



# LEGISLATIVE FINANCE COMMITTEE

## 58<sup>TH</sup> Montana Legislature

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

### HOUSE MEMBERS

GARY FORRESTER, CHAIRMAN  
JOHN BRUEGGEMAN, SECRETARY  
ROSALIE BUZZAS  
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KEITH BALES, VICE CHAIRMAN  
RICK LAIBLE  
EMILY STONINGTON  
JON TESTER  
JOE TROPILA  
TOM ZOOK

## MINUTES

October 7 & 8, 2004  
Room 102, State Capitol  
Helena, Montana

### ROLL CALL

Sen. Keith Bales  
Rep. John Brueggeman  
Rep. Gary Forrester  
Rep. Dave Kasten  
Rep. Dave Lewis  
Rep. Monica Lindeen  
Sen. Rick Laible  
Senator Jon Tester  
Sen. Joe Tropila  
Sen. Tom Zook  
Clayton Schenck, Legislative Fiscal Analyst  
Diane McDuffie, Committee Secretary

### ABSENT

Sen. Emily Stonington  
Sen. Jon Tester

### Call to Order (Tape 1A-001)

**Representative Gary Forrester**, Chair, called the 190th meeting of the Legislative Finance Committee (LFC) to order at 1:00 p.m. on Thursday, October 7, 2004. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana.

### 1. Approval of Minutes for June 17-18, 2004 (Tape 1A-0013)

**Senator Bales** moved the minutes of the June 17-18, 2004 meeting be approved as submitted.

**VOTE:** The motion carried unanimously.

Clayton Schenck, LFA, introduced several new staff members, Barbara Smith, Marilyn Daumiller, Shane Sierer and Cassandra Rice-Wetzel, recently hired to fill the vacant positions in the Legislative Fiscal Division (LFD).

## **2. 2005 Biennium Budget Spending “Pressure Points”** (Tape 1A-84)

Taryn Purdy, Principal Fiscal Analyst, LFD, presented an update on the 2005 Biennium Budget Spending “Pressure Points”. (Exhibit 1) The purpose of the report is to alert the LFC of the areas that have the potential to require a supplemental appropriation.

The areas of concerns identified in the report are: Fire Costs, Judiciary, Corrections, Payout Costs for Elected Officials and Exempt Staff, Justice- Major Litigation, Payback of Workers’ Compensation to the Federal Government, and K-12 Education.

## **3. Fire Cost Report** (Tape 1A-144)

Barbara Smith, Associate Fiscal Analyst, LFD, presented a report on DNRC Fire Costs. (Exhibit 2) The report included: 1) an update on the estimate of costs, 2) the process of recovering reimbursements, and 3) other recent developments related to 2004 wildfire costs.

Ms. Smith reported that the total obligation to the State of Montana for fire costs in fiscal 2004 was \$79.6 million, a minimal increase of \$40,000 from the estimate presented at the June meeting. To date, the state has paid \$46.9 million, and anticipates an additional \$32.7 million. Total estimated fire costs for fiscal 2005 is \$3.1 million. To date, \$1.1 million has been paid, an additional \$1.4 million is anticipated for incurred costs, and \$0.5 million has been estimated for spring 2005 fires.

Ms. Smith presented three options for LFC consideration for future fire funding:

1. Legislation to establish fire cost task force.
2. Interim study of funding alternatives, and
3. Take no action.

#### **4. General Fund Status: Fiscal Year 2004 Actual/2005 Biennium Projected** (Tape 1A-253)

Terry Johnson, Principal Fiscal Analyst, LFD, presented a report on the General Fund Status: Fiscal Year 2004 Actual/2005 Biennium Projected. (Exhibit 3) The purpose of this report is to provide the committee with preliminary fiscal 2004 ending fund balance data for the general fund account. The report provides a comparison between budgeted data as developed by the 58<sup>th</sup> Legislature and what actually occurred in fiscal 2004. It also provides aggregate information on revenue estimates and collections, disbursements and reversions, and an updated fund balance statement for the 2005 biennium.

Mr. Johnson reported that the preliminary ending fund balance for fiscal year 2004 only is \$135.3 million, or \$109.6 million above the level anticipated by the 58<sup>th</sup> Legislature. Current year revenues exceeded estimates by \$70.7 million. Federal tax reform, wage growth and energy prices were the primary economic forces behind stronger revenue growth.

Mr. Johnson told the LFC that the projected general fund ending fund balance for the 2005 biennium is \$129.6 million more than the amount estimated at the end of the 58<sup>th</sup> legislative session. This balance incorporates actual revenue and disbursement data for fiscal 2004 and includes revised revenue and disbursement estimates for fiscal 2005. Based on current information, the general fund account will end the 2005 biennium with a balance of \$175.8 million before anticipated supplementals. This projected balance is based on revised revenue estimates for fiscal 2005 and incorporates revenue trends observed during fiscal 2004. Mr. Johnson responded to questions from LFC members.

Chuck Swysgood, Budget Director, OBPP, responded on behalf of the executive, stating they generally agree with Mr. Johnson's report for the 2005 biennium.

#### **5. Other Reports** (Tape 1B-185)

Taryn Purdy, Principal Fiscal Analyst, presented the budget amendments and operating plan changes. (Exhibits 4 and 5) She informed the committee that no action was required as these reports are informational only with no issues identified by LFD staff. The required reports (Exhibit 6), was included in the LFC notebook but was not formally presented.

## **6. Legislative Training** (Tape 1B- 203)

Taryn Purdy, Principal Fiscal Analyst, presented a memo on Legislative Training. (Exhibit 7) The LFD is proposing that training be conducted, and that time be set aside in the regular subcommittee schedules. The first tier is training for all new legislators during orientation in November following the caucuses. The second and third tiers are designed specifically for those on House Appropriations Committee and Senate Finance and Claims.

## **7. Status Reports on Other Interim Study Committees** (Tape 1B-309)

The status reports on Postsecondary Education Policy and Budget Subcommittee (Exhibit 8) and Developmental Disabilities System (Exhibit 9) were included in the LFC notebooks but were not formally presented.

## **8. Statewide Public Defender System** (Tape 1B-469)

Harry Freebourn, Associate Fiscal Analyst, LFD, presented a report on the Statewide Public Defender System. (Exhibit 10) The Law and Justice interim committee developed draft legislation to create a statewide public defender system to provide legal services to qualified individuals charged with certain offenses. This draft legislation is partially in response to a lawsuit filed in district court by the ACLU against the State of Montana and Missoula County.

Mr. Freebourn reported that the draft legislation recommends that the cost of the statewide system be shared by the state and by each county and city. The percentage that each entity currently contributes to the total cost of the current system forms the cost sharing formula. The statewide system would be allocated as follows: 1) about 77 percent to the state; 2) about 16 percent to the counties; and 3) about seven percent to the cities. The amount allocated to each county or city would be determined by the commission and the public defender office by applying a statutory formula using cost allocation factors. Estimated costs of the statewide public defender system for a biennium without a transition year would be about \$27,000.

## **9. Montana Economic Outlook** (Tape 2A-021)

Dr. Paul Polzin offered a slide presentation on the status of Montana's economic outlook. (Exhibit 11) He discussed how the nationwide impacts of the 2001 recession and the Sept. 11 terrorist attacks were concentrated in the dot-com sectors, financial services, transportation

equipment and high-tech manufacturing, and that Montana doesn't have much activity in these areas. Montana is relatively more dependent on natural resource industries. Montana did not experience the 2001 recession or the aftermath of Sept. 11 to the same extent as the rest of the nation. Despite dodging the last two national recessions, Montana's economy has not become recession proof.

Mr. Polzin's presentation included statistics on the economy before and after the September 11, 2001, attack on the World Trade Centers (WTC) in New York City, as well as the GDP growth rate forecast. In conclusion, Dr. Polzin painted an optimistic picture of the Montana economy. Dr. Polzin responded to questions from LFC members.

**10. "Big Picture Report"** (Tape 2A-624)

Clayton Schenck, LFD Director, presented the General Fund Preliminary Budget Outlook for 2007 Biennium, more commonly known as the Big Picture Report. (Exhibit 12) He explained the projection estimates, the availability of funding for maintenance of existing services as well as for new and expanded programs.

In conclusion, Mr. Schenck pointed out that the 59<sup>th</sup> Legislature faces a much brighter budget picture than the large deficit facing the 58<sup>th</sup> Legislature in the 2003 session. The brighter picture is primarily due to strong growth in individual income tax, and oil and gas tax revenues. Mr. Schenck and Mr. Johnson responded to questions from LFC members.

Chuck Swysgood, Budget Director, OBPP, responded on behalf of the executive, stating they generally concur with Mr. Schenck's report for the 2007 biennium. Mr. Swysgood expressed concern regarding the liability issue with PERS and TRS. Mr. Swysgood responded to questions from the LFC members.

Friday, October 8, 2004

**ROLL CALL**

Rep. Dave Lewis  
Rep. Rosalie Buzzas  
Rep. John Brueggeman  
Rep. Monica Lindeen  
Rep. Gary Forrester  
Rep. Dave Kasten  
Sen. Keith Bales  
Sen. Rick Laible  
Sen. Jon Tester  
Sen. Joe Tropila  
Sen. Tom Zook  
Clayton Schenck, Legislative Fiscal Analyst  
Diane McDuffie, Committee Secretary

**ABSENT**

Sen. Emily Stonington

**Call to Order** (Tape 4A-004)

The 190<sup>th</sup> meeting of the Legislative Finance Committee (LFC) reconvened on Friday, October 8, 2004, and was called to order at 8:05 a.m. by **Representative Forrester**, Chair in Hearing Room 102 of the State Capitol, Helena, Montana.

**11. Highways State Special Revenue Account Update** (Tape 3A-369)

Greg DeWitt, Senior Fiscal Analyst, LFD, provided a report on Highways State Special Revenue Account Update. (Exhibit 13) The report focuses on the most recent working capital analysis for the HSSRA from fiscal 2004 through fiscal 2011 under various funding situations related to passage of federal highway funding legislation.

Mr. Dewitt reported that current projections of HSSRA indicate that adequacy of the HSSRA working capital balance is questionable for providing funding through the 2007 biennium, depending upon what level of federal highway funding is approved by the U.S. Congress as it reauthorizes federal highway funding. The future federal funding levels have not been determined and the Executive Budget has not been completed. Without these two key components, the structural integrity of HSSRA is still uncertain.

Mr. DeWitt provided the following options for consideration:

- o Continue to rely on MDT management to maintain the account
- o Increase revenues
- o Reduce or control expenditures

Mr. DeWitt responded to questions from LFC members.

Jim Currie, Montana Department of Transportation, provided a handout on the Long Range Planning, Highway State Special Revenue Account document. (Exhibit 14) Mr. Currie reported the ending working capital balance for fiscal year 2005 is \$29.7 million. He also said the department uses the indirect costs as a safety valve to keep the HSSRA solvent. Mr. Currie said the department is assuming in fiscal years 2006 and 2007 it will receive a statutory appropriation from the general fund. Mr. Currie responded to questions from LFC members.

**12. K-12 School Funding Court Decision: Fiscal Data Requirements/Options** (Tape 3B-150)

Jim Standaert, Senior Fiscal Analyst, LFD, presented a report on K-12 School Funding Court Decision: Fiscal Data Requirements/Options. (Exhibit 15) The purpose of this report is to provide the LFC and the legislature with an overview of the task ahead in developing a new funding methodology and cost for K-12 education, and to explore what the LFC and staff might do to begin preparations in advance of the 2005 session.

Mr. Standaert provided background information on the school funding litigation issue, discussed what other states have done relative to adequacy studies, explained the complexities of school funding, and provided options for consideration by the LFC.

In conclusion, the report identified the complexity of the legislative task at hand should the Supreme Court uphold the District Court decision that the current state method of funding K-12 education is unconstitutional, and that a new funding method must be adopted. Mr. Standaert responded to question from LFC members.

**Public Comment** (Tape 4A-500)

Mr. Schenck referenced a letter received from Mary Whittinghill, President of the Montana Taxpayers Association to the LFC supporting option 2. (Exhibit 16)

Representatives from various associations offered comments to the committee. Comments were received from: Jack Copps, Director, MQEC (Exhibit 17); Jim Molloy, Attorney for MQEC (Exhibit 18); Madelyn Quinlan, OPI; and Margaret Morgan, Montana Chamber of Commerce.

**MOTION: Representative Bales** moved to adopt option 2. “Wait for the Supreme Court to rule, and let the legislature decide what to do. In the meantime, direct staff to develop background information on the current funding system (historical spending and revenues, how budget authority is calculated, how revenue is budgeted, how student and teacher characteristics are distributed across the state, what data OPI is able to provide and what data they are unable to provide).” **VOTE:** Motion passed.

**13. Medicare Modernization Act: A Legislative Primer** (Tape 4B-142)

Lois Steinbeck, Senior Fiscal Analyst, LFD, presented a report on Medicare Modernization Act (MMA): A Legislative Primer. (Exhibit 19) The purpose of this report is to inform legislators about the state government fiscal and public policy issues that they may deal with in the upcoming 2005 legislative session. This report includes information on cost savings, clawback, woodwork effect, wrap around programs, and state workload issues.

Ms. Steinbeck informed the committee the 2005 legislature will be faced with several impacts of the MMA that are common to all states. At this point, it is not possible to tell whether Montana will experience a net gain or loss in general fund costs due to offsetting aspects of the MMA and it is not evident how fiscal and policy issues associated with the MMA will be addressed in the executive budget request or legislative package. LFD staff will continue to research and analyze the state fiscal and policy issues related to the MMA. Staff will also provide an update at the November LFC meeting. Ms. Steinbeck provided a handout on the Medicare Prescription Drug Benefit: Issues and Implications for States (Exhibit 20). Ms. Steinbeck and Jeff Buska, DPHHS, responded to questions from LFC members.

(Tape 5A-088)

Ms. Steinbeck provided to the committee a memo regarding an Amendment to Statutes Governing Receipt of Medicaid estimates. (Exhibit 21). Legislative staff reviewed 53-5-110(4), MCA and concluded that as it was written the statute was not enforceable. LFC directed staff to work with DPHHS staff to suggest amendments to the statute to resolve this issue. The suggested amendment to 53-5-110(4) is supported by DPHHS and concurred in by Legislative Fiscal Division staff.

**MOTION:** Senator Bales moved to draft a committee bill to amend 53-5-110(4) to the language agreed upon. **VOTE:** Motion passed.

(Tape 5A-156)

Mary Caferro, WEEL, commented on the memo from Lois Steinbeck, LFD, to the LFC on the CHIP Contract. (Exhibit 26). The contract to administer the Children's Health Insurance Program (CHIP) between DPHHS and Blue Cross Blue Shield is being renewed. Ms. Caferro said the administrative costs of CHIP are in excessive of those allowed by federal law. However, the law does not specify between administrative costs of a private or public program. The Center for Medicaid and Medicare Services (CMS) has been asked to review this issue and make a judgment as to whether or not BCBS should be held to the same cap on administrative costs as if it were a public program. Ms. Caferro feels it is imperative that the contract not be signed until a decision as been made by CMS.

Chuck Hunter, Health Resources Department, DPHHS, said the department is currently negotiating two issues: 1) that BCBS would return 75 percent of the funds in reserve to the CHIP program, and 2) no premium increase for next year. Mr. Hunter also said at the time CHIP was set up, the administrative costs were considered to be a part of the benefit and not subject to the 10 percent cap.

#### **14. 2007 Biennium Information Technology major Projects Update** (Tape 5A-400)

Jeff Brandt, State CIO, Department of Administration, provided the committee with a handout on the Major IT project portfolio status as of September 30, 2004. (Exhibit 22).

Don Hoffman, Acting Director, Department of Revenue, reported that the department negotiated with FAST Enterprises an additional contract to continue with another phase of the IRIS project, Income & Corporate Tax (ICT). The total budget for this project is approximately \$8.1 million. Rollout of the corporation tax is scheduled for January 31, 2005 and individual income tax is scheduled for September 2005. The department will be requesting in the 2005 legislative session about \$4.0 million for the remaining tax types to shut down POINTS. Also the payment schedule with FAST Enterprise will go beyond June 30, 2005 so additional spending authority will be needed.

#### **15. Options for Enhancing Montana's Budget Process** (5A-576)

Jon Moe, Fiscal Specialist, LFD, presented a report on Options for Enhancing Montana's Budgeting Process. (Exhibit 23). This report is a conclusion of a four-step work plan approved by the LFC in June 2003. The purpose of this report is to ascertain if the LFC has an interest in proposing changes to the budget process for future biennia. This report focuses on key elements of budget approaches that are used around the country, performance review, base budget review, present law, the relationship between revenues and budget, and discussion on topics that seem most important based upon the questions and comments of LFC members and provides options the committee might consider.

Mr. Moe said comments from the committee indicate a degree of satisfaction with the incremental process but also a desire to review base budgets. The incremental process can be retained but with some enhancements that help legislators understand what state government does, why it is done, and what changes the legislature might make in state policy to: 1) improve the delivery of state government services, and 2) control the growth of the budget. Mr. Moe presented three options for consideration and responded to questions from LFC members.

**MOTION: Senator Liable** moved to adopt option 3. “Request that staff develop a more detailed explanation of the content of statewide present law adjustments. The purpose would be to better educate the legislature. Agencies could be required to provide the more detailed explanation for each program to provide a basis for the data needed for the legislature. The primary part of this would relate to personal services, and showing what contributes to the adjustment amount, i.e., pay plan annualization, reclassifications, promotions, etc.” **VOTE:** Motion passed.

**MOTION: Senator Liable** moved to prepare a committee bill for option 2. “Recommend that the legislature review its requirement that each agency provide with their budget request, a plan for reducing the base budget by 5 percent. The legislature could consider incorporating the plan into the agency’s base budget request as a form of zero-based budgeting, requiring the reduction in the base budget submission, and requiring agencies to justify the reinstatement of the 5 percent portion as a present law adjustment or new proposal.” **VOTE:** Motion passed.

#### **16. Operating Plan Changes** (Tape 6A-250)

Ms. Purdy presented an Operating Plan Change (Exhibit 24) from the State Library for review and comment from the LFC before being approved by the Governor’s Office.

The status reports on Interim Study Committees (Exhibit 25), an Update on CHIP Contract (Exhibit 26), and State Government Revenue/Expenditure Growth Project Update (Exhibit 27) were included in the LFC notebooks but were not formally presented.

#### **17. Committee Business** (Tape 6A-366)

Clayton Schenck presented the items under committee business. (Exhibit 28)

LFD Budget Request - Mr. Schenck presented the LFD 2007 biennium budget request for approval. He explained that the proposed budget request was prepared using the same standards as used by the executive branch in preparing their budgets. The proposed 2007 biennium budget present law request is 1.8 percent higher than the 2005 biennium appropriation. The present law increase is entirely attributable to personal services cost increase.

**MOTION: Representative Lindeen** moved to approve the LFD 2007 biennium budget request.

**VOTE:** Motion passed.

**Next LFC Meeting**

The next meeting of the LFC will be held November 16, 2004.

**MOTION: Representative Buzzas** moved to prepare a committee bill on a rainy day fund.

**VOTE: Motion passed**

**Adjournment**

**MOTION: Representative Lindeen** moved to adjourn. **VOTE:** Motion carried unanimously.

Meeting adjourned at 2:45 p.m.

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Representative Gary Forrester, Chairman

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Diane McDuffie, Committee Secretary