

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT & TRANSPORTATION

Call to Order: By **CHAIRMAN ED GRADY**, on January 9, 1995, at 8:00 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: Skip Culver, Legislative Fiscal Analyst
Lorene Thorson, Legislative Fiscal Analyst
Terri Perrigo, Legislative Fiscal Analyst
Shirley Benson, Office of Budget & Program Planning
Dan Gengler, Office of Budget & Program Planning
John Patrick, 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: Judiciary
-general overview
-Supreme Court
-Boards and Commissions
-District Court Operations
-State Law Library

Executive Action: None

{Tape: 1; Side: A; Approx. Counter: 000; Comments: This meeting was recorded on two 90-minute audiocassette tapes.}

HEARING ON JUDICIARY
General Overview

Informational Testimony:

Ms. Terri Perrigo, Legislative Fiscal Analyst (LFA), reviewed the budget of the Judiciary, explaining that the difference in numbers between the 1995 and 1997 bienniums is only about \$400,000. She reviewed the format used in the LFA Biennium Budget Analysis book. She said an additional new proposal, which had developed since the time the book was published, would be submitted by the Supreme Court in their budget presentation. She explained that one-time-only appropriations or funds spent through a budget amendment or other bills are removed from the base. **EXHIBITS 1 and 2**

CHAIRMAN ED GRADY pointed out that although it had been agreed to use the 1994 base budget as a starting point, this would not preclude the committee from adjusting the base.

Mr. J.A. Turnage, Chief Justice of the Montana Supreme Court, then gave an overview of the budget. **EXHIBIT 3**
Chief Justice Turnage clarified that if the funding for the additional personnel and training officer FTE for Supreme Court operations requested through an elected official new proposal wasn't made available to address the issues, these mandates would still remain on the law. Failure to address them could result in serious civil liability for state government.

Regarding the ongoing automation of the courts, the Judiciary plans to eventually provide a software package to all the courts in the state, and the intent is that this will not cost the users other than the cost of the taxpayers for implementing and designing the program. In response to **SEN. TOM BECK, Chief Justice Turnage** said he thought they were in the neighborhood of a third of the way done with the automation process. The Legislature has been providing funds for this effort for about six years.

SEN. BECK then asked if district courts were given a priority in automating. **Chief Justice Turnage** answered that they tried to do district court clerks first, but they did get some support from the Department of Justice, Highway Safety Program for the courts of limited jurisdiction.

SEN. BECK said he assumed the 10.0 FTE and funding requested through an elected official new proposal would probably get the automation all on line. **Chief Justice Turnage** replied he would like to think that. It will probably take about 20 months. He stated that it is difficult to find skilled people to design computer software. He stressed that the current system can't continue to function and serve the people in the state unless there is an adequate base for automation.

REP. QUILICI asked for more information about the Foster Care study. Chief Justice Turnage replied that federal legislation was enacted in 1993 which mandated the office of the Court Administrator to commence a program in the district courts for foster care review. They did receive some federal money, in addition to what the state has done.

There has been a pilot program established in Missoula County. When children are placed in foster care, they usually come into the system because of dependency or neglect. The court is then faced with what to do with these children. Placing them in foster homes has in the past been a responsibility of the Department of Family Services (DFS) and the Department of Social and Rehabilitation Services (SRS), but this has not worked out in every instance. Some child abuse cases have resulted in high damages being awarded against the state. The study is an effort to protect the children and do it in a more rational way.

REP. QUILICI asked if the federal funds were drying up. Mr. Patrick Chenovick, Court Administrator, said that the federal foster care study grant is a five-year grant. The first year is totally federally funded, but from the second through the fifth years, it has to be matched with 25% state money. The state did get the grant for the first year. There are no requirements to continue after the first year, so they could pull out if the state funding is not provided.

SEN. QUILICI asked if the funds are passed though to the district courts. Mr. Turnage responded that the program was just getting under way. In the pilot program in Missoula County, rules have been adopted, appointments have been made for the foster care committee, and they're "up and running and ready to go." He stressed there is a need and a general concern by the public about not enough attention being paid by state government to children in foster care.

REP. QUILICI submitted that DFS is the agency that should be looking over the study and wasn't doing their job.

{Tape: 1; Side: A; Approx. Counter: 939; Comments: n/a.}

HEARING ON JUDICIARY Supreme Court

Mr. Chenovick touched on a couple of the questions that were asked by the subcommittee. The Foster Care Review Pilot Program was put into place at the urging of a advocate out of Butte, Cathy Marshall. She was very concerned that the department was not properly keeping track of the children in foster care, and she wanted to have an independent review of their placements. Due to the state's budget deficit problem in 1993, the program was not implemented until after the special legislative session in November, 1993. At that time, the money was put in the budget

for the remainder of the biennium. The statute required that they first solicit those district court judges interested in having a review panel set up in their district.

Mr. Chenovick pointed out that DFS has review panels under its control; this program is in addition to, or in lieu of, current panels already in place.

There were five judges that showed an interest in the pilot program. A committee composed of one member from each house of the Legislature, one district judge, and **Mr. Chenovick** was established to choose who would do the pilot program. Missoula County was selected. About 50 people were interested in sitting on the independent citizen panel. They have had their first hearing in Missoula, and have prepared a report to the Legislature.

Mr. Chenovick said that **REP. JOHN COBB** would be carrying a bill to extend the Foster Care Review Pilot Program, and if that bill is successful they will continue. The federal grant for a foster care study is entirely separate. It was put in place by the Family Preservation Act, which states that the federal government will grant to the highest court in each state funds to review the whole system of foster care placements and make recommendations to implement changes. The federal money that is available is not supposed to supplant any money from counties or the state, so the money doesn't "filter down."

CHAIRMAN ED GRADY asked if **REP. COBB'S** bill contained any funding. **Mr. Chenovick** answered that the bill does have funding for that program; however, no funding is in the Judiciary's current budget proposal. It was his understanding from **SEN. JUDY JACOBSON** that they wanted to have this program "standing on its own two legs" and not part of the base budget.

In response to **CHAIRMAN ED GRADY**, **Mr. Chenovick** answered that **REP. COBB'S** bill pays for the pilot program review panel costs, which the federal money will not pay for.

Mr. Chenovick continued by discussing the automation proposal. They did a "guesstimation" on how much equipment it would take to finish the work in the coming biennium, excluding any staff support or development costs. Just to finish out with the courts, he estimated from \$2.5 million to \$4 million would be the cost. \$1 million will keep them where they are at, plus they will push ahead. They have about 30% of the courts automated now.

In response to **REP. FELAND**, **Mr. Chenovick** said that on the average they've received about \$150,000 per year in funding. Their appropriation for the current biennium is about \$260,000, which does not continue in the upcoming biennium. They do not get any other funding. They provide support to the counties on a free basis, including providing data processing support staff.

REP. FELAND asked what the original estimate had been for completion of the automation program. **Mr. Chenovick** responded that they started in 1988, and the process of assessing what the courts had and where they needed to go took up the first two years. Actual implementation was begun in 1990, including designing software and putting machines in the courts.

In response to **SEN. BECK**, **Ms. Perrigo** answered that she thought there was about \$123,000 per year and 2.0 FTE in the adjusted present law base for this program. **Mr. Chenovick** pointed out that in the actual 1994 base there was no money for automation, because the money is one-time money, but that **Ms. Perrigo** was correct, they were attempting to continue a minimal level of automation activities in the 1997 biennium through the present law adjustment.

SEN. BECK entertained the possibility of adding 3.0 to 5.0 FTE instead of 10.0. **Mr. Chenovick** answered that currently they have 5.0 FTE so if they went down to three, they would not be able to get the job done.

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

Ms. Perrigo said that in the present law budget there are 2.0 FTE and almost \$123,000 to continue court automation activities, that are not in the base budget. The 10.0 FTE being requested through the new proposal would be in addition to those two.

In response to **SEN. EVE FRANKLIN**, **Mr. Chenovick** summarized that the initial amount of funding they got in 1988 was \$200,000 of general fund money. The total for all six years of automation efforts from all sources is \$1 million. **Mr. Chenovick** explained that the initial \$200,000 did not obligate future funds and funding had been on a one-time basis.

SEN. FRANKLIN asked for more information about the job descriptions of the FTE assigned to this program. **Mr. Chenovick** replied that of the 5.0 FTE they have currently on staff, one is a programmer and the others are technical support. He said the FTE report to him, as well as working with the Clerk of District Court's Court Automation Committee.

Mr. Chenovick expressed that it is hard to plan for the future because of the unpredictability of funding. If their proposal is accepted, they will reinstate a commission that was started in 1988, the Commission on Appropriate Technology. He reassured **SEN. FRANKLIN**, however, that they do have a general overall plan on what needs to be in the court to enable the use of information technology. He agreed to supply her with a copy of the plan.

SEN. FRANKLIN asked who his staff was responsible on a technical basis. **Mr. Chenovick** responded that there is a such a person who works with the Department of Administration, who by statute oversees the uniformity of technology in state government. The

Supreme Court's head technical person on staff is one of the 5.0 FTE. If there is something that they can't figure out, they go to the Department of Administration Information Services Division (ISD) and make sure that everything they are doing is compatible with state standards.

CHAIRMAN GRADY wanted to know the status of the issue which had been brought up about charging a filing fee that would amount to almost \$900,000 per year in additional revenue. **Mr. Chenovick** stated that the Judicial Unification Funding Committee had recommended the Judiciary assess a \$5 user filing surcharge to pay for automation. As of today the bill draft doesn't have a sponsor.

Mr. Turnage stated that before automation was begun, every county in the state either had no database and if they did, there was no continuity from one county to the next. The Supreme Court created the Commission on Appropriate Technology and one of its mandates was to get more uniformity. He added that the commission is still in place, and with no uniformity there will be no opportunity to ever make anything work statewide.

Mr. Thomas A. Olson, District Judge, Gallatin County, spoke on the need for automation in the courts, and supported education of judges. He said he believes he was the first judge to have a computer-aided court case tracking system. He expressed frustration with the slowness at which computerization is taking place within the Judiciary, and said he hoped they would be able to keep some momentum in this program. He stressed that the courts depend heavily on the state in automation efforts, and he felt it was unreasonable to have the counties fund what should be a state program. He pointed out that the public will be the winner once automation is completed. They will be able to demand to know what the judges are doing. He expressed support for making this information available to however wants it.

Judge Olson then spoke to the need for education. The courts of limited jurisdiction have far outstripped the district courts in education, partly because of legislation which requires at least two conferences per year for the courts of limited jurisdiction, to be funded by county government, aided by state government. While the district judges have an educational requirement each year, they do not have an organized educational program.

REP. QUILICI asked if the automation in Gallatin County had resulted in staff savings or other efficiencies. **Mr. Olson** responded that he didn't think this was the case yet. He said it will probably take several more years, but if they had a boost in momentum, he would think in a year or so.

Mr. Jeff Langton, District Judge, Ravalli County, then spoke. When **Judge Langton** first took office he found a backlog of about 1,500 cases and currently they have about 1,000 new cases per year. Not only are more cases coming in, the cases that are

coming in are more complex. They're having to do more and spend less time per case. The only way to keep pace with that kind of growth is to take advantage of new management techniques and access to improved technology.

Over the last two years, he has been working with the Supreme Court to add to the technology, and they have added three more computers in the Clerk of Court's Office, and he and his clerk have received laptop computers. As an example of the advantage of on-line legal research, he recounted how he had been able to get into a law review database which had provided about six articles with comparisons of the stalking laws in all fifty states. As a result he was able to make a coherent ruling on a recent case.

Judge Langton said jury selection has been partially automated in Ravalli County. They are doing much more word processing and generating scheduling orders by computer. He hoped that in upcoming years they could automate their child support collection, restitution, and fine enforcement functions. At present, any activity in any case has to be hand-entered by the clerk into the register of actions book. If those items were automated on a network, he could just pull them up on the computer screen and know what's happening. In addition, they need to automate their calendar to generate notices, statistical reports and analyses, and they also need to add to their CD ROM capability. He told the committee that in Idaho there is now at least one court that is entirely paperless. What is being attempted in Montana now was completed in the more urban states about a decade ago. What he has seen in Ravalli County is that this type of technology can dramatically improve the productivity of the court clerk, which in turn, will save the county the expense of adding more personnel. He submitted that automation should proceed as quickly as finances allow, and it should be coordinated on a statewide basis.

He pointed out that with the increasing pace of automation, caseloads can become unmanageable and overwhelm the district courts. As an example, his court has set historic caseload records in three of the past four years. Their current caseload is about double of what it was 20 years ago.

Judge Langton continued by stressing the importance of improving Supreme Court security.

Regarding the proposed filing fees, **Judge Langton** said if that is what it takes to fund the automation system and the fee increase was small, he would support it. His concern is for places like Ravalli County, which not only have high caseloads, but low income. As filing fees are added, this continues to leave "the rung off the bottom of the ladder of accessibility" to the courts.

REP. QUILICI asked if fee revenues went for the operation of the Supreme Court or to the general fund. **Judge Langton** answered that he thinks half of it stays in the county and the other half goes to various state programs.

Chief Justice Turnage stressed that court fees should be focused towards the courts.

SEN. BECK wanted to know if, once automation is in place, there would be a savings, and if the automation funding could be sunsetted. **Justice Turnage** answered that once it is in place there will be ongoing maintenance and enhancement. Once the court system is unified, however, the major costs wouldn't be there.

Ms. Nancy Sweeney, Clerk of the Lewis & Clark County District Court, stated that her office was the site of the initial pilot program. They are now in stage two of their Judicial Case Management System. She submitted that Lewis and Clark County and many other counties would not have been able to afford this type of system without the state's program, and rose in support of continued funding. She concluded that the implementation of the computers and the Court Management System has enabled them to not increase staff in 15 years. Regarding fees, although it makes their job more complex to direct them other ways, most of their fees go to other areas than support for the courts. She suggested that the courts may be where this revenue should be directed.

Mr. Bob Gilbert spoke on behalf of the **Montana Magistrates Association**. He read a letter to the committee from the president of the Association in support of the funding request for automation. He said he did not feel automation would enable any court to have less FTE, but it may enable the courts to slow the expansion of the number of needed FTE.

Mr. Chenovick directed the committee's attention to a graph, which showed that of the justice of peace fines and fees and forfeitures collected at the county level, 50% goes to the state. In the past five years, \$15 million has been put into the general fund. He characterized the request for the automation money as asking for just a little bit of the past revenue which they have contributed to the general fund. He pointed out several items not contained in the base budget but currently in place.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: n/a.}

Mr. Chenovick said in regard to the 2.0 FTE for automation included in a present law adjustment, if the committee is going to support their effort for the \$1 million and 10.0 FTE then the 2.0 FTE base adjustment could be taken out.

The Judicial branch is a separate part of Montana government. In the past they have submitted their budget proposal to the

Governor's Office of Budget and Program Planning (OBPP) and it has been changed. He pointed out that they are the only branch of government that has two reviews of its budget: one from the OBPP and one from the LFA. He stressed that funding a 5% vacancy savings out of the budgets in the Judiciary would be extremely difficult.

He stressed the importance of the additional FTE being requested in the elected official new proposal. He said the American Disabilities Act would generate a lot more litigation in the future, and stressed the importance of having someone on staff with expertise in this area to assist not only the Supreme Court but the lower courts as well. The additional FTE also will assist the court in their effort to increase communications between the different people involved in the state Judiciary.

Mr. Chenovick mentioned that a bill was before the Legislature which would change the statute to allow electronic storage and filing in courts, and he asked for the committee members' support of this legislation. There are no additional costs associated with this bill. Regarding the elected official new proposal for law clerk pay parity, he stated they were just asking to bring their law clerks up to the market area of pay. **SEN. BECK** wondered if the experience the clerks got at the Supreme Court offset the disparity between the Court pay level and that in other state departments.

Regarding the security issue, **Mr. Chenovick** said the Judiciary would like to request \$25,000 to allow them to secure the chamber area of the court. He had asked the Department of Administration to put some money in their budget to do this, but they told him it needed to be paid for out of the Judiciary budget. He illustrated the need for increased security by relating an incident in which Justice Sheehy had been held at gunpoint for several hours.

Ms. Perrigo said that through an oversight, both the LFA and the OBPP forgot that there is a law stating that as of January 1, 1997 the number of justices on the Supreme Court will be reduced by two. If the Supreme Court operations budget were to be funded at the present law level, the budget would need to be reduced for the last half of FY97 to reflect the elimination of those justices, their support staff and operating expenses. She said there is a bill before the Legislature to continue the number of justices at the current level. If this bill passes, the budget before this committee is correct. She pointed out that the ground rules laid by the joint committee had stated that no budgets will be adjusted contingent upon passage of legislation. As it stands now, there is about \$153,000 included in the FY97 base budget for the two justices that is actually contingent upon passage of this bill. If the subcommittee wants to fund this program according to the ground rules, this amount would need to be eliminated. Discussion ensued regarding the proper way of dealing with this.

Mr. Chenovick said that the bill reinstating the two justices does not contain any provision for funding, and he questioned how this would be addressed if the committee removes the funding.

REP. QUILICI said this could be taken care of in conference committee. **Mr. Chenovick** said if the court is reduced to a five-member court, with the current number of cases being filed, there would be a 34% increase in the remaining justices' workload, which in essence will slow down justice. In the past fiscal year, close to 700 appeals were filed, which is a slow increase over the past three years.

HEARING ON JUDICIARY Boards and Commissions

Mr. Chenovick then reviewed the budget of the Boards and Commissions portion of the budget. This area handles some of the sundry tasks the Court does, including administration of the Board of Bar Examiners, the Commission on Practice, the Judicial Standards Commission and others.

Mr. Chenovick said the adjustments in the Boards and Commissions budget are minor, with one of the largest ones being for vacancy savings. He said there are only 2.0 FTE with Boards and Commissions. He outlined the duties of the Board of Bar Examiners and the Commission on Practice. He stated the increases being requested in the Commission on Practice budget are geared towards getting the investigative budget up to a livable level, and to purchase scanning equipment. At present, there are about 25 four-drawer file cabinets full of Commission files, which could be converted to electronic storage with this funding. Regarding the LFA issue with the Judiciary spending \$10,758 to hire an investigator, **Mr. Chenovick** said in 1994 the excess investigative money was reverted and in the past they have always made sure to spend the money only on investigative costs. He does not feel it is necessary to do what the LFA recommends.

HEARING ON STATE LAW LIBRARY

Ms. Judy Meadows, Director, State Law Library of Montana, then reviewed that budget. She distributed handouts to accompany her discussion. This library, the oldest in the state, was formed with the original law books that came to the territory with the first federal judges appointed by President Abraham Lincoln in 1866. She announced that just the prior week it was discovered that one of the original books, printed in 1865 and containing the federalist papers, has been stolen. Since they have no theft detection system they will probably not recover the book.

The Library provides access to the laws of Montana, as well as providing training for many different persons including legislative staff. The publish pamphlets, a guide to Montana legal research, etc. They are open 60 hours per week. They are

doing this with 6.5 FTE, which is the same level of staffing as it was twelve years ago. They do not experience vacancy savings, although they have been assigned a 5% vacancy savings. Half an FTE would have to be eliminated to accommodate this. The demand for service continues to grow: in FY94 40,000 copies of legal materials were provided to citizens of the state, a 33% increase over FY88. She reviewed all the ways they assist persons, and outlined the increases in activities at the Library. She stressed that the staff is "scrambling to keep up." Rather than add staff, she suggested that the committee provide the Library with an additional \$25,000 to automate operations.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: n/a.}

Ms. Meadows requested that 3.5% book inflation be added to their budget as the OBPP did not provide for any inflation. The automation package which the state's major libraries have selected also provides administrative information for library directors and people who do acquisitions. By having this kind of information available, the library will be able to offer its customers better access as well as federal information located on the "information highway."

CHAIRMAN GRADY agreed that it didn't seem fair that inflation was not added in by the OBPP. **SEN. BECK** wanted to know if the Law Library had requested the additional \$25,000 for automation through the OBPP. **Ms. Meadows** said it was included on p. D-5 of the Governor's budget. She pointed out that automation has already been begun in the current fiscal year, and that by automating, the library will save all the libraries in the state from possible duplicate purchases, and vice versa.

CHAIRMAN GRADY wanted to know if the Law Library was able to increase any of the fees they charged. **Ms. Meadows** said they have adjusted fees over the years, but none of that money can be applied to their actual expenses; it has to go to the general fund. They have to ask for the money back in order to maintain their collections. They charge for photocopies, but have to ask for the money back to pay for the maintenance of the machines.

CHAIRMAN GRADY said he felt those entities that could pass on their costs should be charged for the services the Library provides. **Ms. Meadows** said she would be very hesitant to accept the responsibility to ask people about their ability to pay.

Ms. Perrigo wanted to clarify that the majority of the \$25,000

Ms. Meadows is requesting for automation is included in the base budget, according to Mr. Patrick of the Governor's Budget Office.

HEARING ON DISTRICT COURT OPERATIONS

The District Court Program was then reviewed. The lion's share of this budget is for district court judges' salaries. This program was not assessed any vacancy savings by the executive due

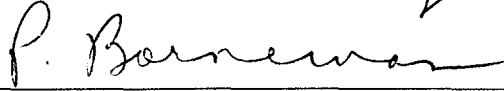
to the fact that the law requires a judge's salary cannot be reduced while he or she is in office. This program has seven newly elected judges and two that were appointed and re-elected. This amounts to about a 25% turnover. District judges come out of private law practice. The proposal asks for additional funds to train the new judges. The program will also need additional funds to provide for substitute judges if the new judges have to hear cases which they were involved in prior to becoming judges.

ADJOURNMENT

Adjournment: 11:40 a.m.



ED GRADY, Chairman



for DEBBIE ROSTOCKI, Recording Secretary

Note: These minutes were proofread and edited by Terri Perrigo, LFA.

EG/dr

2110 00 00000								
JUDICIARY								
Agency Summary								
Budget Item	Present Law	New	Total	Present Law	New	Total	Total	Total
	Budget	Proposals	Exec. Budget	Budget	Proposals	Exec. Budget	Biennium	Exec. Budget
	Fiscal 1996	Fiscal 1996	Fiscal 1996	Fiscal 1997	Fiscal 1997	Fiscal 1997	Fiscal 94-95	Fiscal 96-97
FTE	91.25	0.00	91.25	91.25	0.00	91.25	95.00	91.25
Personal Services	5,016,775	(80,072)	4,936,703	5,022,809	(80,394)	4,942,415	9,862,620	9,879,118
Operating Expenses	1,030,967	145,000	1,175,967	1,021,133	145,000	1,166,133	1,806,656	2,342,100
Equipment	291,420	0	291,420	269,420	0	269,420	535,253	560,840
Grants	0	0	0	0	0	0	66,642	0
Transfers	0	0	0	0	0	0	75,000	0
Total Costs	\$6,339,162	\$64,928	\$6,404,090	\$6,313,362	\$64,606	\$6,377,968	\$12,346,171	\$12,782,058
Fund Sources								
General Fund	5,807,984	(23,736)	5,784,248	5,777,499	(23,985)	5,753,514	11,205,838	11,537,762
State/Other Special	531,178	(21,336)	509,842	535,863	(21,409)	514,454	1,065,333	1,024,296
Federal Special	0	110,000	110,000	0	110,000	110,000	75,000	220,000
Total Funds	\$6,339,162	\$64,928	\$6,404,090	\$6,313,362	\$64,606	\$6,377,968	\$12,346,171	\$12,782,058

Agency Description

The judicial branch of state government is provided for in Article III, Section I, and Article VII of the 1972 Montana Constitution. The jurisdiction of the Supreme Court consists of all appellate and original jurisdiction in petitions for writs of habeas corpus and other such writs, general supervisory control over all courts, and rule making powers for Montana courts. The court also supervises the reimbursement to district courts of certain costs of criminal cases and administers the local citizen review board pilot program for foster care placements.

Judiciary Budget Request

Statute requires that the Judicial Branch budget be included in the budget submitted by the Governor (section 17-7-122, MCA), but expenditures above current level funding need not be part of the (executive) balanced financial plan. Consequently, the Executive Budget shows the Judicial Branch budget request, but has recommended and funded a budget 12.0 FTE and approximately \$1.1 million per year less than requested by the branch.

The following table shows major components of the Judiciary budget request that are not included in the Executive Budget for the Judiciary.

Name of Request Component	Program	FTE	Fiscal 1996	Fiscal 1997
1) Continuation of Court Automation	01	10.0	\$1,000,000	\$1,000,000
2) Personnel and Training Officer	01	1.0	45,000	45,000
3) Scanning Equipment	02	0.0	15,000	0
4) Books, Inflation, and Code Exchange	03	0.0	40,637	40,637
5) Additional FTE	06	1.0	21,000	21,000
6) Database System	06	0.0	8,000	1,000
TOTAL		12.0	\$1,129,637	\$1,107,637

Some of the request components not included have been re-submitted to the legislature as Elected Official New Proposals, which are discussed in the following narratives.

Other request components not included by the executive are also discussed in the narratives that follow.

2110 00 00000								
JUDICIARY								
Agency Summary								
Budget Item	Base Budget Fiscal 1994	PL Base Adjustment Fiscal 1996	New Proposals Fiscal 1996	Total Exec. Budget Fiscal 1996	PL Base Adjustment Fiscal 1997	New Proposals Fiscal 1997	Total Exec. Budget Fiscal 1997	Total Exec. Budget Fiscal 96-97
FTE	89.25	2.00	0.00	91.25	2.00	0.00	91.25	91.25
Personal Services	4,796,465	220,310	(80,072)	4,936,703	226,344	(80,394)	4,942,415	9,879,118
Operating Expenses	824,295	206,672	145,000	1,175,967	196,838	145,000	1,166,133	2,342,100
Equipment	271,857	19,563	0	291,420	(2,437)	0	269,420	560,840
Total Costs	\$5,892,617	\$446,545	\$64,928	\$6,404,090	\$420,745	\$64,606	\$6,377,968	\$12,782,058
Fund Sources								
General Fund	5,351,461	456,523	(23,736)	5,784,248	426,038	(23,985)	5,753,514	11,537,762
State/Other Special	541,156	(9,978)	(21,336)	509,842	(5,293)	(21,409)	514,454	1,024,296
Federal Special	0	0	110,000	110,000	0	110,000	110,000	220,000
Total Funds	\$5,892,617	\$446,545	\$64,928	\$6,404,090	\$420,745	\$64,606	\$6,377,968	\$12,782,058

Executive Budget Proposal

The program narratives that follow include descriptions of primary changes to the adjusted base included in the executive present law, and all executive and elected officials new proposals. The following table summarizes all new proposals included in the Executive Budget.

2110 00 00000						
Executive Budget New Proposals						
New Proposal	Fiscal 1996			Fiscal 1997		
	FTE	General Fund	Total Funds	FTE	General Fund	Total Funds
1 Foster Care Study		\$35,000	\$145,000		\$35,000	\$145,000
2 Personal Services Reductions		(36,080)	(36,080)		(36,251)	(36,251)
3 Personal Services Reductions		(3,658)	(3,658)		(3,671)	(3,671)
4 Personal Services Reductions		(10,928)	(10,928)		(10,964)	(10,964)
5 Personal Services Reductions			(21,336)			(21,409)
6 Personal Services Reductions		(5,287)	(5,287)		(5,316)	(5,316)
7 Personal Services Reductions		(2,783)	(2,783)		(2,783)	(2,783)
Totals		(\$23,736)	\$64,928		(\$23,985)	\$64,606

EXHIBIT 3
DATE 1-9-95
HB _____

THE SUPREME COURT OF MONTANA

J.A. TURNAGE
CHIEF JUSTICE



JUSTICE BUILDING
215 NORTH SANDERS
HELENA, MONTANA 59620-3001
TELEPHONE (406) 444-5490

January 9, 1995

Representative Ed Grady, Chair
General Government and Transportation Appropriations Subcommittee
Members of the Subcommittee
State Capitol
Helena, Montana 59620

Chairman Grady and Members:

Today you will be reviewing and deliberating on the budget proposal of the Judicial branch of Montana government. Our proposal was made in compliance with changes to section 17-7-102, by the special legislative session in November of 1993.

With relation to the law library and it's budget needs, law librarian Judy Meadows will present the budget request for the law library and all of the details relating there to. This request is reasonable and necessary to maintaining this very important judicial function.

Clerk of the Supreme Court Ed Smith will present the budget request for this office. As in other areas of the judiciary this request is necessary and reasonable.

In all expenditure categories we have been extremely conservative in assessing the level of funding needed under present constitutional and statutory requirements to maintain operations and services. The proposal does contain some very important new issues. I will briefly speak to these:

1. Additional Staff

In program ONE, Supreme Court Operations, we have requested one additional FTE to allow the Judiciary to adequately address issues that have been put in place by

federal and state legislative mandates. This FTE would address needs of all courts with the following mandated issues; 1) Family Leave Act, 2) American's With Disabilities Act, ADA 3) Court Improvement Funding Act (Family Preservation Act) - this is an act that requires the highest court in each state to perform an assessment of the entire system of foster care placements, recommend changes and assist in implementation of those changes.(federal assistance is provided with a 25% state match, 4) Federal Crime bill, 5) Fair Labor Standards Act, FLSA. Recent U.S. Department of Labor rulings have given strong indications that court reporters employed by the courts are subject to over time provisions of this act, currently overtime provisions, to my knowledge, have not been mandated. Court reporters do considerable private work in addition to their duties at the court. This issue has a potential of high cost to county governments, and 6) the Safety Culture Act, SB 163 passed in a recent Montana legislative session, - requires all employers in Montana to establish safety programs in the work place to keep work place safety in the minds of all Montana workers.

In addition this position will give staff support to the judiciary's effort to increase communication between, Justices, District Judges, Limited Court Judges and Clerks of the District Courts. The recent legislative Judicial Unification and Funding Commission, in their final report recommended establishment of a judicial council. If the legislature requires this program, additional demands and costs will be involved.

It is not realistic or practical to attempt assignment of current staff in the Court Administrators Office to address these important areas. Additional help is needed to meet the above mandated duties.

2. Continued Automation of the Courts

As you are aware the Judiciary has been trying to move into the use of information technology. The past six years the legislature has provided minimal appropriations to automate the 182 courts in Montana.

This has allowed the Judiciary to move forward in this important area. Currently we have 400 plus users to support statewide and have developed a Montana Judicial Case Management System to assist judges and courts in doing their work. **Your continued funding of this is essential to the court system in Montana.**

I anticipate several individuals will speak to this issue and the Court Administrator will provide details of our request during the budget presentation.

3. Supreme Court Law Clerk Pay Parity

It is becoming increasingly difficult to attract qualified attorneys to be law clerks for each justice. Results of a recent survey of attorney positions in state government discloses that the law clerks at the court are being paid two grades less than comparable

attorney position in legislative and executive branches. It is only fair and equitable that these employees receive the same pay as other state employee in similar positions.

4. Supreme Court Security

The Court has become increasingly aware of the potential for violence involving public employees. The current security in the justice building was reviewed by the U. S. Marshals office and found to be inadequate. I bring to you a request for minor revisions to provide a minimal amount of security at a cost of \$25,000 dollars. We are concerned for the safety of all individuals.

5. New District Court Judges

In our District Court program, this last election saw a district judge turnover of 25%, 9 of 37 District Judges are new on the bench. This causes an increased demand on our budget in several areas.

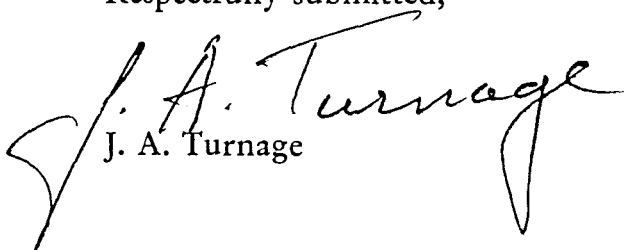
I may have been a little lengthy in my opening statement to you, but I believe that all of the issues presented in our budget request are reasonable and necessary to keep access to the courts available to the citizens of Montana.

I will close with this thought, some think the justice system is nothing more than another special interest group that is vying for a piece of the diminishing economic pie. The courts however, are not a special interest, nor just another government "agency". They are constitutionally a separate and equal branch of our government.

The constitution, the legislative acts that have been heretofore enacted and those you will be enacting this session, including the many regulations required by the statutes for the implementation of all these laws are not self executing. It falls upon our justice system of capable and viable courts to ensure the guarantees of our constitution and obedience of our laws.

I thank you for your time, and good luck in your work ahead.

Respectfully submitted,


J. A. Turnage

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

General Government

SUB-COMMITTEE

DATE 1-9-95

BILL NO. _____

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Judge Thomas Olson 52 Park Plaza Bozeman	Courts	✓	
Judge Jeff Langton Ravalli Co. CtHse, Hamilton, mt.	District Courts	✓	
Bob Gilbert Lobbyist	MT. MAGISTRATES ASSN	✓	
PATRICK CHENOVICK	MONTANA SUPREME COURT	✓	
<i>J. J. [unclear]</i>	Sup. Ct	✓	
Judith Meadows	Law Library	✓	
BRUCE LOBLE	MONTANA WATER COURT	✓	
Nancy Sweeney	Lewis & Clark County Clerk of District Court	✓	
<i>A. A. [unclear]</i>	Montana Supreme Court	✓	

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

HR:1993

wp:vissbcom.man

CS-14