



## LEGISLATIVE FINANCE COMMITTEE

### 62nd Montana Legislature

Room 110 Capitol Building \* P.O. Box 201711 \* Helena, MT 59620-1711 \* (406) 444-2986 \* FAX (406) 444-3036

#### SENATE MEMBERS

STEVE GALLUS  
LLEW JONES  
DAVE LEWIS  
RICK RIPLEY  
DAVID WANZENRIED  
CAROL WILLIAMS

#### HOUSE MEMBERS

ROB COOK  
JOHN ESP  
STEVE GIBSON  
CYNTHIA HINER  
GALEN HOLLENBAUGH  
JON SESSO

JULIE JOHNSON, Staff Attorney  
DIANE MCDUFFIE, Secretary  
AMY CARLSON, Director

# MINUTES

June 11-12

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page. You must have Real Player to listen to the audio recording or to view the video.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

#### COMMITTEE MEMBERS PRESENT

SEN. STEVE GALLUS  
SEN. LLEW JONES  
SEN. DAVE LEWIS  
SEN. RICK RIPLEY  
SEN. DAVID WANZENRIED  
SEN. CAROL WILLIAMS

REP. ROB COOK  
REP. JOHN ESP  
REP. STEVE GIBSON  
REP. GALEN HOLLENBAUGH  
REP. JON SESSO

#### STAFF PRESENT

AMY CARLSON, Director  
DIANE MCDUFFIE, Secretary

#### COMMITTEE MEMBERS ABSENT

REP. CYNTHIA HINER

## VISITORS

Roll Call, Attachment #1  
Visitors' list, Attachment #2

## CALL TO ORDER AND ROLL CALL

00:01:36      **Chairman Sesso** called the 221<sup>st</sup> meeting of the Legislative Finance Committee to order at 9:30 a.m. on June 11, 2012. The meeting was held in Hearing Room 102 of the State Capitol, Helena Montana. The secretary called roll. Attachment #1

## APPROVAL OF MINUTES OF THE PREVIOUS MEETING

00:03:52      **MOTION: Sen Wanzenried** moved to approve the minutes for the March 8-9, 2012 meeting. **VOTE:** Motion passed.

## PERFORMANCE MEASUREMENT

00:04:24      Greg DeWitt, Senior Fiscal Analyst, LFD presented a report on Court Help Project. (Exhibit 1) The purpose of this report is to update the committee on progress of the Court Help pilot project. Outcome data may be helpful during the 2013 Legislature when evaluating funding requests for the Court Help Program.

00:07:52      Beth McLaughlin, Supreme Court Administrator said the focus of the program is to help litigants that can not afford an attorney and getting those people through the court system quickly and efficiently.

00:11:54      Greg DeWitt, LFD presented a report on New Funding, Office of Public Defender (OPD). (Exhibit 2) The purpose of this report is to inform the committee of how the additional funds are being used and how they impact caseloads. Mr. DeWitt said that through the assignment of additional base and modified FTE, the office has reduced most instances but not fully eliminated occurrences in all regions where attorneys exceeded the 150-case limit.

00:18:33      Bill Hooks, Chief Public Defender commented on the significant stress and problems given the number of cases and resources available. The department has had significant turnover due to large caseloads and case management has increased over 9%. Chief Hooks provided a Response to the 2009 American University Study from the Montana Public Defender Commission. (Exhibit 3)

00:22:24      **Rep. Gibson** asked if the department would be asking for a supplemental.

00:23:29      Harry Freebourn, Administrative Director, Office of Public Defender said he didn't know if the department would be able to make it through the biennium with the current case load increase . The OPD is about \$700,000 short but will try to absorb it within the current budget.

00:25:39      **Rep. Sesso** asked about the status of the death penalty case. Mr. Hooks said one case is all but resolved. The most urgent consideration are the two capital cases pending in Sidney.

- 00:30:10 **Rep. Sesso** asked for an update on the restitution program. Mr. Freeborn said the department is expecting about \$160,000 in assessed fees. That compares to about \$120,000 last year.
- 00:30:53 Greg DeWitt, LFD presented a report on Average Daily Populations of Secure Assisted Living Beds. (Exhibit 4) This report provides information on offenders occupying secure care assisted living prison beds under the supervision of the Department of Corrections. Staff will continue to monitor trends in this population of offenders along with the overall average daily offender population and address any impacts in the Legislative Budget Analysis for the 2015 Biennium.
- 00:34:47 Mike Ferriter, Director, Department of Corrections (DOC) discussed population projections, aging inmates, and the project in partnership with Department of Public Health and Human Services (DPHHS) to house 25 inmates in the Montana Mental Health Nursing Care Center. Mr. Ferriter said the costs to the department to operate the facility will be about \$200.00 per day per offender. At full capacity the overall annual amount is just under \$1.8 million. The department isn't getting 120 beds but 25 more expensive beds to serve a population that is very unique.
- 00:51:06 **Rep. Gibson** asked where the authority would come from for the renovation. Mr. Ferriter said he couldn't answer that. The DPHHS and A&E are working on that. **Rep. Gibson** also asked why the department decided not to move forward with the RFP. Mr. Ferriter said population needs weren't there and an opportunity to collaborate with the DPHHS with an existing facility surfaced.
- 00:46:07 Greg DeWitt, LFD presented a report on Additional Funding Received at the End of Session. (Exhibit 5) The 2011 Legislature added \$1.8 million general fund each year of the biennium for Adult Community Corrections Division. The funding was used to add bed capacities in placements outside of the secure facilities of the Montana State Prison, Montana Women's Prison, regional prisons, or community jails.
- 00:48:15 Mike Ferriter, Director, DOC added that an additional 1% increase went specifically to the prerelease centers in Billings, Great Falls, Missoula, Helena and Bozeman.
- 00:54:05 Robert Miller, Fiscal Analyst, LFD provided an update on the Montana Digital Academy. (Exhibit 6) Mr. Miller discussed the study outline and enrollment update for April 2012.
- 00:59:24 Dennis Parman, Deputy Superintendent, Office of Public Instruction, provided a report on the Montana Digital Academy. (Exhibit 7) Mr. Parman said that the academy has moved away from the notion of a supplemental and are seeking other sources of revenue.

#### **RECENT EXECUTIVE BRANCH SALARY ACTIONS**

- 01:24:26 Paula Stoll, Administrator, State Human Resources Division provided a power point presentation on Broadband Pay in Montana's Executive Branch, a copy of the Broadband Pay Policy and the Employee Profile. Exhibits (8, 8a & 8b ) The presentation focused on background and mechanics of the pay plan, update on recruitment and retention challenges, and broadband pay adjustments in FY 2012.

## PERFORMANCE MEASUREMENT CONTINUED

02:17:21 Pamela Joehler, Senior Fiscal Analyst, LFD provided a report on the Community College Funding Study. (Exhibit 9) The purpose of this report is to review the funding formula to determine if the cost of education calculation (COE) under the revised formula is still valid to use as the appropriation calculation. The design of the funding formula resulted in specific costs at the community colleges being funded twice and if the FY 2012 actual cost of education data is not available from Dawson and Miles Community College by September 1, 2012, how should the legislature proceed with estimating the state appropriation?

*(Sen. Gallus joined the meeting)*

## PUBLIC COMMENT

02:45:33 Jane Karas, President, Flathead Valley Community College

02:48:48 Stephanie Hicswa, President, Miles Community College

02:53:09 John Cech, Deputy Commissioner, Higher Education

03:00:07 **MOTION: Sen. Williams** moved to adopt option 5 - request a bill draft that will incorporate the statutory changes to eliminate the duplicate funding at the community colleges and recommend that the mill levy revenue from the retirement, audit, and medical mill levies in the FY 2012 COE be recognized, but recommend that the adjustment hold the community colleges harmless through FY 2012 - effectively allowing the duplicated payment that has already been included in the base remain in the base, but disallow all future increases in these levies beyond the FY 2012 actual levy amount. **VOTE:** Motion carried

03:01:53 The committee agreed not to decide on the 2015 biennium budget development until the September meeting.

## RECESS

## REVENUE ESTIMATE PROCESS UPDATE

03:36:36 Terry Johnson, Principal Fiscal Analyst, LFD presented a report on the Revenue Estimate Process. (Exhibit 10) This report focuses on the “accuracy” component and what staff is doing to address the issue. Staff is currently in the process of evaluating the individual income tax models and refining the corporation license tax model with an emphasis on the larger corporations. Mr Johnson also provided a chart showing general fund collections based on 11 year historical average and a chart using historical January mean percent as a predictor. (Exhibit 10a)

03:57:46 Susan Fox, Director, Legislative Services Division gave a summary of other committees progress on revenue estimate process and provided the tentative calendar for the 63<sup>rd</sup> Legislative Session. (Exhibit 11)

04:18:49 **Rep. Hollandsworth**, Chairman, Revenue and Transportation Interim Committee said he is committed to building trust between the parties in the next session.

#### **PRELIMINARY BUDGET OUTLOOK (BIG PICTURE) REPORT**

04:24:35 Amy Carlson, Director, LFD presented the Preliminary Budget Outlook report. (Exhibit 12) Ms. Carlson discussed the 2013 biennium ending fund balance, 2015 biennial structural balance estimate, and other spending pressures.

04:32:47 Terry Johnson, Principal Fiscal Analyst, LFD discussed information used to prepare the revenue estimate, revenue assumptions, and the general fund revenue outlook.

04:55:01 Taryn Purdy, Principal Fiscal Analyst, LFD discussed major present law adjustments, spending pressures, and potential FY 2013 supplemental appropriations.

#### **INFORMATION TECHNOLOGY REPORT**

05:33:55 Barbara Smith, Fiscal Specialist, LFD said the LFD has no issues with the CIO Report. (Exhibit 13)

05:34:56 Warren DuPuis, Statewide Information Communication Coordinator provided an update on the Montana public Safety Communication Project and distributed a status report. (Exhibit 14 and 14a)

05:55:54 June Dosier, Program Manager provided an update on the MPERA imaging implementation project.

05:58:55 Ron Baldwin, CIO, Health and Human Services provided an update on MMIS and CHIMES SNAP/TANF projects.

#### **REQUIRED REPORTS**

06:04:13 Taryn Purdy, Principal Fiscal Analyst, LFD commented on the Operating Plan Changes. (Exhibit 15) Staff has reviewed the proposed and implemented changes and raises no concerns.

06:06:39 Kris Wilkinson, Fiscal Analyst, provided a report on the Montana State Lottery Supplemental Appropriation Proposal. (Exhibit 16) It is the role of the LFC to report to the Governor whether, in the committee's view, the request meets statutory criteria. Staff has raised concerns in relation to the Montana State Lottery's plan to reduce expenditures.

06:11:39 Armond Sergeant, Director of Accounting, Montana State Lottery (MSL) discussed the supplemental proposal and distributed a handout on the mission, products, and financial history of the Montana Lottery. (Exhibit 16a) Mr. Sergeant said an increase in sales this fiscal year has resulted in significantly higher vendor fees that has contributed to MSL surpassing its HB 2 appropriation for those fees. In addition, MSL has had a 10% increase in instant or scratch ticket sales over last year. This increase has created a shortage of ticket stock . The MSL is reluctant to submit a mitigation plan that reduces sales resulting in a diminished transfer to the general fund. The MSL requests an exemption from the mitigation plan for the second year of the biennium to sustain its

current level of transfer to the general fund. The MSL will be asking for a supplemental of \$1.0 million in FY 2013 to address the transfer request and the expected level of sales.

- 06:15:19 **Rep. Hollenbaugh** asked what options does the committee have to correct the budget process for the next biennium and how can the MSL be exempt from the mitigation plan. Ms. Wilkinson said the vendor fees could be statutorily appropriated. The law does not foresee making exceptions. The law requires a mitigation plan. There is nothing to absolutely require them to follow the plan.
- 06:22:46 **MOTION: Rep. Hollenbaugh** moved option 1 - Report to the Governor that the LFC does not raise any issues of statutory compliance with the proposed transfer. **VOTE:** Motion carried.
- 06:24:15 Taryn Purdy, Principal Fiscal Analyst, LFD said if the Montana Lottery does not follow the mitigation plan they risk whether or not the legislature will give them the supplemental to replace it. The committee doesn't need to take any action on the mitigation plan.
- 06:24:44 **Rep. Sesso** said the MSL needs to maximize the potential of the lottery on behalf of the state.
- 06:26:50 **Rep. Esp** suggest the MSL and the governor's office work together on a solution and provide a plan to the LFC at the next meeting.
- 06:27:31 **Rep. Sesso** said that if the MSL and the executive wish to deviate from the mitigation plan as presented, they should present that to the LFC at the September meeting.
- 06:33:30 **MOTION: Rep. Hollenbaugh** moved staff prepare draft legislation for a statutory appropriation for the vendor fees and include a sunset date that provides for review. **VOTE:** Motion carried.
- 06:35:11 Greg Dewitt, Senior Fiscal Analyst, LFD provided a report on the Supplemental Appropriation Request for the Department of Justice (DOJ) Major Litigation Funds. (Exhibit 17) The proposed transfer is to cover costs incurred representing PPL, Nob Hill, Yellowstone River Compact and Columbia River suit. Mr. DeWitt noted that the appropriations transfer statute specifically exempts this program from the requirement to submit a plan. It is the role of the LFC to report to the Governor whether, in the committee's view, the request meets statutory criteria.
- 06:36:38 Tim Burton, Deputy Director, Department of Justice, said the appropriation for major litigation has been completely spent. The request would transfer \$350,000 from FY 2013 to FY 2012. The balance remaining for next year would be \$417,379. The total spent to date is \$1,340,908.
- 06:38:43 **MOTION: Rep. Esp** moved option 1 - Inform the Governor that the committee does not raise any issues of statutory compliance with the proposed transfer. **VOTE:** Motion carried

06:39:19 Kris Wilkinson, Fiscal Analyst, LFD presented the Budget Amendments. (Exhibit 18). Staff has reviewed the amendments and has no concerns with any meeting statutory criteria.

06:40:00 Greg DeWitt , Fiscal Analyst, LFD explained the budget amendment from the Department of Justice that was not included in the report due to timing. The budget amendment will be reviewed and included in the September report.

#### **PERFORMANCE MEASUREMENTS**

06:41:37 Marilyn Daumiller, Fiscal Analyst, LFD provided an update on caseloads and discussed the LIEAP, SNAP, TANF and application data comparison charts. (Exhibits 19, 19a, 19b, 19c)

06:48:00 Lois Steinbck, Senior Fiscal Analyst, LFD presented the SJ 26 Medicaid Eligibility Expansion and Healthy Montana Kids Monitoring report. (Exhibit 20) This report provides an update on both components of SJ 26.

06:55:48 Also included in the committee notebooks but no presentation was given:

- Report on the Upland Game Bird Enhancement Program (Exhibit 21)
- SJ 26 Report to EQC (Exhibit 21a)
- Montana Migratory Game Bird Habitat Program. (Exhibit 21b)

06:56:32 Taryn Purdy, Principal Fiscal Analyst, LFD briefly responded on the federal funds reductions.

06:57:53 **Rep. Gibson** requested legal staff look into 25 proposed beds for Lewistown, specifically 18-2-101 , MCA and 18-2-102, MCA which relates to construction projects over \$250,000 and the need for legislative authority.

07:00:10 **Rep. Esp** expressed concern with the appropriation and would like more detail.

07:01:30 **Rep. Gibson** said he would like to know if the market pay raises would have been reduced if HB 13 would have passed.

07:04:33 **Rep. Hollenbaugh** provided a copy of the Horse Racing Update from the Department of Livestock. (Exhibit 22) He asked if the LFC should be tracking this issue. Ms. Purdy said the LFC did ask for additional information which was just received today. Staff will review the information and provide an update.

**COMMITTEE BUSINESS**

07:05:27 **Rep. Hollenbaugh** provided an update on the Select Committee on Efficiencies in Government. The committee will be meeting next Monday and Tuesday to finalize its recommendation and report.

07:06:20 **Sen. Wanzenried** provided an update on the Medicaid Model Project. He said staff did remarkably good work and the committee should be proud of the work received from staff. Staff was asked to send a letter to the DPHHS expressing appreciation for their cooperation.

07:12:45 Amy Carlson, Director provided an update on the Eastern Montana trip and the Western States Legislative Fiscal Officers Association meeting in September.

**RECESS**

07:23:16 The committee recessed and will reconvene on Tuesday at 8:00 a.m. in room 102 for a joint meeting with State Administration and Veterans' Affairs Interim Committee. The next meeting of the Legislative Finance Committee will be September 27-28, 2012.