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# The Legislative Politics Behind Executive Reorganization in Montana

Chuck Johnson

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**THE LEGISLATIVE POLITICS  
BEHIND  
EXECUTIVE REORGANIZATION IN MONTANA – 1971  
BY  
CHARLES SACKETT JOHNSON**

**PRESENTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR POLITICAL SCIENCE 388 AND 389  
DR. ELLIS WALDRON**

**UNIVERSITY OF MONTANA  
JUNE 10, 1971**

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## INTRODUCTION

Over the past 50 years, Montana legislators have attempted to reorganize and reform the massive executive branch of state government seven times. Legislators and researchers conducted elaborate, expensive studies each time. Six reports went unheeded and now gather dust in the archives; the seventh, a study authorized by the 1969 legislature, provided the basis for the executive reorganization plan approved by the 42nd Montana Legislative Assembly and signed into law by the governor in 1971.

This paper will attempt to reveal how and why the seventh effort succeeded where its predecessors failed. It will focus on the behind-the-scenes politics that insured its passage and the frequent roadblocks thrown up to thwart its enactment. This study does not purport to analyze the merits and deficiencies of this particular reorganization plan. That is the job for a public administration specialist.

In most cases, sources will be identified, but some, at their request, will remain anonymous in certain instances. As one said: "I don't want people to get the idea that I'm Machiavellian, even though I probably am to an extent."

The author is grateful to those legislators and other public officials who provided the information that, obviously, did not appear in reports, newspaper articles and other references.

## CHAPTER I

"The public says, 'What are those nuts doing?' We want to get all those nuts in one cage."

---Gov. Forrest H. Anderson on executive reorganization

Reformers have pleaded long and often for executive reorganization in Montana and elsewhere the past 50 years. Despite sporadic bursts of interest among legislators, these appeals, at least until recently, have been futile in most states. Since Montana's experiences resemble those in other states, a remark by Harriet Miller, state superintendent of public instruction from 1957 to 1968, might apply to other places as well: "Executive reorganization in Montana seems to be good for talking, not doing."<sup>1</sup>

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<sup>1</sup>Great Falls Tribune, May 12, 1969.

The first serious attempt to reorganize the executive branch in Montana came in 1919, when the 16th Legislative Assembly created a three-member State Efficiency and Trade Commission. Charged with the task of studying Montana's executive agencies and proposing administrative reform, the commission received \$30,000 in appropriations and had eight months to complete its investigation.<sup>2</sup>

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<sup>2</sup>Clint E. Grimes, "Reorganization in the Executive-Administrative Branch of Government," Unpublished M.A. thesis, University of Montana, (Missoula, 1960), p. 21.

It recommended few changes to Gov. Sam V. Stewart but did bring up the possibility of lumping state agencies into eight administrative departments. But voters rejected proposed constitutional amendments that would have provided the springboard for reorganization by establishing a state tax commission and board of administration, thus shuttling the plan.<sup>3</sup>

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<sup>3</sup>Montana Commission on Executive Reorganization, Report to the Montana Legislative Assembly, December 1970, p. 11. Grimes, op. cit., p. 28.

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Despite the failure, the commission did reach a conclusion that was equally applicable 50 years later:

The Legislative Assembly has created many of our State bureaus and offices in response to persistent popular demand. . . . But the Legislative Assembly in meeting such demands is very often betrayed into an illogical position. A new office or bureau is frequently created to perform a function closely related to the work already being done by an existing office or bureau, and instead of creating a new office or bureau, the Legislature should have provided for the necessary extension of power of an existing office.<sup>4</sup>

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<sup>4</sup>Great Falls Tribune, May 14, 1969.

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Montanans elected Joseph M. Dixon, a Republican with bona fide Progressive credentials, governor in 1920, and he urged legislators to adopt the short ballot and other reform measures.

Spurred by the governor, the 1921 legislature did adopt five of the 18 measures proposed by the State Efficiency and Trade Commission, but these were minor changes.<sup>5</sup>

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<sup>5</sup>Ellis Waldron, Unpublished Manuscript, (Missoula, 1955), pp. 4-5.

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The report was filed and forgotten until 1941, when the second attempt to streamline state government in Montana occurred. At the request of Gov. Sam C. Ford, the legislature appropriated \$20,000 and created a Joint Committee on State Governmental Organization.<sup>6</sup> As in 1919, the legislative committee warned

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<sup>6</sup>Grimes, op. cit., p. 32.

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against the recurring problem--the legislature creating new agencies instead of extending the scope of existing ones.<sup>7</sup>

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<sup>7</sup>Great Falls Tribune, May 14, 1969.

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The committee believed that the Montana Constitution was a major obstacle in reforming state government, noting:

Constitutional limitations make any immediate or complete reorganization impossible.



Constructive progress, however, demands the formation and acceptance of a more efficient organization plan which may be followed in a long-time program. Necessary constitutional amendments will have to be submitted later and legislative changes should conform to the accepted plan or reorganization.<sup>8</sup>

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<sup>8</sup>Report of Joint Committee on State Governmental Organization, House Journal of the Twenty-Seventh Legislative Assembly of the State of Montana, 1941, p. 339.

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In addition, the legislature, perhaps motivated by the interest generated by the joint committee, created a Governor's Committee on Reorganization and Economy, which was directed to report to the legislature in 1943.<sup>9</sup> Committee members hired a

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<sup>9</sup>Montana Commission on Executive Reorganization, op. cit., p. 12.

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well-known national consulting firm, Griffenhagen and Associates, for \$16,000 to conduct the study. Nine specialists traveled to Montana and started their study July 1, 1941, completing a massive 1,415-page report by March 1, 1942. Included in this report were 967 recommendations uncovered during the researchers' eight-month blitz of Montana.<sup>10</sup> Some, such as the one recommending

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<sup>10</sup>Grimes, op. cit., p. 33.

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longer window blind strings in state institutions, were trivial

and could be handled by an executive order.<sup>11</sup> Others were more

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<sup>11</sup>Waldron, op. cit., p. 7.

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substantial, requiring legislation and constitutional amendments.<sup>12</sup>

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<sup>12</sup>Montana Commission on Executive Reorganization, op. cit., p. 12.

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Griffenhagen and Associates unveiled two plans, a far-reaching, long-range proposal and a modified suggestion that could be enacted immediately. The long-range plan, rejected by the legislative committee, recommended that the governor serve as the single elected executive official. He then would appoint directors of the 17 departments, into which the agencies would be grouped.<sup>13</sup>

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<sup>13</sup>Grimes, op. cit., p. 41.

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Under the modified plan, all elected officials would have been retained, along with all constitutional boards, and still, the number of agencies would have been reduced from 136 to 53. Gov. Ford, a Republican, combined most of the suggestions in the modified plan into 23 legislative proposals, all of which the legislature rejected. As usual, the Republicans controlled one house, the Senate, and the Democrats, the other, the House.<sup>14</sup>

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<sup>14</sup>Ibid., p. 50.

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After the federal government set a precedent with its Hoover Commission study on the executive branch, many states organized "Little Hoover Commissions" shortly after the Second World War.<sup>15</sup>

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<sup>15</sup>Montana Commission on Executive Reorganization, op. cit., p. 12.

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Montana's legislature created the Commission on Reorganization of State Government in 1951 and appropriated \$25,000. The committee submitted a 90-page report to the 1953 legislature, recommending 62 legislative proposals, all modest in scope. Ruling out those changes requiring constitutional amendments, the commission thus submitted mostly technical recommendations. For the first time, however, suggestions proposed by a reorganization committee were well received by a Montana legislature, and 50 of the 62 recommendations became law.<sup>16</sup>

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<sup>16</sup> Waldron, op. cit., pp. 12-13.

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Despite these minimal changes, the untamed bureaucracy continued to grow. The Montana Legislative Council, a research arm of the legislature, studied the problem in 1960 and published its findings, which resembled the four other attempts, in a report entitled The Organization and Administration of State Government. While some minor recommendations were adopted, the council noted it lacked the time and funds to prepare a full plan and requested that the 1961 legislature authorize the council to formulate such

a plan.<sup>17</sup>

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<sup>17</sup>Waldron, op. cit., pp. 12-13.

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The legislature concurred, and the council completed a study, Executive Reorganization, in 1962. Proposing a possible method of reorganization, the report also offered an outline for future study and made some specific recommendations concerning financial and general administrative practices. Legislators adopted most of the recommendations but ignored the outline. As a result, the executive department, under periodic scrutiny since 1919, had not only gone unchecked once again, but continued to expand. The 1962 study reiterated the fundamental point cited in the five prior studies:

A disintegrated executive branch diffuses responsibility and increases the difficulty of executive control of governmental activity by the people. Montana's government lacks the cohesion that is needed to coordinate related programs and enable comprehensive and adequate planning and promote imaginative, prompt and vigorous executive action. If compatible functions are grouped together into a few integrated departments where lines of authority are clear and where responsibility can be pinpointed, there is a better chance that government will respond more promptly and that its activities will conform more closely to the desires of the people.<sup>18</sup>

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<sup>18</sup>Ibid., p. 13.

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Although attempts to reorganize fell short in Montana until 1971, a few states succeeded years ago. Illinois, for example,

reduced more than 120 administrative agencies into nine departments in 1917, two years before Montana's first abortive attempt.<sup>19</sup>

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<sup>19</sup>Ibid., p. 15.

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Other states tried several times, but, like Montana, they failed for a variety of reasons: the resistance of agencies that feared loss of autonomy; the historical background of separate responsibility to the electorate; the conversion of the reorganization issue into a partisan one; jealousy between the executive and legislative branches, and many citizens' distrust of the political system itself.<sup>20</sup> With the prospect of increased federalism creeping

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<sup>20</sup>Montana Legislative Council, Executive Reorganization, November, 1962, pp. 5-7.

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up on them, many states decided to try to reorganize again in the late 1960's. During the 1967-68 biennium, 28 states and territories authorized study groups. Seventeen research teams (Arizona, Arkansas, Colorado, Florida, Indiana, Kansas, Louisiana, Maryland, Massachusetts, Minnesota, New Mexico, North Carolina, Oregon, Utah, Vermont, Washington and Wisconsin) submitted reports during the biennium. The remainder (Delaware, Hawaii, Maine, Missouri, Montana, Nebraska, New Hampshire, Pennsylvania, Wyoming, Puerto Rico and the Virgin Islands) began studies but had not reported partial or comprehensive reorganization activity, from 1967 to 1969.<sup>21</sup>

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<sup>21</sup>Montana Commission on Executive Reorganization, op. cit., pp. 15-

Some states have instituted their plans. Wisconsin, for example, has streamlined 90 agencies into 28, Colorado has grouped 143 bureaus into 17 departments, Florida has reduced 200 agencies into 22 divisions, and Massachusetts had placed 170 agencies under nine departments.<sup>22</sup>

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<sup>22</sup>Missoulian, Feb. 3, 1970.

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The time at last appeared right in Montana, which had burgeoned from 20 agencies at statehood in 1889 to more than 160 in 1969. The election of Democratic Gov. Forrest H. Anderson, who had served in all three branches of government as a legislator, supreme court justice and attorney general, ushered in the reorganization movement again. In his State of the State message before the 1969 legislature, Anderson rated reorganization as a top priority.<sup>23</sup> The legislature, consisting of a Republican House

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<sup>23</sup>Gov. Forrest H. Anderson, State of the State Message, Jan. 7, 1969, p. 2.

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and a Democratic Senate, paved the way for the 1970 referendum on the issue by passing three measures. One set up a reorganization commission and appropriated money for a research staff; another was, as it turned out, an unneeded constitutional amendment. The third bill was a constitutional amendment placed on the November, 1970, ballot, asking voters to approve or reject an unspecified plan that would streamline the maze of agencies into not more than 20 departments (excluding those of seven elected officials).

Reps. Ulmer, Payne, Lucas and Laas introduced the first proposal, House Bill 610, and it appropriated \$127,509 from the state general fund and \$205,909 from federal and private revenue funds to a commission on executive reorganization, which was established by the bill. Serving on the commission, which would hire a research staff and rule on its recommendations, would be 12 persons--the governor, eight legislators and three other members chosen by the governor.

Gov. Anderson threatened to veto the bill, calling it a "monstrosity," because he believed it would have stifled the research staff by dividing control of the study between the governor and the eight legislators. In its original form, the bill would have required nine of the 12 members to approve any staff recommendation. Amendments offered during the second reading of the bill in the House on Feb. 28 met the governor's objections. House members reduced the size of the commission to nine--eight legislators and the governor. Another amendment made it clear that the governor had the power to require state agencies to cooperate in the study. The key change, Anderson said, was the amendment clarifying the role of the research staff. It provided for the staff to make a full study of reorganization and then present its recommendations for the approval of at least six of the nine-member commission. This change, he said, would insure that the staff director had "free rein to move" and could not be stopped by the commission before he and the staff started.<sup>24</sup>

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<sup>24</sup>Missoulian, March 1, 1969.

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Reps. Ulmer and Lucas, a pair of powerful Miles City Republicans, introduced this appropriations bill with its accompanying commission provision for one reason: they wanted a commission to serve as a control over Gov. Anderson during executive reorganization, according to one source close to the governor. Anderson had been informed of the availability of federal funds from the Department of Housing and Urban Development to study reorganization, and he realized it was a one-shot chance. If Montana did not take advantage of the grant, the opportunity would be wasted forever. Anderson wanted a constitutional amendment requiring the legislature to reorganize, a proposal introduced in the special session, and the bill appropriating the state money needed to secure the federal matching funds. He saw absolutely no need for a commission to peek over the shoulders of the researchers, but the divided legislature, fearful of increasing the powers of any governor, was not prepared to go this route and insisted on the watchdog commission. Certain that the legislators never would reorganize, even though they recognized the need, Anderson used the lure of the federal grant to secure legislative passage of the 20-agency constitutional amendment. He looked ahead and was hopeful voters would approve the amendment by such a margin in November, 1970, that the legislators would be obligated to reorganize in 1971 and not wait until 1973, as permitted in the amendment.

House Bill 610, as amended, passed the House 86-5 on March 3 by the following vote:



Republicans for (48): Asbjornson, Brownlee, Burnett, Casey, Cashmore, Cranston, Dye, East, Fagg, Falkenstern, Feda, Feisthamel, Giesick, Glennen, Goan, Haines, Harrison, Himsl, Jordan, Kolstad, Kvaalen, Lund, Lucas Marks, Mather, McCulloch, Murphy, Newby, Nichols, Nyquist, Patrick, Payne, Perry, Pierce, Polich, Rygg, Scott, C.M. Smith, Spilde, Stratton, Swan, Ulmer, Warfield, White, Whitney, Wolf, Woodard and Worden.

Democrats for (38): Aspevig, Aubert, Baeth, Christiansen, Egan, Eggebrecht, Fasbender, Fleming, Gerke, Gilligan, Hageman, Hall, Harlow, Healy, Johnston, Jurcich, Kendall, Knudsen, Kosena, Laas, Lee, Loble, Lombardi, Mehrens, Melcher, Prevost, Robbins, Romney, Schoonover, Spahr, Speare, Staigmiller, Steele, Teeple, Watt, Pat Williams, Yardley and Zimmer.

Republicans against (4): Combs, M.E. Holtz, E.B. Smith and W.G. Williams.

Democrats against (1): Brand

Republicans absent or not voting (6): Campbell, Clemow, Forester, Hemstad, Lundgren and Shively.

Democrats absent or not voting (3): Bardanouve, Gunderson, and Wayrynen.

Republicans excused (0): None.

Democrats excused (4): R.W. Holtz, McGrath, Nugent and Stimatz.<sup>25</sup>

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<sup>25</sup>House Journal of the Forty-First Legislative Assembly of the State of Montana, 1969, p. 808.

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The Senate unanimously concurred in H.B. 610 as follows:

Republicans for (23): Bennett, Broeder, Brownfield, Cochrane, Deschamps, Folsom, Haughey, Hazelbaker, Klindt, Lehrkind, Lyon, Mackay, Mathers, Moore, Northey, Rehberg, Rosell, Rostad, Rugg, Selstad, Stein, Stephens and Turnage.

Democrats for (27): Anderson, Bertsche, Boylan, Cotton, DeWolfe, Dzivi, Flynn, Gilfeather, Goodheart, Graham, Groff, Hafferman, James, Keenan, Lynch, Mahoney, McDonald, McGowan, McKeon, Nees, Reardon, Reber, Sheehy, Shugrue, Siderius, Sparks and Thiessen.

Republicans against (0): None.

Democrats against (0): None.

Republicans absent and not voting (2): Hibbard and Moritz.

Democrats absent and not voting (3): Bollinger, Manning and Mitchell.

Republicans excused (0): None.

Democrats excused (0): None.<sup>26</sup>

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<sup>26</sup>Senate Journal of the Forty-First Legislative Assembly of the State of Montana, 1969, p. 883.

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Gov. Anderson signed the amended bill into law March 10.

Senate Bill 50, introduced Jan 14 by Haughey, Groff, McKeon and Turnage, was a constitutional amendment voters passed 130,377 to 67,560 in November, 1970. It asked permission to submit constitutional amendments pertaining to executive reorganization to the voters in 1972, 1974 and 1976 in addition to the three regular proposed constitutional amendments that may be placed on the ballot in a general election. While the amendment turned out to be unneeded since the 1971 legislature completed the task of reorganization, it appeared to be an important bill to some of the members in 1969, when no one was certain what avenue reorganization would take.

A source close to the governor called this unnecessary bill "Haughey's personal production." Haughey, a Billings attorney and Senate minority leader, believed constitutional problems had to be overcome before an effective reorganization could take place.

Others believed that most of the necessary changes were statutory, and the needed constitutional changes could be postponed until the constitutional convention, likely to be called in January, 1972, if the amendment passed. But recognizing Haughey's influence among Republicans, Anderson agreed to support the Senate minority leader's amendment if Haughey would back the governor's 20-agency amendment. Both agreed, and Haughey, who did not seek reelection in 1970, urged voters to support both measures in the campaign movies and brochures. That almost all of the campaign material focused on Anderson's 20-agency amendment (except Haughey's statements) reportedly irked Haughey, who apparently expected at least half of the advertising to be devoted to his amendment, according to the source.

The Senate approved S.B. 50 on Feb. 5, 1969, by the following 54-1 vote:

Republicans for (25): Bennett, Broeder, Brownfield, Cochrane, Deschamps, Folsom, Haughey, Hazelbaker, Hibbard, Klindt, Lehrkind, Lyon, Mackay, Mathers, Moritz, Moore, Northey, Rehberg, Rosell, Rostad, Rugg, Selstad, Stein, Stephens and Turnage.

Democrats for (29): Anderson, Bertsche, Bollinger, Boylan, Cotton, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hafferman, James, Keenan, Lynch, Mahoney, Manning, McDonald, McGowan, McKeon, Mitchell, Nees, Reardon, Reber, Sheehy, Shugrue, Sparks, Siderius and Thiessen.

Republicans against (0): None.

Democrats against (1): Dzivi

Republicans absent or not voting (0): None.

Democrats absent or not voting (0): None.

Republicans excused (0): None.

Democrats excused (0): None.<sup>27</sup>

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<sup>27</sup>1969 Montana Senate Journal, op. cit., pp. 273-274.

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On Feb. 18, the House unanimously concurred in S.B. 50 95-0  
by the following vote:

Republicans for (52): Asbjornson, Brownlee, Burnett, Campbell, Casey, Cashmore, Clemow, Combs, Cranston, East, Fagg, Falkenstern, Feda, Feisthamel, Forester, Goan, Harrison, Hemstad, Himsl, M.E. Holtz, Jordan, Kolstad, Kvaalen, Lucas, Lund, Marks, Mather, McCulloch, Murphy, Newby, Nichols, Nyquist, Payne, Perry, Pierce, Polich, Rygg, Scott, Shively, C.M. Smith, E.B. Smith, Spilde, Stratton, Swan, Ulmer, Warfield, White, Whitney, W.G. Williams, Wolf, Woodard and Worden.

Democrats for (43): Aspevig, Aubert, Baeth, Bardanouve, Brand, Christiansen, Egan, Eggebrecht, Fasbender, Fleming, Gerke, Gilligan, Gunderson, Hageman, Hall, Harlow, Healy, Johnston, Jurcich, Kendall, Knudsen, Kosena, Laas, Lee, Loble, Lombardi, McGrath, Mehrens, Melcher, Nugent, Prevost, Robbins, Romney, Schoonover, Spahr, Speare, Staigmiller, Steele, Watt, Wayrynen, Pat Williams, Yardley and Zimmer.

Republicans against (0): None.

Democrats against (0): None.

Republicans absent or not voting (4): Dye, Glennen, Lundgren and Patrick.

Democrats absent or not voting (1): Teeple.

Republicans excused (2): Giesick and Haines.

Democrats excused (2): R.W. Holtz and Stimatz.<sup>28</sup>

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<sup>28</sup>1969 Montana House Journal, op. cit., pp. 554-555.

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The governor signed S.B. 50 on Feb. 21.

Despite passage of these two laws, Anderson apparently wanted a foundation more concrete on which to build his reorganization plans. In a letter to legislative leaders during the 1969 extraordinary legislative session, the governor said:

Recognizing that previous similar studies to reorganize and restructure the executive branch through amendment of the statutes alone has [sic] met with no success, I recommend consideration of a constitutional amendment, to be submitted to the electorate at the general election in 1970, requiring that the executive branch be organized into not more than 20 principal departments and that new powers and duties assigned by the legislature in the future be allocated to one of the principal departments.<sup>29</sup>

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<sup>29</sup>Letter from Gov. Forrest H. Anderson to Lt. Gov. Thomas Judge and Rep. James P. Lucas, March 11, 1969.

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"Lasting and meaningful" reorganization could not be achieved without constitutional changes, according to Anderson. Citing Colorado's recent "efficient and orderly" reorganization, he said bureaucratic resistance, which also had hindered previous Montana efforts, had been overcome there. Specifying that this proposal was not intended for constitutional officers, the governor said it was "directed at consolidation of the myriad of loosely knit agencies and departments in state government," an interesting comment in light of the later objections raised by Dolores Colburg, state superintendent of public instruction and a constitutional officer. "Bureaucratic self-interest" was the

chief barrier to reorganization, Anderson said, hoping that a mandate from the voters on the amendment would serve as a "directive" and thus "remove this obstacle." He concluded by recommending "that the people of the State of Montana [should] tell us what the final posture of our reorganization efforts should be and thus, hopefully, remove the cause of bureaucratic infighting from the picture."<sup>30</sup> While the governor succeeded in attaining

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<sup>30</sup>Ibid.

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reorganization in 1971, "bureaucratic infighting" certainly was not avoided as he had hoped; the bickering, in fact, soared to new heights during the legislature's public hearings on the executive reorganization bills.

On the next day, 49 senators, led by Majority Leader Eugene H. Mahoney, D-Thompson Falls, introduced Extraordinary Senate Bill 1, the proposed constitutional amendment that incorporated the governor's request. The bill specified that all "executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities, except the office of the governor and lieutenant governor," would be allocated into not more than 20 departments by July 1, 1971.<sup>31</sup> The Senate amended the measure

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<sup>32</sup>1969 Montana Senate Journal, op. cit., p. 16 (Extraordinary Session).

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on second reading and made July 1, 1973, the deadline for implementing reorganization, if voters approved the amendment. After second reading passage, the bill advanced to third reading March 15. Mahoney, however, had the bill referred back to second reading to amend it. Although it already excluded the offices of the governor and lieutenant governor from reorganization, the bill was amended to include the offices of five other elected state officials--the secretary of state, attorney general, treasurer, auditor and superintendent of public instruction--in the list of untouchable offices. Ex. S.B. 1, as amended, sailed through the Senate unanimously March 15 by the following 52-0 vote:

Republicans for (25): Bennett, Broeder, Brownfield, Cochrane, Deschamps, Folsom, Haughey, Hazelbaker, Hibbard, Klindt, Lehrkind, Lyon, Mackay, Mathers, Moritz, Moore, Northey, Rehberg, Rosell, Rostad, Rugg, Selstad, Stein, Stephens and Turnage.

Democrats for (27): Anderson, Bertsche, Bollinger, Boylan, Cotton, DeWolfe, Dzivi, Gilfeather, Goodheart, Graham, Groff, Hafferman, James, Keenan, Lynch, Mahoney, Manning, McDonald, McGowan, McKeon, Nees, Reardon, Reber, Sheehy, Shugrue, Siderius and Sparks.

Republicans against (0): None.

Democrats against (0): None.

Republicans absent or not voting (0): None.

Democrats absent or not voting (1): Mitchell

Republicans excused (0): None.

Democrats excused (2): Flynn and Thiessen.<sup>32</sup>

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<sup>32</sup>1969 Montana Senate Journal, op. cit., p. 26 (Extraordinary Session).

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On the same day, the House rushed the bill through committee, approved it on second reading and concurred in the Senate's action 88-5 by the following vote:

Republicans for (50): Asbjornson, Burnett, Campbell, Casey, Cashmore, Clemow, Combs, Cranston, Dye, Fagg, Fedra, Feisthamel, Forester, Giesick, Glennen, Goan, Harrison, Hemstad, Himsl, M.E. Holtz, Jordan, Kolstad, Lucas, Lund, Lundgren, Marks, McCulloch, Murphy, Newby, Nichols, Nyquist, Patrick, Payne, Perry, Pierce, Polich, Rygg, Scott, Shively, C.M. Smith, Spilde, Stratton, Swan, Ulmer, Warfield, White, W.G. Williams, Wolf, Woodard and Worden.

Democrats for (38): Aspevig, Aubert, Baeth, Bardanouve, Brand, Christiansen, Egan, Eggebrecht, Fleming, Gerke, Gilligan, Gunderson, Hageman, Hall, Healy, Johnston, Jurcich, Kendall, Kosena, Laas, Loble, Lombardi, McGrath, Mehrens, Melcher, Nugent, Prevost, Robbins, Romney, Schoonover, Speare, Staigmiller, Steele, Teeple, Watt, Wayrynen, Pat Williams and Yardley.

Republicans against (5): East, Falkenstern, Kvaalen, E.B. Smith and Whitney.

Democrats against (0): None.

Republicans absent and not voting (1): Brownlee

Democrats absent and not voting (5): Fasbender, Harlow, Lee, Spahr and Zimmer.

Republicans excused (2): Haines and Mather.

Democrats excused (3): R.W. Holtz, Knudsen and Stimatz.<sup>33</sup>

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<sup>33</sup>1969 Montana House Journal, op. cit., p. 34, (Extraordinary Session).

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Since both houses had passed the bill by more than the necessary two-thirds margin needed to place a constitutional amendment on the ballot, Anderson signed it March 17.



The next step in the reorganization process was the appointment of eight legislators to the Montana Commission on Executive Reorganization, which was headed by Gov. Anderson. House Speaker James Lucas named four members, two from each party: Reps. E.W. "Bill" Christiansen, D-Hardin; John C. Hall, D-Great Falls; James T. Harrison Jr., R-Helena; and Sterling M. Rygg, R-Kalispell. The Senate Committee on Committees, composed of Sens. David F. James, D-Joplin; John L. "Luke" McKeon, D-Anaconda; and Cornie R. Thiessen, D-Lambert, also picked two Democrats and two Republicans, giving the Democrats a 5-4 edge on the panel. Named were Sens. Gordon Bollinger, D-Glasgow; McKeon; Carl Rostad, R-Martinsdale, and Antoinette F. Rosell, R-Billings, whom members chose vice-chairman.

To conduct the study, the commission hired a director and staff. Chosen as director was William F. "Duke" Crowley, an associate professor of law at the University of Montana and former assistant attorney general under Anderson. He worked in Helena during vacations and summers and commuted from Missoula during the school year, leaving the day-to-day administration to Deputy Director George L. Bousliman, former research analyst for the South Dakota and Idaho Legislative Councils.

To augment the \$127,509 state general fund appropriation, Anderson, as chairman, secured \$205,909 in federal matching funds from the Department of Housing and Urban Development. The Montana Department of Planning and Economic Development handled the arrangements

and contracts for the governor.<sup>34</sup>

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<sup>34</sup>Montana Commission on Executive Reorganization, op. cit., p. 2.

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After hiring the research staff, the commission set certain guidelines for the study. The 20-agency constitutional amendment that would be referred to the voters in 1970, "served as the guiding principle for the commission's activities."<sup>35</sup> Moreover,

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<sup>35</sup>Ibid.

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from the start, commission members decided to base all their efforts on the assumption that the amendment would pass, which, of course, it did.<sup>36</sup>

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<sup>36</sup>Ibid.

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In directing the research staff, because of time, staff and financial limitations, the commission opted for a functional study, one concentrating on what the agencies did, rather than an efficiency study, which would have judged how well agencies operated.<sup>37</sup>

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<sup>37</sup>Ibid., p. 3.

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At the outset of the study, the research staff, which

numbered as many as 17 persons, determined 17 fundamental categories (and eventually added an 18th division) and assigned each agency to one grouping.<sup>38</sup> After being assigned a category,

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<sup>38</sup>George L. Bousliman, interview, Helena, Mont., March 25, 1971.

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the staff members' responsibility was to prepare written reports for all the executive state agencies that included "a detailed and thorough analysis of their organization and functions, laws, regulations, procedures and practices governing the operation of the agencies and the relationships existing among those agencies and with other levels of government."<sup>39</sup> They also appraised the

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<sup>39</sup>Montana Commission on Executive Reorganization, op. cit., p. 4.

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existing organization and recommended proposals for reorganizing the agencies. To check for accuracy, the staff forwarded the reports, but not appraisals or proposals, to the agencies for corrections, additions or deletions. The staff then sent the agency reports, along with its appraisals and recommendations, to the commission for consideration. If six of the nine-member commission approved, the staff submitted the recommendations to the agencies for comments, and if they were "of an adverse and significant nature, then recommendations were modified by the staff and submitted to the commission for reconsideration."<sup>40</sup>

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<sup>40</sup>Ibid.

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After the commission accepted the final recommendations, staff lawyers drafted them into a bill, which also had to be approved. The staff compiled the 1,800 pages of reports into a two-foot thick notebook and condensed this data into a 301-page report to the 42nd Legislative Assembly.

Commission members established six objectives of executive reorganization:

1. Make state government more responsive and responsible to the people whom it serves.
2. Provide a system of central direction and control whereby the policies of the governor and the legislature may be executed more directly and expeditiously.
3. Organize and group duties on a currently functional basis--thereby improving services, planning and providing economy to the taxpayers.
4. Clarify channels of authority and responsibility.
5. Provide the governor and department heads with flexibility in departmental organization and reorganization.
6. Standardize nomenclature and terminology where appropriate.<sup>41</sup>

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<sup>41</sup>Ibid., p. 14.

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To guide the staff, the commission listed seven principles:

1. The plan for the overall reorganization of the executive branch of state government should be as simple as possible, and the number of separate autonomous organizational units should be held to a minimum. . . .
2. The organizational structure of the executive branch should be integrated and unified by means of a central executive authority (the governor) and lines of authority should be clearly defined and the channels of communication opened from top to bottom of the organization.
3. Functions and responsibilities should be allocated to the various organizational units on the basis of similarity of character and subject matter, and in the types of operating staff required.
4. There must be a continuity of substantive operating

policy within the several departments of the organization. The commission does not believe that the addition, deletion or alteration of the current functions of executive state government is within the scope of its activities. Under the proposed plan of organization the functions of executive state government will continue to be performed as at present. Only the lines of authority and responsibility will be affected if the recommendations of the commission are adopted.

5. Where possible, departments should be headed by single administrators appointed by the governor and responsible to him.
6. Plural bodies with administrative functions should be abolished, where possible. Plural bodies should be limited to advisory, quasi-judicial and quasi-legislative functions, where possible.
7. Participation of citizens in government should be encouraged through the use of advisory committees appointed for specified terms and specified purposes.<sup>42</sup>

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<sup>42</sup>Ibid., pp. 14-15.

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State funds were not made available until July 1, 1969, the beginning of the biennium, and federal officials would not dole out the matching funds until the commission had its state appropriation in hand. After receiving the state money, the commission discovered its application was bogged down somewhere in the federal bureaucracy. It was September before HUD traced the request and furnished the money, and, thus, it was September when the staff study began. Staffers worked and presented their recommendations to the commission at "eight or nine" meetings during the 15-month period. There were not many dissenting votes altogether on the commission, but it was not a rubber stamp for the staff, Crowley said. He cited the proposals

for the Department of Labor, which required several months of rewriting to secure commission approval.<sup>43</sup> The staff had

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<sup>43</sup>William F. "Duke" Crowley, interview, Missoula, Mont., April 6, 1971.

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recommended discontinuing the Employment Security Commission, Industrial Accident Board and Apprenticeship Council and transferring their functions to the Department of Labor.<sup>44</sup> Commission

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<sup>44</sup>Missoulian, May 22, 1970.

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members later restored the Industrial Accident Board at McKeon's urging.<sup>45</sup>

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<sup>45</sup>John L. "Luke" McKeon, interview, Helena, Mont., March 27, 1971.

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Critics later charged that the commission should have conducted public hearings while the staff worked on the study, not during the legislature. Crowley said this would have been an impossibility because of time. "This was a study on what state agencies did, not how well they performed," he said. "It wasn't a job for Joe Grassroots."<sup>46</sup>

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<sup>46</sup>Crowley interview, op. cit.

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Others attacked the commission for not preparing its recommendations before the November, 1970, election so persons could vote for or against a specific plan. In a five-part series she wrote for the Great Falls Tribune in May, 1969, Harriet Miller labeled this a "serious weakness," a charge that rang through the legislative halls during the public hearings on the bills introduced to the 1971 legislature. Under provisions of the legislation that authorized the study, the commission had to submit its recommendations to the legislature by Dec. 1, 1970. Miss Miller urged the commission to move up the reporting date so legislative candidates would be committed to support or oppose the specific reorganization plan.<sup>47</sup>

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<sup>47</sup>Great Falls Tribune, May 15, 1969.

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Although the commission considered this idea, members chose to stick by their original timetable, according to Crowley. "The vote was strictly on the principle of executive reorganization, not on our plan," he said, "since no one knew what kind of plan the legislature would finally adopt."<sup>48</sup>

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<sup>48</sup>Crowley interview, op. cit.

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State newspapers carried occasional reports on the commission recommendations well in advance of the election so many voters had a general knowledge of the study. All commission meetings

were open to the public and press.<sup>49</sup>

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Bousliman interview, op. cit.

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Some other states estimated potential savings reorganization might yield, but the Montana commission elected not to do so. "We didn't believe you can promise much savings," Crowley said, "We did claim that by changing the investment procedure the state could make an additional million dollars a year." During the campaign, he said proponents of the 20-agency constitutional amendment emphasized that people would receive more services for their dollar, even though the cost of state government probably would not drop significantly.<sup>50</sup> That State Budget Director

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<sup>50</sup>Crowley interview, op. cit.

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Keith Colbo refused to try to concoct savings estimates provided McKeon with a great deal of confidence in Colbo's other fiscal notes.<sup>51</sup>

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<sup>51</sup>McKeon interview, op. cit.

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As the election approached the commission hired Sage Advertising of Helena<sup>52</sup> to coordinate its "public information"

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<sup>52</sup>The firm has handled campaigns for candidates from both parties. In 1970, Sage supervised Congressman John Melcher's successful campaign, in 1968 it ran Gov. Anderson's successful try and in 1966 the agency worked on Gov. Babcock's unsuccessful attempt to unseat Sen. Lee Metcalf.



campaign to promote the 20-agency amendment. The campaign cost \$27,990, one-third coming from state funds and two-thirds from federal money.<sup>53</sup> To avoid any charges of misuse of public funds,

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<sup>53</sup>Bousliman interview, op. cit.

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the commission submitted a campaign prospectus furnished by Sage Advertising for a review by HUD officials, who approved the campaign focus and expenditures.<sup>54</sup> HUD required that the campaign

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<sup>54</sup>Crowley interview, op. cit.

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concentrate on informing the public, and therefore not promoting executive reorganization per se, but urging persons to vote on the amendment. In addition, HUD stipulated that the commission could spend no funds to purchase newspaper, radio or television advertisements.<sup>55</sup>

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<sup>55</sup>Bousliman interview, op. cit.

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Whether the commission, staff and advertising firm accomplished their "public information" goal is debatable. They picked the slogan "Twenty's Plenty," a reference to the maximum number of agencies provided for by the amendment. Another slogan claimed Montana had 161 reasons to support reorganization, the total number of agencies at the time. While never actually urging voters to support the amendment, the implications stood out clearly:

The proposed executive reorganization of state government amendment is a modernization of Montana's state administration. When implemented, it would limit the number of state agencies to 20 and these 20 agencies would replace the maze of 161 different, independent agencies which now exist.

Both political parties, business, labor, press and women's organizations have endorsed this proposal because they feel efficiency and responsiveness will be brought back to state government. Should the proposed amendment fail, more agencies will surely be formed as needs arise. The public will continue to be confused by an archaic system. Waste and duplication will prevail.

\* \* \*

By 1969, there was an unbelievable accumulation of 161 different state agencies! The legislature found a simple but effective formula for modernizing the maze of administrative agencies under no more than 20 departments. It was not a new plan, for other states had recently adopted the proposal. So impressed were the legislators, that they voted almost unanimously to submit the executive reorganization amendment to the voters on November 3.<sup>56</sup>

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<sup>56</sup>"Twenty's Plenty," a campaign brochure supporting executive reorganization, produced by Sage Advertising, Helena, Mont.

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Statements from Sens. Mahoney and Haughey, Gov. Anderson and Republican Colorado Gov. John A. Love without a doubt met the public information standards. As Haughey wrote: "Executive reorganization will give the people the ability to control their state government. I urge you to vote on the second and third constitutional amendments. [*Italics mine*]." <sup>57</sup>

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<sup>57</sup>Ibid.

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Several of the brochure's answers to questions might not have been legitimate public information. One question asked if the plan

would save money. According to the response, "it is certain that a 20-agency plan will operate more efficiently than the present and that economies will be realized," the statement would be technically true but difficult to prove one way or the other.<sup>58</sup>

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<sup>58</sup>Ibid.

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Another answer seemed to beg a question asking who would appoint agency heads under reorganization. While it was clear that by this time the commission had determined that the governor, in all cases possible, would appoint agency heads, this was not acknowledged in this response: "This will be a matter for the legislature to determine. Once the amendment is approved, voters should make their thoughts and wishes known to their representatives and senators," which, though true, seemed to evade a key question, particularly in light of the fifth principle the commission established for the research staff, presumably at the beginning of its work.<sup>59</sup>

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<sup>59</sup>Ibid.

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Whatever its legitimacy, the campaign was widespread. Because the approach was billed as public information and public service, the commission received thousands of dollars worth of free newspaper and billboard space and hours of free radio and television time. The commission's only expenses were the costs of producing the campaign material and paying the agency. The

commission, at Sage's direction, also tried other approaches: 109,000 "Twenty's Plenty" brochures, 90 personal letters to heads of civic and trade organizations, 81 personal letters to Chamber of Commerce managers, 158 letters to senators and house members asking for their support by serving on an executive reorganization speakers bureau and 56 letters to county treasurers and clerk and recorders. The nucleus of the campaign was an eight-minute color film which each television station ran free on several occasions, often in prime time. Sage also prepared six other television commercials, video tape interviews, two series of 30- and 60-second radio spots, 10 six-minute slide presentations, 30 separate speeches for legislators serving on the speakers bureau, 48 billboards, news releases, guest editorials for weekly and daily newspapers and two sets of newspaper advertisements. The staff and advertising agency also sent a personal letter from Crowley to 492 University of Montana faculty and staff members and 7,000 brochures to members of the Public Employees Retirement Association.<sup>60</sup>

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<sup>60</sup>"Public Relations Report to the Montana Commission on Executive Reorganization," from Sage Advertising, Helena, Mont., Nov. 5, 1970.

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Some controversy arose over giving funds to the League of Women Voters for distributing brochures. Early in the 1971 legislature, McKeon criticized the Constitution Revision Commission for donating \$2,000 from its \$50,000 state general fund appropriation to the women's group to promote a vote on the calling of a

constitutional convention. McKeon, a lawyer, said the donation apparently violated Article 5, Section 35 of the Montana Constitution, which says: "No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state nor to any denominational or sectarian institution or association." Even though the legislature did not make a direct appropriation to the League of Women Voters, McKeon said Montana precedents do not allow that which is prohibited directly to be done indirectly. "This is a very poor precedent to set in the use of public tax money," he said. "I really question its propriety."<sup>61</sup> McKeon later said he had planned to

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<sup>61</sup>Helena Independent Record, Jan. 12, 1971.

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file suit until Crowley talked him out of it. The reason: the Montana Commission on Executive Reorganization had made a similar donation to the League of Women Voters. Law Professor Crowley maintained nothing was illegal about the donation and said HUD officials had approved the plan because two-thirds of the funds were federal.<sup>62</sup> McKeon later said both donations were mistakes

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<sup>62</sup>Crowley interview, op. cit.

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and neither commission should have approved the grants.<sup>63</sup>

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<sup>63</sup>McKeon interview, op. cit.

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Montana voters overwhelmingly approved the 20-agency amendment by a 138,119-59,863 margin, a plurality of 70 per cent. Each county approved the measure. Sixty-six per cent of the voters voted in favor of the unneeded amendment that allowed additional reorganization amendments to be placed on the 1972, 1974 and 1976 ballots. This amendment carried by a 130,377-67,560 plurality.<sup>64</sup>

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<sup>64</sup>"Report of the Official Canvass of the Vote Cast at the General Election Held in the State of Montana, Nov. 3, 1970." Compiled and published from the official files of Frank Murray, secretary of state, Helena, Mont.

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The 20-amendment proposal benefited from great public support. All major newspapers, both political parties, labor and many other groups endorsed the measure. This amendment received more and a higher percentage of votes than the three other amendments that provided for submitting the additional amendments, calling a constitutional convention and giving 19-year-olds the right to vote. "Some political theorists speculated that the public service campaign to familiarize the voters on the 20-department amendment helped carry the other two amendments and referendum. . . ." the advertising agency reported three days after the election.<sup>65</sup>

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<sup>65</sup>Sage Advertising Public Relations Report, op. cit.

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The staff continued its work on the report to the legislators, which the commission approved Nov. 27, and a final draft of the bill incorporating the commission's recommendations, which received the commission's approval Dec. 21. Lawyers drafting the bill relied heavily on successful reorganization legislation in other states, taking particular advantage of terminology and legal definitions. As Crowley said, "By the time we started drafting, we had some damn good models from other states to use." Using portions of legislation that had proven successful in other states had another advantage, he said, it would help allay legislators' fears that reorganization would not work in Montana.<sup>66</sup>

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<sup>66</sup>Crowley interview, op. cit.

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In its final suggestions to the legislature, the commission recommended consolidating the more than 160 agencies into 18 executive departments, excluding five of the seven elected officials as provided for in the constitutional amendment. The offices of the superintendent of public instruction and attorney general would be incorporated in the Department of Education and Department of Law Enforcement and Public Safety respectively. The proposal suggested:

Single directors appointed by the governor and who would serve at his pleasure, would head 13 departments--administration, agriculture, business regulation, health and environmental sciences, highways, institutions, intergovernmental relations, labor and industry, military affairs, natural resources and conservation,

professional and occupational licensing, revenue and social and rehabilitation services.

Boards appointed in whole or in part by the governor would head three departments--education, lands and livestock.

Elected officials, the attorney general and railroad and public service commissioners, would be in charge of two departments--law enforcement and public safety and public service regulation.

Such policy-making boards as the Highway and Fish and Game Commissions and the Board of Institutions would be abolished. In general, boards would be retained only for quasi-legislative or quasi-judicial functions.

Most advisory councils, which made up the bulk of the bureaucracy, would be abolished, but department heads and the governor could appoint them from time to time if necessary. Fifteen would be retained because of federal regulations requiring advisory councils to receive financial aid. At least 82 agencies would be abolished, and their functions, in most cases, transferred to one of the 18 executive agencies.<sup>67</sup>

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<sup>67</sup>Montana Commission on Executive Reorganization, op. cit., pp. 18-42.

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As soon as officials unveiled the final plan, critics began their onslaught. Officials of three commissions, Fish and Game, Highways and Aeronautics, complained they might lose large amounts of federal funds. Bouşliman of the executive reorganization commission staff disagreed, saying federal funds earmarked for



special purposes would remain in special accounts to meet federal requirements.<sup>68</sup>

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<sup>68</sup>Missoulian, Dec. 18, 1970.

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Anderson again made known his desire for reorganization shortly after the election. He predicted he would call a special session to finish reorganization. Legislators, he said, would take up housekeeping details such as establishing the salaries of department heads at the special session, to be held between the end of the 1971 regular session and the beginning of the 1973 session in January.

At the same time, Anderson took advantage of the commission meeting to attack state government inefficiency. The governor said he had never claimed reorganization would save money, but it would fix responsibility. "The public says, 'What are those nuts doing?' We want to get all those nuts in one cage," he said.<sup>69</sup>

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<sup>69</sup>Great Falls Tribune, Nov. 10, 1970.

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Anderson later took a more drastic step, forbidding state employees to lobby at the legislature, a move interpreted by some as a warning to state employees not to interfere with executive reorganization. His executive assistant, Ron Richards, said that particular reason was not the primary one for the ban on lobbying, but added: "I don't think he's making any secret that those

agencies lobbying against reorganization will be looked upon with extreme disfavor when this is over." The governor had received complaints over the excessive number of state employees lobbying during the 1969 session, Richards said, and he hoped to help ease the burden on legislators. If legislators wanted state workers to testify before committees, the employees were free to do so.<sup>70</sup>

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<sup>70</sup>Missoulian, Dec. 29, 1970, Ronald P. Richards, interview, Helena, Mont., May 10, 1970.

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The state had been set for a battle over the executive reorganization plan. Several newspaper editorials warned of the upcoming fight. The Billings Gazette, in an editorial entitled, "The Bureaus Resist," said: "But bureaucrats who have developed little empires in which they are virtually autonomous aren't going to give up that easily."<sup>71</sup> The Helena Independent Record

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<sup>71</sup>Billings Gazette, Dec. 17, 1970.

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noted that legislators would be under great pressure from bureaucrats and special interests to alter the plan because ". . . bureaucrats who have been able to build autonomous empires are sure to resent being incorporated in a larger department with someone over them, someone who in most cases is answerable directly to the governor."<sup>72</sup>

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<sup>72</sup>Helena Independent Record, Dec. 11, 1970.

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CHAPTER II

"I think this is one of the very best things that has ever been done in the State of Mississippi and I have long been of the opinion that this work should have been accomplished in the past. However, my department is of a type, character and kind that cannot be consolidated with any other agency, as its duties and functions are unique, and a reduction of personnel or a transfer of any duties of this department would work a hardship and prevent certain citizens from receiving benefits to which they are entitled."

--A Mississippi agency head commenting on his state's reorganization efforts.

Although the executive reorganization staff recommendations, with a few exceptions, breezed through the commission, Crowley and those close to the governor anticipated a battle in the legislative chambers. They received inklings of trouble after party caucuses selected their leadership. Republicans, who controlled the House, reelected powerful James P. Lucas as speaker. It was no secret that Lucas had his eye on the 1972 governor's race and would try to throttle Anderson's own hopes for reelection as much as possible behind the scenes.

Senate Democrats picked Dick Dzivi, a soft-spoken but volatile 34-year-old Great Falls attorney, as their majority floor leader. His selection was a private disappointment for the

governor, who had favored the more experienced John C. Sheehy of Billings. Dzivi, who had ambitions of his own, had not seen eye-to-eye with Anderson in the past. Moreover, the governor was no doubt leery about entrusting Dzivi with the majority leader responsibilities after his performance in the 1969 session. Several Democratic senators hinted they were afraid to be around Dzivi, a muscular, former football star, in caucus in 1969 because of his explosive temper. [In fairness to Dzivi, he apparently solved the personal problems that plagued him in 1969, for he was a calm, cool leader throughout the 1971 session.]

Anderson considered but rejected the idea of openly backing Sheehy, a move that doubtless would have further split the factious Democrats, one source said, but was disappointed with the result.

Lucas and Dzivi both promised no hasty decisions on reorganization. "We're not going to be able to accept this legislation carte blanche," the House speaker said. "We're going to hold extensive hearings on the subject and invite personnel from state agencies to testify as well as interested persons from outside state government." Dzivi, as expected, seemed more agreeable to the legislation, but said: "Although I agree with his (Anderson's) outline, I have to study this thing. . .got to look at it in detail. I heartily agree with the thesis. . .it will channel authority and responsibility." In a statement that set the tone for the 42nd legislature and executive reorganization, Lucas said, "The legislature is going to have to exercise its own judgment and

reach its own conclusions--even at the risk of being at odds with the executive branch."<sup>1</sup>

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<sup>1</sup>Helena Independent Record, Jan. 3, 1971.

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Anderson received another clue that Republicans might try to turn reorganization into a partisan issue when Lucas appointed W.S. "Bill" Mather as chairman of the House Special Executive Reorganization Committee. Mather, an abrasive, highly partisan and skillful Billings lawyer, appeared to get the nod in order to perform a hatchet job for Lucas on the governor's reorganization plan, according to sources close to Anderson. House Majority Leader Harrison denied the charge, noting that Mather had not applied for the position, but the Republican leadership wanted an experienced, competent chairman in view of the importance of the bill. He was reluctant to accept the post, Harrison said, but agreed to take it under one condition--that other experienced legislators be placed on the committee.<sup>2</sup>

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<sup>2</sup>James T. Harrison Jr., interview, Helena, Mont., May 10, 1971.

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Also named to the House committee were Vice-Chairman George T. Bennett, R-Helena; Walter J. Ulmer, R-Miles City; Miles L. Swan, R-Highwood; Tom Haines, R-Missoula; John C. Hall, D-Great Falls; Harold McGrath, D-Butte; James F. Fleming Jr., D-Pablo, and Walter Laas, D-Chester. The governor apparently was upset not

only with the appointment of Mather as chairman but also with the makeup of the committee. On the Republican side, Lucas had appointed three influential members--Mather, Ulmer and Haines--and a bright first-termer, Bennett, a tax lawyer who showed leadership potential. Hall, House minority leader in 1969, was the only Democrat of any significance on the committee, according to one source, and he was picked reluctantly. He had served on the reorganization commission, along with Christiansen, who had been elected minority leader, and thus would not be able to serve on the committee, so Lucas felt obliged to appoint Hall, although he would have no doubt preferred someone less influential. McGrath, Fleming and Laas were what one source called "sleepers," mediocre legislators who exerted no great influence, even among Democrats.

Ronald P. Richards, the governor's executive assistant, said the committee was "fairly well stacked but Mather was the only member we couldn't talk to."<sup>3</sup>

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<sup>3</sup>Ronald P. Richards, interview, Helena, Mont., May 10, 1971.

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Acknowledging that several strong Republicans served on the committee, Harrison said only five Democrats applied for the committee. Newcomer Gorham E. Swanberg, D-Great Falls, was the only Democrat who wanted on the committee but was not chosen. While Hall was the only influential Democrat serving on the committee, Harrison said other Democrats realized the minority party would not exercise much power on this committee. Most

preferred to try for one of the regular standing committees, Harrison said.<sup>4</sup>

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<sup>4</sup>Harrison interview, op. cit.

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Although Richards and others close to Gov. Anderson felt the composition of the House committee was a problem, they were far more concerned over Mather. The Billings Republican's statements about reorganization prior to his selection as committee chairman were largely negative, according to Richards. In addition, Democrats suspected that Mather, who had unsuccessfully run for Congress in 1969, might use the chairmanship as a forum for publicity to elevate himself to a position from which he might seek higher office again. "This was a dangerous combination," Richards said.<sup>5</sup>

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<sup>5</sup>Richards interview, op. cit.

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Fear of Mather, coupled with a rumor, apparently unfounded, that the pre-session Republican House caucus in Billings had voted to attempt to point out as many deficiencies as possible in the reorganization plan did not augur well with the governor's backers. They believed a strong committee in the Democratic Senate was an absolute necessity to counter Mather.

The Senate's Committee on Committees, made up of Chairman Stanley Nees, D-Poplar; W.A. "Bill" Groff, D-Victor, and Carroll A. Graham, D-Lodge Grass, picked McKeon to head the Senate Special

Committee on Executive Reorganization. While the choice of McKeon, who had served on the interim commission, seemed a natural one, more factors were involved. McKeon said he had not wanted to head the committee but decided to seek the post after talking to the governor and his staff.<sup>6</sup> Anderson's aides, another

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<sup>6</sup>John L. "Luke" McKeon, interview, Helena, Mont., March 2, 1971. Hereafter, this interview will be cited as the first McKeon interview, and the aforementioned March 27, 1971, interview will be referred to as the second McKeon interview.

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source said, learned that Sen. Harry B. Mitchell, D-Great Falls, gave up the opportunity to head the Natural Resources Committee to seek the reorganization committee chairmanship. Mitchell, an ardent conservationist, apparently opposed the commission's proposal to lump the Fish and Game Department into the Department of Natural Resources. "Mitchell desperately wanted to chair the Senate reorganization committee," said Fred Barrett, a former legislator who served as the governor's legislative liason. "If he had, there would have been no reorganization."<sup>7</sup> Mitchell, who

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<sup>7</sup>Fred Barrett, interview, Helena, Mont., March 11, 1971.

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voted against the bill each time but the last, maintained he did not seek the chairmanship but just wanted to serve on the committee.<sup>8</sup>

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<sup>8</sup>Harry B. Mitchell, interview, Helena, Mont., March 10, 1971.

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The Committee on Committees tabbed Mitchell as vice-chairman. Others named to the Senate Special Executive Reorganization Committee were Sens. Sheehy; George Siderius, D-Kalispell; Gordon McGowan, D-Highwood; Stan G. Stephens, R-Havre; Earl Moritz, R-Lewistown; Carl Rostad, R-Martinsdale, and Antoinette F. Rosell, R-Billings. McKeon, Rostad and Mrs. Rosell served on the interim commission, while Hall was the only member of the House committee who had sat on the Montana Commission on Executive Reorganization.

House Majority Leader Harrison, Minority Leader Christiansen and Hall, all members of the interim commission, and Matt Himsel, R-Kalispell, signed the commission-approved bill and dropped it into the hopper Jan. 4, the first day of the legislative session. It then became House Bill 3. One source said the commission agreed to introduce the bill in the House because Harrison, from his Republican leadership position, might be able to exert some influence. An equally important reason was to determine the reaction of the Republican-controlled House.

As he watched the opposition rise, Anderson urged quick action on the reorganization proposal in his State of the State address to a joint session of the legislature on Jan. 5. He called the voters' approval of the 20-agency amendment in November "an irrevocable mandate to reorganize the executive branch of state government." Approval of the plan "should not be delayed by those seeking favored status for particular interest groups,"

according to the governor.<sup>9</sup>

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<sup>9</sup>Helena Independent Record, Jan. 5, 1971.

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In a blast directed at Anderson, Mather urged state employes to testify at the six public hearings on the reorganization bill. "As chairman I am here and now calling upon every employe, board, bureau and agency to freely express their thoughts and views on this matter to the reorganization committee in spite of the governor's directive," he said, promising not to approve a bill that would create "a monster or dictatorship." He labeled the lobbying ban "Anderson's apparent attempt to silence any discussion by state employes with legislators about executive reorganization." Questioning the need for executive reorganization, Mather said: "I think the governor right now has the authority if he wants to exercise leadership. If I were governor, I'm confident that if I sent a directive to a state agency, the employes would comply to the extent permitted by law." Despite his attack on the governor, Mather insisted he was not opposed to reorganization and would give the bill a fair hearing in his committee.<sup>10</sup>

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<sup>10</sup>Helena Independent Record, Jan. 6, 1971.

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On the following day, Mather served further notice of the House plans for the bill. He predicted extensive hearings "as we go through the laws section by section. I would suppose that

we would suspend the rules to speed this up."<sup>11</sup> Under legislative

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<sup>11</sup>Great Falls Tribune, Jan. 7, 1971.

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rules, each house must transmit all legislation except appropriations bills to the other body by the end of the 40th day of the session. As this deadline approached, the Senate rushed its reorganization bill through to meet the rule, while the House suspended its rules and reworked portions of its bill.

During the lull between the introduction of H.B. 3 and the six public hearings, criticism of the proposal mounted. Don Aldrich, Missoula, executive secretary of the Montana Wildlife Federation, said his group opposed the bill, suggesting the work should be left for the constitutional convention and not "be done in haste." Under the bill, "the man in the agency would not be as free to communicate with the citizens. . . ." <sup>12</sup> Throughout

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<sup>12</sup>Great Falls Tribune, Jan. 12, 1971.

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the session, the wildlife groups bitterly fought reorganization.

Rumors that Gov. Anderson had made a deal with Speaker Lucas regarding reorganization spread through the corridors during the second week of the session. Source of some of the reports was an Associated Press article by Bill Beecham that quoted sources close to the governor as saying he would not veto a broad-based sales tax if his own proposal, which called for increasing state income taxes and corporate license taxes, were defeated in the

Republican House. The article hinted that Republicans might use the executive reorganization proposal as "leverage" to secure a sales tax.<sup>13</sup> On the following day, Anderson assured "angry and

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<sup>13</sup>Helena Independent Record, Jan. 14, 1971.

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confused" Democratic legislative leaders he continued to oppose a sales tax, but would not tell Jerry Holloron of the Lee Newspapers State Bureau whether he would sign or veto such a tax if it reached his desk. Holloron offered three possible theories for the AP report: first, the AP article was incorrect; secondly, Anderson was trying to keep his options open for later compromise; or finally, Anderson was willing to sign a broad-based sales tax and had an aide leak the report to the AP to serve as a "trial balloon" to determine public and legislative reaction.<sup>14</sup>

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<sup>14</sup>Helena Independent Record, Jan. 15, 1971.

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Some legislators believed Anderson and Lucas had consummated a political bargain--Anderson would sign the sales tax if Lucas would make certain the governor's reorganization plan passed.

In a Missoulian editorial entitled "The Worst Horse Trade," Sam Reynolds, editorial page editor, said Montana could "wind up with the worst of two important measures--a rotten executive reorganization plan and a rotten sales tax."<sup>15</sup>

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<sup>15</sup>Missoulian, Jan. 13, 1971.

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Reynolds, who earlier had rated the reorganization plan as "reasonably good," noting its "thrust seems right,"<sup>16</sup> changed his

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<sup>16</sup>Missoulian, Dec. 9, 1970.

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mind completely about the plan in a month. In the January editorial, he said enacting the commission plan "would set the stage for a dictatorially minded governor to rule the state as if he were a Huey Long type of satrapy. Executive reorganization must come, but the governor's proposals are very dangerous." Reynolds discussed a "compromise now rumored in Helena" that would have given the governor executive reorganization if he would have agreed to sign a selective sales tax.<sup>17</sup>

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<sup>17</sup>Missoulian, Jan. 13, 1971.

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Some sources close to the governor insisted no such arrangement even had been proposed, much less accepted, and the fiscal impasse that followed certainly offered credence to this view. As McKeon said, "Both the governor and Lucas are too shrewd to make a deal like that."<sup>18</sup>

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<sup>18</sup>Second McKeon interview, op. cit.

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But Richards, the governor's top adviser, confirmed the rumor, noting that Lucas met twice with the governor early in the

session and made overtures for a swap--a sales tax for executive reorganization. Anderson rejected the deal but his early ambivalence on the sales tax was a play to create the impression that such a bargain was possible, one source said.

Richards discounted Holloron's "trial balloon" theory that the governor, through an aide, was leaking the report that he would not veto a sales tax to test public reaction. Insisting that Beecham's unnamed source was not one of the governor's staff, Richards said he did not know where the AP reporter was getting his information. He suspected that some lobbyist who thought he understood the governor was providing Beecham with guesses.<sup>19</sup>

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<sup>19</sup>Richards interview, op. cit.

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What most legislators thought about the bill before the public hearings is difficult to assess. In his weekly political gossip column, "Montanalyzing," AP Capital Writer J.D. Holmes said it was "entirely possible" that legislators would not act on the measure. Some, he said, believed they needed a special session to consider the bill. Others, never identified, favored appointing a joint Senate and House interim committee to undertake an independent evaluation and then report to the 1973 session. Since reorganization did not have to be implemented until July 1, 1973, necessary constitutional amendments could be placed on the 1972 ballot if legislators chose to delay action until 1973. A third route legislators were considering was a piecemeal approach, and these

members were willing to give the governor the departments he wanted most, administration and revenue, this session and would have waited until 1973 to finish the job, according to Holmes. Whether many legislators seriously considered any of these alternatives except the first is questionable, in light of the debates on the bill and the eventual outcome.<sup>20</sup> In all

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<sup>20</sup>Great Falls Tribune, Jan. 17, 1971.

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probability, few legislators had read the commission report and bill at this juncture and thus knew little about the proposal except what they had heard second-hand.

If legislators and their constituents cared little about reorganization early in the session, their interest soared after the third week of the session when seven senators introduced S.B. 298. The bill would have given the Montana Fish and Game Commission, four of the five members being Anderson appointees, more control over Fish and Game Director Frank Dunkle. Backed by the governor, the commissioners, charged with the task of setting fish and game policy, had carried on a running battle with Dunkle, the darling of the state's environmentalists, for several years, and accused the director of disregarding their directives. Existing statute provided that the director could be fired only "for neglect of duty, incompetency or other causes. . . and then only after a full hearing of the verified charges." S.B. 298 would have repealed this immunity clause, as it provided that

the director would "serve at the pleasure of the commission, which shall prescribe his duties and fix his salary." A spokesman for the governor's office immediately said the governor was not responsible for the bill. Members of the Fish and Game Commission and their legal counsel, Clayton Herrin, claimed credit for the measure and, in fact, were seen in the legislative corridors lobbying senators and representatives to try to drum up support. A reliable source, however, insisted that the bill had originated in the governor's office. Richards and Barrett both denied this charge.<sup>21</sup> Moreover, three of the seven sponsors, Sen. David F.

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<sup>21</sup>Richards interview, op. cit. Barrett interview, op. cit.

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James, D-Joplin, McKeon and Sheehy, were regarded as three of the governor's chief allies in the Senate. Other signers were McGowan, Graham, B.J. "Swede" Goodheart, D-Malta, and one Republican, Stephens. Whether Anderson was responsible for having the bill introduced was immaterial; because of the governor's own highly publicized feuds with Dunkle, many Montanans simply assumed he had and deluged their legislators with letters, most opposing the bill. Thus, suddenly, many citizens became highly suspect of the governor's motives behind executive reorganization, viewing it and S.B. 298 as part of a conspiracy designed to fire Frank Dunkle.<sup>22</sup>

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<sup>22</sup>Great Falls Tribune, Jan. 21, 1971. Helena Independent Record, Jan. 21, 1971.

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"I'm not out to fire Dunkle," Anderson said in an interview Jan. 21. "But I want him to toe the mark." The governor lashed out at Dunkle, calling him an opportunist who became an environmentalist only after ecology came into vogue. "Where was he in 1968 during the campaign," he said. "He and his ecological issues weren't even around then. I'm sick and tired of hearing that Frank Dunkle is the only ecologist in Montana." The governor said the fish and game commissioners had threatened to resign en masse if Dunkle were not brought under control. Anderson said he approved of S.B. 298 and asked AP writer Bill Beecham: "What would you do? Frank Dunkle is a good administrator. He's a fine organizer." The controversy would be ameliorated during executive reorganization," he said, and the Fish and Game Department would be placed in the Department of Natural Resources, where Dunkle would be under an administrator appointed by the governor. "I never said I wanted to fire Frank Dunkle," Anderson said. "But that law has got to be changed. You know who runs the commission now? Frank Dunkle, that's who. Well, the book says the commission is supposed to run it and by God it's going to."<sup>23</sup>

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<sup>23</sup>Great Falls Tribune, Jan. 22, 1971.

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On the same day, Lucas said there was "strong feeling" in the legislature that the governor should not be allowed complete freedom to hire heads of state departments under executive reorganization. Asked about S.B. 298, he said, "The implications in this approach pose a far greater question in the whole subject of

executive reorganization." The House speaker said he believed the existing law contained adequate provisions to fire Dunkle "for malfeasance or misfeasance" if he had done an improper job. Lucas, discussing the powers of the office, said: "The powers of the governor definitely have to be strengthened, but we don't want to create a dictatorship. We want the governor to be responsive, yet efficient."<sup>24</sup> In a subsequent speech in Great

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<sup>24</sup>Ibid.

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Falls, Lucas told Kiwanis Club members he was asking his party to disregard the present man in the governor's chair while they considered reorganization.<sup>25</sup>

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<sup>25</sup>Great Falls Tribune, Jan. 26, 1971.

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Many legislators and reporters underestimated the tremendous grassroots support that mobilized behind Dunkle. Beecham, in an AP news analysis, said opposition to S.B. 298 would not be "substantial" since many Senate Republicans were expected to cross party lines to support S.B. 298.<sup>26</sup> After a packed public hearing

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<sup>26</sup>Great Falls Tribune, Jan. 24, 1971.

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Feb. 1, which featured much opposition to the bill from all over the state, James, chairman of the State Administration Committee handling the bill, saw opposition mount in the Senate and knew he

did not have the votes to push it through. He and other sponsors chose to let the bill die in committee Feb. 12, to no one's surprise. Three days before, the disgruntled Fish and Game Commission, realizing the bill would never reach the floor, resigned en masse.<sup>27</sup>

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<sup>27</sup>Great Falls Tribune, Jan. 24, 1971.

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Barrett said the Democratic senators who sponsored the bill suggested to the governor that the bill be allowed to die a quiet death in committee since they lacked the votes to pass it. The governor, who by this time had achieved a tenuous reorganization "compromise" concerning the fish and game department that will be discussed later, agreed.<sup>28</sup> There were rumblings on the Senate

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<sup>28</sup>Barrett interview, op. cit.

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floor Feb. 12, the last day to transmit bills, that some senators, notably McKeon, were going to try to bring the bill out of committee, but nothing happened.

According to Richards, the supporters of S.B. 298 believed they would be able to muster sufficient support from Republican ranchers, many of whom resented Dunkle, to pass the bill. But once the wrath of the press came down, Lucas discovered public opinion was against the bill and threatened to make it a political issue. With their anticipated Republican support gone, the Senate Democrats let the bill die in committee to avoid an embarrassing

floor fight. Richards did not think the introduction of S.B. 298 hurt the reorganization efforts, for the measure served, accidentally, as a diversionary measure. Environmentalists had poured all their efforts into resisting S.B. 298 by the time they sighted in on reorganization.<sup>29</sup>

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<sup>29</sup>Richards interview, op. cit.

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Another group, the Montana Taxpayers Association, announced its opposition to reorganization in a Jan. 22 newsletter. In an editorial entitled "The Reorganization Horse Walks Backward," the organization noted, ". . .we will first have a reorganization of state government, possibly with a special session of the legislature to accomplish it, and then we will throw the whole thing out of the window and do it over again when we rewrite the state constitution. . . . Montana taxpayers are hard pressed. Why make them pay to do the same thing twice?" The newsletter concluded that "to reorganize the government and then almost immediately reorganize the reorganization is not only putting the cart before the horse, it is hitching the horse up backward."<sup>30</sup>

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<sup>30</sup>Montana Taxpayers Association, "Critical Comment," Jan. 22, 1971.

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To dispel public doubts, Anderson called a news conference and paraphrased President Nixon, who had called for reorganizing the executive branch on the federal level in his State of the Union

address. "My first interest is to start servicing people and this is the only way it can be done," the governor said, referring to H.B. 3. Trying to clear up public misunderstandings, Anderson said none of the present services of state government would be eliminated, no federal funds would be lost and the plan did not anticipate sweeping changes in state personnel. Acknowledging that the bill would give the governor the power to appoint the heads of 13 departments, Anderson said, "I'm just passing through this job. If the people have no confidence in me, two years from now they can throw me out." The governor shrugged off accusations that reorganization would give the chief executive dictatorial powers, adding: "This wouldn't last through the next election as Montana people simply won't let a czar exist."<sup>31</sup>

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<sup>31</sup>Great Falls Tribune, Jan. 26, 1971.

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At the request of Lucas and Mather, Anderson also gave state employes approval to testify at the six reorganization hearings sponsored by the House and Senate committees. In his message to state workers, the governor said:

It has been brought to my attention that some misunderstanding exists among heads of departments and supervisors of agencies within the executive branch regarding their appearances before scheduled hearings and meetings of various legislative committees. This is to advise that the designated representatives of any executive department agencies are free to appear at any hearing or meeting of the legislative committees where subjects under

discussion have application to the welfare of that agency.<sup>32</sup>

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<sup>32</sup>Helena Independent Record, Jan. 26, 1971.

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Lucas and Mather asked the governor to clarify his lobbying ban Jan. 26 as the public hearings on reorganization began that evening. Mather said "numerous" agencies and state employes had told him they were afraid to testify because of the governor's "previous order." Anderson maintained he never intended the ban to include appearing before committees. What he wanted to end was "the particularly irritating and unnecessary practice of 'buttonholing' members of the legislature during the conduct of their other business," he said.<sup>33</sup>

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<sup>33</sup>Ibid.

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S.B. 298 had been introduced on Jan. 21, the 18th day and deadline for introduction of all but fiscal legislation, along with dozens of other measures. One of them, not publicized immediately because of the fury over S.B. 298, was S.B. 274, which was identical to H.B. 3, the House reorganization bill. Members of the Senate reorganization committee sponsored the bill, ostensibly so they might have a bill to work over while waiting for the House to transmit its bill. But the true reason was that the governor, Barrett, Crowley and McKeon believed the Republicans were trying to make a political issue of H.B. 3, and McKeon, in behalf of the Senate committee, introduced S.B. 274 to prevent Mather and the Republicans from killing the reorganization bill.

Some sources believed Mather's committee, instead of killing it, might have amended the bill so extensively that it scarcely would have resembled reorganization at all and Democrats might be forced to kill it, thus going against the voter's "irrevocable mandate" in November.

Mather and McKeon scheduled the joint public hearings for the nights of Jan. 26, 27 and 28 and Feb. 1, 2 and 3 in the House chambers. These dates were selected so Crowley would be able to attend during the semester break at law school. The two chairmen, in a joint release, urged all proponents and opponents, including state employes and other groups to attend.<sup>34</sup> Others,

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<sup>34</sup>Great Falls Tribune, Jan. 16, 1971.

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including the governor's staff, were not pleased with the idea of staging the hearings. "The hearings deliberately sought to develop opposition to the bills," one member of the reorganization staff said. "It was wholly Mather's idea."

The first hearing on Jan. 26 focused on the proposed Departments of Education, Lands, Military Affairs, Public Service Regulation and Social and Rehabilitation Services. Under the proposal, the Board of Education would head the Department of Education, with the elected superintendent of public instruction serving under the board's supervision. Also included in the department would be the Montana University System, the Montana Historical Society and other educational agencies. As the report noted, "With the

exception of bringing the Historical Society within the educational framework, this proposal, in effect, calls for a retention of the present method of control and operation of the state's educational system."<sup>35</sup>

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<sup>35</sup>Montana Commission on Executive Reorganization, op. cit., p. 110.

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William A. Ball, Helena, executive director of the Montana Advisory Council for Vocational Education, favored reorganization but questioned the bill's definition of "advisory capacity," which, he said, might jeopardize receipt of federal funds. The director of the Montana Historical Society, Sam Gilluly, opposed two portions of the bill--those making the society's board of trustees an advisory council and having the Board of Education pick the director. Urging the committees to amend the bill, Gilluly asked that the trustees have the power to hire the director, subject to the confirmation of the Board of Education, and proposed that the board be permitted to organize in other than an advisory capacity.

Dolores Colburg, superintendent of public instruction, opposed H.B. 3 "in its present form," saying the bill, if enacted, would be unconstitutional and thus "negate the expressed will of the people of Montana." She objected because the plan included her office, which, Mrs. Colburg maintained, was not in accord with the reorganization amendment approved by the voters. The amendment excluded the offices of seven state officials from reorganization,



but the plan included two of them, the superintendent of public instruction and the attorney general, in the 18 departments.

Ted Schwinden, Helena, Department of State Lands and Investments commissioner, supported the proposed Department of Lands. Under the bill, this department would continue to administer state lands, but the Department of Administration would take over the investment function. To save the state costs of reprinting forms and documents, he suggested naming the office the Department of State Lands and retaining the title of commissioner, instead of director.

No one spoke for or against the proposed Department of Military Affairs. The adjutant general would head the office, and the measure would add the civil defense agency to the present department. Similarly, no proponents or opponents testified on the Department of Public Service Regulation, which the three elected railroad and public service commissioners would head. The commission would perform identical functions under a new name.

The Department of Social and Rehabilitation Services proposed by the commission came under the fire of veterans' groups at the hearing. This department would take over the duties of the welfare department and Council of Human Resources. Two proponents appeared, Barclay Craighead, Helena, chairman of the Montana Commission on Aging, and Jack Carver, director of the Division of Vocational Rehabilitation in Montana.

Opposing portions of the legislation were Charles M. Lelek, Lewistown, chairman of the Veteran's Welfare Commission, and William A. Lindsay, Helena, legislative chairman, Montana American Legion. Both asked for a separate veterans department. Lindsay said some 96,000 veterans resided in the state and estimated there were two dependents for each one, thus accounting for almost 300,000 of Montana's population. Realizing the legislature was not likely to agree, Lelek proposed as an alternative that the Veterans' Welfare Commission be a separate division within the Department of Social and Rehabilitation Services and retain the right to hire its own personnel, veterans when possible. Both men supported changing the commission name to the Board of Veterans' Affairs.

Dorothy Eck, Bozeman, representing the League of Women Voters, endorsed the executive reorganization plan.

A Helena lawyer who worked for the state for 29 years opposed the bill, saying the governor could fire most state employes under executive reorganization. John Bell, an attorney for the State Employment Security Commission under the Republican administration, said: "I'm disturbed, you might say frightened-- I'm scared of H.B. 3. I don't see anything in H.B. 3 with the protection afforded in the federal government through the civil service commission. The bill would permit the governor to dismiss anybody who is outside the state's merit system." Crowley disagreed, saying the commission "took the strongest employe protection we could find and made it stronger." The merit system

applies to only six agencies--health, welfare, employment security, mental hygiene, civil defense and the commission on aging--and was set up because these departments must comply with federal personnel selection standards.<sup>36</sup>

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<sup>36</sup>Helena Independent Record, Jan. 27, 1971.

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On Jan. 27, the House and Senate committees took up the Departments of Institutions, Highways and Labor and Industry.

Bousliman told members that the five-member Board of Institutions would lose its existing administrative powers, which would be transferred to a director appointed by the governor, under the bill. The five members would serve in an advisory capacity and as a quasi-judicial board to conduct hearings over complaints by state institution inmates. Board member Dr. John R. Strizich, Helena, supported the proposal. "Presently, board members, who spend millions, are politically immune after Senate confirmation," he said. "Under this proposal, authority would follow responsibility." Robert Perry, superintendent of the Boulder River School, also supported the measure, noting that he had worked under a similar plan as director of the Colorado Mental Retardation Center from 1964 to 1970. The Colorado system worked well, and employe turnover was low, he said, hoping to allay fears that state jobs would be political appointments.

The commission favored transferring the powers of the State Highway Commission to the department director, who would be appointed by the governor. To replace the commission and provide for citizen participation, the bill called for establishment of a Board of Highway Appeals and a Highway Advisory Committee. Lewis M. Chittim, Helena, state highway engineer, said the State Highway Commission did not oppose reorganization but asked the committees to remember that the department budget is more than \$218 million, and that the five-member commission, which represented five geographic areas, provided a check and balance system between the department and the people. Eliminating the commission "as a policy-making body may cause problems of communication and coordination with the local units of government," Chittim said.

No one appeared to oppose the creation of the Department of Labor and Industry. Under the plan, the governor would appoint a director, who would supervise the functions performed by several large state agencies, including the Industrial Accident Board and Employment Security Commission. Supporting the proposal were Sidney T. Smith, Helena, commissioner of labor; J.J. Carden, Helena, chairman, Industrial Accident Board; Mrs. Marybelle Smith, Helena, member, Montana Commission on the Status of Women; George Wood, Missoula, executive secretary, Montana Self Insurers Association; Moody Brickett, Helena, acting chairman and executive director, Montana Employment Security Commission; James W. Murry, Helena, executive secretary, Montana State AFL-CIO, and R. L. Rampe, Helena, president, Montana Council of Teamsters.

In a surprise move at the conclusion of the hearing, Mather lashed out at public apathy, calling the hearings a "mockery" because of the lack of opposition from state employes. "We're missing something here," he said, noting that in two nights of hearings, there had been 16 proponents, two opponents and one person offering amendments. The Billings lawyer said:

Perhaps I'm the only one that feels something is missing. . . . I cannot believe there are not people in the state of Montana that won't say there is another way to do it. . . . It's inconceivable to me that state employes and agency representatives are here saying everything is right. . . . I've never found anything so noncontroversial. At least let us know. . . . I've got a feeling there is tremendous undercurrent. . . . This is the biggest thing that's happened in years and we aren't getting anything. . . . It's inconceivable that it's all apple pie.<sup>37</sup>

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<sup>37</sup>Helena Independent Record, Jan. 27, 1971. Great Falls Tribune, Jan. 28, 1971.

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McKeon disagreed, saying, "I know of no one that is holding back, but if so, let's hear it." He recounted how the commission discussed each department at length before approving or rejecting the staff proposals and revealed how the governor had broken a tie on the proposal eliminating the State Highway Commission. The Anaconda Democrat said the hearings deliberately were set up to take care of the less controversial departments first and predicted "a great deal of discussion" during the

final two hearings, which would take up health and environmental sciences, natural resources, business regulation, professional licensing and intergovernmental relations.

Rep. Francis Bardanouve, D-Harlem, termed Mather's speech "shocking" and said: "It was almost an appeal to incite attacks and cause resentment against the governor's reorganization proposal." Not a member of the House committee, Bardanouve was one of the few other legislators to attend the hearings.<sup>38</sup>

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<sup>38</sup>Helena Independent Record, Jan. 28, 1971.

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Farmers and ranchers dominated the third session as the committees listened to testimony on the Departments of Agriculture and Livestock. Although the commission originally wanted to combine the two departments, Crowley said research revealed that they did not have much in common, except regulating dairy products. Few of those testifying were happy with the proposed Department of Agriculture and splitting the two departments. Ray Lohr, Carter, president of the Montana Graingrowers Association, opposed the split, along with the transfer or abolishment of several related agencies. The State Board of Hail Insurance would be transferred to the Department of Business Regulation and the Wheat Research and Marketing Committee would be abolished but its functions would be transferred to the department. Robert Brastrup, Great Falls, chief, Division of Wheat Research and Marketing, warned that federal funds may be lost if the wheat research agency were eliminated. Another farmer, James W.

Stephens, Dutton, a member of the State Board of Hail Insurance, requested that his board remain in the Department of Agriculture. Cato Butler, Helena, a spokesman for the Department of Agriculture, supported the proposal but believed the State Sealer of Weights and Measures and Dairy and Egg Division belonged in the department. Sen. Paul Boylan, D-Bozeman and a dairy owner, also believed control over dairy products belonged under the Department of Agriculture. Others also opposed shifting the Milk Control Board to the Department of Business Regulation. Clyde Jarvis, Great Falls, president of the Montana Farmers Union and also representing Montana Associated Utilities, Montana Dairyman's Association and the National Farmers Organization, said these groups all supported the concept of executive reorganization but wanted a stronger Department of Agriculture composed of several divisions within it.

Under reorganization, the Department of Livestock, would be run by an appointed board. This system was retained, Crowley said, because the board had done an "outstanding" job of policing the ranching profession. Proponents included Sen. William R. Mackay, R-Roscoe, past president of the Montana Stockgrowers Association; William F. Garrison, Glen, first vice president of the Montana Stockgrowers Association; William Cheney, Helena, executive officer of the Montana Livestock Commission, and Joe Helle, Dillon, member of the Montana Woolgrowers Association. These four proponents all favored separating the Departments of Agriculture and Livestock.

A former legislator, Fred Wetzsteon, Sula, claimed to represent himself and "several hundred thousand people who were misled when they went to the polls in November." Wetzsteon called for a moratorium on reorganization until the constitutional convention and said: "I can't conceive the legislature giving up its dealing with bureaus, boards and commissions to give the governor all that authority." The former Ravalli County representative likened the state administrators testifying in favor of the proposal to "mild, wooden soldiers." His blasts drew applause from the spectators and legislators at the hearing.

Another critic, Archie Wilson, Hysham, objected to the bill and charged that Montanans voted "on a part-way package," thinking it would bring about efficiency and reduce costs. "Now these people are having second thoughts," he said, "You're creating a layer of administrative personnel that will cost you money--and a lot of it. The bill would place the power of the people in the hands of too few people." If enacted, the reorganization bill would give the governor "practically dictatorial powers," he said.

Three departments strengthened by executive reorganization, administration, revenue and law enforcement, were the subjects of the fourth public hearing Feb. 1. Crowley termed the proposed Department of Administration the most controversial under reorganization because it would become "a consolidated investment agency." The existing Department of State Lands and Investments had invested much of the state money, much of which came from retirement funds of public employe groups. The legislature



had recommended centralized investment several times since 1921, he said, calling attention to the need for professional management. Though the funds would be lumped together for investment purposes, each group's money would retain its identity. By consolidating investments, Crowley believed the state could earn an additional million dollars annually.

Supporting the proposal was Doyle Saxby, Helena, state controller and director of the Department of Administration, who said Oregon, Washington, Minnesota and Colorado all had successful centralized investment programs. Saxby said he had "no doubt that earnings can be increased without reducing the quality of investment." According to the commission report, about \$221 million was invested from 33 separate accounts in the state treasury on Jan. 1, 1970, by six agencies--the State Land Board, Public Employes Retirement System, Social Security Division, Industrial Accident Board, Teachers' Retirement Board and the state treasurer.<sup>39</sup> Saxby suggested one change, broadening

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<sup>39</sup>Montana Commission on Executive Reorganization, op. cit., pp. 53-54.

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the power of the Board of Retirement Appeals that would be created under executive reorganization. This board, which would be made up of representatives of the groups whose funds were being invested should have "authority to help determine the right to review the amount and type of investments made."

Andrew J. Kiely, Helena, Industrial Accident Board fiscal officer, said his board had no objections to consolidating state investments as long as a fulltime employe trained in the investment field was hired. He also asked that the Industrial Accident Board have the right to review the amount and type of investments made.

Bardanouve, who worked on a 1965 Legislative Council study of state investment practices, supported the plan but warned that teachers had helped kill the 1965 proposed legislation, and he expected them to try again. "Montana is in an oxcart as far as investment goes," he said, estimating that the state had lost millions of dollars since 1965. Melvin P. Martinson, Helena, director, Joint Merit System, and Schwinden, board member of the Public Employees Retirement System, also approved the plan, though Schwinden called for periodic review of the investment operation by the public and members of the groups whose funds would be invested.

While acceptable to the heads of certain state agencies, Montana teachers vehemently opposed the plan. As Dee Cooper, Helena, executive secretary, Montana Education Association, said, the bill, which eliminated the Teachers' Retirement Board, removed "the voice the teachers now have. . . ." and transferred the group's assets to an agency "where they would have no control over policies, administration nor the \$61,292,000 now belonging to the Teachers' Retirement System." Moreover, the bill "makes only a token gesture at recognition of teacher rights by providing for appeal to a grievance committee of which only one member

will be a teacher," he said. Cooper called the proposal "confiscatory and dictatorial," pointing out that no state money was involved in the teachers' fund except for a relatively small amount for professional employes in the office of the state superintendent of public instruction and the University System. Membership in the group totalled more than 16,000, who "are very satisfied" with the existing arrangement and "vehemently protest" the proposed changes, he said. Furthermore, he said, "it seems very strange that they were never consulted nor given an opportunity to express their wishes before H.B. 3 was drafted." Three hundred MEA delegates voted unanimously to oppose the bill, which would give the governor "this kind of dictatorial authority." As an amendment, Cooper suggested making the Teachers' Retirement Board the 19th department. Six other teachers, including Rep. Henry Cox, R-Billings, supported Cooper's objections and amendments.

The Montana Commission on Executive Reorganization proposed a Department of Revenue that would be headed by one man, an appointee of the governor, instead of the three-member Board of Equalization, which supervised collection of state taxes. The board would be transferred to the department but retain only certain constitutional duties such as adjusting the value of taxable property, supervising county assessors and boards of equalization, assessing intercounty property of public utilities and transportation companies and imposing levies on livestock for stock protection. Under the plan, the controversial Liquor Control Board would be abolished, with the department assuming its

functions and a Board of Liquor Appeals set up as a quasi-judicial board to settle liquor license disputes.

Keith L. Colbo, Helena, state budget director, testified in favor of the plan. "At the present time, there is no one in state government with either the information or responsibility to prepare estimates of all revenue," he said, while the reorganization proposal would require the department "to estimate all state sources and continuously study fiscal problems and tax structures" and make reports to both the legislative and executive branches. Sen. Groff, chairman of the Finance and Claims Committee, said the members of the Board of Equalization had many revenue duties dumped on their laps by legislatures, and thus the board has become a "repository" for all revenue matters. Saddled with these numerous duties, the board has become unresponsive to the requests of the legislative and executive branches, he said, supporting H.B. 3.

An auditor for the Board of Equalization, Hanley Wilson, Helena, said, "Organization of tax matters is such a hodgepodge we can't do our job. If a taxpayer is sneaky enough, he can get away with it."

Howard Lord, Helena, outgoing chairman of the Board of Equalization, outlined some of the problems involved in stripping the board's powers. Many tax laws, for example, require public hearings before the board. Acknowledging difficulties the board has had in administering Montana's tax laws, Lord, appointed by former Republican Gov. Tim Babcock, said much improvement could have been accomplished "with adequate legislative support."

Separating the board's functions into the Departments of Revenue and Administration would appear to result in "significant losses in organizational efficiency," he said, urging legislators to postpone reorganization action on the Department of Revenue until after the constitutional convention. Lord maintained that good tax administration could be achieved with either the board or a single executive, provided "proper legislative support" was offered.

The attorney general would head the Department of Law Enforcement and Public Safety, retain his existing powers, gain supervision of the chief of the Highway Patrol and state fire marshall and take over the authority in the field of building codes.

John Hale, director, State Electrical Board, was the lone proponent. A Missoula contractor, Tony Veazey, who represented the Montana Home Builders Association, opposed the section of the measure that would eliminate the State Building Codes Council and transfer its functions to the department. Dolphy Pohlman, representing Atty. Gen. Robert Woodahl, said he neither favored nor opposed executive reorganization but submitted amendments asking the attorney general not have to secure approval of the governor to create advisory councils, that the attorney general be authorized to hire personnel for the Crime Control Commission, that the constitutional officers be excluded from the authority of the governor to resolve conflicts and that the attorney general approve the appointments of legal counsel for the 26 licensing boards in

the Department of Professional and Occupational Licensing.

Dave Middlemas, Helena, Lewis and Clark County sheriff, and Walter Hammermeister, Great Falls, Cascade County sheriff, asked that the Law Enforcement Teletypewriter Communications Committee and the Law Enforcement Academy Advisory Committee be retained. Both would be abolished, and their functions transferred to the Department of Law Enforcement and Public Safety.

Francis Mitchell, Helena, lobbyist for the Statewide Low-Income Group, proposed two amendments pertaining to advisory councils. The first change would have permitted any department head to create an advisory committee and omitted the stipulation that it could be done only if federal law required an advisory council as a condition necessary for the receipt of federal funds. Under the second proposal, Mitchell submitted language that would have allowed an advisory council to extend beyond the four-year limit. The original bill, he said, did not provide for enough citizen participation in state government.

McKeon's prediction that the final two hearings would draw many opponents was accurate. On Feb. 2, the two committees considered the Departments of Health and Environmental Sciences and Natural Resources and Conservation. Under reorganization, the Department of Health and Environmental Sciences would perform the present functions of the health department and would have primary responsibility over almost all environmental protection functions including air and water pollution, radiation, solid waste and partial responsibility for industrial hygiene and pesticide control.

The seven-member Board of Health and Environmental Sciences would lose its policy-making powers, Crowley said, but retain quasi-legislative and quasi-judicial functions, which took up 70 per cent of the existing board's time anyway. In addition, the department would be responsible for conducting inspections for certain state boards such as the Water Well Contractors, Board of Barber Examiners and others.

Dr. John S. Anderson, Helena, executive officer of the state health department since 1961, supported the measure but pointed out one problem. As drafted, the bill provided for the terms of board members to run concurrently with the governor's, which, Anderson said, would result in a lack of any continuity from one administration to another. He suggested retaining seven-year staggering terms to solve the problem. Noting that his own department also was undergoing reorganization, Anderson said the proposed department was almost identical to the existing agency.

A Great Falls physician, Dr. Frank L. McPhail, testified in favor of the bill but asked that the clause "to serve at the pleasure of the governor," not apply to the director or board members. Qualified public health physicians are difficult to find, he said, and board members must have a specialized knowledge of the field, gained from board experience. He also asked that the staggered terms of board members be retained. Rep. George Darrow, R-Billings and a geologist, agreed with McPhail and proposed changing the qualifications of board members.

The proposed creation of the Department of Natural Resources and Conservation sparked a great deal of controversy. The department would have consisted of the administrative units of the State Fish and Game Commission, State Soil Conservation Committee, Montana Water Resources Board, Montana Grass Conservation Commission and the office of the State Forester. The policy-making boards for each of these departments would be abolished, and a five-member Board of Natural Resources and Conservation would be established and have quasi-legislative, quasi-judicial and advisory functions.

State Forester Gareth Moon, Helena, supported merging the conservation departments and submitted several minor amendments. Pointing out the "complete lack of coordination" between the conservation departments, Douglas G. Smith, Helena, director of the Montana Water Resources Board, "strongly" endorsed the legislation. Winston Weydemeyer, representing the Montana Conservation Council, supported the consolidated department but asked that the Council on Natural Resources and Development be retained. The director of the Montana Bureau of Mines and Geology, Uno M. Sahinen, Butte, favored transferring strip coal mining regulations from his bureau to the department, as proposed in the bill, and urged that a separate division be created.

Committee members received their first taste of the upcoming opposition when Cecil Garland, Lincoln, president of the Montana Wilderness Association, said he supported the bill but viewed "with great alarm the fact that the governor may be elected and appoint a natural resources director whose powers



for at least four years are accountable to no one except the governor who appointed him." Garland made four recommendations: the Fish and Game Department should retain complete identity within the department; the Fish and Game Department director and personnel should retain the right to face accusers; the Fish and Game Commission should be retained, and new resources regulating employes should be given the same measures of job protection presently existing.

Others also came with amendments. Dean A. Hanson, Gildford, chairman of the State Soil Conservation Committee, asked that his committee be made a separate division with an advisory board. The president of Polson Outdoors Inc., John Oberlitner, recommended that the head of the proposed Fish and Game Division retain his existing job security and called for retention of the Fish and Game Commission. Lewis Archambeault, Glasgow, chairman of the State Grazing Districts, and John C. Brown, Worden, members of the Montana Grass Conservation Commission, asked that the Grass Conservation Commission retain its separate identity, or as an alternative, requested to transfer it to the department for administrative purposes only.

Rep. Ed B. Smith, R-Dagmar, opposed the bill because "it gives any governor too much power."

Another House member, Leland Schoonover, D-Polson, said he opposed the bill "because it totally voids these principles [the basic principles of democracy] and completely deprives the people of any opportunity to actively participate in the administrative branch of government." As a citizen, he did not

believe it was prudent "to abdicate our responsibilities and then establish an executive department with absolute authority and no opportunity for us, the people, to control his [the governor's] freedom to create administrative law which has far more implications than legislative law." Calling for a separate Fish and Game Department, Schoonover also recommended returning a buffer board between the director and the governor.

Placing the director of the department "under excessive political jeopardy from the executive branch" would be the net effect of H.B. 3, Roman Zylawy, Missoula, representing the Montana Sierra Club, in explaining to committee members why his group opposed certain portions of the measure. Cloyd Steiner, Miles City, a director of the Custer Rod and Gun Club, opposed the bill for the same reason.

Darrow testified again and expressed concern over the abolition of the Council of Natural Resources.

Don Aldrich, Missoula, executive secretary, Montana Wildlife Federation, called for revising the state's constitution before reorganizing. Supporting retention of policy-making commissions, he said citizens were "concerned about one man appointing 20 or less men to run state government without the aid of commissions--that it might come to a flat-out patronage political form of state government in its worst form." Aldrich expressed the need for an independent Fish and Game Department and for the directors of all departments to "have security from unfair dismissal." Knowing a governor can be voted out in four years "is not assuring when you realize how much of our resources could be sacrificed to political patronage in four years," he told

the committees.

Controversial Fish and Game Director Frank Dunkle submitted a written statement, noting that his department recognized the need for reorganization and suggested two amendments. First, he said the bill provided job security for individuals occupying certain positions on the effective date of the act but did not provide similar security for their successors, which is needed to attract and hold competent employees. Dunkle also advised retaining the Fish and Game Commission, with which he had so often fought, renaming it the Board of Fish, Game, Recreation and Parks and transferring the board to the Department of Natural Resources and Conservation for administrative purposes only. The board, along with the administrative officer of the Fish, Game, Recreation and Parks Agency, would hire agency staff. Moreover, the board would be quasi-judicial, except the members' terms should not be concurrent with that of the governor, according to the amendment.

If the opposition to H.B. 3 rose during the fifth hearing, it reached a peak at the sixth and final public hearing Feb. 3. Testimony by opponents to the proposed Departments of Business Regulation, Professional Licensing and Intergovernmental Relations bore a striking resemblance to the statement of the head of a Mississippi agency testifying on his state's reorganization efforts:

I think this is one of the very best things that has ever been done in the State of Mississippi and I have long been of the opinion that this work should have been accomplished in the past. However, my department is of a type, character and kind that cannot be consolidated with any other agency, as its duties and functions

are unique, and a reduction of personnel or a transfer of any duties of this department would work a hardship and prevent certain citizens from receiving benefits to which they are entitled.<sup>40</sup>

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<sup>40</sup>Montana Legislative Council, op. cit., p. 6.

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Under the proposed Department of Business Regulation, a number of regulatory agencies, the Milk Control Board, the Board of Hail Insurance, Superintendent of Banks, Consumer Loan Commission, Commissioner of Insurance, Commissioner of Investments and Sealer of Weights and Measures, would be abolished and their functions would be transferred to the department. John Dowdall, Helena, state examiner and commissioner of banks, was the lone proponent.

State Auditor E.V. "Sonny" Omholt, Helena, said he had some "serious reservations" about the bill and, like Mrs. Colburg, questioned its constitutionality since he supposedly was one of the elected officials whose office were to be exempted from reorganization. Removing the fire marshall, insurance and investment divisions of his office would not be consistent with the 20-agency amendment, he said, describing reorganization as being "possibly ill-conceived and immature," in light of the upcoming constitutional convention. Omholt, a Republican, said he was never consulted on any of the proposed changes. Asking why a fiscal note estimating the cost of implementing reorganization had not been sought, he said the cost of reprinting 140 forms used by the agencies that would be transferred from his office would be "great."

A.A. Schlaht, Billings, president, Transwestern Life Insurance Co., agreed with Omholt. James W. Stephens, Dutton, who testified previously, supported placing the Board of Hail Insurance, of which he was a member, in the Department of Agriculture with an accompanying advisory commission. Archie Hunnewell, Danvers, also supported this proposal.

A number of seemingly unrelated agencies would be lumped into the proposed Department of Intergovernmental Relations. As Crowley explained, the agencies share one characteristic, all were groups that funnel federal or state funds. Included in the department would be the Highway Traffic Safety Office, State Economic Opportunity Office, Coordinator of Indian Affairs, Department of Planning and Economic Development, Policy Advisory Board, County Printing Board and Library Advisory Council. A Board of Aeronautics would be created and several boards, the Montana Arts Council, State Library Commission and Aeronautics Commission and others, would be abolished.

Perry F. Roys, Helena, executive director of the Department of Planning and Economic Development; Albert E. Goke, director, Highway Safety Board, William E. Hunt, director, Montana Aeronautics Commission, and Dan Newman, director, State Economic Opportunity Office, all endorsed the plan.

Seven persons, trying the patience of committee members and spectators alike, argued that the Montana Arts Council should be retained. Two asked that the Aeronautics Commission become the 19th department. Three spoke on behalf of the State Library Commission, which also would be abolished under the plan.

The proposed Department of Professional and Business Regulation drew no proponents and 13 opponents. Under H.B. 3, the state's 26 licensing boards would be placed under one department for administration but retain semi-autonomy and authority over their professions, while the department would provide clerical and fiscal assistance to the boards to cut down on costs of duplication. The funds of each board would be kept separately, according to Crowley. Comments ranged from "I think it stinks," (George E. Brown, Billings, secretary, Montana State Association of Barbers and Beauticians) to "The morticians will gladly bury this bill for free" (Ralph J. Beck, Deer Lodge, member, Montana Funeral Directors Association).

In general, most opponents wanted to be a separate entity and not be consolidated with other boards. They doubted that any single administrator, who would be appointed by the governor, could have the knowledge needed to operate a department made up of the 26 boards.

Reporter Daniel J. Foley of the Lee Newspapers State Bureau aptly described the tone of the six public hearings:

After six nights of legislative hearings on executive reorganization, it became very apparent that a highly contagious disease--infectious but-itis--is sweeping the capitol.

Symptoms of the dread disease were showing up in almost everyone, most of them beginning their testimony with "I'm for executive reorganization, but. . . ."

Executive reorganization, you'll recall if you voted in November, is the plan whereby the state is going to take 160 little fiefdoms and make 18 big fiefdoms under a king. . .er, governor.

Now, of course, everyone is for executive reorganization, just as everyone is for mom, apple pie and hotdogs at baseball games. But. . .<sup>41</sup>

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<sup>41</sup>Helena Independent Record, Feb. 5, 1971, p. 1.

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To those backing executive reorganization, the hearings were of a questionable value since they did little but evoke opposition to the bill and helped spread some misinformation. Bousliman, however, listed several good points that resulted from the hearings. First, Dr. Anderson's concern over the continuity of state boards resulted in a subsequent amendment. Equally important, proponents of the bill could now say extensive public hearings were held, which they hoped would have a cathartic effect.<sup>42</sup>

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<sup>42</sup>Bousliman interview, op. cit.

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But at this point, it was no secret that the bill was in serious trouble unless some compromises and amendments were made quickly.

### CHAPTER III

"In the interest of getting the general concept of reorganization through, I feel politics is the art of compromise. I have no objections to putting Fish and Game in a separate department if the legislature wishes."

--Gov. Forrest H. Anderson on making the Fish and Game Department the 19th department under executive reorganization.

By the end of the public hearings, the two executive reorganization bills, H.B. 3 and S.B. 274, had reached a crucial crossroad. Supporters faced the choice of either standing by the original plan, which had sparked great opposition, and trying to push it through both houses or making some changes to appease the upset bureaucrats, state elected officials and the public.

A news analysis written by John Kuglin of the Great Falls Tribune Capitol Bureau Feb. 3 outlined some of the obstacles and predicted the widespread opposition "apparently will bring executive reorganization to its knees." Fears that Gov. Anderson "wants to turn most departments of state government into his personal patronage system" and the bipartisan opposition from three state officeholders, Mrs. Colburg, a Democrat, and Woodahl and Omholt, Republicans, were likely to scuttle reorganization during the regular legislative session, according to Kuglin, one of the top capital reporters. The "sweeping powers" granted to



the governor also came under heavy attack at the hearings, he said, quoting Missoula contractor Tony Veazey, who said at one hearing that the proposal looked "like it might have been taken from the state of Louisiana," a state infamous for its corrupt politics and extensive spoils systems assembled by Huey Long. The Fish and Game Commission and Anderson's backing of S.B. 298, the measure that would have made it easier for the commissioners to fire Dunkle, was a miscalculation, Kuglin said, which "gave the Republicans, who control the House of Representatives, plenty of ammunition to show that the real purpose of executive reorganization is to give a governor the undisputed power to fill state departments with political appointees and hacks." Kuglin concluded by predicting the executive reorganization bills would not be considered until a special session.<sup>1</sup>

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<sup>1</sup>Great Falls Tribune, Feb. 3, 1971.

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That Anderson and Lt. Gov. Tom Judge refused to testify at a special seventh public hearing angered some persons. Mather, as chairman of the special House committee, called the hearing for Feb. 8 and invited the present governor and lieutenant governor and all their living predecessors. "Having served in an executive capacity, they should know what they're talking about," he said.<sup>2</sup> McKeon, head of the Senate committee, opposed

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<sup>2</sup>Great Falls Tribune, Feb. 3, 1971.

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the plan, saying, "executive reorganization shouldn't be turned into a political forum." He said he could see "no purpose in inviting the executives to recount past operations of state government. We should move forward and not backward." On Feb. 3, Judge said he would not attend since he did not think it would be "proper."<sup>3</sup> Anderson later announced he would not

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<sup>3</sup>Great Falls Tribune, Feb. 4, 1971.

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attend since he could find no precedent for a governor to testify at a legislative hearing. "Many times, I feel compelled to go directly to the legislature. . .to spell out my arguments for and against," he said in a letter to House Speaker Lucas. "However, my experience in the legislative, judicial and executive branches of government has impressed upon me the need to strictly maintain the separation of powers as stated in the constitution." After Anderson's refusal to appear, Mather cancelled the hearing to avoid putting "a partisan taint" on executive reorganization since former Republican Govs. J. Hugo Aronson and Tim Babcock had agreed to testify. Mather pointed out that Anderson had taken an active role in reorganization by heading the interim commission, a legislative group, and said: "It strikes me that the two positions are inconsistent." Perhaps offering a warning to Anderson and other backers of reorganization, Mather said the cancelled seventh hearing would have focused on the purpose

behind the plan, "but it now looks like this will have to be debated on the floor."<sup>4</sup>

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<sup>4</sup>Great Falls Tribune, Feb. 8, 1971.

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Even Republican Harrison conceded he "wouldn't be surprised if it was a political move on Mather's part," but said there was some logical reason behind calling for the special hearing. Instead of holding a public hearing, the House majority leader said an informal, private meeting between the former executives and the House and Senate committees would have been a better proposal.<sup>5</sup>

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<sup>5</sup>Harrison interview, op. cit.

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While Gov. Anderson claimed there was no constitutional protocol for his appearing, Ron Richards, his executive assistant, cited two more important reasons. The first involved protocol. "The President never goes to Capital Hill," he said. "It's an unwritten rule in this game that rarely, if ever, will you find an officeholder (like a President or governor) be equated with lesser elected individuals (senators or congressmen or state legislators)." There was nothing the governor could have said about reorganization that he had not expressed in the commission hearings. "More important," Richards said, citing the second reason, "we spotted it for what it was--a play to draw out the governor to throw out the loaded question

such as: "When did you stop beating your wife?" This was one of Mather's great talents, according to Richards.<sup>6</sup>

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<sup>6</sup>Richards interview, op. cit.

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The Missoulian, which had endorsed the reorganization plan in December, called for delaying reorganization in an editorial that appeared Feb. 3. Calling for a more extensive state civil service system, the editorial warned that a "powerful governor could use his clout to turn executive departments into a ghastly spoils system," or an "utterly incompetent and weak governor, by failing to govern, could turn the executive branch into a muddled chaos." Editorial writer Sam Reynolds also suggested postponing reorganization, holding public hearings around the state and calling a special session in 1972 "to enact a re-worked reorganization package."<sup>7</sup>

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<sup>7</sup>Missoulian, Feb. 3, 1971.

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The traditionally Republican Helena Independent Record also suggested postponing action on reorganization until a special session. An editorial criticized selfish bureaucrats for resisting the plan but noted the governor "has done little to allay the fears [of his inclination toward vindictiveness] either among legislators or state employes." Two other measures would be essential if reorganization passed, a state civil service system that would protect all but the top officials and

annual legislative sessions with a provision that special sessions could be called by a majority of legislators, according to the editorial.<sup>8</sup>

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<sup>8</sup>Helena Independent Record, Feb. 4, 1971.

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In an editorial aired by KBLL Radio and Television of Helena, owned by former Gov. Babcock, General Manager Dave Holliday, who later announced his candidacy for chairman of the State Republican Party, blasted H.B. 3 and Anderson and Judge. The effect of H.B. 3, when coupled with H.B. 322, the executive budget act, and S.B. 147, a personnel classification act, would make the governor "a feudal lord who would virtually have the power of life or death over nearly every state employe and who could spend at his pleasure close to 200 million dollars every two years." Only the biennial legislature, which would rely heavily on information furnished by the departments under the governor's control, could check these sweeping powers, he said. Criticizing Anderson and Judge for refusing to testify, he said: "If it is true the executive reorganization is the number one priority of the Anderson-Judge administration, it would seem that a refusal to walk up a flight of stairs to support the idea in public would be hard to defend." Their statement that appearing before a legislative committee would violate the separation of powers between the executive and legislative branches was a "nebulous idea," he said. "If it is important, it is important

. . . and there is no real reason why the governor and his lieutenant shouldn't do everything they can to support the idea."<sup>9</sup>

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<sup>9</sup>KBLL Radio and Television, Helena, Mont., editorial, Feb. 5, 1971.

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Not all public opinion was against Anderson and reorganization. The Great Falls Tribune supported Anderson's refusal to appear before a legislative committee, saying the governor "stands on solid constitutional ground" and calling it "unwise" to have governors testify at hearings. Had Anderson testified, "it would establish a bad precedent," the Tribune said, since a governor would be expected to appear at numerous other hearings. Noting that Anderson had told leaders of both parties that he would gladly meet with them in his office, the editorial recommended that the House reorganization committee members "would be lax not to take advantage of the opportunity" to discuss the proposal with the governor.<sup>10</sup>

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<sup>10</sup>Great Falls Tribune, Feb. 5, 1971.

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Sen. John K. McDonald, D-Belt, chairman of the Senate Committee on Constitution, Elections and Federal Relations, gave reorganization a boost when he tried to clarify what he termed a "misunderstanding" concerning executive reorganization and the upcoming constitutional convention. Many witnesses at the six public hearings had called for delaying reorganization

until after the constitutional convention, he said, but "while a convention can further streamline the executive branch, 98 per cent of the fundamental goals of executive reorganization can be achieved through statutory changes in H.B. 3." The constitutional convention would deal with constitutional, not statutory law, according to McDonald, who headed the interim Constitution Revision Commission. "The people have spoken concerning the need for executive reorganization. . . .Executive reorganization need not wait on the constitutional convention," he said.<sup>11</sup>

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<sup>11</sup>Great Falls Tribune, Feb. 5, 1971.

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It was in this light, then, that the reorganization bill must be viewed before the House and Senate Committees began their separate deliberations. Many persons feared the bill would create an all-powerful chief executive, who would use the spoils system to give all his inept cronies high-paying jobs, and state government obviously would suffer. Recognizing the spiralling opposition to the bill, Crowley asked the governor to call a meeting of the Montana Commission on Executive Reorganization to consider possible amendments.

The commission met Feb. 5 in the governor's reception room, and all were present except Rep. Rygg, who did not return to the legislature. In presenting the commission with a 32-page memorandum summarizing complaints and proposed amendments brought out at the hearings, Crowley said there were other minor, technical amendments he wanted to submit to the House and Senate

committees without clearing them with the commission. But, he said, the staff had judged 16 items significant enough to bring before the commission. If the commission approved the changes, the staff would draft the amendments and submit them to the two committees. The commission approved all 16 proposed changes that would:

(1) Permit the elected officials to create advisory councils without the approval of the governor.

(2) Allow groups whose funds would be invested to have more representation and determine broad investment policy. The commission also agreed to support a bill sponsored by Sen. Rosell that would permit teachers to vote for their representatives instead of having the governor appoint them. Hall disagreed, point out that the Teachers' Retirement Board was violating existing law since the State Land Commission was supposed to invest the funds. Showing he was ready to compromise, Anderson said, "I don't have objections to any compromise. Do it, if necessary, to get the bill through." The commission decided to have Mrs. Rosell, a high school guidance counselor, McKeon and Dee Cooper, executive secretary of the Montana Education Association, try to work out an acceptable compromise.

(3) Retain the Wheat Research and Marketing Committee as an advisory board to avert possible loss of federal funds.

(4) Set a standard per diem rate of \$25 for members of advisory councils. Dr. Anderson of the Department of Health and several others said they could not afford to pay that rate and asked that the agency head have the right to set the per diem pay.



Hall objected, saying the pay should be standardized for all departments, and the commission agreed.

(5) Change the definition of "advisory capacity" to make the bill consistent with federal law.

(6) Require advisory councils carried forward under executive reorganization to file reports with the governor and secretary of state so state officials could keep track of them.

(7) Allow the Montana Historical Society Board of Trustees to organize. These provisions were "inadvertently" omitted from the legislation, Crowley said.

(8) Grant the Board of Trustees of the Montana Historical Society the right to choose a director, subject to the confirmation of the Board of Education.

(9) Make some internal changes in the proposed Department of Labor and Industry to prevent possible loss of federal funds. The U.S. Department of Labor recommended five changes, such as setting up a Division of Employment Security within the department. Under the original bill, the Employment Security Commission would have been abolished and its functions transferred to the department, though no specific division had been established.

(10) Change the name of the Department of Lands to the Department of State Lands and retain the title "commissioner" instead of "director," as proposed, so new forms would not have to be printed.

(11) Not allow the governor to resolve conflicts between the seven constitutional officers. It was the intent of the bill to allow the governor to resolve conflicts only between department

heads he appointed, Crowley said. Atty. Gen. Woodahl suggested this change, along with three others. The commission approved one that would allow the attorney general (and other elected officials) to create advisory councils without the consent of the governor. Committee members rejected his request that the attorney general be permitted to appoint members of the Crime Control Commission since federal regulations require the governor to make the appointments. In addition, they overruled the suggestion that the attorney general be given the power to approve the appointment of legal counsel for the 26 licensing boards in the proposed Department of Professional and Occupational Licensing.

(12) Permit the Board of Equalization to sit as a board of appeals for tax disputes.

(13) Give the governor the right to appoint a majority of members on all quasi-judicial boards. As written, the bill provided that all the members' terms would be concurrent with the governor's, which would destroy the continuity needed to keep a board in operation after a change of governors, according to Dr. Anderson of the Department of Health. The measure, as amended, would provide that a majority of the members' terms would expire with that of the chief executive, thus allowing a new governor to appoint three of five or four of seven board members upon taking office and still retain several members for a time to bridge the gap between the old and new boards.

(14) Transfer the quasi-judicial and quasi-legislative functions of the Sanitarians Registration Council to the State

Board of Health and Environmental Sciences.

(15) Carry over the existing statutory qualifications for the state forester to the head of the Division of Forestry within the proposed Department of Natural Resources and Conservation.

(16) Take care of a reimbursement problem involving the Real Estate Commission administratively. The commission was the only licensing agency that already reimbursed the state general fund for administrative costs. Under H.B. 3, the commission would be required to pay again. After considering amendments, Crowley said the problem could be handled best administratively.

After concluding their business, the commission members then took up the stickiest problem of all--what to do with the fish and game department. All had been inundated with dozens of letters and telegrams opposing S.B. 298 and thus knew how powerful and extensive fish and game supporters were. The time had come for a decision on the fish and game department. Anderson, who had backed S.B. 298, took what some considered a surprising stand: he was ready to compromise. Asked about making the fish and game department the 19th department, he said: "It doesn't matter to me one way or the other. In the interest of getting the general concept of reorganization through, I have no objections to putting Fish and Game in a separate department if the legislature wishes."

Before the commission could consider any possible amendments, up popped Rep. Leland Schoonover, D-Polson, who just happened to bring a series of amendments himself. He said he had thought the bill overemphasized the authority of the governor, but, after

watching the commission approve some amendments, he would withdraw that charge. But, he said, "the area of resource management is something else" for several reasons:

the vast area of our state, the tremendous economic value of both our consumptive and non-consumptive resources; the sparsity of our population; the closeness of our people to the pioneers who settled this state. . . the fact that we are an exporting state and wealth development of these same resources is far removed from our side, and finally, basically, we are still very close to the earth itself.<sup>12</sup>

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<sup>12</sup>Leland Schoonover, prepared statement, Feb. 5, 1971.

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All of these factors must be considered, he said, when legislators consider changing the existing ways of resource management. "Generally, I think most people accept what you folks are trying to do," he told commission members. "I certainly do." The Polson legislator said he was extremely interested in outdoor recreation and conservation, as many Montanans were, and did not believe "it would be to the best interest of either the government or the people to stifle this interest." Unlike other fields, every natural resource and conservation issue "has the potential of being controversial," and department personnel often are forced to take unpopular stands. To do their jobs well, resources management workers must never be afraid to speak out in defense of their scientific judgments, according to Schoonover, and "this necessitates both an area of hearing and an area of job protection."<sup>13</sup> He then offered the following series of amendments

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<sup>13</sup>Ibid.

that would:

--Remove the fish and game department from the proposed Department of Natural Resources and Conservation.

--Add a five-member quasi-judicial and quasi-legislative board to represent the agencies within the Department of Natural Resources and Conservation.

--Set up a 19th department consisting of the fish and game department and rename it the Department of Ecology and Outdoor Recreation.

--Establish a five-member policy-making board that would be similar to the Fish and Game Commission that would be abolished under H.B. 3. Members would have staggering terms so a governor could appoint three of the members when he took office, but two of the board members would remain to provide continuity. The board would have quasi-legislative and quasi-judicial powers.

--Provide for a director of the department to be appointed by the governor. His term, like those of other department heads, would be concurrent with that of the governor. However, unlike the other directors, the director of this department would not serve at the pleasure of the governor. He would retain the protection that the fish and game director enjoyed and could be fired "only for neglect of duty, incompetency or other causes." The powers and duties of both the director and board would be clearly established. In addition, the Senate would have to approve his appointment.

--Restore the Council of Natural Resources to bring about coordination between the Department of Natural Resources and the

Department of Ecology and Outdoor Recreation (or Fish and Game.)<sup>14</sup>

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<sup>14</sup>Ibid.

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Anderson was surprisingly receptive to the amendments. "This might be a good thing to do," the governor said. "This does differ from most areas of government since it depends on me buying a license and you buying a license. Every time a man buys a license, he's an authority." Anderson, himself an outdoor sportsman, said he had no objections to the proposal. "It would take it out of the area of politics," he said. "Well, no, it wouldn't. You can't get out of areas of politics." Public opinion seemed to indicate that most persons wanted a separate department to handle fish and game matters, he said.

McKeon, who had been under pressure from the various sportsmen groups for sponsoring S.B. 298, asked Schoonover what the various wildlife groups would think of the proposed amendments. A member of at least one of these organizations, Schoonover said he did not know, adding that he was just trying to work out a compromise acceptable to both factions.

Anderson favored retaining the title of Department of Fish and Game "because that's what you buy the license for." If the department name were changed, citizens might think the commission was trying "to whitewash" the matter, McKeon said, and the commission agreed.

Questioning the need for protecting the director, Hall pointed out that no other department head would have this protection.

In a move that stunned some of those attending the meeting, Anderson said he did not object to giving the fish and game director the additional protection. "If this is passed, as far as I'm concerned, the present director will stay there if he does his job," the governor said. "The director should have his present status. I have no objection to doing this. If you don't, the commission may bounce him." Predicting that the feud between Dunkle and the Fish and Game Commission and himself "will work itself out in a couple of years," Anderson said he had never seen a man who was indispensable "but in the interest of calming these people down, I couldn't care less."

With the exception of the name change, Schoonover's proposals passed unanimously.

Newspaper articles hailed the move as a major compromise on the part of the governor. In a news analysis written for the Associated Press, John Morrison said the "compromise was forced on Anderson by the apparently widespread popularity Dunkle enjoys with wildlife groups around the state." In the opening paragraph, Morrison said: "Compromise is the name of the political game, and Gov. Forrest H. Anderson apparently has found a compromise to his liking in his running feud with Fish and Game Director Frank Dunkle."<sup>15</sup>

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<sup>15</sup>Great Falls Tribune, Feb. 7, 1971.

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Indeed the compromise was to the governor's liking and certainly not forced upon him, for, unknown to Morrison, the

commission and the public, was the fact that Anderson himself had initiated the "compromise." The key figures involved were Schoonover and Fred Barrett, the governor's legislative liaison. During the hearings, Barrett realized the controversy over the fish and game department endangered reorganization and conferred with the governor, who also had seen opposition increase. Anderson told Barrett to try and work out a compromise concerning fish and game. After hearing Schoonover testify at the public hearing on the proposed Department of Natural Resources and Conservation Feb. 2, Barrett sought him out because of his credentials in the wildlife field and his support of the concept of executive reorganization. After three hours of discussion in Barrett's office late one night, the pair came up with what came to be known as the Schoonover amendments, which were submitted Feb. 5. The operation was shrouded in secrecy as only Barrett, Schoonover and Anderson had prior knowledge of the amendments. To avoid making the staged show seem staged, Schoonover formally requested permission to appear at the commission meeting and asked some persons interested in wildlife about possible proposals. "The amendments were not a compromise but a giveaway in terms of the concept of executive reorganization," Barrett said. "But it had to be done. It was the only workable way to get out from under the impasse developing."<sup>16</sup>

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<sup>16</sup>Barrett interview, op. cit.

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Why then did Schoonover, who became the goat of the wild-life groups, sacrifice his bona fide conservation credentials when he agreed to submit the amendments for the governor. One source close to the fish and game department maintained that Schoonover, who will retire as a teacher in June, was looking for a job in the Anderson administration, possibly for the fish and game directorship itself. He submitted the amendments, the source said, because he had been promised a job. Barrett disagreed, saying that Schoonover, who teaches civics, did not submit the amendments for selfish reasons; he simply wanted a compromise acceptable to both sides.<sup>17</sup>

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<sup>17</sup>Ibid.

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In an interview, Schoonover would not admit he submitted the amendments for the governor and insisted they were entirely his idea. One source close to Schoonover, unaware of the secret amendments, said the Polson legislator was quite proud of the amendments and said he had spent some time working on them. Asked if he had consulted the governor or his staff about the amendments prior to the meeting, and submitted them in the governor's behalf, he said: "No, we don't see eye-to-eye. It just happened that the governor, at the commission meeting, was at a point where he was looking for an out and he accepted my amendments." He emphatically insisted he had not discussed the specific amendments with anyone before the meeting except members of the reorganization staff. He said he asked them only if he

could appear at the commission meeting. Believing that "half a loaf is better than none," he submitted the amendments. "You could always amend the bill to give the director more protection," he said, "but we only had one chance to make it the 19th department." None of the wildlife groups, which later excoriated Schoonover for submitting the amendments, knew of the specific proposals prior to the meeting, he said.<sup>18</sup>

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<sup>18</sup>Leland Schoonover, interview, Helena, Mont., March 3, 1971.

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While the commission members tried to resolve the fish and game controversy, they did not even discuss the objections raised by two state officials, Omholt and Mrs. Colburg, about the constitutionality of including their offices in reorganization. In the latter case, it was an oversight that returned to haunt the supporters of reorganization, for Dolores Colburg had not forgotten. She already had begun working behind the scenes to secure the amendments she wanted, even if it meant blocking passage of the bill.

On Feb. 8, the Monday following the commission meeting, the Senate Special Committee on Executive Reorganization held its only substantial meeting of the session; it had met once before to agree to introduce S.B. 274. Present were Sens. McKeon, Sheehy, Siderius, Mitchell, Stephens, Rosell and Moritz, and Sens. Rostad and McGowan were excused. McKeon submitted the commission-approved amendments to the committee for action. As Crowley said, "Most were of no great consequence," but two were

major--one restoring the Teachers' Retirement Board and another making the fish and game department the 19th department.

McKeon and Mrs. Rosell had met with representatives of teachers groups Feb. 6 and "ironed the problem out," according to the committee chairman. Under the proposed change, the Teachers' Retirement Board and Public Employees' Retirement System Board of Administration would be restored to arbitrate disputes. Both boards would have the power to make broad policy decisions on investments but would not be involved in the actual investment. As proposed previously, the Department of Administration would make consolidated investments, but the identity of the funds of each group would be preserved. McKeon said this solution was acceptable to the teachers' lobbyists.

Crowley explained the fish and game amendments offered by Schoonover that the commission adopted Feb. 5. Mitchell objected, saying: "It is disturbing to me. It violates one of the principles you attempted to follow." He said the Fish and Game Commission should have the power to hire or fire the director, as existing law provided.

"We merely followed Schoonover's orders and put them into amendments," Crowley replied. Mrs. Rosell said she believed Schoonover intended that only the commission could fire the fish and game director. She got support from fellow Republican Stephens, one of the sponsors of S.B. 298, who cited the Department of Livestock, in which only the Livestock Commission could discharge the director. The person who appoints the director, the governor, should have the right to fire him, Crowley said,

"but maybe we mistook Schoonover's intent." Mrs. Rosell and Mitchell argued that only the commission should be able to fire the director. "The governor appoints the commission and that makes sense," Mitchell said, "but those commissioners are the boss."

Sheehy, another sponsor of S.B. 298, objected and said: "I think the governor should appoint and remove. That's the heart of executive reorganization." But the commission would be his team, Mitchell said, so there should not be any problems.

Sheehy held strong. "He should appoint directly," the Billings Democrat said. "There should be no exceptions. The governor has no control over commissions after he has appointed them."

Mitchell countered by noting that the commissioners could be removed for inefficiency, but Sheehy moved that the amendment, as proposed, pass, and Siderius seconded the motion.

"Mr. Chairman, is it your thinking that we're going to adopt these amendments tonight after seeing them for the first time?" Mitchell asked.

"I'd love it," replied McKeon.

"Well, I'd hate it," Mitchell retorted. "I, for one, would like 24 hours."

"I think we've come to a policy decision on the fish and game," McKeon said. "I don't think we can hold back too long. We can wrestle this out on the floor."

Mitchell protested, saying he had another amendment, one that would restore the Montana Arts Council, that he wanted to

submit. "I'm not intelligent enough to sit here and adopt these matters now," he said. "I need 24 hours."

Sheehy's motion on the fish and game department passed 4-3. Voting for it were Sheehy, Siderius, Mrs. Rosell and McKeon. Mitchell, Stephens and Moritz opposed it.

Mrs. Rosell moved the adoption of the amendment that would restore the retirement boards, which passed unanimously. She also wanted an amendment that would allow the eight professional and occupational licensing boards to conduct their own inspections. The bill provided that the Department of Health and Environmental Sciences would take over this function, which representatives of the boards opposed at the hearings. At McKeon's suggestion, she agreed to meet with the reorganization staff to draw up an amendment.

Because of the mechanical problems involved, McKeon asked the committee members to approve the rest of the 14 pages of amendments, which they did unanimously. Sheehy then moved that the bill be reported out of committee with a "do-pass" recommendation, which also passed without a dissenting vote. The problem, McKeon said, was getting the 110-page bill typed again with the amendments inserted and having it printed so it could be placed on second reading. The deadline for transmitting bills to the House was Friday, Feb. 12, so he said it was imperative that they approve the amendments and bill as soon as possible. Stephens said he had "some real reservations about the whole package, but the problem is strictly mechanical at this time. We can debate it at length later."

On the next day, Guy Easton, Laurel, president of the 10,000-member Montana Wildlife Federation, announced his group's opposition to the Schoonover amendments. Although Schoonover, a member of the federation, said his amendments had the support of reasonable conservationists, Easton made it clear that Schoonover was not speaking for the MWF. Easton said the group did support the proposal making the Department of Fish and Game the 19th department but wanted the director to be isolated from the governor's authority and virtually immune from political pressure. Under amendments offered by the federation, a five-member Board of Fish, Game, Recreation and Parks would be established and operate as the Fish and Game Commission did. The board, not the governor, would pick the director, who could be fired only by the commission and only for neglect of duty or incompetence. While Schoonover's amendments called for the governor naming a majority of board members upon taking office, the MWF measure proposed staggered five-year terms for board members, with one expiring during the legislative session after the governor takes office. The other four terms would expire one each year, so a governor would not have control of the board until the third year of his term, barring resignation or deaths.<sup>19</sup>

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<sup>19</sup>Helena Independent Record, Feb. 9, 1971.

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Perhaps the federation's rejection of the governor's "compromise" incited Anderson, for he blasted Dunkle just five

days after the commission meeting at which he said the director would not be fired if he performed his duties. "That's the legislature's business if it wants to set fish and game off like some God-like thing," he said, apparently in reference to the MWF proposals. "This has been the case in other states where the problem arose. But if he (Dunkle) gets his awful authority, let him run for governor. I hope he does run. That will solve the whole problem."

Taking another poke at the popular Dunkle, the governor said, "Maybe we've found a messiah." He said he had not decided whether to accept the Fish and Game Commissioners' resignations. "If the legislature makes them nonfunctional, I'll accept the resignations," he said. "That was the basis of the resignations." Denying reports that he and Dunkle had had a personality clash, he said, "I like Frank and he's an able administrator." The controversy arose over "principle," he said. "If they want to run fish and game as a sort of fiefdom and the legislature wants them to, let them do it," the governor said. "But I have some serious doubts about leaving the director of any agency sitting there forever." The governor reiterated the need for reorganization, saying: "I haven't got any more executive authority--let alone supreme authority as provided in the constitution than the man in the moon." In all the years he had watched government, Anderson said he was the first chief executive to go after executive reorganization. "I'm taking some real gambles," he said.<sup>20</sup>

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<sup>20</sup>Helena Independent Record, Feb. 9, 1971.

At a caucus of Democratic senators Feb. 10, Dzivi explained that the House had agreed to suspend its rules and allow its committee an additional 10 days, until the 50th day, to work on the bill. McKeon said the Republicans were trying to make a political issue of reorganization, and he wanted to get the bill through the Senate because the House committee might be content to let its bill die. Sending a bill to the representatives might spur them into action, he said. After explaining the amendments, he suggested that any additional changes be submitted in the House because of mechanical difficulties of retyping and printing the lengthy bill. At McKeon's request, the following caucus roll call vote was taken on whether to support his plan to push the bill through the Senate by the 40th day and not suspend the Senate rules: 26 ayes, 1 nay (Mitchell), 1 uncommitted (Shea) and 2 absent (Reardon and McGowan). McKeon said he thought Mrs. Rosell would vote for the plan and perhaps Rostad, since both served on the interim commission. Mitchell agreed not to speak against the bill on the floor, and Dave Manning of Hysham, dean of the Senate, urged his colleagues to follow the party line. Warning that the Democrats could very well lose the governorship and control of the Senate after the 1972 election because of their support of executive reorganization, Shea said he and many citizens had some grave reservations about the bill.

On the same day, Feb. 10, when the House suspended its rules, Mather said he had doubts whether reorganization could or should be accomplished during the 60-day regular session. He also expressed doubts about H.B. 3 and S.B. 274 since they



"concentrate sole power in the hands of one man, namely the governor."

While McKeon maintained "we have a responsibility to the people to put this thing through during the regular session," Mather said, "If this is accomplished this session, I feel it will be a slapdash affair. But I'm saying it won't be done." Because of the many other bills, few legislators or citizens had studied H.B. 3, he said, noting: "I think everybody voted for consolidation of departments but very few voted for one-man rule." Claiming to be speaking out as an individual legislator and not as the committee chairman, he said either legislative or citizen checks were needed to prevent "untrammelled executive power." Dropping a hint to the backers of the two bills, Mather said, "I would not be upset if reorganization is not accomplished this session. But I want to make it clear that I won't drag my feet."<sup>21</sup>

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<sup>21</sup>Helena Independent Record, Feb. 11, 1971.

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Sen. Stephens announced on Feb. 11 that he would try to block debate on the bill the next day. "We're just rushing this thing through," the Havre Republican said. "We just haven't had enough time to study it." He said he had learned of the compromise that would make the fish and game department the 19th department through the news media. "We were not told of it and so have not studied it." He proposed that reorganization

be left to the next legislative session and asked that an interim committee be established to hold more public hearings.<sup>22</sup>

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<sup>22</sup>Great Falls Tribune, Feb. 12, 1971.

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On Feb. 12, the 40th day, S.B. 174 was scheduled for debate on second reading. Stephens, as he had promised, tried to move the bill off second reading, and suspend the rules, as the House had, to permit the committee to work on the bill longer. Majority Leader Dzivi said he was willing to suspend the rules to account for the House but not the Senate. "I don't think there is one member who has thoroughly read and digested the amendments," Stephens said. "I have," replied McKeon, describing the changes as "very simple." He said the executive reorganization staff would be happy to go over the amendments with anyone. "I kind of wonder if we are not talking in a political vein, not a practical one," he said.

Minority Leader William L. Mathers, R-Miles City, supported Stephens and said he thought the rules should be suspended. A vote to take the bill off second reading and refer it back to committee failed on a party line vote, with only Mitchell crossing lines.

McKeon and Stephens continued their debate during second reading. After commending the reorganization staff, Stephens said, "The theory is sound. People voted for more efficiency and thought they'd save money, but they won't." He said he believed the legislature had been "corralled into rubber-stamping this

bill," which he termed "the most important piece of legislation in 20 years." Mathers questioned McKeon about the centralized investments that the Department of Administration would make. He wanted it written into the bill that an investment expert would be hired. "We're talking about millions of dollars," the minority leader said. "This illustrates why we need to study this more. We have no assurances that they will hire an expert."

Another influential Republican, Sen. Mackay, inquired how much the department directors would be paid. "I don't know," McKeon said. "The existing rights and duties of everyone employed will be preserved. It won't be a political hatchet job. It will cost a few dollars in upgrading salaries, but I believe in efficiency. We will be spending pennies to save dollars."

Mathers continued to press McKeon about the centralized investments, and the Anaconda senator said he shared Mathers' concern. If this bill passes over to the House, "I will be happy to work out some amendments," he said.

The bill passed second reading with a few dissenting votes. Under legislative rules, no roll call vote is taken on second reading.

In order to transmit the bill to the House by midnight, the deadline, senators suspended the rule that states no bill can receive more than one reading on the same day, except on the final legislative day. S.B. 274 passed the Senate by the following 34-19 vote:

Republicans for (6): Bennett, Cochrane,

Lyon, Moritz, Rosell and Rostad.

Democrats for (28): Bertsche, Bollinger, Boylan, Cotton, DeWolfe, Dzivi, Flynn, Gilfeather, Goodheart, Graham, Groff, Hafferman, Hanks, James, Keenan, Lynch, Manning, McDonald, McKeon, McOmber, Nees, Reardon, Shea, Sheehy, Siderius, Sorenson, Thiessen and Vainio.

Republicans against (18): Broeder, Brownfield, Carl, Deschamps, Drake, Hazelbaker, Hibbard, Klindt, Lowe, Mackay, Mathers, McCallum, Moore, Northey, Rehberg, Stein, Stephens and Turnage.

Democrats against (1): Mitchell.

Republicans absent or not voting (0): None.

Democrats absent or not voting (0): None.

Republicans excused (1): Rugg.

Democrats excused (1): McGowan.

The House of Representatives planned to consider reorganization during a special order of business Feb. 20. In the interval, 12 Republicans, led by Rep. Ed B. Smith of Dagmar, introduced a resolution Feb. 17, asking to postpone reorganization of all state agencies whose major source of revenue was not the state general fund. The most notable examples were the highway and fish and game departments and the 26 professional and occupational licensing boards. Smith said he wanted to make certain the receipt of federal funds would not be jeopardized by reorganization. "I think we're going way too fast," he said. "I think it's something the people didn't understand when they voted on the referendum. Actually, they didn't receive much information about how much power it would give the governor." He suggested waiting until after the constitutional

convention, when people would know more about executive reorganization. Although voters were led to believe it would be an economical, money-saving move, Smith said government under reorganization would cost more since there would be more persons employed and printed forms of the 160 agencies would have to be destroyed and replaced. He said he had not received a single letter in favor of the plan. Besides his resolution, Smith said he wanted to introduce a bill that would have citizens vote on the specific plan in November, 1972, but since only fiscal bills could be introduced past the 18th day, he hoped to attach a small appropriation to the bill. If that failed, he said he hoped to place an initiative on the ballot by petitioning. Joining Smith as sponsors of House Resolution 12, which later died in the House reorganization committee, were Reps. Tom Selstad, R-Great Falls; Louis Perry, R-Malta; Kenneth M. Wolf, R-Shelby; James H. Burnett, R-Luther; L.M. Aber, R-Columbus; M.F. Keller, R-Great Falls; Vic East, R-Forsyth; Gary Giesick, R-Billings; William R. "Lefty" Campbell, R-Missoula; Oscar S. Kvaalen, R-Lambert, and A.L. "Bud" Ainsworth, R-Missoula.<sup>23</sup>

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<sup>23</sup>Great Falls Tribune, Feb. 14, 1971.

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Lucas seemed to be sympathetic to Smith's cause, but he said, "We should try to complete as much as we can this session." The Senate bill, he said, would make the governor "virtually a dictator," while in the House "the feeling is that we have to

have more citizen involvement." The House speaker said Smith "is just giving voice to the growing feeling that because of differing opinions and because we have next session in which to consider this, we shouldn't move too fast." He said he believed "haste can make waste and that since what we do can set the stage for another three-quarters of a century, we want to be sure of what we're doing."<sup>24</sup>

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<sup>24</sup>Ibid.

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An editorial in the Billings Gazette on Feb. 18 criticized legislators who were trying to stall executive reorganization and said they "are bucking a decisive voter mandate." According to the Gazette, usually a Republican paper, "The voters have asked for executive reorganization. There is no reason other than political for delay. It should be enacted during the regular session."<sup>25</sup>

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<sup>25</sup>Billings Gazette, Feb. 18, 1971.

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The Missoulian blamed Anderson for much of the reorganization difficulty. "By trying to set up Dunkle for firing, Anderson raised the issue which could hurt his own executive reorganization plan the most," the editorial said. "He made what was essentially a non-political issue into a political issue. . . ."

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<sup>26</sup>Missoulian, Feb. 17, 1971.

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Unlike the Senate committee, which met once to consider amendments, the House committee members met daily for several weeks to work out amendments for the bill. Mather said the committee had approved amendments in four basic areas: (1) the director of the fish and game department could not be fired unless the Senate confirmed a new director appointed by the governor; (2) the committee took care of the objections of Mrs. Colburg regarding the constitutionality of including the office of the superintendent of public instruction in executive reorganization. The change, as it turned out, did not go far enough to meet her objections. (3) Omholt's state auditor office would retain control over insurance and securities and take on an additional agency, the State Board of Hail Insurance; (4) six citizen commissions would be added as buffers to prevent a governor abusing his authority.<sup>27</sup>

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<sup>27</sup>Great Falls Tribune, Feb. 18, 1971.

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These five-member commissions were added to the Departments of Health and Environmental Sciences, Institutions, Natural Resources and Conservation, Highways, Fish and Game and Administration. According to Mather, the House committee was "extremely concerned" over possible concentration of "executive power in any governor's hands" under executive reorganization. "I want to make it clear this isn't directed just at Forrest Anderson but at any future governor, be he Republican or Democrat," he said.

The commissioners, who would have quasi-legislative and

quasi-judicial powers, would "be inserted under the department head and above the department to check the possible abuse of untrammelled executive power," according to the House committee chairman. To insure continuity, an incoming governor would appoint three members, and two would carry over from the previous administration. The House also planned to restore several citizen advisory councils such as the Montana Arts Council and State Library Commission.<sup>28</sup>

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<sup>28</sup>Helena Independent Record, Feb. 17, 1971.

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Mather blasted the Senate committee for rushing the bill through and said: "We aren't going to rubber-stamp it like our Senate cohorts. I'll warrant that there aren't three senators over there who actually know the contents of this bill and the effect of it. Apparently the Democratic Senate was caucused into a position of rubber-stamping this proposal." The Billings lawyer said he was "shocked and dismayed at the cursory treatment" the Senate gave the bill "without the benefit of debate or committee consideration other than about 45 minutes of time."<sup>29</sup>

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<sup>29</sup>Ibid. W.S. "Bill" Mather, interview, Helena, Mont., Feb. 16, 1971.

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On Feb. 20, House members considered S.B. 274. Before approving a committee report that the bill, as amended, be



concurrent in, the House members suspended the rules to dispense with reading the 16 pages of committee amendments. During the special order of business, Mather explained the bill and the changes the House committee made. In defense of the amendments, he said, "Our theory was that while everyone voted for reorganization, there was a question of the power it would give any governor. We believed we should modify the plan to get some citizen participation." Inserting citizen policy-making commissions in some departments would not restrict the governor, he said, since the chief executive would be able to appoint a majority of the board members.

Several legislators asked questions, including Rep. Darrow, who wondered what reorganization would cost. "We don't have the slightest idea what this bill will cost," Mather said. After he explained the bill and amendments during the special order of business, the bill was placed on second reading for debate. Numerous other amendments were offered from the floor. Among them were the following:

Rep. Dorothy Bradley, D-Bozeman, tried to submit the amendments offered earlier by Francis Mitchell that would make it easier to establish advisory councils. As written, the bill provided that only the governor or department directors could create advisory councils, but; she said, "the initiative for advisory councils needs to come from the bottom up rather than from the top down." The first amendment would have allowed any executive department official to create advisory councils. The bill permitted those officials to create councils only if it

were required by federal law for the receipt of funds. This amendment, which failed, would have removed the restriction. The other amendment, which would permit a governor to extend the life of an advisory council, passed. Hall said the amendment was not needed since the governor already would have that power.

Cox, a teacher, unsuccessfully tried to secure a permanent seat for a member of the Teachers' Retirement Board on the Board of Investments. Haines resisted, saying every group would want a representative if the House approved the amendment. An amendment submitted by Ulmer, however, permitted the Teachers' Retirement Board to hire its own personnel.

Amendments introduced by Bennett placing the Montana Arts Council and the State Library Commission in the Department of Education, for administrative purposes only, passed. Hall opposed the amendments and said the only function of the two boards was to delegate federal funds, and thus, they should remain in the Department of Intergovernmental Relations.

Christiansen introduced the first of a series of amendments that struck at the heart of the reorganization battle. He attempted to strip the plan of the citizens' buffer groups that the House committee had inserted. Citing the Board of Health, which meets only three or four times a year, he said the director should not have to secure board approval for administrative decisions.

"This is the most crucial part of the debate," Mather said, opposing the amendment. "Without the citizen committees you have a director solely answerable to the governor." Mather said he

wanted the boards in all the 14 departments not headed by an elected official or board, but the committee established only six commissions for the 14 departments. Under this proposal, the 1973 legislature could review and compare the effectiveness of both the boards and single administrators who would head some departments and make the necessary adjustments.

Rep. Thomas Towe, D-Billings, favored Christiansen's motion and asked legislators to examine the structure of the federal bureaucracy. "The President wouldn't put up with a board of quasi-judicial powers," he said. "This would create all kinds of inefficiencies. The whole purpose of executive reorganization is to pin responsibility to where it belongs--the governor. Don't give the governor that excuse."

The six departments slated to have buffer committees were in six areas "that could be most easily influenced by outside interests," Ulmer said.

Lucas supported Mather's substitute motion that the amendments not be adopted. "We might be making a mistake if we give the governor carte-blanche powers," he said, noting that there is one department in which every person hired is screened by the governor and his staff. "We're inviting 18 departments like this if we adopt these amendments," he said. The House speaker said he did not "want to make the sudden change all at once. I think we can go slower. . .and have the benefit of the constitutional convention and can also watch two years of executive reorganization." He emphasized that he was not pointing his finger at any particular governor but that there was "a gross invitation for

abuse" in the original bill and Christiansen's amendments.

Calling the amended bill a "sham," Christiansen asked: "Do we want true executive reorganization or the buffers?"

Mather said the vote on the Christiansen amendments would indicate "if you still believe in democracy, the voice of the people." His motion to kill the first amendment passed.

One other attempt by the Democrats to scuttle the buffer committees failed, so they withdrew the remaining four amendments.

Schoonover, feeling pressure from various wildlife groups that were unhappy with his fish and game amendments, tried to submit additional changes. He asked that the Fish and Game Commission, not the governor, be authorized to hire the director, whose term would last until he resigned, died or was fired. Upon questioning, he said the amendments were given to him by the Montana Wildlife Federation, a group to which he belonged. Schoonover was practically laughed out of the chamber.

In effect, the fish and game department would not be affected by executive reorganization, Mather said.

Bardanouve said the proposal would make the director "absolutely untouchable and unreachable." He said Schoonover already had made the fish and game department an empire with his amendments that made it the 19th department.

"Gentlemen, you not only have created a monster, but also a dictator," Hall said. "We might as well have the present director serve forever and ever. We are here dealing with God."

Christiansen drew laughs when he asked: "At what point does the Fish and Game Commission appoint the governor?"

Schoonover, in what appeared to be a half-hearted effort, said the director of the fish and game department could not become a "political football." His amendment was soundly defeated.

The pathetic Schoonover was caught in the middle--ridiculed by legislators who were unsympathetic to fish and game matters for going too far by creating a 19th department and roasted by the wildlife groups for not going far enough to defend their interest. He had been blasted in Missoulian outdoor writer Dale A. Burk's column for submitting the original amendments. Burk called his amendments "a sellout rather than a compromise." The amendments "are politically motivated and environmentally destructive in their very intent," he said. Burk noted that Schoonover, while a member of MWF, "had aligned himself with a faction the MWF could not support in good conscience."<sup>30</sup>

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<sup>30</sup>Missoulian, Feb. 14, 1971.

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Indeed, Schoonover later said that the wildlife groups "ignored me after the commission meeting. I guess they were mad at me."<sup>31</sup>

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<sup>31</sup>Schoonover interview, op. cit.

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Since all the amendments had been submitted, representatives then debated the bill itself. Majority Leader Harrison, who had served on the interim commission, said that while the plan had not

"gone to a very strong executive, it did go a long way down the road to strengthen his powers." Changes could be made in 1973 if the citizens committee did not work out.

Mather surprised many by announcing he would vote against the plan he had just explained. He noted the Montana Commission on Executive Reorganization drafted the proposal without holding a single public hearing and called the legislative hearings "ridiculous" because of the time limit imposed on those testifying. If the bill were defeated, Mather said he would introduce a resolution calling for the plan to be printed and distributed for the public to study. Speaking for the amended bill were Haines, Ulmer, Bennett, Himsl, Towe and Laas. As Towe said, "We're enacting a skeleton, not a whole body of law. This is just getting the ball rolling."

Ed B. Smith, who opposed reorganization since early in the session, moved that the bill not be concurred in. He was supported by fellow Republican Darrow, who called the proceedings "unbelievable." He said members had only had one day to look over the amended bill, much less those amendments introduced on the floor. "Alternatives should have been considered," he said. "A single staff should not have submitted a single plan to be rubber-stamped by the legislature."

One of the more respected legislators, Rep. James E. Murphy, R-Kalispell, opposed Smith's motion, saying: "The people of Montana have been misinformed about reorganization. It's been equated to whether the governor can fire Frank Dunkle." No one would understand the bill any better if action were delayed

until 1973, he said. Referring to the combination of departments headed by one man and those topped by a commission, he said, "We have an opportunity to try it both ways. In 1973, we will have some direction."

Smith, chairman of the House Fish and Game Committee, said the possible removal of Dunkle "didn't enter in my opposition. If this is democracy in action, it's no wonder people in Montana are unhappy."

Smith's motion failed by more than a 2-1 margin, and the original motion passed, thus ending the four-hour debate.

The House concurred in the amended version of S.B. 274 on third reading Feb. 21 by the following 59-42 roll-call vote:

Republicans for (16): Bennett, Brown, Haines, Harrison, Himsl, Lockwood, Lucas, Marbut, Marks, J.E. Murphy, Sverdsten, Ulmer, Warfield, Whitney, Wolf and Worden.

Democrats for (43): Anderson, Aspevig, Baeth, Bardanouve, Christiansen, Devine, Edland, Eggebrecht, Fasbender, Fleming, Gerke, Greely, Gunderson, Hall, Harper, Healy, Hodges, Jackson, Kendall, Knudsen, Kosena, Laas, Lee, Lien, Lombardi, McGrath, McKittrick, Mehrens, Menahan, T.L. Murphy, Norman, Parrish, Prevost, Robbins, Shelden, Staigmiller, Swanberg, Towe, Watt, Weeding, Yardley, Zimmer and Zody.

Democrats against (6): Bradley, Brand, Johnston, Lynch, Quilici and Schoonover.

Republicans against (36): Aber, Ainsworth, Asbjornson, Campbell, Clemow, Cox, Darrow, Dye, East, Ellerd, Fagg, Falkenstern, Fitzgarrald, Forester, Giesick, Glennen, Hemstad, Keller, Kolstad, Kvaalen, Lanthorn, Lockrem, Lund, Lundgren, Mather, Nelstead, Olson, Patrick, Perry, Scott, Selstad, E.B. Smith, C.M. Smith, Snortland, Spilde and Swan.

Republicans absent or not voting (1):  
Burnett.

Democrats absent or not voting (0): None.

Republicans excused (2): McNamer and Nichols.

Later in the day, Rep. R.M. Lockwood, R-Bozeman, who had voted nay but switched to aye so he could move to reconsider the bill, tried to reverse the House action. He said the bill would give too much authority to the governor. Supporting him was Rep. M.G. Keller, R-Great Falls, who said he did not understand what the bill would do and did not think other House members and the public did either.

Christiansen and Rep. Bradley B. Parrish, D-Lewistown, led the opposition to reconsider the motion. "I'm not suspect of executive power," Christiansen said, pointing out that the citizens commissions were put into the bill to serve as safeguards. "We may get this state into the 20th century, but I hope and pray it isn't the 21st century before we do it," Parrish said.

Lockwood's motion to reconsider S.B. 274 failed by the following 57-41 vote:

Republicans for (36): Aber, Ainsworth, Asbjornson, Campbell, Clemow, Cox, Darrow, Dye, East, Ellerd, Fagg, Falkenstern, Fitzgarrald, Forester, Giesick, Glennen, Hemstad, Keller, Kolstad, Lanthorn, Lockrem, Lockwood, Lundgren, Marks, Mather, Nelstead, Olson, Patrick, Perry, Scott, Selstad, C.M. Smith, E.B. Smith, Snortland, Spilde and Swan.

Democrats for (5): Bradley, Johnston, Lynch, Prevost and Quilici.



Republicans against (14): Bennett, Brown, Haines, Harrison, Himsl, Lucas, Lund, Marbut, J.E. Murphy, Ulmer, Warfield, Whitney, Wolf and Worden.

Democrats against (43): Anderson, Aspevig, Baeth, Bardanouve, Christiansen, Devine, Edland, Eggebrecht, Fasbender, Fleming, Gerke, Greely, Gunderson, Hall, Harper, Healy, Hodges, Jackson, Kendall, Knudsen, Kosena, Laas, Lee, Lien, Lombardi, McGrath, McKittrick, Mehrens, Menahan, T.L. Murphy, Norman, Parrish, Robbins, Schoonover, Shelden, Staigmiller, Swanberg, Towe, Watt, Weeding, Yardley, Zimmer and Zody.

Republicans absent or not voting (3): Burnett, Kvaalen and Sverdsten.

Democrats absent or not voting (0): None.

Republicans excused (2): McNamer and Nichols.

Democrats excused (1): Brand.

CHAPTER IV

"You can bet there will be a special session if they fool with that too much."

--Gov. Forrest H. Anderson,  
discussing a possible attempt  
by legislators to defeat or  
stall executive reorganization.

The Democratic-controlled Senate apparently would determine the fate of executive reorganization. If it rejected the House amendments in hopes of junking the watchdog committees the Republican House members had inserted, the bill probably would die since skeptical representatives had adamantly insisted on the commissions, which would check the governor's powers. If the Senate approved the House changes, the bill doubtless would be signed into law by the governor, who, though unhappy with the House changes, wanted the bill, in any form, passed.

Majority Leader Dzivi set up a special order of business on March 1 for the Senate to consider the House amendments to S.B. 274. The Republicans did not hold a caucus before the debate, unlike the Democrats, but the word from Minority Leader Mathers to oppose the amendments apparently spread quickly among the ranks. In their caucus, nine of the 30 Democratic senators, including Dzivi, indicated they planned to oppose the amendments primarily because of their concern over the proposed Department of Education. Others such as Sen. Jimmy Shea, D-Walkerville, had reservations over the entire bill. If the nine Democrats could gain the support of most of the Republicans, they could block approval of the amendments and either make

the desired changes or kill the measure. Time would be a critical factor if this were the case, for the 60-day regular session ended at midnight Thursday, March 4.

Anticipating the tone of the discussion, McKeon opened the debate by saying that the superintendent of public instruction had not been touched constitutionally by the bill, which placed the Board of Education at the head of the Department of Education, with the elected superintendent beneath the board. He cited a decision, State ex. rel. School District No. 29 vs. Cooney (102 Mont. 521, 59 Pac. 2nd 48), handed down by the Montana Supreme Court in 1936 to support his argument that the superintendent was subservient to the Board of Education.

"I think it's a mistake for us to set up the Department of Education in this manner," Dzivi said. "The House amendment doesn't go far enough. The superintendent of public instruction cannot have all her duties placed under the board." As a substitute motion, Dzivi moved that the Senate not concur in the House amendments.

Minority Leader Mathers supported his Democratic counterpart and said an elected official should not be subservient to a board. "We should open the whole bill up for discussion," he said. "This one section alone points out the need for looking at the entire bill."

Sheehy joined McKeon in opposing Dzivi's motion, noting that the problem had arisen because of a misconception by the superintendent of her present situation. Because of the constitution, "she's either got to be in the department or you must create a new one for her," he said.

Sen. Mitchell summoned a page and handed him a railroad hat to deliver to "Casey Jones" McKeon for railroading the bill through the chamber. As Mitchell said later, "McKeon ran a first-class railroad. He blew the whistle and we were all on board. The only thing we could do was to refuse to pay for the ticket."<sup>1</sup>

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<sup>1</sup>Harry B. Mitchell, interview, Helena, Mont., March 10, 1971.

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He noted that the House and Senate committees had conducted six public hearings but that the Senate committee had met only once to consider the bill. While the national trend has been toward more citizen participation in government, Mitchell said that S.B. 274 veered in the opposite direction.

Stephens said the bill had been considered "too hastily," charging that the voters had been sold on the "gimmicky" slogan "Twenty's Plenty" and had not understood that reorganization actually would centralize authority. He called for reorganizing the executive branch by July 1, 1973, "not March 4, 1971."

An angry McKeon arose and said the legislators had "reached an important crossroad in the state government of Montana." Mitchell's argument that citizen participation would be limited was a spurious one, McKeon said, for "we will have citizen participation on a level that we've never had before." He said voting for Dzivi's substitute motion to reject the House amendments was "a move to kill the bill. If the substitute motion passes, you will have destroyed executive reorganization because you're asking for a free conference committee," he said, instead

of one restricted to working over only those areas in question. He said the superintendent of public instruction was a straw man just as the fish and game director had been in the House. "There may be some bugs in the bill," he said. "The Wright Brothers had a few bugs in their first airplane and now we're in the jet age." He accused Mitchell of nitpicking, a charge Mitchell had leveled at some senators earlier in the session. Moreover, Mitchell, vice-chairman of the Senate committee, had never consulted with the reorganization staff, McKeon said, and had had "very limited contact with reorganization."

Dzivi took issue with McKeon's reasoning, saying: "My motion isn't to defeat executive reorganization. If I had, I would have opposed it when it was here before us before." The majority leader warned his colleagues not to be "persuaded by scare tactics that reasonable men can't work out a solution in four days." Returning to the education issue, Dzivi said the Cooney case cited by McKeon "doesn't go as far as they claim." If the bill passes, the superintendent would lose her policy-making power and remain subservient to the board. "I pledge to you I'll work diligently to see an amendment is worked out and this bill becomes law this session," he said.

Sen. John Lyon, R-Shelby, a strong supporter of executive reorganization, said he backed the substitute motion and "take him (Dzivi) in good faith." Those opposing reorganization because they are fearful of a dishonest governor were espousing "a shallow view," he said, pointing out the inherent need for a stronger state government. "This arm of state government is a dying thing,"

he said. "We are becoming less and less effective each year. I view this bill not only as a way of reorganizing but also revitalizing state government."

McKeon said he was "shivering in his boots" at the prospect of having a free conference committee since there was only one "narrow" issue, education. "A free conference committee is like using a cannon to shoot down a flea in this case," he said.

Dzivi's motion to reject the House amendments passed 30-21 in an unrecorded vote. Whereupon, McKeon moved to segregate the bill from the committee of the whole report in order to obtain a roll call vote.

Remarking that the vote could be the 42nd legislature's final one on executive reorganization, Sheehy said, "This may be the most important bill we're going to act on this session."

Mathers tried to reassure proponents of reorganization that placing the bill in conference committee was not a vote to kill it. "At any time the Senate wishes to discharge the committee, they can," he said. "I will support a move to bring the bill out of committee for another vote if delaying tactics are used."

McKeon's motion to segregate the bill failed 34-21 by the following vote:

Republicans for (0): None.

Democrats for (21): Bertsche, Bollinger, Boylan, Cotton, Goodheart, Graham, Groff Hafferman, Hanks, Keenan, Lynch, Manning, McDonald, McGowan, McKeon, McOmber, Reardon, Sheehy, Siderius, Sorenson and Thiessen.

Republicans against (25): Bennett, Broeder, Brownfield, Carl, Cochrane, Deschamps, Drake,

Hazelbaker, Hibbard, Klindt, Lowe, Lyon, Mackay, Mathers, McCallum, Moore, Moritz, Northey, Rehberg, Rosell, Rostad, Rugg, Stein, Stephens and Turnage.

Democrats against (9): DeWolfe, Dzivi, Flynn, Gilfeather, James, Mitchell, Nees, Shea and Vainio.

Republicans absent or not voting (0): None.

Democrats absent or not voting (0): None.

Republicans excused (0): None.

Democrats excused (0): None.

The results indicated that state superintendent Dolores Colburg had done some persuasive lobbying on both sides of the aisle, and the education issue, therefore, took on new significance.

Mrs. Colburg, a first-term Democrat, contended that her office should not have been included in the original plan since the 20-agency amendment approved by the voters excluded the offices of seven elected officials: the governor, lieutenant governor, auditor, treasurer, secretary of state, attorney general and superintendent of public instruction. Reorganization staff members justified including her office in the plan by saying they were merely trying to "carry over the present constitutional requirements concerning the management of the state's educational system."<sup>2</sup> Under the plan, the Department of Education would be

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<sup>2</sup>Montana Commission on Executive Reorganization, memorandum from the staff to commission members, Feb. 4, 1971, p. 13.

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headed by the Board of Education. To support this arrangement, staff members cited the Cooney case that stated the Board of Education

had general control and supervision of all educational matters, including elementary and high schools

The superintendent said the reorganization staff had pegged everything to the Cooney case, in which the issue was the accreditation of a Somers school. In addition, the court had handed down the "gratuitious" opinion that the Board of Education was in charge of all educational matters, Mrs. Colburg said. "My whole idea was, notwithstanding the Cooney case, that the constitutional amendment that went to the people cleared elected officials," she said. While the staff commented that the plan continued the existing arrangement, "the Board of Education doesn't sit as a body over this office," she said in an interview. Although the board does accredit schools, it acts upon the recommendations of the superintendent. "Our roles are much more on the same plane than this office being subservient to the board and conversely," Mrs. Colburg said. "Certainly in reviewing the kinds of laws passed by previous legislatures, the intent was that the superintendent would have general supervision over elementary and high schools." In 1895, school laws were passed stating that the superintendent had general supervision over the schools, she said, noting that these laws were written only six years after ratification of the constitution, drafted no doubt by many of the same men. The superintendent argued that precedents, statutes and the manner the office had been run for 82 years clearly supported her position.

To combat her view, the reorganization staff maintained that the subservience of her office to the Board of Education was



written in Senate Bill 1, a recodification of school laws passed in 1971, supported by the superintendent's office, which provided several staff members to assist the Legislative Council subcommittee that worked on the measure. S.B. 1 stated that the superintendent was to carry out the policies of the Board of Education. Mrs. Colburg, however, contended this duty was lifted out of its context in S.B. 1 and implied that following the board's orders was her sole duty, when, in reality, the superintendent has more than 100 duties prescribed by law.<sup>3</sup>

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<sup>3</sup>Dolores Colburg, interview, Helena, Mont., March 27, 1971.

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The superintendent criticized the reorganization staff, noting that she had pointed out the problems after reviewing drafts of the plan. Ironically, the information about the Board of Education came from herself and was taken out of context, Mrs. Colburg said. The final draft reached her office in mid-December for comments, and "it was clear to me if the commission was sending out this report that late, they really weren't going to pay one whit of attention to my comments. It was just window dressing." The superintendent said she never received a copy of the 300-page commission report, but was able to secure one only because machines in her office were used to assemble the reports.<sup>4</sup>

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<sup>4</sup>Ibid.

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Mrs. Colburg viewed reorganization "as an attempt to bring this office into line." Relations between her office and the governor and his staff had been strained since the spring of 1970, when she and Atty. Gen. Woodahl, a Republican, had opposed granting the Anaconda Company an easement on lands in the Lincoln backcountry. The governor and Democratic Secretary of State Frank Murray, the other member of the four-member State Land Board, favored granting the easement so the company could begin digging an open-pit mine. Since two members opposed it, the request was denied. "It's strange that out of all the elected offices, this was the only one dealt with in such a manner," she said.<sup>5</sup> Agreeing, Mitchell said reorganization was "a

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<sup>5</sup>Ibid.

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blatant play on the governor's part to get more control of her office."<sup>6</sup>

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<sup>6</sup>Mitchell interview, op. cit.

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Richards, Gov. Anderson's executive assistant, denied her charge. "There were no political motives involved in reorganization," he said. "If there has been any deterioration in relations between the governor's and her office, it's not because of Lincoln. As Mark Twain said, 'The supposed conflict is greatly exaggerated.'" Richards acknowledged there had been some hard feelings, which stemmed from the budget office slashing her

proposed budget and other matters. Regarding the constitutional issue over the proposed Department of Education, Richards said, "Our lawyers simply believe she is wrong."<sup>7</sup>

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<sup>7</sup>Richards interview, op. cit.

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Mrs. Colburg had announced her opposition to the education proposal at the first public hearing Jan. 26, but the staff and commission ignored her comments when they met Feb. 5, at a meeting presided over by the governor. The staff memorandum issued that night passed off her claim that the bill was unconstitutional with a comment that seemed to beg the question:

The exclusion of elected officials from the 20 departments in the constitutional amendment has never been construed by the Montana Supreme Court and is the only one of its kind in the United States. Its meaning may be open to argument. However, the express intention of the senators who drafted it as an amendment to the original proposal was only to insure that no elected official was placed under or subordinate to an appointed department head. We think H.B. 3 conforms to this intent.<sup>8</sup>

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<sup>8</sup>Montana Commission on Executive Reorganization Memorandum, op. cit.

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Since the Senate committee and, later, the Senate, adopted only those changes approved by the commission, Mrs. Colburg went to Mather's House committee, which removed a sentence that said:

"As provided by law, the superintendent is generally responsible, under the general supervision of the State Board of Education, for all matters relating to the public schools of the state." The committee believed it had taken care of her objection, but Mrs. Colburg felt the superintendent was still relegated to a position beneath the Board of Education in the bill. While waiting for the House amendments to S.B. 274 to reach the Senate floor, the superintendent said she contacted personal and political friends seeking help. Among them were William "Scotty" James, executive editor of the Great Falls Tribune, Sam Reynolds, editorial page editor, the Missoulian, and Hal Sterns, editor and publisher, the Harlowton Times. Mrs. Colburg also provided each legislator and members of the capital press corps with a copy of the statement she had read at the public hearing.

As the day the Senate planned to consider the House amendments drew near, the superintendent contacted Sen. Mitchell, a "good friend," for advice. "If he couldn't help, he could advise me who to seek out," she said. Mitchell said he would speak on her behalf and recommended Dzivi since he was majority leader. He, too, agreed to help, though other factors no doubt influenced his decision. On the morning of the debate, Mrs. Colburg talked to Senate Minority Leader Mathers, who also agreed with her stand and said he would resist the amendments and try to get the bill into a conference committee where the necessary changes could be made. She also conferred with Sen. Elmer Flynn, D-Missoula, Democratic whip, had a friend talk to Sen. P.J. Gilfeather, D-Great Falls and sent notes to other sympathetic

legislators. While they helped her, she knew that several, particularly Dzivi and Mathers, probably had some ulterior motives behind blocking the amendments. Nonetheless, her session-long effort to straighten out the education issue in the executive reorganization bill at last, apparently, neared success.

A bitter McKeon said the superintendent was an "excuse rather than a reason," who had a "fictitious claim." He insisted she was a "smokescreen for the wildlife groups." Mitchell, who had fought for conservation measures during the session, "had worn out the wildlife issue and had to get a new issue," according to the Senate executive reorganization committee chairman.<sup>9</sup> Mrs. Colburg, however, said McKeon visited her on Feb. 2

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<sup>9</sup>First McKeon interview, op. cit.

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and assured the superintendent she was right.<sup>10</sup>

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<sup>10</sup>Colburg interview, op. cit.

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Barrett called the issue "a legal argument." While Crowley and McKeon, both lawyers, believed the superintendent had no grounds for her stand, "rightly or wrongly the superintendent felt she was getting the wrong end and had to protect her empire," Barrett said.<sup>11</sup>

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<sup>11</sup>Barrett interview, op. cit.

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Crowley termed her protests "a tempest in a teapot,"<sup>12</sup>

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<sup>12</sup>Crowley interview, op. cit.

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while Bousliman said he was convinced "no matter what any law might say, the superintendent of public instruction is operating under the Board of Education as provided by the constitution and interpreted by the Supreme Court." That she was removed from the bill "won't change things one damn bit," the deputy director said.<sup>13</sup>

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<sup>13</sup>Bousliman interview, op. cit.

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It is perhaps easier to understand the animosity several backers of executive reorganization felt toward Mrs. Colburg for blocking the bill. They sincerely believed it was dead after the Senate rejected the House amendments. Barrett said he shook the hand of Don Aldrich, executive secretary, Montana Wildlife Federation, after the Senate vote and congratulated him for helping to kill the measure.<sup>14</sup> "When the Senate refused to

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<sup>14</sup>Barrett interview, op. cit.

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concur, we were resigned to the fact that that was it for reorganization," Bousliman said.<sup>15</sup>

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<sup>15</sup>Bousliman interview, op. cit.

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But McKeon, for several reasons, had other ideas. Shortly after 1 p.m., March 1, the day the amendments were rejected, McKeon brought three members of the reorganization staff down to Mrs. Colburg's office and asked what changes she wanted. Though a conference committee had not been appointed yet, McKeon said he wanted to work out amendments immediately to save the bill. She said the desired change was simple and asked him to delete section 82A-507 from the bill. Removing this section, the only reference to the superintendent in the bill, would exclude her office entirely from the executive reorganization, which is what she requested originally. The sentence read:

82A-507. SUPERINTENDENT AND DEPARTMENT OF PUBLIC INSTRUCTION AND AGENCY FOR SURPLUS PROPERTY--CONTINUED. Within the department of education are the office of the superintendent of public instruction, created in article VII, section 1 of the Montana constitution, and the Montana state agency for surplus property, created in title 82, chapter 31, R.C. M. 1947 these agencies and functions are continued.<sup>16</sup>

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<sup>16</sup>Special Order of Business Senate Bill 274, 42nd Legislative Assembly, 1971, p. 40.

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Though McKeon told her she was trying to write constitutional law, he and the staff "put up no fuss" and were anxious to take care of the amendment, Mrs. Colburg said.<sup>17</sup>

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<sup>17</sup>Colburg interview, op. cit.

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Later in the afternoon, Dzivi moved that a free conference

committee be appointed to meet with a similar committee from the House. Members, however, would be restricted to amend chapter five, the Department of Education, the majority leader said. Mackay, however, moved that the conference committee also be permitted to consider changes in chapter 18, the Department of Revenue. McKeon reported that he had talked with Mrs. Colburg and told senators that working out an amendment would be only "a minor problem and will be taken care of." He also supported Mackay's motion, saying the conference committee should be able to handle the Department of Revenue without much difficulty. Appointed by Lt. Gov. Judge, president of the Senate, to the conference committee were Chairman McKeon, Siderius and Stephens. Judge consulted with Dzivi before naming the conference committee.

Originally, however, Dzivi had planned to appoint a free conference committee that could work over the entire bill (which seemed to have been the sentiment of the Senate during the morning debate), but the ubiquitous McKeon, backed by labor, talked him out of the idea. The Anaconda Democrat, who had served on the interim commission, had inserted three important words when the bill was drafted. On page 17 of the special order of business bill, under section 82A-116 entitled "Rights of State Personnel," made certain the following underlined words were included:

Unless otherwise provided in this act, each state officer or employe affected by the reorganization of the executive department of state government under this act is entitled to all rights which he possessed as a state officer or employe before the effective date of the applicable chapter in this act, including rights to tenure in office and of rank or



grade, rights to vacation and sick pay and leave, rights under any retirement or personnel plan or labor union contract, rights to compensatory time earned and any other rights under any law or administrative policy. This section is not intended to create any new rights for any state officer or employe, but to continue only those rights in effect before the effective date of the applicable chapter of this act.<sup>18</sup>

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<sup>18</sup>Special Order of Business Senate Bill 274, op. cit., pp. 17-18.

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According to McKeon, a lawyer who handles many labor cases, this would have been the first time labor union contracts would have been recognized by state law. "Montana only recognized labor unions, except those of nurses and teachers, by custom, never by law," he said. "Now if there's ever a challenge, we have it in writing." Knowing this reference could have stirred controversy, "I laid it low and in a soft key," McKeon said. "Even labor didn't know about it." To his knowledge, Sen. William H. Bertsche, D-Great Falls, who accidentally stumbled onto it while doing research for S.B. 147, a personnel classification act he sponsored, was the only legislator to discover the reference. He agreed to keep it secret. In all, not more than a handful of persons know of it, McKeon said.<sup>19</sup>

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<sup>19</sup>Second McKeon interview, op. cit.

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Thus when the Senate rejected the House amendments, and the members wanted a free conference committee, McKeon believed this

section, and for that matter, the entire bill, was in jeopardy. He called James Murry, executive secretary, Montana AFL-CIO, notified him that the bill recognized labor union contracts for the first time and the pair went to talk to Dzivi. "We told him this [executive reorganization] was the major achievement of labor in the session," McKeon recalled. "If we lost it, labor would be very upset with him for making it a free conference committee." Dzivi, when informed of the news, "was a little startled," according to McKeon. The incident took on even more meaning when one considers that Dzivi has ambitions of his own politically. Some expect him to run for governor, and thus he could not risk losing the support of labor.<sup>20</sup>

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<sup>20</sup>Ibid.

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Dzivi then appointed the conference committee of McKeon, Siderius and Stephens but restricted it to discussing education and revenue.

That the House Rules Committee, consisting of Chairman Harrison, Lucas, Mather, Christiansen and Rep. Larry Fasbender, D-Fort Shaw, refused to allow the House conference committee to meet under the restrictions Dzivi imposed complicated matters. Named to the House conference committee were Chairman Mather, Haines and Rep. William J. Norman, D-Missoula.

Queried about the House Rules Committee discussion, Harrison said members simply did not believe a committee could be restricted along those lines. Under the rules, there are two types of

conference committees, he said. A free conference committee may change any portion of the bill or amendments while a regular committee is restricted to examining the amendments only. "There was no precedent for the Senate restricting a free conference committee," the House majority leader said. Going along with the Senate would have set a "bad precedent," according to Harrison.<sup>21</sup>

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<sup>21</sup>Harrison interview, op. cit.

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On Wednesday, March 3, Dzivi successfully moved to dissolve the previous conference committee since the House would not allow its committee to meet under Senate restrictions. Dzivi asked that a new free conference committee be appointed. Lt. Gov. Judge, at Dzivi's request, named a much stronger committee-- Chairman McKeon, Majority Leader Dzivi and Minority Leader Mathers.

One other factor entered into Dzivi's decision to place Mathers and himself on the conference committee. As the Thursday deadline approached, it was apparent that a special session would be needed to resolve the deadlock over appropriations and revenue. In a press conference on Monday, March 1, the governor raised a stir when he said he would accept a broad-based sales tax but would not reveal when he would call the legislature back into special session. Calling an immediate special session would do no good, he said, so he might call one "anytime, June, July or April." As Anderson said, "Let the boys go home and talk with their people, return here and sit down and negotiate." But, as the Associated Press reported:

Anderson stressed, however, that he would call for an immediate special session if his executive reorganization measure now before the Senate runs into trouble.

"You can bet there will be a special session if they fool with that too much," he said.<sup>22</sup>

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<sup>22</sup>Great Falls Tribune, March 2, 1971.

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Most legislators of both parties had expected an immediate special session and were stunned by the news that they might not be called back until summer. Dzivi, apparently with the support of Mathers, used the threat of blocking executive reorganization, the legislation Anderson wanted most, as a means to secure an assurance from the governor that he would call an immediate special session. Word of the immediate special session that would begin March 8 was kept secret until late Thursday night, but rumors drifted through the capitol corridors.

A source close to the governor took an opposite view. He said Anderson's remarks were set up deliberately as a lure to guarantee passage of the executive reorganization plan. Legislators went for the bait, and through Dzivi, made a deal with the governor that he would call an immediate special session if Dzivi would guarantee that reorganization would pass. This move was a critical one for the governor politically, the source said, for if reorganization had not passed, the Republicans would have achieved their political ends. Speaker Lucas and Republican leaders would be able to use executive reorganization as trading stock with the governor for a sales tax. Instead, Anderson

gained what he wanted, executive reorganization and no sales tax, while the Republicans failed to block reorganization and to pass a sales tax. Had Anderson and the Democrats been forced to go into a special session without the reorganization bill passed, "the tactical position of the Democrats would have been in jeopardy," he said. In all probability, Anderson would have been forced to swap Democratic passage of a sales tax and his signature on the bill for executive reorganization.

Thus it would appear both the governor and legislative leaders believed they forced the deal upon the others. The evidence seems to indicate Gov. Forrest Anderson actually was responsible for calling the shots.

In any event the free conference committee met at 2:30 p.m. March 3. Present were Mather, Norman, McKeon, Dzivi and Mathers. Haines was absent. Initially, it appeared as though there might be a problem as Mather acted hostile, chiding the Democratic senators for rubber-stamping the bill and not suspending their rules to provide extra time to work the bill over. Dzivi returned the jab, asking: "What's the use of having rules, if you always suspend them?" But after the initial insults, things went well. McKeon asked that the entire section referring to the superintendent of public instruction be deleted, which met the approval of the committee. Mrs. Colburg had left nothing to chance. Having been assured by McKeon that the change she desired would be made, she also contacted the other five members of the conference committee, who told her they, too, would support the change.<sup>23</sup> To satisfy

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<sup>23</sup>Colburg interview, op. cit.

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Mackay's objections with the proposed Department of Revenue, an amendment was offered that would place the Board of Equalization at the head of the department. The director, appointed by and serving at the pleasure of the governor, would serve beneath the board and make revenue estimates and continuing studies of the tax structure. Moreover, the State Liquor Control Board would be continued as a policy-making body and be attached to the department for administrative purposes only. Under the original bill, its functions would have been limited to settling licensing disputes. Though free to amend any portion of the bill, the committee discussed only those two areas, a sign reorganization was destined to pass. Members recessed to allow the reorganization staff to draft the amendments. An hour later, the senators and representatives approved the two amendments 5-0 with Haines being absent. The amendments were to be submitted to each house on Thursday, the final day of the regular session.

Why the conference committee settled matters so smoothly and quickly is questionable. Mather had every reason to resist after some seemingly untimely remarks by the governor, who accused him of trying to sabotage the bill. McKeon believed Sen. Mathers intervened and talked with Mather, in what the Anaconda senator termed "a power politics play." Besides wanting an immediate special session, Mather probably realized both houses had the votes to pass reorganization, his opposition notwithstanding.<sup>24</sup>

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<sup>24</sup>Second McKeon interview, op. cit.

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In his press conference, Anderson accused Mather of trying "to do everything he can to sabotage this order." The governor said he was not worried about getting reorganization through but said: "If it gets back into Mather's hands, I don't know what I'll do."<sup>25</sup>

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<sup>25</sup>Helena Independent Record, March 2, 1971.

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The governor made these remarks about Mather for several reasons, Richards said. "Their timing was calculated to impair Mather's credibility and hopefully, to keep his head down," he said. "The governor fired a couple of warning shots to keep Mather's head down in the trench." It was hoped the remarks would spur Mather into cooperating, for if the bill were defeated, he would stand out as a scapegoat.<sup>26</sup>

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<sup>26</sup>Richards interview, op. cit.

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Mather answered the governor's charges with equally caustic comments March 2, denying he was attempting to sabotage the bill. He said Anderson's remarks "show a complete lack of understanding of the legislative process. . . . Rather than sabotage, we have preserved reorganization for the people of Montana and subsequent legislatures can revise it." In fact, Mather said, he had helped save the plan, rather than sabotaged it. He said:

I submit if the House had not conscientiously worked on the reorganization bill with an eye to maintaining citizen involvement in

state government, the bill would never have gotten out of the House. Without our House amendments, it would have been killed.

While he did vote against the bill in the House, Mather said he tried his best in committee to amend the bill into a "workable" form. "Gov. Anderson or no one else is going to tell me how to push that (voting) button," Mather said, explaining how he, as an individual legislator, had to vote his own convictions on the bill.<sup>27</sup>

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<sup>27</sup>Helena Independent Record, March 3, 1971.

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The Billings lawyer took another poke at Anderson for not testifying at the cancelled seventh hearing, saying:

I was told by his henchmen the real reason was he was afraid he would be asked questions and he didn't understand the bill enough to even begin to answer questions. He was also afraid to show his hand relative to his desire to completely dominate state government.<sup>28</sup>

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<sup>28</sup>Helena Independent Record, March 3, 1971.

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Another influential Republican, Rep. Keller, former state party chairman, took after reorganization in a different way by questioning if the 10 reorganization staffers drawing paychecks totalling \$3,918 every two weeks, were still working, and, if so, asked why they were since their job appeared to have been completed. Deputy Director Bousliman said the staff was working for two reasons. First, the 1967 legislation set up the commission



and staff for a two-year period ending June 30. The staff also had drafted amendments to the bill. "Almost without exception we've drafted every amendment submitted to the bills, and they've been considerable," he said. In conjunction with drafting the amendments, the staff was providing information to legislators on any facet of reorganization, and some staffers were serving as research assistants to Senate committees in their spare time.<sup>29</sup>

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<sup>29</sup>Great Falls Tribune, March 3, 1971.

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Speaker Lucas blasted the governor and called his comments on reorganization "high-handed." In defense of Mather, the speaker said:

the high-handed remarks of the governor certainly aren't going to do anything to help the situation. We have tried to indicate to him from the very start that we have the legislative responsibility and duty of making our own decisions on areas of executive reorganization and although the governor's opinions are welcome and will be considered, I can assure him his veiled threats will not have any influence on our actions. If executive reorganization is damaged, he will have to take a major share of the blame. His refusal to appear before the special legislative committee and his irresponsible utterances cannot help but create some resentment among legislators.

Lucas added that reorganization would be considered solely on its merits, "the threat of a special session notwithstanding."<sup>30</sup>

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<sup>30</sup>Great Falls Tribune, March 3, 1971.

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On the morning of the final day of the regular session, March 4, House members considered the conference committee report. "The bill is still alive, breathing and in healthy condition, despite charges to sabotage," Mather reported sarcastically before explaining the amendments.

House members on both sides showered Mather with compliments on the way he had handled the House committee in an attempt to counter the governor's charge of sabotage. While Mather "didn't exactly agree with the concept of reorganization, he has done a magnificent job," Ulmer, a Republican committee member, said. "These changes are excellent. Always remember, he has done everything he could to bring out a good bill." Ulmer asked that Mather's work be recognized, and members applauded.

Earlier, two Democratic members of Mather's committee, Fleming and Laas, had defended the chairman in response to the governor's charges. Fleming said Anderson's statement was "very definitely an untruth. I think Bill ran a fair committee." Laas told a reporter he was "terribly disappointed" at the governor's accusation. "I sincerely believe Bill Mather ran a loose committee to the extent he let us all be heard. I can see no way that Mather tried to sabotage reorganization." They both agreed with Mather, who said the House would have killed the bill if the amendments had not been inserted.<sup>31</sup>

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<sup>31</sup>Helena Independent Record, March 3, 1971.

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Hall said on the floor that he agreed with the comments of Fleming and Laas. "I don't think anybody on this (Democratic) side of the aisle subscribes to those comments," he said. The other Democrat on the committee, McGrath, echoed the same sentiment.

One of the last opponents, Keller, asked Mather whether executive reorganization would save money. The House committee chairman reiterated that "we don't have the foggiest idea," saying he did not think it would but believed it would result in greater efficiency.

Mather closed on his motion to approve the conference committee report by saying, as so many had testified at the hearings, he did not oppose executive reorganization but thought "this is a sweeping change. I think we are moving too rapidly."

By an 85-15 vote, the House of Representatives approved the conference committee report, and thus executive reorganization, as follows:

Republicans for (42): Aber, Asbjornson, Bennett, Brown, Burnett, Cox, Darrow, Dye, East, Ellerd, Fagg, Falkenstern, Fitzgarrald, Forester, Giesick, Glennen, Haines, Harrison, Himsl, Kolstad, Kvaalen, Lanthorn, Lockrem, Lockwood, Lucas, Lundgren, McNamer, Marbut, Marks, Mather, J.E. Murphy, Nelstad, Nichols, Olson, Scott, Sverdsten, Swan, Ulmer, Warfield, Whitney, Wolf and Worden.

Democrats for (43): Anderson, Aspevig, Baeth, Bardanouve, Bradley, Christiansen, Devine, Edland, Eggebrecht, Fasbender,

Fleming, Gerke, Greely, Gunderson, Hall, Harper, Healy, Hodges, Jackson, Johnston, Kendall, Kosena, Laas, Lee, Lien, Lombardi, McGrath, McKittrick, Mehrens, Menahan, T.L. Murphy, Norman, Parrish, Robbins, Shelden, Staigmilller, Swanberg, Towe, Watt, Weeding, Yardley, Zimmer and Zody.

Republicans against (11): Ainsworth, Campbell, Hemstad, Keller, Patrick, Perry, Selstad, C.M. Smith, E.B. Smith, Snortland and Spilde.

Democrats against (4): Brand, Lynch, Prevost and Quilici.

Republicans absent or not voting (2): Clemow and Lund.

Democrats absent or not voting (2): Knudsen and Schoonover.

Republicans excused (0): None.

Democrats excused (0): None.

It is noteworthy that Mather, while professing opposition to executive reorganization, voted for the bill, and Schoonover, caught in the jaws of a vice, "took a walk," as legislators call the act of being present but not voting, as rules require.

The Senate took up the conference committee report later in the morning. McKeon, who later said he had "never worked so hard to get a bill through in 10 years of legislative experience," said the conference committee amendments strengthened the bill.<sup>32</sup>

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<sup>32</sup>Second McKeon interview, op. cit.

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He praised Mather and the House committee for their diligent and hard work. In paying a tribute to Mather, McKeon said: "I believe Mather came out with an advantage over me. I thought

I had an advantage over him since I had been on the two-year interim committee, but he really studied the bill." Dzivi said the amended plan at last was consistent with the constitutional amendment voters approved in November, 1970, since Mrs. Colburg's office had been deleted. His Republican counterpart, Mathers, called the bill "a good piece of legislation now."

The changes apparently won over Mitchell, who had fought the bill from the outset. "I think we can look on this like a ship," he said. "It is not perfect legislation, but I think we should send the ship out to bay and bring it back to port in two years to patch up the holes." The Great Falls Democrat said Montana, in the long run, would be better off under S.B. 274, as amended.

"I'm not worried about the leaks," quipped Sen. William R. Lowe, R-Billings, "I'm worried about the bottom falling out."

Senators approved the conference committee report and reorganization by the following 46-5 vote:

Republicans for (20): Bennett, Broeder, Cochrane, Deschamps, Hazelbaker, Hibbard, Klindt, Lowe, Lyon, Mackay, Mathers, Moore, Moritz, Northey, Rehberg, Rosell, Rostad, Stein, Stephens and Turnage.

Democrats for (26): Bertsche, Bollinger, Boylan, Cotton, DeWolfe, Dzivi, Flynn, Goodheart, Groff, Hafferman, Hanks, James, Keenan, Manning, McDonald, McGowan, McKeon, McOmber, Mitchell, Nees, Shea, Sheehy, Siderius, Sorensen, Thiessen and Vainio.

Republicans against (5): Brownfield, Carl, Drake, McCallum and Rugg.

Democrats against (0): None.

Republicans absent or not voting (0): None.

Democrats absent or not voting (4): Gilfeather, Graham, Lynch, and Reardon.

Republicans excused (0): None.

Democrats excused (0): None.

Ironically, during the Senate debate, McKeon received a telegram from the executive committee of the Montana Group of the Sierra Club that asked: "Please delay action on reorganization bill. . . . We recommend that the bill be rewritten to guarantee immunity from political pressures for all agencies. Please reproduce and distribute." The telegram prompted McKeon to say after the conference committee report had been adopted: "That Frank Dunkle never quits trying." He termed the telegram "the dying gasp" of the opponents of executive reorganization.<sup>33</sup>

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<sup>33</sup>Great Falls Tribune, March 5, 1971, Missoulian, March 5, 1971.

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Dzivi apparently did not quit trying either. After receiving no official word from the governor's office about an immediate special session even after both houses approved reorganization, the majority leader, according to one Senate source, tried some sabotage of his own. He went up to the enrolling room, found the bill near the top of the pile of the bills to be enrolled and placed it beneath all the other bills, ordering one of the secretaries to leave it at the bottom. All bills must be enrolled before they can be sent to the governor's office, and Dzivi apparently believed that delaying the enrolling of S.B. 274

might have prompted the governor to make his announcement earlier. But the governor was waiting until he received the bill before he called a special session. Someone gave in, and Anderson called a special session late March 4, after the clocks had been stopped before midnight. It was actually early March 5.

Two newspapers took differing views of the bill's passage. In an editorial March 6, the Great Falls Tribune said: "Gov. Anderson's place in Montana history will be determined largely by how he handles his executive reorganization responsibility."<sup>34</sup>

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<sup>34</sup>Great Falls Tribune, March 6, 1971.

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The Helena Independent Record, in an editorial March 8, called Anderson's saving executive reorganization "one of his craftiest maneuvers." With the aid of Dzivi, the governor led legislators to believe they would have to pass the reorganization bill in order for him to call an immediate special session, according to the newspaper. The Republican House, however, "still had one ace up its sleeve--the threat of a bare-bones budget unless the Democrats softened their stand against a sales tax," it said, thus Anderson indicated he would accept a broad-based sales tax, which showed he was ready for compromise. The governor called for a June referendum on a sales tax, which the Republicans rejected. They, in turn, favored enacting a sales tax and then putting it to a vote of the people, an offer they thought the governor might support, so they approved reorganization.

Anderson later snubbed the Republican proposal and the editorial said:

The governor got what he wanted--executive reorganization--and the Republicans got nothing.

The Republican leaders now know what it feels like to be raped but having survived the experience, they are in no mood to be compromised again.

And thus we start the special legislative session.<sup>35</sup>

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<sup>35</sup>Helena Independent Record, March 8, 1971.

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The editorial, however, while essentially correct, was inaccurate in assuming that Anderson and Dzivi were behind reorganization together, which they were not. Dzivi's prime concern was an immediate special session. It was more of a case of the governor battling the leadership of both sides.

On March 10, Anderson signed S.B. 274 into law, saying it would end "a time when government grew haphazardly into an administrative monster." Signing the plan into law "marks the beginning of a time when the executive branch will be reasonably organized according to functional and financial responsibilities," he said. The governor announced the Department of Administration would be the first implemented since that agency "will provide the management capabilities essential to a sound reorganization program." His goal, the governor said, was "to implement an effective program to reduce the waste, duplication and administrative inertia that have afflicted



state government for too long." Because he signed the bill during the special session, Anderson warned that "the job cannot be done adequately if the 'bare-bones' budget philosophy prevails."<sup>36</sup>

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<sup>36</sup>Great Falls Tribune, March 11, 1971.

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CHAPTER V

"No maxim deserves more emphasis than the  
necessity of compromise. . . ."

--An Arizona political scientist  
naming the most important factor  
needed to achieve successful  
executive reorganization.

Seven times the past 50 years reformers in Montana have tried to reorganize the executive branch of government. The first six times failed, the seventh succeeded. To explain why the last attempt passed, one could offer a variety of reasons: a bipartisan recognition of the need for reform, crafty political maneuvering by Gov. Anderson, grassroots support for a more efficient state government and the extensive study by the Montana Commission on Executive Reorganization. But the key factor, clearly, was the voters' overwhelming support of the 20-agency constitutional amendment in November, 1970. "The only reason anything passed at all was because of the overwhelming nature of the vote," Crowley said. "Fundamentally, a majority of legislators opposed the nature of reorganization."<sup>1</sup>

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<sup>1</sup>Crowley interview, op. cit.

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Anyone who has studied the Montana legislature extensively would agree with Crowley. The reorganization plan, while amended

extensively, still represented a major reform, something for which the languid legislature has never been known. Had Anderson not pressed for legislative passage of this amendment, Ex. S.B. 1 in 1969, it is likely nothing would have happened. The study could have been conducted, but without what Anderson termed an "irrevocable mandate," legislators, in all probability, would have dismissed the report by saying it was unnecessary, impractical and too radical. The report then would have been shipped to the archives to gather dust with the other seven reports.

Whether the November vote was an "irrevocable mandate" is questionable. Certainly the results indicated that seven out of 10 voters favored the concept of executive reorganization as presented in the "Twenty's Plenty" campaign. As mentioned earlier, several aspects of this public information campaign appear to have been deceptive and deliberately vague. But one similarly could defend the campaign by saying, correctly, that no one knew what the legislators would do with reorganization. Voters simply indicated their preference for the general concept, not a specific proposal.

A larger question raised is whether it is ethical and proper for public funds, federal or state, to be spent to promote referendums on any constitutional amendments, much less two as controversial as those calling for executive reorganization and a constitutional convention. One might legitimately ask why the opponents (and certainly there were some) were not appropriated equal amounts if proponents received public funds. The propaganda that emanated from each campaign could hardly be called objective or nonpartisan. If it were public information, it was tainted by

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unobjective statements. The best solution to this sticky problem, it would appear, would be to spend no public funds whatsoever to promote any constitutional amendments. Persons genuinely interested in promoting a certain amendment could organize citizen groups and donate their own money instead of using public funds.

Be that as it may, many legislators felt obliged to follow the voters' desire to reorganize. Thus the legislative debate sighted in on two areas--what specific plan they would adopt and when they would enact the program since the deadline for implementation was not until July 1, 1973. Since a majority of legislators wanted to complete the reorganization job this session, the real issue was over the specifics of the commission-approved plan. In the end, what emerged was a compromise between the commission plan, under which a governor would appoint department heads who were solely responsible to him, and the House Republicans' insertion of watchdog commissions, which would offer a series of citizens buffers between the directors and departments. That legislators could agree, even begrudgedly, on a compromise was still remarkable considering the scope of the bill.

To understand why this happened, a set of conditions drawn up by a University of Arizona political scientist will be considered. Like Montana, Arizona unsuccessfully tried to reorganize several times the past half-century. Many of the barriers of resistance were similar to those in Montana. Robert E. Riggs summed up the lessons of the past "in the form of seven

political guideposts for future reformists."<sup>2</sup> Because these

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<sup>2</sup>Riggs, Robert E., The Movement for Administrative Reorganization in Arizona, (Tucson: University of Arizona Press, 1964), p. 66.

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conditions seem relevant to Montana, we shall examine whether Montana met each of these guidelines in its passage of executive reorganization. Riggs suggestions are as follows:

1. His first condition recommended a widespread public education campaign, suggesting:

Supporters of reorganization should be prepared to demonstrate fully to the legislature and through active education of citizen groups the need for the adoption of their proposals. The maxim may be self-evident, but the cultivation of support through a concerted educational campaign needs to be consciously practiced. Opponents of reorganization, often groups and individuals with a pecuniary or other vital interest in the issue, may normally be counted upon to exert greater efforts than the supporters of the movement, who often have little to gain except personal satisfaction and an elusive share in the benefits of the better government which presumably will result.<sup>3</sup>

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<sup>3</sup>Ibid.

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As mentioned earlier, proponents did conduct an extensive public education campaign in Montana. There was no organized opposition to the amendment either prior to the election or during the legislature. No doubt the very lack of organized opposition played an important role in the election and legislative successes. It was evident during the public hearings that many persons opposed the commission plan. Groups fighting reorganization included

wildlife organizations and members of the professions licensed and regulated by the state, but they made no attempt to organize and initiate letter-writing campaigns similar to those that helped kill S.B. 298 and a bill that would have made Montana's abortion law more liberal. That no organized opposition surfaced is a testimony to the effectiveness of the public education campaign.

2. Riggs' second guideline called for executive-legislative agreement on a program. As he said,

Reorganization can be achieved only if the legislature and the executive are in agreement upon the program. If personality conflicts, partisan maneuvering, unusual legislative-executive rivalry, or serious disagreement about the plan characterize relations between the legislative majorities and the governor, reorganization is frustrated from the outset.<sup>4</sup>

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<sup>4</sup>Ibid.

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Montana generally complied with this condition, but the battle was marked by some executive-legislative rivalry. The interim commission, composed of eight legislators and the governor, helped bridge this gap. Anderson's threat of delaying his calling of a special session until April, May or June was used to force legislative leaders to pass reorganization and not particularly popular with either party. Moreover, he did not enjoy especially close relationships with the majority leadership in either house. The mere fact that legislators had served on and dominated the commission helped minimize the rivalry.

Another factor was the somewhat passive role played by the governor during the legislature as far as reorganization was concerned.

He, of course, had actively participated in the commission deliberations since he was chairman. During the legislature, however, with two close friends and former assistants heading the Senate reorganization committee (McKeon) and directing the reorganization staff (Crowley), Anderson relied on them. His role became more of an active one when the bills reached the committees, Ron Richards, his executive assistant, said, and then the governor began "to use his influence here and there."<sup>5</sup> An example of this

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<sup>5</sup>Richards interview, op. cit.

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activity would be the Schoonover amendments, a compromise initiated by the governor.

Of course some legislators bitterly resisted reorganization, regarding it as a usurpation of legislative powers by the executive, but most of them clearly recognized the need for reform. Others would have supported reorganization under a Republican governor but were unwilling to grant a Democratic chief executive any more powers.

3. Along the same lines, Riggs believed reorganization probably would fail "unless it is kept divorced from partisan politics."<sup>6</sup>

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<sup>6</sup>Riggs, op. cit., p. 66.

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He said:

Keeping partisan politics to a minimum requires bipartisanship from the very inception of planning to the final adoption of the program. It requires

a greater degree of self-denial than some politicians possess, and it probably cannot be accomplished without studied efforts to bring party leaders from both parties into the consultations. In all stages, compromise is of the essence.<sup>7</sup>

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<sup>7</sup>Ibid., pp. 66-67.

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Despite some attempts to avoid making reorganization a partisan issue, Montana did not meet this condition. Part of the blame must fall upon the state's press, which continually and erroneously referred to the proposal as "the governor's executive reorganization plan." While he headed the interim committee, wholeheartedly supported the bill and stood to benefit from the increased powers the plan proposed to give the governor, it was by no means solely his plan. Each recommendation of the reorganization staff had to be approved by six of the nine-member commission, which consisted of five Democrats and four Republicans. If, as opponents charged, the proposal was drafted by the governor and his fellow Democrats, at least one Republican aided and abetted the opposition party by approving each recommendation and the final commission plan. In addition, nearly all of the staff recommendations passed unanimously. House Majority Leader Harrison verified the fact that commission decisions were not made on a partisan basis.<sup>8</sup>

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<sup>8</sup>Harrison interview, op. cit.

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After the public hearings began, influential Republican Rep. James E. Murphy of Kalispell visited Fred Barrett, the governor's



legislative liason. Was there anything they could do to stop reorganization from being identified as the governor's plan, Murphy asked, anticipating a partisan fight in the House. Barrett said he believed it was too late; that notion had already become ingrained in Montanans. The governor agreed with Murphy that the bill should have been divorced from his office but had no solution. "I know this," Barrett said, "we would have had a much easier path if the governor's role had been less in the focal point."<sup>9</sup>

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<sup>9</sup>Barrett interview, op. cit.

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The role played behind the scenes by House Speaker Lucas is more difficult to assess. Each time the bill came up for a vote, Lucas, a likely Republican candidate for governor in 1972, voted for the measure. The fact that he endorsed Mather's committee amendments inserting watchdog commissions led some Democrats to suspect that he might have been working to emasculate the bill. However, assuming Lucas plans to seek the governor's office, this theory does not seem likely unless he truly believed the amended bill was more desirable than the original plan, which would have concentrated executive authority with the governor and his appointed department heads. Both Democratic and Republican spokesmen believe Lucas, as speaker, did not have the time to follow reorganization closely. Majority Leader Harrison said Lucas was "virtually out of it completely, as I was, because we didn't have the time."<sup>10</sup>

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<sup>10</sup>Harrison interview, op. cit.

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Richards believes Lucas worked informally through committee chairman Mather since he lacked the time to actively participate.<sup>11</sup> Some

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<sup>11</sup>Richards interview, op. cit.

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sources close to the governor think Lucas, by appointing Mather chairman of the House committee, knew the Billings lawyer would do everything he could to embarrass the governor and thus help Jim Lucas prepare for the 1972 election. Yet no one can pin this charge on Lucas because the record shows he voted "aye" each time on reorganization. Why? "It's nice to be on the same side as 70 per cent of the people," Barrett said. "And if you're going to be governor, it's a nice tool to have at your disposal."<sup>12</sup>

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<sup>12</sup>Barrett interview, op. cit.

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Reorganization was never a straight-party issue. In the Senate, Republicans Rostad and Mrs. Rosell, who both served on the interim commission, provided key votes to transmit the bill to the House. The bill might have lain dormant in the Senate committee if Mrs. Rosell had not cast a crucial tie-breaking vote to bring the bill out on the Senate floor. In the House, moderates such as Murphy, Harrison and Lucas always gave the Democrats enough votes to pass the bill, except on the key issue during the entire legislative debates--whether to restore the original plan in place of Mather's revised plan. These votes, taken during the second reading debate, largely determined the fate of executive reorganization.

Republicans, joined by some Democrats, resisted the attempts made by Minority Leader Christiansen, Hall and Towe in unrecorded votes that generally followed party lines.

Democrats accused Mather of holding the public hearings solely to develop opposition to the plan. That charge, too, is difficult to prove, for a bill of such magnitude is rightfully entitled to extensive hearings.

Anderson and Mather's continued bickering did little to prevent reorganization from turning into a partisan issue. Richards maintained the governor's attacks on Mather were carefully planned to spur him into action. All of Anderson's comments brought equally caustic replies from Mather, which fostered more partisan feelings.

Some partisan considerations apparently took place in the preparation of the bill, sources revealed. The office of Republican Auditor E.V. "Sonny" Omholt deliberately was stripped of several important functions with the full expectation that these duties would be restored. One source said Democratic reorganization supporters hoped the Republican House would bite at the bait, restore Omholt's function of regulating insurance and securities and leave the rest of the bill alone. Shortly after the legislature began, Lucas told Anderson the House definitely planned to restore the insurance regulation function of the auditor's office, several persons said. The reason was simple: insurance companies contributed most of Omholt's campaign funds.

The governor reportedly opposed strengthening the office of the attorney general, manned by Republican rival Robert L. Woodahl; in

fact, Anderson, a former attorney general, wanted to strip Woodahl of some powers. Anderson was talked out of this change, presumably by McKeon and Crowley, both of whom had worked under Anderson in that office. As one source said, "I felt if we stripped Woodahl, we would lose the bill."

Dolores Colburg, state superintendent of public instruction, believes her past disagreements with fellow Democrat Anderson led to her office being placed beneath the Board of Education in the original bill. Citing the Cooney case, Anderson's supporters maintain she was legally wrong, for her office already was subservient to the Board of Education.

Although reorganization became a partisan issue in many respects, it obviously did not become a straight party issue or the Republican House would have never approved even the modified plan.

4. A fourth tenet required that the "legislative majority enlist the acquiescence of the minority. . . ." <sup>13</sup>

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<sup>13</sup>Riggs, op. cit., p. 67.

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Montana's interim commission, which consisted of four Republican and four Democratic legislators, half from each chamber, and the governor, unquestionably fulfilled this requirement. Because the 1969 legislature was divided with a Republican House and Democratic Senate, there was no legislative majority or minority party. This division insured equal representation on the commission. Requiring a two-thirds majority to approve any commission recommendation further curtailed any potential domination by the Democrats, who controlled

the commission with five votes since the governor served as chairman.

5. Paying heed to remnants of Jacksonian democracy was a fifth Arizona requirement, he said. As Riggs wrote:

Jacksonian principles relating to competence, tenure in office and the multiplicity of elective offices are not in harmony with the latter-day principles of administrative reorganization. Nevertheless, they are a political fact of life in Arizona too vigorous to be completely ignored in the formulation of programs for reorganization in this state.<sup>14</sup>

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<sup>14</sup>Ibid.

The question whether to maintain or discard these Jacksonian innovations did not enter into the Montana debate. Such discussions were postponed until January, 1971, when a constitutional convention will convene. If reorganization supporters had tried to pass constitutional amendments eliminating some elected offices, a vigorous debate no doubt would have arisen, but no attempts were made because of the upcoming constitutional convention. Still, there were some legislators who favored delaying reorganization until after the constitutional convention.

6. Riggs warned that hiring out-of-state experts, "however good their personal qualifications and however meritorious their plan," to formulate the proposal was an "additional political liability."<sup>15</sup>

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<sup>15</sup>Ibid.

In a statement equally applicable to Montana, he added:

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Many Arizonans still have enough provincialism to resent the implication that out-of-state (especially eastern, professional) talent is needed to tell the natives how to run their government. "Griffenhagenism" after 1950 became a hiss and a byword among opponents of reorganization, as well as an effective political catchword. However regrettable, this sentiment is also a political fact of life. Future proposals will have a better chance of success if they are advertised as home-grown products.<sup>16</sup>

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<sup>16</sup>Ibid.

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Montana's similar experience with Griffenhagen and Associates in 1943 demonstrates the validity of Riggs' assessment. The staff that worked from 1969-1971 consisted primarily of Montana university or law school graduates, headed by Crowley, a University of Montana law school professor, assisted by Bousliman, who attended schools in Montana before working for the legislative councils in South Dakota and Idaho.

7. Willingness to compromise is the key to achieving reorganization, the Arizona political scientist said, noting:

No maxim deserves more emphasis than the necessity of compromise. The all-or-nothing philosophy so prevalent among past supporters of reorganization has reaped its natural consequence--essentially nothing. If reorganization is really desired, consultation and cooperation among all significant groups within the legislature and the executive branch in the formulation and sponsorship of a program are almost indispensable, even if credit for the final achievement must be shared. Failure to provide this key element increases the likelihood that the program will incur the burden of previously engendered partisan or factional animosities. The problem of compromise is seldom simple and the choice often excruciating. Indeed, how far can compromise go without negating the proposed reform? No pat answer can be given from the ivory tower. The question

must be answered and re-answered in response to specific issues arising in the heat of battle. And upon the answer depends the ultimate success or failure of reorganization movements in Arizona.<sup>17</sup>

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<sup>17</sup> Ibid., pp. 67-68.

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This seventh principle, more than any other, reveals why the 1971 legislature passed executive reorganization. The commission-approved bill typified sound reorganization theory--all department heads were directly responsible to the governor and would serve at his pleasure. Supporters of this plan, mostly Democrats, said such a scheme provided the solution to Montana's bureaucratic maze. House Republicans, who, for political or theoretical reasons, feared a much stronger chief executive, amended the bill considerably. They placed policy-making commissions within six of the most important departments--health and environmental sciences, institutions, natural resources and conservation, highways, fish and game and administration. Securing passage for these amendments was no problem in the Republican House despite Democratic resistance.

At this juncture, reorganization supporters, primarily McKeon and Gov. Anderson, faced a critical decision. They could have chosen to try to muster enough Democratic votes in the Senate to refuse to concur in the House amendments. Instead, they decided to agree to the House changes, reluctantly, in the interest of passing a reorganization bill. If they had resisted the House amendments, it is likely no bill would have passed since House opposition to the original plan was strong.

This decision eventually assured passage although the Senate initially did not accept the House amendments but for different reasons. Anderson and McKeon apparently both believed compromise was the answer. Crowley said the governor said that "if we can get the reorganization structure through now, we can isolate the other things we wanted but didn't get and push them through later one at a time."<sup>18</sup>

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<sup>18</sup>Crowley interview, op. cit.

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While this was a necessary decision to insure passage of the bill, some members of the reorganization staff were bitter about changes made in the bill they had worked on for one and a half years. As one, who wished to remain anonymous, said: "All the important changes were dumped. The status quo was kept, and in some areas they have even complicated matters." Bousliman said he was "pleased that we got a bill passed, but we're not very pleased at all with some of the amendments."<sup>19</sup> Some the changes legislators

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<sup>19</sup>Bousliman interview, op. cit.

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made were unnecessary, he said, referring to the omission of the state superintendent of public instruction from the plan, while others, such as establishing policy-making boards, were contrary to the principles of reorganization. The deputy director said he foresaw disputes over authority arising between department heads and boards. "The only remedy is to lay everything on the line



administratively," he said. "If it doesn't work, we can straighten it out later."<sup>20</sup>

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<sup>20</sup>Ibid.

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Bousliman said tentative plans call for establishing one new department a month beginning in July, 1971, and ending in December, 1972. First on Gov. Anderson's priority list are the Departments of Administration and Revenue.<sup>21</sup>

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<sup>21</sup>Ibid.

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Some members of the reorganization staff criticized the legislators for not making an attempt to understand the bill. As one said, Mather and McKeon were the only legislators out of 159 who thoroughly understood the bill and its implications. Even though reorganization probably was the most important legislation passed in years, most members did not bother to read the 300-page commission report or the lengthy bill itself, the staff member said. Three copies of the 1,800-page staff study were printed for the use of legislators, he said, but not one ever consulted the study. The staff was ready to discuss the bill with any legislators to explain its provisions, and despite several invitations, few took advantage of the opportunity, he said. Many simply responded with gut reactions--opposing any complicated bill to give the governor more power. Too many, as Murphy pointed out in the debate, regarded reorganization as a sinister move on the governor's part to fire

Frank Dunkle.

The political ramifications of executive reorganization will not emerge until 1972. Members of both parties believe reorganization per se will not be a campaign issue in the upcoming gubernatorial race, which most figure will pit Anderson against Lucas. "The real political question will be whether progress in implementing the plan approved by the legislature has been made," Republican Harrison.<sup>22</sup> However, reorganization, coupled with several other

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<sup>22</sup>Harrison interview, op. cit.

Democratic proposals that centralize power probably will be discussed by the Republicans in the campaign, he said. Harrison, though, acknowledged that these measures that centralize power were not introduced without justification, noting the constitutional and legislative restraints that had been imposed on the governor over the years. "If he gets things reorganized and accomplished, I am certain it will be used to his great benefit," he said. "I'd hate to see state government go down the tubes just to get a Republican governor elected."<sup>23</sup> The Republican House "could have

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<sup>23</sup>Ibid.

constrained him but we were more than fair in allowing him the greatest latitude in implementation," the majority leader said.<sup>24</sup>

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<sup>24</sup>Ibid.

McKeon said he believed the passage of reorganization would be "the greatest tool for the governor to get reelected."<sup>25</sup> Anderson

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<sup>25</sup>Second McKeon interview, op. cit.

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"can get headlines every month for chopping off another agency," he said.<sup>26</sup>

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<sup>26</sup>Ibid.

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Richards, the governor's executive assistant, said reorganization was "highly overrated" as a political issue. "It's nice to refer to it, but reorganization can't excite people because it's not a pocketbook issue," he said, in reference to the anticipated campaign over the financing of state government.<sup>27</sup>

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<sup>27</sup>Richards interview, op. cit.

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Placing himself in Lucas' shoes in 1972, Richards speculated:

If I were Lucas, I wouldn't attack reorganization at all. People like it and want it. I would look for things that don't get done. I would criticize the implementation and say the governor was too old, had fuzzy ideas and could not mobilize the government as well as I could.<sup>28</sup>

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<sup>28</sup>Ibid.

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Unless implementation bogs down, Republicans will not be able "to seize it, as a issue," he added. "It's a risky political issue for them since most of the pluses are with the governor."<sup>29</sup>

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<sup>29</sup>Ibid.

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As for Anderson, whose reputation as a cunning politician was reinforced by his role in reorganization, the success of implementing reorganization will determine whether he seeks reelection, according to Richards. "If we had lost reorganization, he would have thrown in the towel," Richards said. "Despite what you read in the papers, the governor hasn't decided whether to run again or not. How well the implementation goes will determine this decision."<sup>30</sup>

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<sup>30</sup>Ibid.

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He concluded: "Now we're down to the hard part. We must deal with internal people, not external ones. [legislators]. We can't move too far on a barebones budget and we anticipate a lot of resistance from the agencies."<sup>31</sup>

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<sup>31</sup>Ibid.

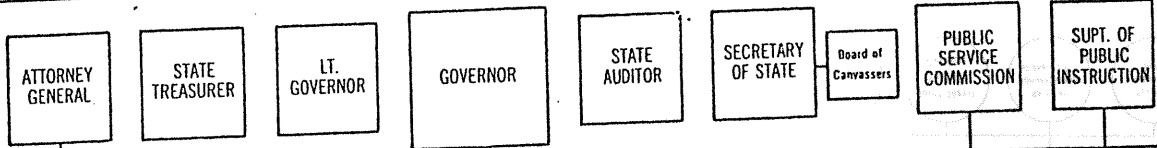
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APPENDIX

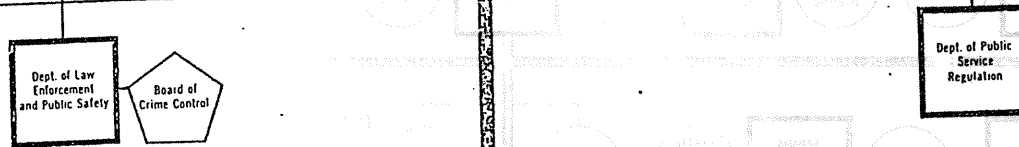


# STATE OF MONTANA PROPOSED ORGANIZATION OF THE EXECUTIVE BRANCH

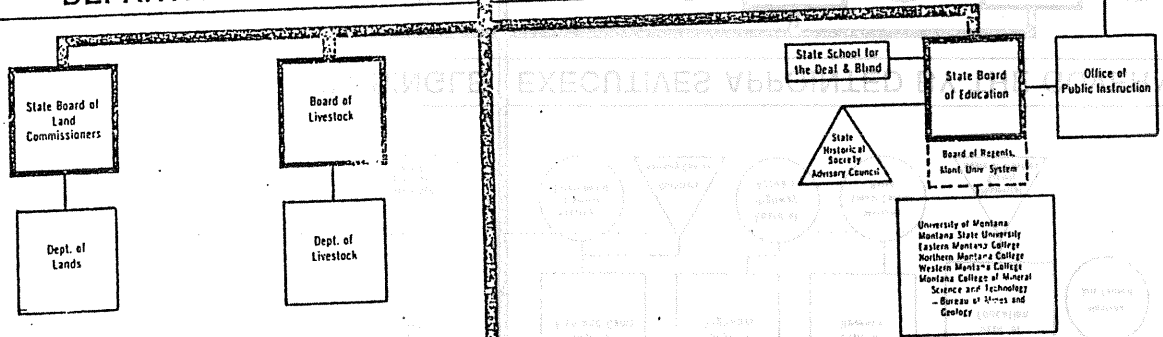
## ELECTED OFFICIALS



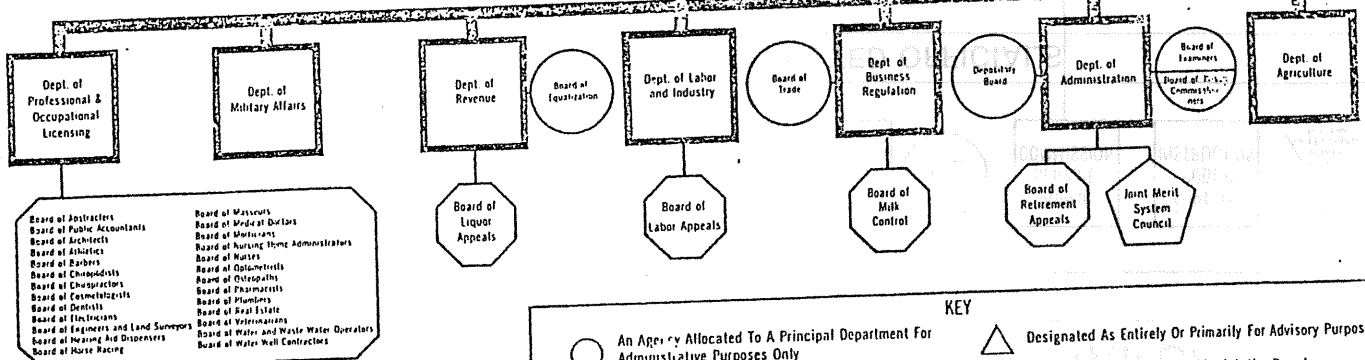
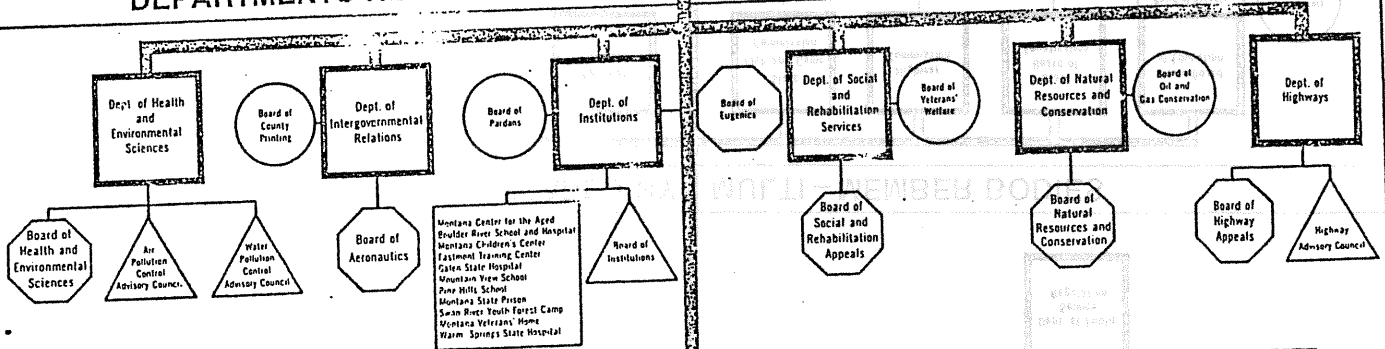
## DEPARTMENTS HEADED BY ELECTED OFFICIALS



## DEPARTMENTS HEADED BY MULTI-MEMBER BODIES



## DEPARTMENTS HEADED BY SINGLE EXECUTIVES APPOINTED BY THE GOVERNOR



**KEY**

- An Agency Allocated To A Principal Department For Administrative Purposes Only
- ◐ Inactive Constitutional Agency
- Ex Officio Board
- △ Designated As Entirely Or Primarily For Advisory Purposes
- ◌ Quasi-Judicial And/Or Quasi-Legislative Board
- ◡ Policy Board, In Accordance With Federal Requirements

Project No. Montana P 44 Prepared under Contract for the Montana State Dept. of Planning and Economic Development and the Commission on the Reorganization of the Executive Branch of State Government, State of Montana. The preparation of this document was financed in part through the urban planning grant from the Department of Housing and Urban Development, under the provision of Section 701 of the Housing Act of 1954, as amended.

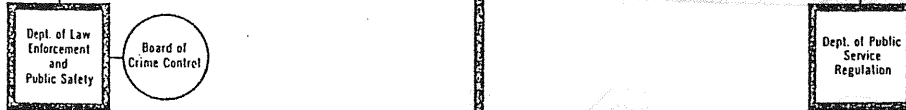
# STATE OF MONTANA

## ORGANIZATION OF THE EXECUTIVE BRANCH

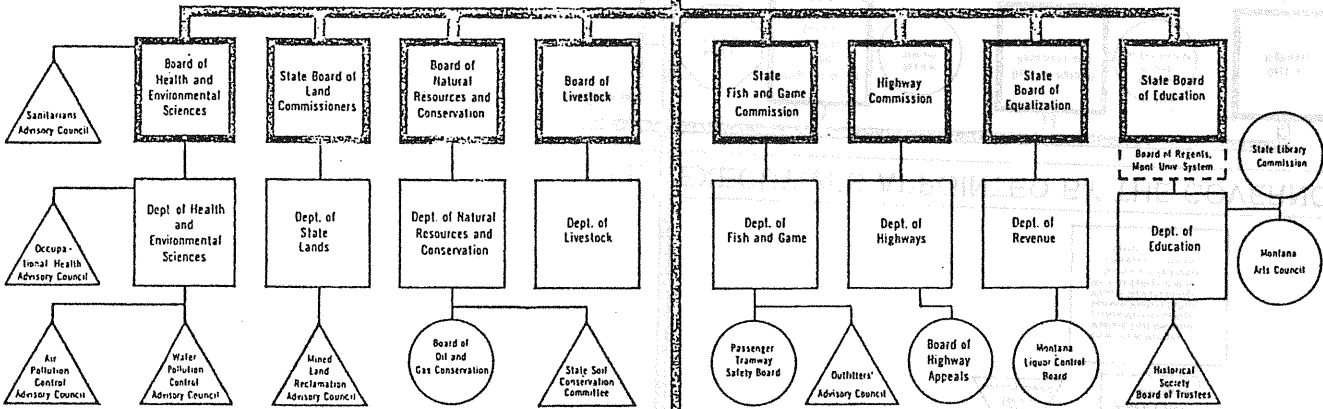
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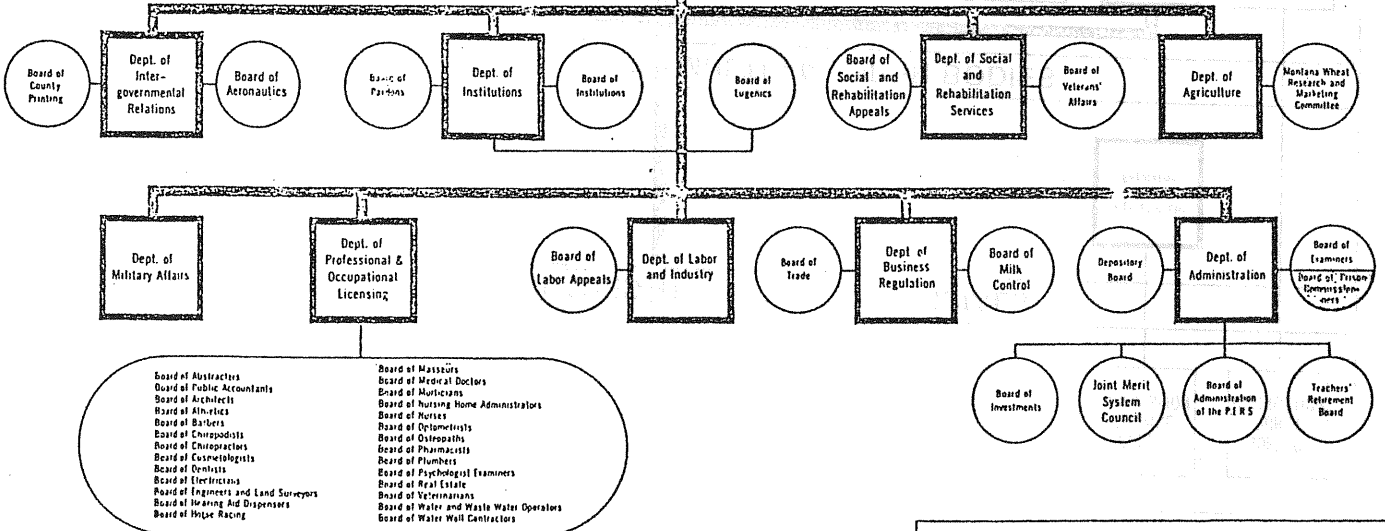
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#### KEY

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BIBLIOGRAPHY

Book

Riggs, Robert E., The Movement for Administrative Reorganization in Arizona. Tucson: University of Arizona Press, 1964.

Newspapers

Billings Gazette.

Great Falls Tribune.

Helena Independent Record.

Missoulian.

Personal Interviews

Barrett, Fred, Helena, Mont., March 11, 1971.

Bousliman, George L., Helena, Mont., March 25, 1971.

Colburg, Dolores, Helena, Mont., March 27, 1971.

Crowley, William F. "Duke," Missoula, Mont., April 6, 1971.

Harrison, James T., Jr., Helena, Mont., May 10, 1971.

McKeon, John L. "Luke," Helena, Mont., March 2, 1971, and March 27, 1971.

Mather, W.S. "Bill," Helena, Mont., Feb. 16, 1971.

Mitchell, Harry B., Helena, Mont., March 10, 1971.

Richards, Ronald P., Helena, Mont., May 10, 1971.

Schoonover, Leland, Helena, Mont., March 3, 1971.

State Documents

Gov. Forrest H. Anderson, State of the State Message, Helena, Mont., Jan. 7, 1969.

House Journal of the Forty-First Legislative Assembly of the State of Montana (regular and extraordinary session), Helena, Mont.: State Publishing Co., 1969.

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House Journal of the Twenty-Seventh Legislative Assembly of the State of Montana, Helena, Mont.: State Publishing Co., 1941.

Montana Commission on Executive Reorganization, memorandum from the staff to commission members, Helena, Mont., Feb. 4, 1971.

Montana Commission on Executive Reorganization, Report to the Montana Legislative Assembly, Helena, Mont., December, 1970.

Montana Legislative Council, Executive Reorganization, Helena, Mont., November, 1962.

Report of the Official Canvass of the Vote Cast at the General Election Held in the State of Montana, Nov. 3, 1970. Compiled and published from the official files of Frank Murray, secretary of state, Helena, Mont., 1970.

Senate Journal of the Forty-First Legislative Assembly of the State of Montana (regular and extraordinary session), Helena, Mont.: State Publishing Co., 1969.

Special Order of Business Senate Bill 274, 42nd Montana Legislative Assembly, Helena, Mont., 1971.

#### Unpublished Materials

Grimes, Clint E. "Reorganization in the Executive-Administrative Branch of Montana Government. Unpublished M.A. thesis, University of Montana, 1960.

Waldron, Ellis, Unpublished manuscript on executive reorganization in Montana, Missoula, Mont., 1955.

#### Miscellaneous Sources

KBLL Radio and Television, Helena, Mont., editorial, Feb. 5, 1971.

Letter from Gov. Forrest H. Anderson to Lt. Gov. Thomas Judge and Rep. James P. Lucas, Helena, Mont., March 11, 1969.

Montana Taxpayers Association, "Critical Comment," Jan. 22, 1971.

Sage Advertising, Public Relations Report to the Montana Commission on Executive Reorganization, Helena, Mont., Nov. 5, 1970.

Schoonover, Leland, prepared statement, Helena, Mont., Feb. 5, 1971.