

HOUSE BILL 681

Introduced by Marks

2/14	Introduced
2/14	Referred to Rules
2/15	Fiscal Note Requested
2/16	Hearing
2/20	Fiscal Note Received
2/21	Fiscal Note Printed
	Died in Committee

1 House BILL NO. 681
 2 INTRODUCED BY Marks
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 5 MANAGEMENT OF THE LEGISLATIVE BRANCH OF GOVERNMENT;
 6 REPLACING THE LEGISLATIVE COUNCIL WITH A LEGISLATIVE
 7 MANAGEMENT COUNCIL; GIVING THE LEGISLATIVE MANAGEMENT
 8 COUNCIL GENERAL SUPERVISION AND COORDINATION
 9 RESPONSIBILITIES FOR LEGISLATIVE STAFFING; DIRECTING THE
 10 LEGISLATIVE MANAGEMENT COUNCIL TO PROVIDE UNIFORM
 11 ADMINISTRATIVE POLICIES FOR ALL LEGISLATIVE EMPLOYEES OTHER
 12 THAN THE CONSUMER COUNSEL STAFF; REVISING THE PROCEDURE FOR
 13 APPOINTING STUDY COMMITTEES; REVISING THE AUTHORITY OF
 14 INDIVIDUAL COMMITTEES TO HIRE CERTAIN LEGISLATIVE PERSONNEL;
 15 CLARIFYING THE INDEPENDENCE OF THE LEGISLATIVE AUDITOR'S
 16 POSTAUDIT FUNCTION; AND AMENDING SECTIONS 1-11-201,
 17 1-11-203, 1-11-204, 1-11-301 THROUGH 1-11-303, 1-13-103,
 18 1-13-111, 2-4-313, 2-4-401, 2-15-401, 5-1-106, 5-2-301,
 19 5-4-308, 5-5-202, 5-5-211, 5-5-214 THROUGH 5-5-217, 5-6-104,
 20 5-6-107, 5-6-108, 5-11-101 THROUGH 5-11-107, 5-11-111,
 21 5-11-112, 5-11-202, 5-11-203, 5-11-205 THROUGH 5-11-209,
 22 5-11-211 THROUGH 5-11-213, 5-11-221, 5-11-301, 5-12-205,
 23 5-12-302 THROUGH 5-12-304, 5-13-302 THROUGH 5-13-305,
 24 5-17-103, 13-27-201, 13-27-202, 13-27-504, 19-3-403,
 25 22-1-218, 39-30-103, 75-1-321 THROUGH 75-1-324, AND

1 85-2-105, MCA."

2

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

5 "1-11-201. Office of code commissioner created. There
 6 is created within the legislative management council the
 7 office of code commissioner."

8 **Section 2.** Section 1-11-203, MCA, is amended to read:

9 "1-11-203. Supervision by legislative management
 10 council. The code commissioner is subject to the general
 11 supervision and policy of the legislative management
 12 council."

13 **Section 3.** Section 1-11-204, MCA, is amended to read:

14 "1-11-204. Duties of code commissioner. (1) Prior to
 15 January 1, 1979, the code commissioner shall recodify all
 16 the laws of a general and permanent nature appearing in the
 17 codes and session laws and prepare them for publication.

18 (2) Prior to January 1, 1979, the commissioner shall
 19 prepare and submit to the legislature a report which is
 20 certified by the commissioner as the "Official Report of the
 21 Montana Code Commissioner", together with a bill enacting
 22 the Montana Code Annotated. A copy of the report and bill
 23 shall be deposited with the secretary of state. The report
 24 shall explain and indicate, in tabular or other form, all
 25 changes made during recodification, other than punctuation

1 and capitalization, to clearly indicate the character of
2 each change.

3 (3) Prior to the November 1 immediately preceding each
4 regular legislative session, the commissioner shall prepare
5 and submit to the legislative management council a report,
6 in tabular or other form, indicating the commissioner's
7 recommendations for legislation which will:

- 8 (a) eliminate archaic or outdated laws;
- 9 (b) eliminate obsolete or redundant wording of laws;
- 10 (c) eliminate any duplications in law and any laws
- 11 repealed directly or by implication;
- 12 (d) clarify existing laws;
- 13 (e) correct errors and inconsistencies within the laws.

14 (4) The commissioner shall cause to be prepared for
15 publication with the Montana Code Annotated the following
16 material:

- 17 (a) Statutory history of each code section;
- 18 (b) Annotations of state and federal court decisions
- 19 relating to the subject matter of the code;
- 20 (c) Such editorial notes, cross-references, and other
- 21 matter as the commissioner considers desirable or
- 22 advantageous;
- 23 (d) The Declaration of Independence;
- 24 (e) The Constitution of the United States of America
- 25 and amendments thereto;

1 (f) Acts of congress relating to the authentication of
2 laws and records;

3 (g) The Organic Act of the Territory of Montana;

4 (h) The Enabling Act;

5 (i) The 1972 Constitution of the State of Montana and
6 any amendments thereto;

7 (j) The Ordinances relating to federal relations and
8 elections;

9 (k) Rules of civil, criminal, and appellate procedure
10 and such other rules of procedure as the Montana supreme
11 court may adopt; and

12 (l) A complete subject index, a popular name index, and
13 comparative disposition tables or cross-reference indexes
14 relating sections of the Montana Code Annotated to prior
15 compilations and session laws.

16 (5) After publication of the Montana Code Annotated,
17 the code commissioner shall:

18 (a) annotate, arrange, and prepare for publication all
19 laws of a general and permanent nature enacted at each
20 legislative session and assign catchlines and code section
21 numbers to each new section;

22 (b) continue to codify, index, arrange, rearrange, and
23 generally update the Montana Code Annotated to maintain an
24 orderly and logical arrangement of the laws in order to
25 avoid future need for bulk revision;

(c) prepare and publish a report entitled "Official Report of the Montana Code Commissioner--(year)" which indicates, in tabular or other form, all changes made during the continuous recodification, other than punctuation, spelling, and capitalization, to clearly indicate the character of each change made since the last such report.

(6) From time to time the commissioner shall confer with members of the judiciary and the state bar relative to recodification procedures."

Section 4. Section 1-11-301, MCA, is amended to read:

"1-11-301. Publication and sale of Montana Code Annotated -- free distribution. (1) The legislative management council with the advice of the code commissioner shall decide on the quantity, quality, style, format, and grade of all publications prior to having the code commissioner call for bids for the printing and binding and contract for their publication. The code commissioner shall follow the requirements of state law relating to contracts and bids, except as herein provided.

(2) The methods of sale to the public of the Montana Code Annotated and supplements or other subsequent and ancillary publications thereto may be included as an alternative specification and bid and as a part of a contract to be let by bids by the code commissioner.

(3) The sales price to the public shall be fixed by the

legislative management council but may not exceed the cost price plus 20%. All revenues generated from the sale of the Montana Code Annotated or ancillary publications shall be deposited in the state special revenue fund, from which fund appropriations may be made for the use of the office and facilities of the legislative management council under this chapter.

(4) Sets of the Montana Code Annotated purchased by the state or local governmental agencies that are supported by public funds shall be for the cost price of the sets.

(5) (a) The Montana Code Annotated and supplements and other subsequent and ancillary publications except annotations shall be provided at no cost to the following:

(i) each library designated as a depository library under 22-1-214, one copy;

(ii) each library designated as a federation headquarters library under 22-1-402, one copy.

(b) The state law library in Helena shall be provided with four copies of the Montana Code Annotated and supplements including annotations and other subsequent and ancillary publications.

(c) The legislative management council shall include in the cost price of the code the cost of providing the copies under this subsection."

Section 5. Section 1-11-302, MCA, is amended to read:

1 **"1-11-302. Updates of Montana Code Annotated.** (1) The
2 publication of updates to the Montana Code Annotated may be
3 as a cumulative supplement or replacement volume or in any
4 other format approved by the legislative management council.

5 (2) The supplements or replacements shall be certified,
6 published, copyrighted, and deposited with the secretary of
7 state. The supplements and replacements become effective on
8 the date deposited with and certified to the secretary of
9 state."

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

11 **"1-11-303. Authority to issue ancillary publications.**
12 The legislative management council may issue such
13 supplementary and ancillary publications as it considers
14 necessary or desirable in aid of the general use and
15 purposes of the Montana Code Annotated and the supplements
16 or replacements thereto."

17 **Section 7.** Section 1-13-103, MCA, is amended to read:

18 **"1-13-103. Committee membership.** The committee consists
19 of nine members, including the governor or his designee, who
20 shall act as chairman. Four members must be chosen by the
21 legislative management council, including two from the
22 senate and two from the house of representatives. The
23 vice-chairman must be one of the legislative members. Four
24 executive branch members must be appointed by the governor,
25 including one each from agencies responsible for issues

1 related to agriculture; water and natural resources;
2 economic development, trade, and tourism; and research and
3 education."

4 **Section 8.** Section 1-13-111, MCA, is amended to read:

5 **"1-13-111. Organizational support -- compensation.** (1)
6 The legislative management council, other legislative
7 agencies, and executive branch agencies shall assist the
8 committee as required to carry out its functions.

9 (2) The expenses incurred by the executive branch
10 members and the legislative branch members in the
11 performance of their duties under this section must be paid
12 from funds appropriated for the respective offices and
13 agencies.

14 (3) Legislative committee members are entitled to
15 compensation and expenses as provided in 5-2-302."

16 **Section 9.** Section 2-4-313, MCA, is amended to read:

17 **"2-4-313. Distribution, costs, and maintenance.** (1) The
18 secretary of state shall distribute copies of ARM and
19 supplements or revisions thereto to the following:

20 (a) attorney general, one copy;

21 (b) clerk of United States district court for the
22 district of Montana, one copy;

23 (c) clerk of United States court of appeals for the
24 ninth circuit, one copy;

25 (d) county commissioners or governing body of each

1 county of this state, for use of county officials and the
2 public, at least one but not more than two copies, which may
3 be maintained in a public library in the county seat or in
4 the county offices as the county commissioners or governing
5 body of the county may determine;

6 (e) state law library, one copy;

7 (f) state historical society, one copy;

8 (g) each unit of the Montana university system, one
9 copy;

10 (h) law library of the university of Montana, one copy;

11 (i) legislative management council, two copies;

12 (j) library of congress, one copy;

13 (k) state library, one copy.

14 (2) The secretary of state, each county in the state,
15 and the librarians for the state law library and the
16 university of Montana law library shall maintain a complete,
17 current set of ARM, including supplements or revisions
18 thereto. ~~Such persons shall also maintain the~~ The register
19 issues published during the preceding 2 years must also be
20 maintained. The secretary of state shall also maintain a
21 permanent set of the registers.

22 (3) The secretary of state shall make copies of and
23 subscriptions to ARM and supplements or revisions ~~thereto to~~
24 ARM and the register available to any person at prices fixed
25 in accordance with subsection (4).

1 (4) The secretary of state, in consultation with the
2 administrative code committee, shall determine the cost of
3 supplying copies of ARM and supplements or revisions ~~thereto~~
4 to ARM and the register to persons not listed in subsection
5 (1). The cost shall be the approximate cost of publication
6 ~~of such copies~~, including indexing, printing or duplicating,
7 and mailing. However, a uniform price per page or group of
8 pages may be established without regard to differences in
9 cost of printing different parts of ARM and supplements or
10 revisions ~~thereto to~~ ARM and the register.

11 (5) The secretary of state shall deposit all fees he
12 collects in an account within the state special revenue fund
13 created for paying the expenses of publication of ARM and
14 the register.

15 (6) The secretary of state may charge agencies a filing
16 fee for all material to be published in ARM or the register.
17 He shall fix, in consultation with the administrative code
18 committee, the fee to cover the costs of supplying copies of
19 ARM and supplements or revisions ~~thereto to~~ ARM and the
20 register to the persons listed in subsection (1). The cost
21 shall be the approximate cost of publication of ~~such the~~
22 copies, including indexing, printing or duplicating, and
23 mailing. However, a uniform price per page or group of pages
24 may be established without regard to differences in cost of
25 printing different parts of ARM and supplements or revisions

1 thereto to ARM and the register."

2 **Section 10.** Section 2-4-401, MCA, is amended to read:

3 "2-4-401. Administrative code committee -- staff,
4 meetings, and compensation. (1) The administrative code
5 committee may retain---whatever use the employees,
6 consultants,---or---counsel of the legislative management
7 council as are necessary to carry out the provisions of this
8 chapter and to advise the publisher in relation to the text
9 and legal authority of the material published in the
10 register or ARM, within the limitations of legislative
11 appropriations.

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

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

16 **Section 11.** Section 2-15-401, MCA, is amended to read:

17 "2-15-401. Duties of secretary of state. In addition to
18 the duties prescribed by the constitution, it is the duty of
19 the secretary of state to:

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

24 (2) keep a register of and attest the official acts of
25 the governor, including all appointments made by him, with

1 date of commission and names of appointees and predecessors;

2 (3) affix the great seal, with his attestation, to
3 commissions, pardons, and other public instruments to which
4 the official signature of the governor is required;

5 (4) record in proper books all articles of
6 incorporation filed in his office;

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

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

14 (7) furnish, on demand, to any person paying the fees
15 therefor, a certified copy of all or any part of any law,
16 record, or other instrument filed, deposited, or recorded in
17 his office;

18 (8) keep a fee book in which must be entered all fees,
19 commissions, and compensation of whatever nature or kind by
20 him earned, collected, or charged by him, with the date,
21 name of payer, paid or unpaid, and the nature of the service
22 ~~in each case, which.~~ The book must be verified annually by
23 his affidavit entered therein; in the book.

24 (9) file in his office descriptions of seals in use by
25 the different state officers;

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

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

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

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

Section 12. Section 5-1-106, MCA, is amended to read:

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

Section 13. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate of a grade 8, step 2, classified state employee in effect when the regular session of the legislature in which they serve is convened under

5-2-103 for those days during which the legislature is in session. The president of the senate and the speaker of the house shall receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

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

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

(5) In addition to the mileage allowance provided for in subsection (4), legislators, upon submittal of an appropriate claim for such mileage reimbursement to the office of the legislative management council, are entitled to:

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

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

(6) Legislators are not entitled to any additional mileage allowance under subsection (4) for a special session

1 if it is convened within 7 days of a regular session."

2 **Section 14.** Section 5-4-308, MCA, is amended to read:

3 "5-4-308. Transmittal of veto messages to legislative
4 management council. The governor shall transmit one copy of
5 each veto message to the legislative management council."

6 **Section 15.** Section 5-5-202, MCA, is amended to read:

7 "5-5-202. Interim activities of committees. During an
8 interim when the legislature is not in session, all
9 regularly appointed standing or select committees of either
10 house not formally discharged prior to the final adjournment
11 of the preceding session shall continue as such committees.
12 They are empowered to continue to sit as such committees and
13 ~~may act through their joint subcommittees.~~"

14 **Section 16.** Section 5-5-211, MCA, is amended to read:

15 "5-5-211. Appointment and composition of joint
16 subcommittees study committees. Senate-joint-subcommittee
17 ~~members shall be appointed by the committee on committees,~~
18 ~~House-joint-subcommittee~~ Interim study committee members
19 shall must be appointed by the speaker legislative
20 management council. No A legislator may not serve on more
21 than two interim joint-subcommittees study committees. The
22 composition of each subcommittee shall be as follows:

23 (i) ~~four members of the house, no more than two of whom~~
24 ~~may be of one political party, and~~

25 (2) ~~four members of the senate, no more than two of~~

1 ~~whom may be of one political party. The legislative~~
2 ~~management council may determine the size of a study~~
3 ~~committee. A study committee must be composed of an equal~~
4 ~~number of senators and representatives. An equal number of~~
5 ~~majority party members and minority party members must be~~
6 ~~appointed from each house to serve on a study committee."~~

7 **Section 17.** Section 5-5-215, MCA, is amended to read:

8 "5-5-215. Duties of subcommittees study committees. (1)
9 Each subcommittee study committee shall accumulate, compile,
10 analyze, and furnish such information relevant to existing
11 or prospective legislation as it determines, on its own
12 initiative, to be pertinent to important the issues of
13 policy and questions of statewide importance, ~~including but~~
14 ~~not limited to:~~ referred to it

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

18 (i) ~~the elimination of unnecessary activities and~~
19 ~~duplications in office personnel and equipment;~~

20 (ii) ~~the coordination of activities;~~

21 (iii) ~~the purpose of increasing efficiency of service or~~
22 ~~effecting economies; and~~

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

1 and-collection-of-taxes;-and

2 ~~{b}--all-other-matters-pertaining-to-the-function-of-the~~
3 ~~departments-and-branches-of-state-government.~~

4 (2) Each subcommittee study committee shall prepare
5 such bills and resolutions as, in its opinion, the ~~weifare~~
6 ~~of--the--state~~ resolution of the issues referred to it may
7 require for presentation to the next regular session of the
8 legislature.

9 (3) Each subcommittee study committee shall keep
10 accurate records of its activities and proceedings."

11 **Section 18.** Section 5-5-214, MCA, is amended to read:

12 "5-5-214. Interim activity. The subcommittees study
13 committees may perform their functions when the legislature
14 is not in session. The personnel, data, and facilities of
15 the legislative management council shall be made available
16 to such the subcommittees study committees."

17 **Section 19.** Section 5-5-216, MCA, is amended to read:

18 "5-5-216. Recommendations of subcommittees study
19 committees. A subcommittee study committee appointed for the
20 purpose of making a study designated by the legislative
21 management council may make recommendations for legislation.
22 These recommendations and the study report shall be
23 submitted to the legislature at the next regular session."

24 **Section 20.** Section 5-5-217, MCA, is amended to read:

25 "5-5-217. Selection and assignment of interim studies.

1 (1) Immediately following adjournment sine die, the
2 legislative management council shall prepare a list of study
3 requests adopted. A copy of the list shall be distributed to
4 each legislator with a request that the legislator rank the
5 study requests in the order of importance he ascribes to
6 them. The lists, with the priorities assigned, shall be
7 returned to the legislative management council.

8 (2) The legislative management council shall review the
9 priority lists returned by legislators, review estimated
10 costs and staff assistance associated with the requested
11 studies, and designate those studies to be assigned. In
12 designating studies, the legislative management council may
13 combine requests as one study when the subject matter of
14 those requests is closely related. The legislative
15 management council shall group related studies together and
16 shall designate the number of subcommittees study committees
17 to be assigned studies.

18 (3) The legislative management council shall ~~inform-the~~
19 ~~committee--on--committees--and-speaker-of-the-house-of-those~~
20 ~~studies--that--have--been--selected--and--to--which--joint~~
21 ~~subcommittee--each-study-has-been-assigned--The-committee-on~~
22 ~~committees--and--speaker--shall--then--proceed-under-5-5-211-to~~
23 appoint the subcommittees study committee members.

24 (4) The legislative management council may determine
25 the size of a study committee. A study committee must be

1 composed of an equal number of senators and representatives.
 2 An equal number of majority party members and minority party
 3 members must be appointed from each house to serve on a
 4 study committee. The legislative management council may set
 5 a completion date for a study."

6 **Section 21.** Section 5-6-104, MCA, is amended to read:

7 "5-6-104. Number of interns -- where from. All
 8 institutions referred to in 5-6-102 may have at least one
 9 intern. An additional five positions may be chosen from
 10 applications submitted to the legislative management
 11 council."

12 **Section 22.** Section 5-6-107, MCA, is amended to read:

13 "5-6-107. Assignment of interns. Each legislative
 14 intern is assigned to a legislator by the legislative
 15 management council."

16 **Section 23.** Section 5-6-108, MCA, is amended to read:

17 "5-6-108. Legislative management council to establish
 18 guidelines. Each legislative intern is subject to guidelines
 19 established by the legislative management council."

20 **Section 24.** Section 5-11-101, MCA, is amended to read:

21 "5-11-101. Appointment and composition of legislative
 22 management council. There is a legislative management
 23 council which consists of:

24 (1) the president and the minority leader of the
 25 senate;

1 (2) the speaker and the minority leader of the house of
 2 representatives;

3 ~~{1}~~(3) four two members of the house of representatives
 4 appointed by the speaker of the house with the advice of the
 5 majority and minority leaders of the house, ~~no more than two~~
 6 ~~of whom may be of the same~~ one member from each major
 7 political party; and

8 ~~{2}~~(4) four two members of the senate appointed by the
 9 committee on committees of the senate, ~~no more than two of~~
 10 ~~whom may be of the same~~ one member from each major political
 11 party."

12 **Section 25.** Section 5-11-102, MCA, is amended to read:

13 "5-11-102. Term. Membership on the legislative
 14 management council is for 2 years and terminates with the
 15 appointment of a new council or on the 50th legislative day
 16 of the next regular session following the one in which the
 17 appointment was made, whichever event occurs first. A new
 18 legislative management council shall must be appointed no
 19 later than the 50th day of each regular session."

20 **Section 26.** Section 5-11-103, MCA, is amended to read:

21 "5-11-103. Vacancies. A vacancy on the legislative
 22 management council occurring when the legislature is not in
 23 session shall be filled by the selection of another member
 24 by the same method as the original appointment."

25 **Section 27.** Section 5-11-104, MCA, is amended to read:

1 "5-11-104. Officers -- rules of procedure -- records.
 2 The legislative management council shall organize
 3 immediately following appointment by electing one of its
 4 members as its chairman and by electing such other officers
 5 from among its membership as the council may-deem considers
 6 desirable. The legislative management council is empowered
 7 to adopt rules of procedure and to make all arrangements for
 8 its meetings and to carry out the purpose for which it is
 9 created. The legislative management council is directed to
 10 keep accurate records of its activities and proceedings."

11 **Section 28.** Section 5-11-105, MCA, is amended to read:

12 "5-11-105. Powers and duties of legislative management
 13 council. (1) If a question of statewide importance arises
 14 when the legislature is not in session and a subcommittee
 15 study committee has not been appointed to consider the
 16 question, the legislative management council shall assign
 17 the question to an appropriate subcommittee study committee,
 18 as provided in Title 5, chapter 5, part 2, or to the
 19 appropriate statutorily created committee.

20 (2) The legislative management council shall:

21 (a) except as provided in subsections (5) and (6),
 22 supervise and coordinate the activities of the-council
 23 legislative committees and staff;

24 (b) establish uniform employee classification, pay
 25 administration, and personnel policies for full-time and

1 session employees of the legislature;

2 (c) establish centralized procurement of all supplies,
 3 equipment, and services for the operation of the legislative
 4 branch of government;

5 (d) provide for the operation and development of data
 6 processing systems for the legislature, consistent with
 7 2-17-501 and 2-17-502;

8 (e) establish procedures for accounting and payment of
 9 all valid legislative expense claims and payroll;

10 (f) approve all travel and expense claims for
 11 legislators and legislative staff;

12 (g) approve and recommend a unified budget and
 13 appropriation request for the operation of the legislative
 14 branch of government;

15 (h) establish staffing guidelines for statutorily
 16 created legislative committees, including the number of
 17 employees required by each committee, based on
 18 recommendations of the executive director; and

19 (i) recommend any changes in law or legislative rules
 20 necessary to improve the functioning and operations of the
 21 legislature.

22 (3) The legislative management council shall assist in
 23 the preparation and submission of all standing and select
 24 committee and subcommittee study committee reports and
 25 recommendations to the legislature.

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

(5) This section may not be construed as giving the legislative management council authority to approve or disapprove of performance of any postaudit duties required by law to be performed by the legislative auditor. The legislative management council, in conjunction with the legislative audit committee, shall develop procedures necessary to ensure the independence of audits performed by the legislative auditor.

(6) This section may not be construed as giving the legislative management council any authority over the office of the consumer counsel.

Section 29. Section 5-11-106, MCA, is amended to read:

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

Section 30. Section 5-11-107, MCA, is amended to read:

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

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

Section 31. Section 5-11-111, MCA, is amended to read:

"5-11-111. Executive director, personnel, and consultants. The legislative management council ~~may~~ shall employ an executive director, ~~and--such~~ The executive director, in consultation with the legislative management council and the appropriate statutory committee, shall hire

other personnel, not members of the council, ~~as it considers~~ necessary to ~~assist in the preparation of proposed legislative acts and standing and select committee and subcommittee reports and recommendations and to~~ carry out ~~other council~~ legislative functions and activities. The executive director may delegate personnel responsibilities to division directors. The legislative management council shall fix the compensation of such the executive director. The compensation of legislative employees must be established in accordance with the legislative employee classification system adopted pursuant to 5-11-105(2)(b). it The legislative management council may also employ the services of any research agency entity which it considers necessary in the discharge of its duties."

Section 32. Section 5-11-112, MCA, is amended to read:

"5-11-112. Functional divisions of legislative management council. The legislative management council may establish functional divisions within the council staff in order to carry out all of the responsibilities delegated to the council by law or legislative rule. The divisions shall include the following:

(1) legislative data services division that shall provide:

- (a) engrossing and enrolling services;
- (b) mailroom services;

(c) printing services; and
(d) data processing development and implementation services;

(2) research and reference services division that shall provide:

- (a) general and specialized legislative research;
- (b) legislative reference and information, services including preparation and publication of the legislative review to be sold at the cost of the publication plus postage; and

(c) ~~committee staffing when the legislature is not in session~~ support services;

(3) legal services division that shall provide:

- (a) bill drafting services;
- (b) legal counseling;
- (c) committee support services; and
- (d) codification services;

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

- (a) ~~maintain bookkeeping records~~ accounting services;
- (b) ~~sign claims and payrolls~~ payroll services;
- (c) ~~order all printing, supplies, and equipment~~ purchasing services; and
- (d) ~~serve the house and senate during the session~~ secretarial and clerical support services;

1 (5) fiscal division, headed by the legislative fiscal
2 analyst provided for in 5-12-301;

3 (6) audit division, headed by the legislative auditor
4 provided for in 5-13-301;

5 (7) environmental quality division, headed by the
6 executive director of the environmental quality council
7 provided for in 75-1-321."

8 **Section 33.** Section 5-11-202, MCA, is amended to read:

9 "5-11-202. Printing of the house and senate journals
10 and session laws. The legislative management council shall
11 deliver to the printer entitled to them, at the earliest
12 practicable day after the final adjournment of each session
13 of the legislature, copies of all laws, resolutions, and
14 journals passed, adopted, or kept at the session, with
15 proper indexes to the same publications."

16 **Section 34.** Section 5-11-203, MCA, is amended to read:

17 "5-11-203. Distribution of senate and house journals
18 and session laws. (1) Immediately after the senate and house
19 journals and the session laws are bound, the legislative
20 management council shall distribute them.

21 (2) The legislative management council shall distribute
22 the house and senate journals as follows:

23 (a) to each county clerk, one copy of each for the use
24 of the county;

25 (b) to the Montana state library, 20 copies of each for

1 the use of the library and distribution to depository
2 libraries, of which two copies will be deposited with the
3 state historical library for security purposes;

4 (c) to the state law librarian, two copies of each for
5 the use of the library and such additional copies as may be
6 necessary for the purposes of exchange;

7 (d) to the library of congress and each public officer
8 as defined in 2-2-102, two copies of each; and

9 (e) to each member of the legislature, the secretary of
10 the senate, and the chief clerk of the house of
11 representatives from the session at which the journals were
12 adopted, one copy of each.

13 (3) The legislative management council shall distribute
14 the session laws as follows:

15 (a) to each cabinet level department of the executive
16 branch of the United States, one copy each; to any agency,
17 commission, conference, or corporation established by the
18 United States government or any other subdivision thereof
19 upon request and approval by the legislative council, one
20 copy;

21 (b) to the library of congress, eight copies;

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

23 (d) to the state historical library, two copies;

24 (e) to the state law librarian, four copies for the use
25 of the library and such additional copies as may be required

for exchange with libraries and institutions maintained by other states and territories and public libraries;

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

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

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

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

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

(k) to each county clerk, three copies for the use of the county; and

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

Section 35. Section 5-11-205, MCA, is amended to read:

"5-11-205. Publication of laws -- format. (1) The

legislative management council shall publish all laws and resolutions passed or adopted by each session of the legislature in a publication to be known as the "Laws of Montana".

(2) Laws of each session other than appropriations must be printed in the Laws of Montana in the order that they have been filed in the office of the secretary of state with the chapter number assigned by the secretary of state as the heading. The chapter number must also appear as part of each page heading. In all laws containing amendments to an existing law, the new parts designated in the act by underlining must be printed in italics in the Laws of Montana. The senate or house bill number may be omitted from each act.

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

(4) Appropriations passed by each session of the legislature must be printed in a separate section of the Laws of Montana with the house bill number as a heading.

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

(6) The legislative management council shall also

publish in the Laws of Montana the indexes required by 5-11-206."

Section 36. Section 5-11-206, MCA, is amended to read:

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

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

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

Section 37. Section 5-11-207, MCA, is amended to read:

"5-11-207. **Description of county boundaries included in session laws.** The legislative management council shall include in the published session laws a description of the county boundaries of any new counties of the state created

by petition and election, commencing with counties created after January 1, 1921, by inserting in each set of session laws new counties that have been created since the publication of the laws of the previous session."

Section 38. Section 5-11-208, MCA, is amended to read:

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

Section 39. Section 5-11-209, MCA, is amended to read:

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

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

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

Section 40. Section 5-11-211, MCA, is amended to read:

"5-11-211. Definitions. For the purposes of this part, the following definitions apply:

(1) "Person" means any person, firm, corporation, or association.

(2) "Proceedings of the legislature" means status sheets, daily journals, reproduced bills, reproduced resolutions, printed bills, printed resolutions, and amendments thereto to bills and resolutions, together with such any other related documents as the legislative management council may choose to include.

(3) "One complete set" means one copy of each item of the proceedings of a regular or special session, ~~regular or special~~, of the legislature.

(4) "Session Laws" for a particular year means the laws and resolutions passed or adopted by that year's session of the legislature."

Section 41. Section 5-11-212, MCA, is amended to read:

"5-11-212. Fees for proceedings. (1) A complete set of the proceedings of a regular session of the legislature may be purchased from the legislative management council for the amount prescribed by the council. Upon receipt of payment, the executive director of the legislative management council shall supply the purchaser with a complete set of the proceedings.

(2) A purchaser who requests that a set of the proceedings be mailed shall pay an additional fee as prescribed by the legislative management council for each complete set that is mailed.

(3) Single copies of bills, resolutions, or amendments thereto to bills and resolutions may be purchased from the legislative management council for a price varying with the length of the document as prescribed by the council.

(4) Single copies of status sheets or status of proceedings may be purchased from the legislative management council for a price per copy as prescribed by the council. A person may subscribe to receive daily copies of the status sheets or status of proceedings by mail for a fee set by the legislative management council to cover the costs of the service.

(5) The executive director of the legislative management council shall account for all funds collected under this section and shall transmit the funds to the treasurer of the state of Montana, who shall credit them to the general fund."

Section 42. Section 5-11-213, MCA, is amended to read:

"5-11-213. Exclusions. Each general circulation newspaper published in Montana and each radio or television station broadcasting in Montana that has registered with the executive director of the legislative management council is

exempt from 5-11-212 and shall receive one complete set of the legislative proceedings for the ensuing biennium without charge."

Section 43. Section 5-11-221, MCA, is amended to read:

"5-11-221. Distribution of proceedings of 1972 constitutional convention. The legislative management council shall determine the methods of disposition and distribution of the copies of the proceedings of the 1972 constitutional convention. The legislative management council may set such a sale price or prices for the copies of the proceedings as it determines appropriate. Proceeds from the sale of the proceedings must be deposited in the general fund."

Section 44. Section 5-11-301, MCA, is amended to read:

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

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

(2) encourage and assist the government of this state to develop and maintain friendly contact by correspondence, by conference, and otherwise with the other states, with the federal government, and with local units of government;

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

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

Section 45. Section 5-12-205, MCA, is amended to read:

"5-12-205. Powers and duties of committee. The committee may:

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

(2) ~~employ--and--set-the-salary-of~~ advise the executive director of the legislative management council in hiring the legislative fiscal analyst, who shall-serve-at-the--pleasure of--and--be is responsible to the committee and the legislature. The salary of the fiscal analyst must be established in accordance with the legislative employee classification system adopted pursuant to 5-11-105(2)(b); and

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

Section 46. Section 5-12-302, MCA, is amended to read:

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

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

(2) estimate revenue from existing and proposed taxes;

(3) analyze the executive budget and budget requests of selected state agencies and institutions, including proposals for the construction of capital improvements;

(4) make the reports and recommendations he deems

considers desirable to the legislature and make reports and recommendations as requested by the legislative finance committee, the legislative management council, and the legislature; and

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

(6) direct the fiscal division of the legislative management council."

Section 47. Section 5-12-303, MCA, is amended to read:

"5-12-303. Fiscal analysis information from state agencies. (1) The legislative fiscal analyst has the authority to investigate and examine the costs and revenues of state government activities and may examine and obtain copies of the records, books, and files of any state agency, including confidential records.

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

(3) The legislative fiscal analyst may not obtain copies of individual income tax records protected under 15-30-303. The department of revenue shall make individual income tax data available by a masking method that conceals the identity of the taxpayer. The masking method may not destroy the statistical integrity of the individual income tax records. The masking method, including how data is masked, must be disclosed to the legislative fiscal analyst.

(4) Every state agency shall furnish the legislative fiscal analyst with copies of all budget requests, at the time of submission to the budget director as provided by law, and if requested, all underlying and supporting documentation.

(5) In the year preceding each legislative session, the budget director shall furnish the legislative fiscal analyst on a confidential basis:

(a) by December 1, a copy of the documents which reflect the anticipated receipts and other means of financing the budget for each fiscal year of the ensuing biennium;

(b) by December 1, a preliminary budget which shall meet the statutory requirements for submission of the budget to the legislature; and

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

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

Section 48. Section 5-12-304, MCA, is amended to read:

"5-12-304. Employees and consultants. The legislative fiscal analyst may request the executive director of the legislative management council to employ, fix the salaries, and define the duties of such staff and consultants as may be necessary for the fiscal division, within the limits of his the division's appropriation."

Section 49. Section 5-13-302, MCA, is amended to read:

"5-13-302. Appointment and qualifications. (1) The committee shall appoint advise the executive director of the legislative management council in hiring the legislative auditor, and The executive director of the legislative management council shall set his salary in accordance with the legislative employee classification system adopted pursuant to 5-11-105(2)(b).

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

Section 50. Section 5-13-303, MCA, is amended to read:

"5-13-303. Term and removal. The legislative auditor is

1 responsible solely to the legislature. He shall hold office
2 for a term of 2 years beginning with July 1 of each
3 odd-numbered year. ~~The committee~~ The auditor may remove him
4 be removed for misfeasance, malfeasance, or nonfeasance in
5 office at any time after notice and hearing."

6 **Section 51.** Section 5-13-304, MCA, is amended to read:

7 "5-13-304. Powers and duties. The legislative auditor
8 shall:

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

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

15 (3) make a complete written report of each audit. A
16 copy of each report shall be furnished to the department of
17 administration, the state agency which was audited, each
18 member of the committee, and the legislative management
19 council.

20 (4) report immediately in writing to the attorney
21 general and the governor any apparent violation of penal
22 statutes disclosed by the audit of a state agency and
23 furnish the attorney general with all information in his
24 possession relative to the violation;

25 (5) report immediately in writing to the governor any

1 instances of misfeasance, malfeasance, or nonfeasance by a
2 state officer or employee disclosed by the audit of a state
3 agency;

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

9 (7) report to the legislature during the first week of
10 each regular session. The report shall contain, among other
11 things, copies of or summaries of audit reports on state
12 agencies and any recommendations relating to such the
13 reports.

14 (8) have the authority to audit records of
15 organizations and individuals receiving grants from or on
16 behalf of the state to determine that the grants are
17 administered in accordance with the grant terms and
18 conditions. Whenever a state agency enters into an agreement
19 to grant resources under its control to others, the agency
20 must obtain the written consent of the grantee to the audit
21 provided for in this subsection.

22 (9) direct the audit division of the legislative
23 management council; and

24 (10) conduct postaudits in accordance with generally
25 accepted standards for governmental and other audits."

Section 52. Section 5-13-305, MCA, is amended to read:

"5-13-305. **Employees, consultants, and legal counsel.** The legislative auditor may ~~appoint--whatever~~ hire the employees and consultants are necessary to carry out the provisions of this chapter, within the limitations of legislative appropriations and the guidelines on staffing adopted by the legislative management council. The legislative auditor may employ legal counsel to conduct proceedings under this chapter."

Section 53. Section 5-17-103, MCA, is amended to read:

"5-17-103. **Report to legislature.** The committee shall prepare a written report of its activities and recommendations and present the report to the legislature at each regular session for the purpose of assisting the legislature in determining if ~~such~~ the recommendations should be implemented. To prepare its report and recommendations, the committee may receive assistance from the legislative management council."

Section 54. Section 13-27-201, MCA, is amended to read:

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

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the measure to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the front and back of a petition sheet, the required information ~~required-above~~ must appear on both the front and back of the sheet. The complete text of the measure proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the measure must be in the bill form provided in the most recent issue of the bill drafting manual furnished by the legislative management council. If sheets are circulated in sections, the complete text of the measure must be attached to each section."

Section 55. Section 13-27-202, MCA, is amended to read:

"13-27-202. **Recommendations -- approval of form required.** (1) Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:

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

(b) The legislative management council staff shall

1 review the text for clarity, consistency, and any other
2 factors the council staff considers when drafting proposed
3 legislation.

4 (c) Within 14 days after submission of the text, the
5 legislative management council staff shall make to the
6 person submitting the text written recommendations for
7 changes in the text or a statement that no changes are
8 recommended.

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

14 (2) The legislative management council shall furnish a
15 copy of the correspondence provided for in subsection (1) to
16 the secretary of state, who shall make a copy thereof of the
17 correspondence available to any person upon request.

18 (3) Before a petition may be circulated for signatures,
19 a sample sheet containing the text of the proposed measure
20 must be submitted to the secretary of state in the form in
21 which it will be circulated. The sample petition may not be
22 submitted to the secretary of state more than 1 year prior
23 to the final date for filing the signed petition with the
24 secretary of state. The secretary of state shall refer a
25 copy of the petition sheet to the attorney general for his

1 approval. The secretary of state and attorney general must
2 each review the petition for sufficiency as to form and
3 approve or reject the form of the petition, stating the
4 reasons for rejection, if any.

5 (4) The secretary of state shall review the comments
6 and statements of the attorney general received pursuant to
7 13-27-312 and make a final decision as to the approval or
8 rejection of the form of the petition. The secretary of
9 state shall send written notice to the person who submitted
10 the petition sheet of the approval within 28 days after
11 submission of the petition sheet. The secretary of state
12 shall send written notice if the petition has been rejected,
13 together with reasons for rejection, within 14 days after
14 submission of the petition sheet."

15 **Section 56.** Section 13-27-504, MCA, is amended to read:

16 "13-27-504. Copy of approved issues to be sent to
17 legislative management council. The secretary of state shall
18 send a certified copy of all ballot issues which have been
19 approved by a majority of those voting on the issue and a
20 copy of the statement of the canvass to the executive
21 director of the legislative management council at the same
22 time he transmits a certified copy of the statement of the
23 canvass to the governor."

24 **Section 57.** Section 19-3-403, MCA, is amended to read:

25 "19-3-403. Exclusions. The following persons may not

1 become members of the retirement system:

2 (1) elective officers who have not filed with the board
3 written requests to become members, except that ~~a person so~~
4 ~~excluded from membership~~ an elective officer may later
5 become a member by otherwise becoming an employee or by
6 written request after a subsequent election to office, and
7 if he affirmatively exercises the option, the contributions
8 of the employer because of his membership shall be the same
9 as they would have been had he not been ~~so~~ excluded;

10 (2) inmates of state institutions who are allowed
11 compensation for ~~such~~ service ~~as~~ they are able to perform;

12 (3) persons in state institutions principally for the
13 purpose of training, but who receive compensation;

14 (4) independent contractors, unless there is a written
15 contract which specifies the creation of an
16 employer-employee relationship for purposes of retirement
17 coverage under The Public Employees' Retirement System Act;

18 (5) employees serving in employment which does not
19 exceed the equivalent of 120 working days in any fiscal year
20 who have not filed with the board a written request to
21 become members. A member ~~so~~ excluded from membership by this
22 subsection may later become a member by otherwise becoming
23 an employee or by written request after the initial date of
24 exclusion. If he affirmatively exercises the option and pays
25 the employee contribution plus interest, the contributions

1 of the employer, because of his membership, shall be the
2 same as they would have been had he not been ~~so~~ excluded
3 plus accrued interest on all employer contributions from the
4 date the contributions would have been made to the date of
5 payment.

6 (6) employees in service on July 1, 1945, or prior
7 thereto who filed with the board elections not to become
8 members, except that a person ~~so~~ excluded from membership
9 may become a member and be eligible ~~thereafter~~ to receive
10 the same benefits that he would have received if he had
11 never filed an election not to be a member by meeting the
12 requirements prescribed in 19-3-505 and 19-3-506;

13 (7) persons directly appointed by the governor who do
14 not file with the board an election in writing to become
15 members;

16 (8) persons who are members of any other retirement or
17 pension system supported wholly or in part by funds of the
18 United States government, any state government, or political
19 subdivision ~~thereof~~ and who are receiving credit in the
20 other system for service, it being the purpose of this
21 subsection to prevent a person from receiving credit for the
22 same service in two retirement systems supported wholly or
23 in part by public funds, except when the service qualifies,
24 is applied for, and purchased pursuant to 19-3-503. A member
25 of the retirement system who, because of his employment by

1 the state, is required to become a member of any other
 2 system described in this subsection shall be considered,
 3 solely for the purposes of making normal contributions, as
 4 permanently separated from service. Exclusion under this
 5 subsection is subject to the following exceptions:

6 (a) When an employer has entered into a collective
 7 bargaining agreement which includes provisions for payments
 8 or contributions by the employer in lieu of wages to a
 9 retirement or pension plan qualified by the internal revenue
 10 service for its employees, the employees remain eligible, if
 11 otherwise qualified, for membership in the retirement
 12 system, and the payments or contributions in lieu of wages
 13 may not be considered a part of the employees' compensation
 14 for purposes of computing the employer or employee
 15 contributions to the retirement system.

16 (b) For the purpose of this subsection (8), persons
 17 receiving pensions, retirement allowances, or other payments
 18 from any source on account of employment other than as an
 19 employee as defined in this chapter are not considered,
 20 because of such receipt, members of any other retirement or
 21 pension system.

22 (9) court commissioners or appointive members of any
 23 board or commission who serve the state or any contracting
 24 employer intermittently and who are paid on a per diem
 25 basis;

1 (10) persons who become employees after they have
 2 reached their 60th birthday and have no creditable service
 3 in this system and who do not file with the board an
 4 election to become members;

5 (11) employees of county hospitals or county rest homes
 6 in the sixth- and seventh-class counties, unless they elect
 7 to file with the board an election in writing to become
 8 members;

9 (12) persons employed for 6 months or less by the
 10 legislature or the legislative management council to perform
 11 work related to the legislative session who do not file with
 12 the board an election in writing to become members;

13 (13) full-time students employed at and attending the
 14 same public elementary school, high school,
 15 vocational-technical center, or community college or any
 16 unit of the state university system, except that a person so
 17 excluded from membership as a student of a public community
 18 college or a unit of the state university system who later
 19 becomes a member by otherwise becoming an employee may
 20 affirmatively exercise the option of qualifying the service
 21 excluded by this subsection by applying to the board in
 22 writing after becoming a member and become eligible to
 23 receive credit for the excluded service under the provisions
 24 of 19-3-505;

25 (14) the chief administrative officer of any city or

county where the chief administrative officer has filed an election in writing with the board to be excluded from membership, this election to be filed no later than July 1, 1979, or 30 days after initial employment by a county or city, whichever is later;

(15) all former members receiving a retirement allowance, other than as a beneficiary, serving in employment if that employment does not exceed 60 working days in any calendar year. These former members must be reinstated into membership on the 61st working day in any calendar year unless they elect to return to membership prior to that day."

Section 58. Section 22-1-218, MCA, is amended to read:

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

(1) the state law library;

(2) the code commissioner in connection with his duties under Title 1, chapter 11, as amended; and

(3) the legislative management council in connection with its duties under 5-11-203, as amended."

Section 59. Section 39-30-103, MCA, is amended to read:

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

(1) "Active duty" means full-time duty other than for

training in the regular components of the United States army, air force, navy, marine corps, or coast guard with full pay and allowances. The term does not include monthly drills, summer encampments, initial training, or other inactive or active duty for training in the national guard or reserves.

(2) "Disabled veteran" means an individual, whether or not he is a veteran as defined in this section, who:

(a) served on active duty;

(b) has been separated from service by honorable discharge; and

(c) suffers a service-connected disability determined by the United States veterans administration to be 30% or more disabling.

(3) "Eligible spouse" means:

(a) the unremarried surviving spouse of a veteran who died while on active duty or whose death resulted from a service-connected disability; or

(b) the spouse of:

(i) a disabled veteran determined by the United States veterans administration to have a 100% service-connected disability who is unable to use his employment preference because of his disability;

(ii) a person on active duty determined by the United States government to be missing in action or a prisoner of

1 war; or

2 (iii) a handicapped person determined by the department
3 of social and rehabilitation services to have a 100%
4 disability who is unable to use his employment preference
5 because of his disability.

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

13 (5) (a) "Initial hiring" means a personnel action for
14 which applications are solicited from outside the ranks of
15 the current employees of:

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

18 (ii) a legislative agency, such as the consumer counsel,
19 environmental quality council, office of the legislative
20 auditor, legislative management council, or office of the
21 legislative fiscal analyst, for a position within the
22 legislative branch;

23 (iii) a judicial agency, such as the office of supreme
24 court administrator, office of supreme court clerk, state
25 law library, or similar office in a state district court for

1 a position within the judicial branch;

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

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

6 (b) A personnel action limited to current employees of
7 a specific public entity identified in subsections (a)(i)
8 through (a)(v) of this subsection (5), current employees in
9 a reduction-in-force pool who have been laid off from a
10 specific public entity identified in subsections (a)(i)
11 through (a)(v) of this subsection (5), or current
12 participants in a federally authorized employment program is
13 not an initial hiring.

14 (6) (a) "Mental impairment" means:

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

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

23 (b) The term mental impairment does not include
24 alcoholism or drug addiction and does not include any mental
25 impairment, disease, or defect that has been asserted by the

individual claiming the preference as a defense to any criminal charge.

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

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

(b) a state or local elected official;

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

(d) appointment by an elected official to a body such as a board, commission, committee, or council;

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

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

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

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

(i) any department, office, board, bureau, commission,

agency, or other instrumentality of the executive, judicial, or legislative branch of the government of the state of Montana; and

(ii) any county, city, or town.

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

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

(10) (a) "Veteran" means a person who:

(i) served on active duty during time of war or declared national emergency or in a campaign or expedition for which a campaign badge was authorized by the United States congress or the United States department of defense; and

(ii) has been separated from service by honorable discharge.

(b) The term does not include a retired member of the

United States armed forces who is eligible for or receiving a military retirement allowance based on length of service and does not include any other retired member of a public retirement system, except social security, that is supported in whole or in part by tax revenues.

(11) "War or declared national emergency" means:

(a) World War I, beginning on April 6, 1917, and ending on November 11, 1918, both dates inclusive;

(b) World War II, beginning on December 7, 1941, and ending on December 31, 1946, both dates inclusive;

(c) the Korean conflict, military expedition, or police action, beginning on June 27, 1950, and ending on January 31, 1955, both dates inclusive; and

(d) the Vietnam conflict, beginning on August 5, 1964, and ending on May 7, 1975, both dates inclusive."

Section 60. Section 75-1-321, MCA, is amended to read:

"75-1-321. **Appointment and qualifications of executive director.** The council shall appoint advise the executive director of the legislative management council in hiring the executive director, and The executive director of the legislative management council shall set his salary in accordance with the legislative employee classification system adopted pursuant to 5-11-105(2)(b). The executive director shall hold a degree from an accredited college or university with a major in one of the several environmental

sciences and shall have at least 3 years of responsible experience in the field of environmental management. He shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the state government in the light of the policy set forth in 75-1-103; to be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the state; and to formulate and recommend state policies to promote the improvement of the quality of the environment."

Section 61. Section 75-1-322, MCA, is amended to read:

"75-1-322. **Term and removal of executive director.** The executive director is sotely responsible to the executive director of the legislative management council and the legislature. He shall hold office for a term of 2 years beginning with July 1 of each odd-numbered year. The executive director of the legislative management council may remove him for misfeasance, malfeasance, or nonfeasance in office at any time after notice and hearing."

Section 62. Section 75-1-323, MCA, is amended to read:

"75-1-323. **Appointment of employees.** The executive director, ~~subject to the approval of the council,~~ may request the executive director of the legislative management

council to employ ~~appoint~~ whatever employees are necessary to carry out the provisions of parts 1 through 3, within the limitations of legislative appropriations and staffing guidelines adopted by the legislative management council."

Section 63. Section 75-1-324, MCA, is amended to read:

"75-1-324. Duties of executive director and staff. It shall be the duty and function of the executive director and ~~his-staff~~ to:

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

(2) review and appraise the various programs and activities of the state agencies, in the light of the policy set forth in 75-1-103, for the purpose of determining the extent to which such the programs and activities are contributing to the achievement of such the policy and make recommendations to the governor and the legislature with respect thereto to the programs and activities;

(3) develop and recommend to the governor and the

legislature state policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the state;

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

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

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

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

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

(9) review and evaluate operating programs in the

1 environmental field in the several agencies to identify
2 actual or potential conflicts, both among ~~such~~ the
3 activities and with a general ecologic perspective, and
4 suggest legislation to remedy such situations;

5 (10) annually, beginning July 1, 1972, transmit to the
6 governor and the legislature and make available to the
7 general public an environmental quality report concerning
8 the state of the environment, which shall contain:

9 (a) the status and condition of the major natural,
10 manmade, or altered environmental classes of the state,
11 including but not limited to the air, the aquatic (including
12 surface water and groundwater) and the terrestrial
13 environments, including but not limited to the forest,
14 dryland, wetland, range, urban, suburban, and rural
15 environments;

16 (b) the adequacy of available natural resources for
17 fulfilling human and economic requirements of the state in
18 ~~the~~ light of expected population pressures;

19 (c) current and foreseeable trends in the quality,
20 management, and utilization of ~~such~~ environments and the
21 effects of those trends on the social, economic, and other
22 requirements of the state in ~~the~~ light of expected
23 population pressures;

24 (d) a review of the programs and activities (including
25 regulatory activities) of the state and local governments

1 and nongovernmental entities or individuals, with particular
2 reference to their effect on the environment and on the
3 conservation, development, and utilization of natural
4 resources; and

5 (e) a program for remedying the deficiencies of
6 existing programs and activities, together with
7 recommendations for legislation; and

8 (11) direct the environmental quality division of the
9 legislative management council."

10 **Section 64.** Section 85-2-105, MCA, is amended to read:

11 **"85-2-105. Water policy committee.** (1) There is a
12 permanent water policy committee of the legislature. The
13 committee consists of eight members. The senate committee on
14 committees and the speaker of the house of representatives
15 shall each appoint four members on a bipartisan basis. The
16 committee shall elect its chairman and vice-chairman. The
17 committee shall meet as often as necessary, including during
18 the interim between sessions, to perform the duties
19 specified within this section.

20 (2) On a continuing basis, the committee shall:

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

25 (b) oversee the policies and activities of the

1 department of natural resources and conservation, other
2 state executive agencies, and other state institutions, as
3 they affect the water resources of the state; and

4 (c) communicate with the public on matters of water
5 policy as well as the water resources of the state.

6 (3) On a regular basis, the committee shall:

7 (a) analyze and comment on the state water plan
8 required by 85-1-203, when filed by the department;

9 (b) analyze and comment on the report of the status of
10 the state's water development program required by 85-1-621,
11 when filed by the department;

12 (c) analyze and comment on water-related research
13 undertaken by any state agency, institution, college, or
14 university;

15 (d) analyze, verify, and comment on the adequacy of and
16 information contained in the water resources data management
17 system maintained by the department under 85-2-112; and

18 (e) report to the legislature, not less than once every
19 biennium.

20 (4) The environmental-quality executive director of the
21 legislative management council shall provide staff
22 assistance to the committee. The committee may request the
23 legislative management council to contract with experts and
24 consultants, in addition to receiving assistance from the
25 environmental-quality legislative management council, in

1 carrying out its duties under this section."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB681, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the management of the legislative branch of government; replacing the Legislative Council with a Legislative Management Council; giving the Legislative Management Council general supervision and coordination responsibilities for legislative staffing; directing the Legislative Management Council to provide uniform administrative policies for all legislative employees other than the Consumer Counsel staff; revising the procedure for appointing study committees; revising the authority of individual committees to hire certain legislative personnel; clarifying the independence of the Legislative Auditor's post-audit function.

ASSUMPTIONS:

1. One division, in addition to the existing six division, will be more fully developed as a management services division. The functions of the management services division to be consolidated under the bill are currently being executed within existing legislative agencies. The level of resources recommended in the existing agencies budgets for the 1990-91 biennium should be sufficient to absorb any cost associated with consolidation.
2. Some additional program funding transfer authority may be requested to support transferred functions for the management services function.
3. All remaining provisions of the bill are expected to have no cost implications during the biennium.
4. Environmental Quality Council could reduce FTE level of a 0.5 FTE clerical position, and increase personal services costs of remaining FTE to bring them to comparable levels with other legislative branch positions.

FISCAL IMPACT:

EQC	FY90			FY91		
	Current	Proposed		Current	Proposed	
<u>Expenditures:</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
FTE	6.25	5.75	(0.5)	6.25	5.75	(0.5)
Personal Services	\$176,945	\$191,945	\$ 15,000	\$177,227	\$192,227	\$ 15,000
Operating Expenses	58,836	58,836	-0-	55,245	55,245	-0-
Equipment	3,000	3,000	-0-	3,000	3,000	-0-
TOTAL	\$238,781	\$253,781	\$ 15,000	\$235,472	\$250,472	\$ 15,000

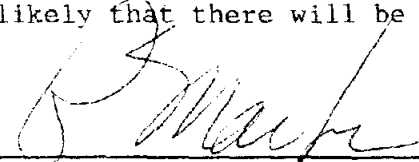
LONG-RANGE EFFECT OF PROPOSED LEGISLATION:

The consolidation of management services should result in more effective budget management in the future. The Management Council should be able to more effectively utilize staff from each of the functional divisions, thus avoiding overlap and duplication. The Management Council should be able to manage the size of interim study subcommittees and the scope of the subcommittees' activities, thereby reducing duplication and overlap with a concomitant reduction in overall interim study costs. The effect of a uniform classification and pay plan for all employees of the Legislative Management Council is unknown, but it is likely that there will be some effect.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/20/89



ROBERT L. MARKS, PRIMARY SPONSOR

DATE 2-21-89

Fiscal Note for HB681, as introduced

HB 681