1800's -- Corruption, reform, and limits
2. 1889 to 1950 -- Ideas from elsewhere
3. 1950's -- The Legislature Stirs
4. 1960's -- Fiscal Responsibility
5. 1970's -- The Decade of Change
6. 1980's to now -- Outer Stability

Let's take a quick look at each of these periods.

Eras of Legislative History

1. The 1800's -- Corruption, reform, and limits
2. 1889 to 1950 -- Ideas from elsewhere
3. 1950's -- The Legislature Stirs
4. 1960's -- Fiscal Responsibility
5. 1970's -- The Decade of Change
6. 1980's to now -- Outer Stability -- Inner Disquiet

Separate slides for each with extemp talking on each of the points:

The 1800's

Corruption, reform, and limits

1889 to 1950

Ideas from elsewhere

**Legislative Reference Bureau
Legislative Council**

1950's

The Legislature Stirs

**Commission on Reorganization of State
Government**

Legislative Council

1960's

Fiscal Responsibility

Legislative Audit

Fiscal Review Committee

1970's

The Decade of Change

Environmental Quality Council
Citizens Conference on State Legislatures and Sometime Governments
Capitol Building and Planning Committee
Constitution
Council Reorganization

Consumer Counsel
 Legislative Fiscal Analyst
 Code Commissioner
 Administrative Code Committee
 Committee on Indian Affairs
 Revenue Oversight and Coal Tax Oversight

1980's to now

Outer Stability -- Inner Disquiet

SB 451
 New Audit Responsibilities
 Legislative Reorganization and Improvement Commission
 University System Funding Committee
 Computer Systems Planning Council
 Legislative Management Committee
 Revenue Estimating Revisions
 Ongoing Discussions

Conclusion

We have shown that the Legislature has grown over the years in response to public petitions. The growth occurred almost entirely before the early 1980's and has stopped largely due to perceptions of what people want. Currently there are competing views within the Legislature as to whether the current arrangements are as they should be. I have no doubt those views will be brought forward and contested. When a majority of each house believe the best interests of the state and their ability to serve their constituents will be served by change, it will come. Your important work will be a part of those decisions in the future.

Finally, as you evaluate both the history of legislative agencies and

consider your ideas for change, what should be your guideposts?

Fashions swing between attacks and embraces where the Legislature is concerned.

Please consider the following:

Ideally, the Legislature should be able to:

- innovate in the development of public policy;
- exercise continuing oversight over state administration agencies and their programs;
- undertake comprehensive long-range planning for the state's economic and social development;
- evaluate and review its own performance; and
- identify and provide for future needs before they become critical.

Each citizen should expect the Legislature to be *functional, accountable, informed, independent, and representative*. How well do we do? How would change improve things?

Exhibit

EXHIBIT 6
DATE 2/16/95
HB _____

Development of Legislative Agencies in Montana
Adapted from a presentation prepared for
The Legislative Reorganization and Improvement Commission

By Robert B. Person
Executive Director, Montana Legislative Council
July 1988

Revisions: January 1989, June 1991, September 1993, September 1994

Introduction

Reorganization is among the most popular tools used in the eternal search to improve government. Those who would craft reorganization do better when they understand what they are about to reorganize and have a clear vision of what result they wish to achieve. To promote understanding, this paper briefly outlines the history of the development of Montana's legislative agencies.

Background

Legislators and committees considering legislative reorganization are heirs to a tradition of efforts to improve the function of the legislative branch of government in the United States and in Montana reaching across a century. Progress has always been slow. Before 1900, general interest in improving the legislature centered on how to restrict the legislature from its excesses. During this period although a separate branch of government, the heart of democracy, and the arena for political, social, and economic conflict, the populace treated their legislature as a necessary evil. Beginning around 1850, reformers concerned themselves with tying legislative hands rather than developing effective legislative systems. The history of these trends became embedded in many state constitutions and traditions. More recently reformers have tried to unshackle the legislature. Staff development has been central to this effort.

Since 1900, we have seen two major movements seeking to provide better information and better staffing for the legislature. These movements were based on the fundamental idea that legislatures did not have sufficient basic

activity experienced since the end of the war. One pressing need was for an interim organization of the Legislature. None existed at the time. The Commission noted the Legislative Council movement and recommended that a Council be established in Montana.

A bill was introduced to implement the recommendation. It proposed that the new agency:

- study and review the entire organization and structure of state government . . . to promote efficiency; and
- review and analyze the various activities and functions . . . consolidation, reorganization, and abolishment . . . of agencies of government.

To accomplish these goals, the Legislative Council was to:

- examine organization of government;
- examine the current condition of all state funds and appropriations;
- receive messages and reports from the Governor and other state officials;
- compel the attendance of witnesses; and
- make such investigations and surveys as it found desirable.

The bill passed the Legislature, but immediately other state officials challenged the law. The Supreme Court declared the bill unconstitutional.

Fiscal Analysis and Post-Audit

The Legislative Council identified the need for fiscal analysis in its first 2 years of study. In its first report, the Legislative Council proposed formation of a special subcommittee of the Council to review the executive budget and state finances generally. To support this role, the Council proposed to hire a Legislative Fiscal Analyst as a part of the Council staff to work with the subcommittee. The legislature did not implement these recommendations, but the proponents had laid the foundations for debates that would span the next decade.

1961

Legislative Post-Audit

During the 1961-62 interim, Representative Henry Hibbard headed the Fiscal Administration Subcommittee of the Legislative Council. He reported for the Subcommittee that there was general agreement that a post-audit would be useful because the financial system then in use covered only receipts and deposits, not expenditures. Senator Dave James explained that a bipartisan legislative committee should supervise the work of the post-auditor. Late in 1961, Governor Don Nutter appeared before the Legislative Council to support the fiscal study and suggested that a post-audit system would probably result.

1963

Legislative Post-Audit

Legislative Council consideration of creating a post-audit function between 1959 and 1962 was manifested in a 1963 bill, sponsored by state Senator John Melcher. The bill survived until the session's waning days, when it died. The concern of opponents in the House was that the proposed \$79,000 cost would be an unnecessary expense. Proponents argued, probably with more

1967

Legislative Post-Audit

In 1967, anticipating another gubernatorial veto of a post-audit bill, a determined group of legislators prepared for early passage of Senate Bill No. 2, introduced by Senators Carroll Graham and Bill MacKay on the first day of the session. Governor Babcock confirmed his continued opposition when he justified his earlier veto in his state of the state address. By February 21, the Legislature had passed the bill with enough support to obviate another veto attempt, and the Legislative Audit Committee was born.

Fiscal Analysis

The Legislature created the Fiscal Review Committee by passing a resolution rather than a bill and appropriated \$36,000 to support the program. So the Legislature in one session saw fit to create separate audit and fiscal analysis functions.

In September 1967, following a summer of interviews, James Van Koten went to work as the first Legislative Fiscal Analyst. At about the same time, Morris Brusett began his work as Legislative Auditor.

1969

Fiscal Analysis

In 1969, Senator Cornie Thiessen introduced Senate Bill No. 177 to make the Fiscal Review Committee permanent by law. After amendment, the bill passed. The law was similar to that establishing the Legislative Council but with added fiscal responsibility. The law required the Council to furnish the Fiscal Analyst and other necessary staff. The Council was responsible for fixing the salary of

amended by the bill, which if adopted would have destroyed the statute. When the question of consideration of Senate amendments came to the floor of the House, the House passed the bill for the day and never put it on the board again.

Later in the session, legislative action transferred funding for the Fiscal Review Committee to the Budget Director. News reports reflected an idea that the Fiscal Analyst would work in the Budget Director's Office and act as a liaison for the Legislature. However, the Legislature did not enact such a change.

By summer, news accounts reported the Fiscal Review Committee to be defunct. It was on the books, but its funding and existence were gone. The Fiscal Analyst at the time eventually left the Council, and the function just faded away. As you will see, however, the perceived need for the function did not fade away.

Environmental Quality Council

Chapter 238, Laws of 1971, sponsored by Representative George Darrow, created the Environmental Quality Council (EQC) as a part of the Montana Environmental Policy Act.

This was the first time that the idea was proposed. Never before had the Legislature created a legislative agency with as little controversy. The idea had its genesis in the National Environmental Policy Act, but Montana is unique in establishing the EQC as a legislative agency. According to the sponsor, the intent was to establish a working partnership between the Executive Branch and the Legislative Branch of state government concerning environmental protection. The EQC was to function as an arm of the Legislature and cooperate with the Executive Branch of state government.

It was in 1973 that a computer was first used to prepare bills for introduction in the Legislature. Because of the way the new system worked, the Council took on additional responsibilities for bill processing after introduction as well. For the first time, rules required the Council to draft and clerically prepare all bills for introduction. Engrossing (the process of inserting amendments into the text of the bill) and enrolling (preparing a bill for transmittal to the Governor) became Council functions rather than functions performed by temporary Senate and House typists.

Along with the reorganization of staff functions came a reorganization of interim committee functions. A new annual session structure and controversy that had arisen over the exercise of power by the Legislative Council both led to the changes. Interim committees had been organized as subcommittees of the Council since 1957. The Council in the end reviewed the work of the subcommittees and adopted and passed on recommendations to the Legislature. When the Council disagreed with a subcommittee conclusion, controversy followed. One feature of the bill passed in 1973 removed the Council from any authority over committee recommendations. Another change provided that the committee work be done by standing committees through joint subcommittees. These subcommittees were organizationally unrelated to the Council. A legislative entity, the Committee on Priorities (essentially Joint Rules), now assigned the studies, and the subcommittees submitted their recommendations independent of the Council. By using standing committees, the legislators believed that they could obtain better continuity with the succeeding session and thus achieve better results from committee work. With annual sessions, this would be especially the case between regular sessions of the same Legislature. Rules allowed such committees to report bills directly to second reading. With the demise of annual sessions, that feature was lost but the structure remained.

Beginning in 1973, the Legislative Council was no longer primarily a research entity. The staff had broadened responsibilities, and the Council itself had become an administrative committee in charge of overseeing staff services to

amendments that established the Legislative Finance Committee as a separate agency with its own staff authority. Efforts to incorporate fiscal analysis in another agency had failed two ways. Now the Legislature decided to try it as a separate entity.

Code Commissioner

By 1975, legal practitioners recognized that the 1947 revision of Montana's statutes had outlived its usefulness. Debate surrounded the issue of who should be responsible for recodification, continuous update and revision of the code after recodification, and publication of the code. Beginning in 1971, the Legislative Council had maintained an electronic data base of the codified laws. The Legislature recognized a synergy that would exist if the Council could use that data base and experienced Council staff to support recodification and code publication besides bill preparation. Thus, the Legislature created the Office of Code Commissioner with responsibility for recodification and publication of the Montana Code Annotated within the Council. The Council appointed Diana Dowling, then the Council Legal Services Director, to additional duty as Code Commissioner.

Administrative Code Committee

In response to steady editorial and legislative chafing against executive rulemaking, the Legislature created the Administrative Code Committee to oversee executive activities and to ensure that those making the rules obeyed the law. Although created with statutory authority for independent staff, the Legislative Council instead agreed to provide staff. (Roger Tippy was the first Council attorney serving as staff to the Committee.) The Legislature formalized the enduring arrangement in 1993.

assure it effectively meets these standards. The task falls to the Legislative Auditor under the general governance of the Legislative Audit Committee.

1983

Environmental Quality Council

Together with accepting an increased role in staffing legislative natural resources committees, increased activity in consideration of legislative matters in the interim, and the appointment of Deborah Schmidt (an experienced Legislative Council researcher and bill drafter) as Executive Director, the Environmental Quality Council (in cooperation with the Legislative Council) accepted increased responsibility to assist in drafting bills and staffing committees in natural resource-related areas.

Senate Bill No. 451

Senator Stan Stephens introduced Senate Bill No. 451 in 1983, proposing to centralize all administration and legislative interim responsibility in a legislative management committee. The bill proposed to abolish all separate committees and agencies. The bill passed the Senate readily, but the House amended it into a study of legislative organization. The two houses were unable to find a compromise, and the House killed the bill as its last item of business before adjourning *sine die*.

1984

Legislative Auditor

In an effort to consolidate the auditing of federal program related expenditures, the Federal Single Audit Act of 1984 concentrated the auditing of Federal related revenues and expenditures with the independent audit officials in the states. The act and subsequent OMB Circular A-128 defined new and

December 5 bill request deadline. While there was no recommendation for general reorganization, the Commission had staff consider the issue at length. Representative Bob Marks, a Commission member with a long-standing interest in agency organization, sponsored House Bill No. 681 in 1989. The sponsor based the bill on a proposal that the Commission considered but did not recommend. The bill died in the House Rules Committee with little discussion.

Legislative Fiscal Analyst

The Legislative Fiscal Analyst was assigned to staff a separate committee to study the funding of the University System. This was the first time that the Fiscal Analyst directly supported an interim committee other than the Finance Committee.

1989

Computer Systems Planning Council

The 1989 Legislature created the Legislative Branch Computer Systems Planning Council to coordinate planning and implementation of computer applications in the Legislative Branch. All agency directors are members along with appointees from each house. The Planning Council continues to prove itself a great success in supporting interagency cooperation.

Legislative Management Committee

Changes in legislative rules created a "Legislative Management Committee" composed of the President, Speaker, and Minority leaders. This action followed the defeat of House Bill No. 681, discussed above. Although designed to allow direct leadership involvement in interagency issues, leadership has never used the authority. (The authority may be legally problematic because it fails to address specific statutory authorities vested elsewhere.)

Conclusion

This brief history has been selective. I have tried to emphasize issues thought to be of greatest interest to legislators and the public considering questions relating to Legislative Branch organization. Many internal developments have been left out. For example, regarding the Legislative Audit Committee, there is no discussion of the development of the program audit capacity, the brief foray into sunset and sunrise audits, adding specific requirements for auditing the state lottery, or increased work due to auditing the Workers' Compensation State Fund and the Department of Family Services. This overview does help establish context in which to consider changes or improvements.

A Closing Observation

Recently, a strong trend away from the use of the interim committee for legislative work has continued. In its place, we find more and more permanent and temporary *ad hoc* committees and also complex funding arrangements. For the most part, permanent agencies supply staff support for these committees and are either diluting or supplanting resources that would otherwise be used differently. The Legislative Council gets most of the work. Recently, the Legislature has assigned more duties to the Environmental Quality Council and Legislative Fiscal Analyst for staffing groups other than their governing committees.

Something I call the "pop up" theory may explain the impetus for the trend. The Legislature has not been oblivious to concerns arising since 1980 regarding the size of its agencies and legislative activity. This theory holds that if the Legislature, usually responding to some sort of public pressure, recognizes a need for an organized response, it will act to respond. The pressure will become irresistible finally, and the function will pop up somewhere.

To control and reduce the extent of interim activity, the Legislative Council and the appropriations committees have been very reluctant to support general

- evaluate and review its own performance; and
- identify and provide for future needs before they become critical.

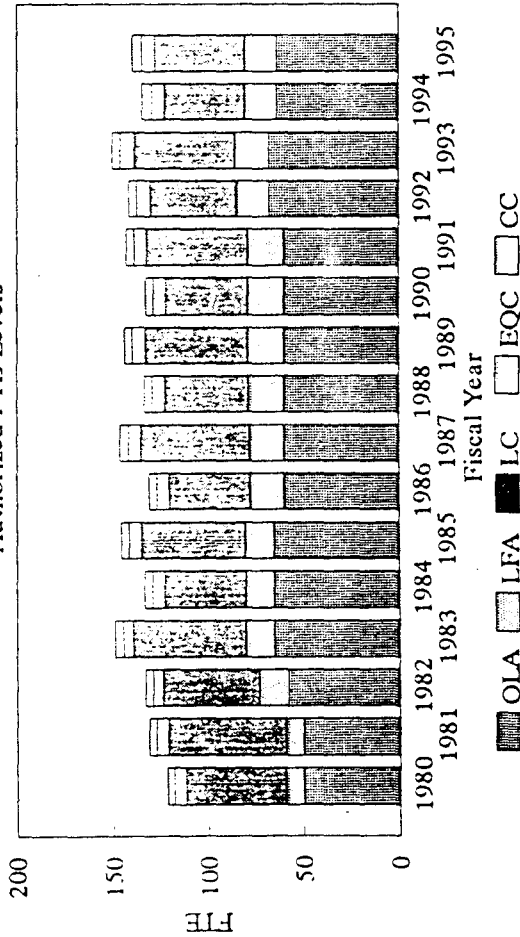
Each citizen should expect the Legislature to be *functional, accountable, informed, independent, and representative*. How well do we do? How would change improve things?

-End-

Montana Legislative Agencies Authorized FTE Levels

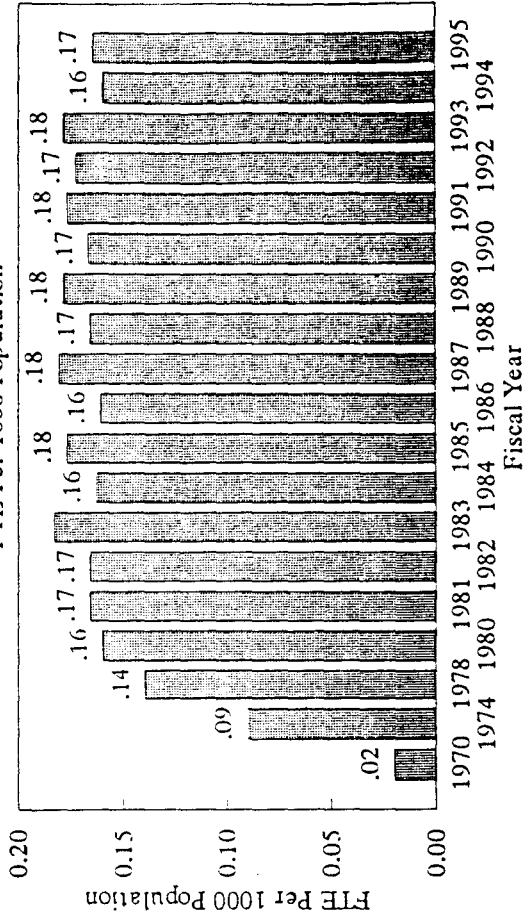
Agency	1970	1974	1978	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Auditor				50.00	50.00	58.00	65.00	65.00	65.00	60.00	60.00	60.00	60.00	60.00	60.00	67.50	67.50	63.50	63.50
Fiscal Analyst				9.00	9.00	15.00	15.00	15.00	15.50	17.50	18.00	18.50	19.00	19.00	19.00	17.50	18.00	16.80	16.80
Council				53.33	62.83	51.50	60.25	43.50	55.00	43.50	58.00	44.70	54.45	43.70	53.70	45.70	53.70	42.97	48.14
EQC				6.00	6.00	4.75	4.75	6.25	6.25	6.25	6.25	6.50	6.50	6.25	6.25	7.00	7.00	6.50	6.50
Consumer Counsel				4.00	4.00	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.25	5.25	5.25
Total	11.50	63.52	112.49	122.33	131.83	133.50	149.25	134.00	146.00	131.50	146.50	133.95	144.20	133.20	143.20	141.95	150.45	135.02	140.19
Auditor				40.87%	37.93%	43.45%	43.55%	48.51%	44.52%	45.63%	40.96%	44.79%	41.61%	45.05%	41.90%	47.55%	44.87%	47.03%	45.30%
Fiscal Analyst				7.36%	6.83%	11.24%	10.05%	11.19%	10.62%	13.31%	12.29%	13.81%	13.18%	14.26%	13.27%	12.33%	11.96%	12.44%	11.98%
Council				43.60%	47.66%	38.58%	40.37%	32.46%	37.67%	33.08%	39.59%	33.37%	37.76%	32.81%	37.50%	32.19%	35.69%	31.82%	34.34%
EQC				4.90%	4.55%	3.56%	3.18%	4.66%	4.28%	4.75%	4.27%	4.85%	4.51%	4.69%	4.36%	4.93%	4.65%	4.81%	4.64%
Consumer Counsel				3.27%	3.03%	3.18%	2.85%	3.17%	2.91%	3.23%	2.90%	3.17%	2.95%	3.19%	2.97%	2.99%	2.82%	3.89%	3.74%

Montana Legislative Agencies Authorized FTE Levels



Montana Legislative Agencies

FTE Per 1000 Population



Legislative Branch Technological Achievements

Legislative Branch agencies have made several technological achievements in applying computer technology. Some of the major achievements are as follows:

- A. Agencies in the Legislative Branch have installed Local Area Networks (LANs), using state and Legislative Branch standards. These networks have been attached to the state data network and thus can communicate with each other and can communicate to the state mainframe. Several of the achievements listed below could not have been accomplished without these networks.
- B. A Bill Status/Bill Tracking system has been implemented and has been continually enhanced over the years. This system helps the House/Senate leadership and staff manage the flow of bills through the legislature so that bill deadlines can be met. It also provides the public with a means of tracking legislative activities on legislation.
- C. The entire MCA camera ready process is now done in-house using a PC-based system with laser printers. This has resulted in a significant savings in cost and no additional FTEs.
- D. Several improvements have been made to the bill drafting process by applying automation. The bill drafters now use a PC to draft the bill instead of writing it by hand. This has resulted in an increase in bill drafting staff productivity and has allowed data entry staff to work on other projects.
- E. A bill conflict check has been implemented. This automated process shows when two bill are amending the same section. A bill drafter then checks to insure that the amendments do not conflict.
- F. The full text of the MCA was placed on CD-ROM. This electronic storage version provides an alternative to publishing the MCA in hardbound version. Purchasers of the MCA CD-ROM can use parts of the MCA in briefs, memos, reports, etc., without having to rekey. In addition, it also provides a means of searching the MCA text for specific words or phrases.
- G. Several improvements have been made to the appropriation process. Better analysis of the appropriation process is being provided through use of

- M. Using the mainframe and the tools now available in Lotus 1-2-3, and expenditure profile system was developed that can provide both historical and current data at the first, second, or third level of expenditure and/or by accounting entity or fund.
- N. Using the advanced features available in Lotus 1-2-3, the revenue estimating system continues to be refined. The impact of a single factor changed by the Revenue Oversight Committee can be reflected throughout the revenue estimate with minimal analyst effort, allowing time for more focus on the analysis rather than on the procedural aspect.
- O. Branch staff, working at various agency sights, can attach to the Branch LAN via the state data network. This improves productivity by allowing the transfer of information easily without travel time to and from the office.
- P. Several mainframe programs have been developed and enhanced which help evaluate the state agency financial information maintained on SBAS and PPP.
- Q. Two EDP audit reports on agency use of information resources, as well as a statewide survey on information resources in state government, have been issued.
- R. Both the House and Senate vote systems have been upgraded to allow the software to run on a standard IBM compatible PC. This has made it easier for staff to support the system because the staff already has PC expertise. Since both vote system PCs are attached to the Legislative Branch Network, it is easy to transfer the votes to the journal, which is also on a PC on the network. Both the House and Senate vote systems also use the network to print votes as they are taken on the network printers in the House and Senate main offices.

1993 - 1994 Achievements

- A. Legislative branch agencies have begun the process of converting the branch network to Netware 4.X. Some branch agencies are on OS/2 Lan Server. This conversion would put all agencies on the state standard for network operating systems.
- B. Assistance was provided to the 1993 Legislature in the analysis of the proposed school foundation/equalization legislation. Legislative staff worked with legislative committees and individual legislators in the design of the formulas to analyze the impact of the legislation on various school districts and district taxpayers.

EXHIBIT 8

DATE 2/16/95

HB _____

Senate Members
DELWYN GAGE
CHAIRMAN
GARY C. AKLESTAD
MIKE HALLIGAN
J.D. LYNCH

House Members
RED MENAHAN
VICE CHAIRMAN
ERVIN DAVIS
H.S. "SONNY" HANSON
NORM WALLIN



Montana Legislative Council

Office of the Executive Director

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Executive Director
ROBERT B. PERSON

TO: General Government and Transportation Subcommittee on
Appropriations

FROM: Robert B. Person, Executive Director

RE: Budget priorities

This memo responds to the January request to discuss spending priorities with the subcommittee forwarded by the Budget Director to the agency.

Priorities not established across programs. The Legislative Council has not established priorities between its two programs. Since essential support for Interim Studies and Conferences is supplied by Council Operations, Council Operations must maintain significant capability if legislative committees funded in Interim Studies and Conferences is to operate.

Priority in budget reduction should be to preserve investments. Over the years, the Legislative Council has invested in developing and maintaining a base of knowledge in its employees and a base of tools used by those employees to provide services to the legislature and the public. These investments should be preserved. Budget reductions should be made in low priority areas of the Interim Studies and Conferences budget before dissipation of Council capital in the operations program.

If it is the case that cuts from the Council's proposal are necessary, the cuts should, as they did last session, reduce activities that are the most discretionary and most easily replaced. I do not recommend cuts in the FTE proposed in the budget except as they may be technical in nature.

Budget reduction priorities:

- (1) Reduce Interim Studies and Conferences Program appropriations for everything but CSG, NCSL, and PNWER, dues and NCCUSL dues and travel.

Montana Legislative Council

Prioritized List of General Fund Spending

Prepared by
Robert B. Person
Executive Director

February 15, 1995

This memo is a revision of one done two years ago for the General Government Subcommittee.

General Comments

Funding priorities is neither easy or precise. The memo asked that the duties listed with priorities as required by law now be coupled with a budget associated with that duty. While the memo suggested adding funding to each item should be accomplished with little trouble, such is not the case.

The Legislative Council has over the years established a highly integrated group of functions funded with a combination of general fund and special revenue fund appropriations. One staff member or group may spend various amounts of time from hour to hour or month to month on different priorities at different times in a biennium. Likewise, a piece of equipment may be used for one project at one time and another later.

The Council budget is based on the functional organization of the office, not on a list of separate activities. To try to make a profound change in the way a budget is organized and presented with no historical basis, no accounting record organization similar in nature, and little logical connection with funding is difficult indeed.

Despite the difficulties, an effort to provide the requested information is included below.

Prioritized list. The list of activities below is taken from the Legislative Council's statement of Mission, Goals, and Objectives prepared as required by 17-7-111, MCA for the Council's Operations Program. Analysis of Interim Studies and Conferences follows in the next section. This list has been reorganized here to separate general fund supported activities from special revenue funded activities. The priorities listed have been endorsed by the Legislative Council.

- (3) to achieve the goals established by the authorizing legislation and committee action for other interim activities such as statutory and ad hoc committees the Council is assigned to support. (1 MT)

[Current level analysis does not apply to this program. See specific activity budgets for funding details.]

7. Provide the Legislature with economical, high-quality services within the Council's assigned areas of responsibility in accordance with the long-term requirements of the legislative institution (1 MT 5-11-105);

[This is a discretionary quality goal statement. Reduced service levels, expediency decisions, and other short term accommodations would need to be made depending on the degree of funding inadequacy. Bill status costs, since they cross several goals and do not fit elsewhere are shown here.]

8. Provide well-qualified, stable, permanent, objective, professional, and nonpartisan staff who provide effective and efficient services to the Legislature in accordance with the general guidance of the Legislative Council and the statutes (1 MT 5-11-111);

[This is a discretionary quality goal statement. Employment of staff and the quality of staff employed is dependent upon task assignments and the desires of the Council and Legislature.]

Priority 3 (General fund)

1. Review ballot issues in accordance with the requirements of 13-27-202, MCA (3 MT 13-27-202).

[This function is mandatory, operates under statutory time limits, and would require amendment of statutes to avoid. Its low priority is due to its removal from the central function of service to the Legislature rather than its role in society.]

2. Operate the Legislative Intern Program in such a way as to meet the requirements of Title 5, chapter 6, part 1, MCA (3 MT).

[Mandatory, but not of central importance to legislative function. Program costs are not documented, but are likely to be less than \$200 in a biennium.]

3. Maintain staff skills through training and information (3 Discretionary).

[This is a discretionary quality goal. Since training time is captured in the system, an allocation is shown here, however, it should be regarded as a distributed overhead. Direct training expenditures have been significantly cut in recent years. The above costs include indirect costs of staff time for internal training, etc.]

4. Support subscriptions to a newsletter that reports interim legislative activities, planned meetings, and other legislative news (3 Discretionary).

[A specific budget may be found in the organizational budget for this discretionary activity.]

5. Support staff accomplishment of assigned duties by providing adequate logistical support, which includes:

- (1) adequate office space and furnishings;
- (2) office equipment, supplies, and materials;
- (3) reference books, materials, and services;
- (4) communications support, including telephone, mail, and other media (3 Discretionary)

[This is mandatory to a point. The level of quality is discretionary, and has not been done particularly well. The cost is distributed. Specific budget allocations are available in the organizational budget.]

LEGISLATIVE COUNCIL: PROGRAM 5
BUDGET RECOMMENDATIONS
1997 BIENNIUM

EXHIBIT 9
DATE 2/14/95
HB

Ms. ROSA FIELDS, SECRETARY
SUBCOMMITTEE ON GENERAL GOVERNMENT

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Gen. Gov. & Trans.

SUB-COMMITTEE

DATE 2-16-95

WITNESS

SPONSOR(S)

Legislative Agencies

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Gerry Noble	EQC		
PAUL RYLANDER	ISD		

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

HR:1993

wp:visbcom.man

CS-14