

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION**

**JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND
TRANSPORTATION**

Call to Order: By **CHAIRMAN JOHN SINRUD**, on January 21, 2005 at
8:00 A.M., in Room 317-B Capitol.

ROLL CALL

Members Present:

Rep. John Sinrud, Chairman (R)
Sen. Lane L. Larson, Vice Chairman (D)
Sen. Mike Cooney (D)
Sen. Rick Laible (R)
Rep. Jon C. Sesso (D)

Members Excused: Rep. Janna Taylor (R)

Members Absent: Rep. Rosalie (Rosie) Buzzas (D)
Sen. Corey Stapleton (R)

Staff Present: Harry Freebourn, Legislative Branch
Linda Keim, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 2 - Judiciary
Supreme Court
Water Court
Law Library

Executive Action: None.

SUPREME COURT

REP. SINRUD introduced **Harry Freebourn, Legislative Fiscal Division**, to discuss the budget for Judiciary. **Mr. Freebourn** said that Brent Doig, Budget Office, gathered the information, and he analyzed it. Handouts were as follows: Letter from Ed Smith, Clerk of the Supreme Court, assessing current needs, and "Judiciary Branch Profile."

EXHIBIT (jgh16a01)

EXHIBIT (jgh16a02)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6}

Harry Freebourn presented the Judiciary Branch Profile (Exhibit 2). He explained the pie charts, and commented that the information is 2004 data, so the base may be adjusted, and the figures may be different from the budget. The judiciary has a \$32.1 million General Fund (GF) budget; in comparison to the total GF budget of \$1,243.7 million, or 2.5% of the total GF. Total budget for the state is \$3,364.3 million; it is \$36 million; or \$1.1% of the total budget for the judiciary.

He explained the term, "district court assumption." This occurred several years ago when the state took over funding and management of the district courts. Page 5 of the profile shows the Judicial Branch Expenditures from 1996-2004. He said that there are ten boards and councils that oversee various aspects of the state's legal practice. The State Law Library, located in Helena, is governed by the seven members of the Supreme Court. The Clerk of Court is Ed Smith; there are 5.5 FTE that handle the Supreme Court's docket. The Supreme Court, through the Chief Justice, supervises the entire Montana State Judiciary.

An Information Technology Division (IT) in the Supreme Court manages IT for the Supreme Court, all 56 District Courts, and all 182 Courts of Limited Jurisdiction. He noted that even though the state does not fund Courts of Limited Jurisdiction, some services are provided, and the state has supervisory control.

A pie chart on Page 3 shows the Judicial Branch spending by category. The two largest categories are Personal Services which comprise 58.6%, or \$21.1 million; and Operating Expenses which total 39%, or \$14 million. A sizeable amount of those funds is used to support payments made for public defenders; approximately \$8 million in 2004. The other major expenditures under Operating Expenses are for IT.

Services are funded by the General Fund at \$32.1 million, or 89%; State Special Revenue at \$2.4 million, or 6.7%; and Federal Funding at \$1.6 million, or 4.4%.

The effect of the 2003 district court assumption can be seen on the bar graph on Page 5. Prior to that, the District Court was in the \$7-10 million range consistently. After the assumption, total funds went up to \$31 million in 2003, and \$36 million in 2004 and 2005. The budget request for FY 2006 is \$38.3 million; and for FY 2007, it is \$36.6 million.

{Tape: 1; Side: A; Approx. Time Counter: 6 - 19.2}

REP. SESSO questioned whether the increase in cost from FY 2002 to 2003 is mostly made up of the district court assumption.

Harry Freebourn answered in the affirmative.

CHAIRMAN SINRUD asked why the state special revenue fund decreased. **Harry Freebourn** stated that certain functions of the Supreme Court at one time were funded by state special funds. In 2003, they were consolidated as per HB 124, the "big bill," and redirected to be funded by the General Fund.

Mr. Freebourn explained the last page of the Judiciary Branch Profile. The legislature can effect change by: changing the rules that create caseload, changing the number of locations providing service, changing the number of FTE, and increasing the use of teleconferencing. He noted that population growth contributes to increased caseload for judges and staff, as well as increased variable costs such as travel, jury and public defender costs; a decline in economic activity appears to increase crime. Also, the American Civil Liberty Union (ACLU) has two issues related to Public Defender services provided in the state: 1) That equal services are not provided throughout the state, and 2) That judges should not be appointing public defenders due to conflict of interest. Social factors enter in too; court interpretation is required of new laws protecting life, liberty and property.

{Tape: 1; Side: A; Approx. Time Counter: 19.2 - 26.7}

Mr. Freebourn noted that Governor Schweitzer made two major changes to the original budget on Page A-16 of the LFD Budget Analysis. He handed out the changes: "Judiciary Program 01 - Supreme Court Operations" and "Program 06 - Clerk of Court." He noted that \$1.935 million was added for each fiscal year to support the IT, and \$6,000 was added to the Clerk of Court Program for each fiscal year. The total budget went up \$3.9 million.

EXHIBIT (jgh16a03)

REP. SESSO asked if the IT funding was in the original budget and got taken out, or if it was an oversight. **Mr. Freebourn** explained that the court IT program is in operation today. It is funded by a \$10 surcharge on certain court filings in district court and courts of limited jurisdiction; the \$10 funding mechanism will expire June 30, 2005.

{Tape: 1; Side: A; Approx. Time Counter: 26.7 - 30}

Mr. Freebourn stated that the executive removed the IT program and will be asking for it again. **CHAIRMAN SINRUD** said that the surcharge is being taken away, but there is a bill coming to extend the surcharge. Currently they are shifting from the surcharge to the General Fund. **Mr. Freebourn** said that the original budget proposal from judiciary had the IT program in it, and the Martz budget took it out. **Brent Doig** said that the Martz budget took away the state special revenue funding, and asked that the program be funded out of the General Fund in a decision package. The Martz administration did not approve that decision package, so it came out of judiciary's budget as a request. The Schweitzer administration did replace that, with the idea that the surcharge would be reinstated, but directed into the General Fund.....(inaudible).

Mr. Freebourn referred to the table on Page A-16. The total budget being requested by judiciary for the 2007 biennium is \$74.9 million, with 362.13 FTE. The revised budget shows the IT program added back in, and should say \$78.8 million. The 362.13 FTE needs to have 17 FTE added, because Governor Schweitzer has added the IT program back in. The important thing to note is that it will now be fully funded by the General Fund. He noted under Major Budget Highlights, that the General Fund will increase by \$12.5 million. The major reasons for the increase between the base year and the new biennium is \$3.9 million for the court IT, a request to purchase software licenses for district courts and courts of limited jurisdiction for \$1.3 million, an increase to fund public defender type costs in the amount of \$3 million, and an increase to fund unfit to proceed costs of about \$2 million.

He said that the unfit-to-proceed costs were not included in the 2005 biennium budget, so they are not in the base. Previously these costs were paid by the Department of Health and Human Services (DPHHS), but a legislative audit determined that those costs should be born by the Judiciary. The Judiciary is taking responsibility for those costs in fiscal 2005, and it is part of their supplemental request. **Brent Doig** said that it is not an increased cost to the General Fund, as DPHHS was previously paying it out of the General Fund.

Mr. Freebourn said that Page A-17 indicates an LFD Comment concerning the vacancy savings program, which is an executive branch program. The judiciary has not adopted a similar program in this budget. Figure 1 shows the calculations, using a 4% rate. If Judiciary were to adopt something similar, they would see a budget reduction of about \$680,000 in each year of the biennium. An LFD issue notes the request by both the Judiciary, and Governor Schweitzer, to move the court IT program funding from the state special fund to the General Fund, a fund switch. **{Tape: 1; Side: B; Approx. Time Counter: 0 - 11}**

He said that the LFD budget report on Page A-18 states that the supplemental appropriation is currently \$6.8 million for the Judiciary. The supplemental appropriation has two parts: \$5.8 million related to the district assumption program; and the \$1 million for the unfit-to-proceed costs. He noted that most of the district court assumption dollars are for personal services or public defender type costs, and that 245 FTE came with the district court assumption. Previously, there was a program where the state paid for some of these programs on a reimbursement basis.

In Figure 2, the \$5.8 million came from variable costs; such as public defender costs. The Judiciary was able to pick up \$1 million in reverted dollars to help offset this exposure: the fixed cost area (payroll, operating costs) savings amounted to \$400,000.

CHAIRMAN SINRUD asked Brent Doig for a break-out of costs in regard to the \$5.8 million, for both the supplemental and the non-supplemental. He asked how much per hour is being paid to local psychologists to evaluate the defendants, or whether everyone gets sent to Warm Springs for evaluation.

Mr. Freebourn said that about 25%, or \$0.9 million of the \$3.6 million variance is due to the fact that part of the budget for the district court assumption was moved from the variable cost area to the fixed cost area during FY 2004-2005. The total budget has not changed, except in the way it has been broken-out between the fixed component to fund such items as the judges' salaries and salaries of the administrative staff, and the variable component that relates to hiring outside experts to help defend the defendant.

Mr. Freebourn noted that one of the LFD issues is that budget reporting in judiciary did not allow easy identification of the reasons for the variances, and said that they had to do a

lot of detailed review to come up with what happened. The budget for variable costs is kept in the Supreme Court in a lump sum.

CHAIRMAN SINRUD asked how the Department of Corrections manages variable costs in their budget. **Mr. Freebourn** said that he could think of only one minor area that is centralized, and that is under a cost-containment panel in the juvenile correction area, under a Juvenile Delinquent Intervention Program (JDIP).

Mr. Freebourn stated that the Supreme Court Clerks of Court are elected officials, and under statute, they have the right to submit a budget directly to the Legislature if the Governor did not provide certain budgetary items. Pages A-21 and A-22 contain elected official's new proposals for consideration. These new proposals need to be treated as if they were decision packages, in addition to considering the Governor's decision package. He noted a change on Page A-21 under IT; the amount \$4,807,258 should be changed to \$937,268. He explained that Governor Martz's budget left the IT program out, so they were asking for the full \$4.8 million. Governor Schweitzer had provided \$3.8 million, but the court is saying that is not enough, and they still want \$937,268.

SEN. COONEY stated that there are two separate entities in Judiciary. He noted that he didn't understand why the Supreme Court has such a great impact over the office of the Clerk of the Supreme Court, and emphasized that he wanted to treat them independently.

{Tape: 1; Side: B; Approx. Time Counter: 11 - 30}

Mr. Freebourn noted Figure 1, the LFD comment box, on Page A-17 and clarified that there is no vacancy savings indicated. The Governor's FTE reduction sometimes gets confused with vacancy savings. **CHAIRMAN SINRUD** said that it is the ability of the board to exempt certain departments or agencies. He stated to **SEN. COONEY** that if this is something **SEN. COONEY** wants, to let **CHAIRMAN SINRUD** know. **Mr. Freebourn** noted that there were no vacancy savings in this budget.

Mr. Freebourn said that Judiciary picked up an FTE reduction, and directed the committee to the present law adjustment box on Page A-43. The statewide FTE reduction, DP 9904, shows the Judiciary being reduced by five FTE, or by \$255,000 in each year of the biennium. That amount was allocated to all of the programs, therefore, it hit the Clerk of the Court's program.

Mr. Freebourn asked the committee to read the following issues on Page A-22 and keep them in mind as they go through the Judiciary.

1) Infrastructure and workload of the Judiciary. The legislature may want to be involved in how to make the Judiciary's structure more efficient.

2) Delivery of services and the use of video conferencing, Page A-25. Areas having video conferencing capability are listed on Page A-26, in Figure 8. He noted that this could save costs as well as travel time, and suggested that a cost benefit analysis should be used to verify cost savings.

3) The issue on Page A-27, Figure 9 indicates an IT problem; this area needs to be streamlined. The Judiciary uses many different case management systems, but they are not operated from a central database. Judiciary has to access 56 separate systems on the district court side; if it is a limited court case, they have to access 182 different systems.

4) The issue on Page A-29 is the district court assumption. The real impact is that if the state-wide public defender system is passed, about \$8.2 million would be moved out of this program to that entity, currently planned to be attached to the Department of Administration.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 10}

(The committee took a 20 minute break from 9:10 A.M. to 9:30 A.M.)

Jim Oppedahl, Administrator of the Montana Supreme Court, gave his personal history, and noted that the court IT system has evolved from having one IBM PC for the chief justice in 1986. He handed out copies of the program he will give, set in a Power Point format. Copies of a letter to CHAIRMAN SINRUD from Chief Justice Karla Gray were distributed.

[EXHIBIT\(jgh16a04\)](#)

[EXHIBIT\(jgh16a05\)](#)

Mr. Oppedahl began by addressing the supplemental issues. He spoke about the "unfit to proceed" process and noted in his presentation that when either side asks for a psychiatric evaluation, someone must pay the cost. At some point in the process, the judge can determine whether the defendant is unfit to proceed in criminal matters, and they are sent to Warm Springs for up to 90 days of evaluation and medical treatment to try to get them healthy enough to proceed to trial. That is paid for by the \$1 million supplemental. Some court-ordered evaluations happen at Warm Springs, but those that happen in the community are covered by the community. If the person is in jail, the sheriff is responsible for housing and transportation. The only cost that judiciary pays is the psychologist's actual time.

Mr. Oppedahl said that the District Court Assumption program is operating at a deficit. Also, recently his Department has allocated the fixed budget to the district courts who are responsible. The variables were allocated by taking an average of the expenditures in 2003-2004, and a contingency fund in the operations area was held back. They are carefully monitoring the budget monthly.

He presented information on four items: Supreme Court Operations, Boards and Commissions, District Court Operations, and the Audit for the two fiscal years ending June 30, 2004.

Mr. Oppedahl said that they erred in the budget submission of the Court Assessment Program (CAP) that reviews the progress of abused and neglected children in the court system. They did not ask for the general fund match. The program is funded 75% with federal funds and 25% with general fund. There is about \$33,000 of general fund that is missing in the equation.

{Tape: 2; Side: A; Approx. Time Counter: 10 - 26}

Mr. Oppedahl explained how important the central database for courts of limited jurisdiction is. Beginning in September 2005, when the federal government needs to get conviction information from commercial driver licensees, they will penalize the state for not providing that information within a 30-day period, and they will withdraw 5% of the highway funding. This would be a \$15 million penalty. The responsibility for that reporting is with the Department of Justice. A federal grant has been received for a computer-operated program to be operated by courts of limited jurisdiction that will create some long-term savings in the Department of Justice. When the data is available electronically, the clerks now staffing those jobs will be available for other things. Financing for information technology (IT) for the last ten years has been through a surcharge on filings in courts of limited jurisdiction, amounting to about 85%; and the remainder through district courts.

{Tape: 2; Side: A; Approx. Time Counter: 26 - 29.8}

Harry Freebourn, LFD, referred to Mr. Oppedahl's remark concerning employee availability after automation. He asked whether some of the individuals could be used in other areas.

Jim Oppedahl stated that it is difficult to tell at this time.

Mr. Oppedahl stated that the approximate annual computer cost per user is \$1,890, and this is a minimum standard for automation. This amount multiplied times 1,000 users in the judicial branch (not the 370 state-funded judicial employees, but all the folks with the clerks of court and courts of limited jurisdiction) is

about \$2 million in IT cost. There is a strategic plan in place to achieve only the minimum technology necessary to have a central depository at the limited jurisdiction and the district court levels.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 4.9}

CHAIRMAN SINRUD asked if the Supreme Court had the right to tell the district court how to operate, prior to the assumption. **Mr. Oppedahl** explained that the clerk of court is the records management person, and is a locally-elected official. They have worked with the clerks of court for over ten years to develop case management systems. He emphasized that these systems have been in district courts since 1993; they are not all the same, and they are inefficient.

CHAIRMAN SINRUD asked if the supreme court paid for the present system, back in the 1990's. **Mr. Oppedahl** said that it came from two sources; the court IT budget, and local funding through cost-sharing. The problem with local funding, is that they can't expect participation on a timely basis.

SEN. LAIBLE asked if the software in question is being purchased or created locally. **Mr. Oppedahl** said that they adopted their plan after getting input from the Commission on Technology. He said that some courts currently use an in-house created software called Judicial Case Management System (JCMS), and does not advocate creating in-house programs. Some Courts of limited jurisdiction use "FullCourt," a vendor produced and supported product. It is also used in courts of limited jurisdiction in other states. They are piloting the "FullCourt" Program in Missoula district court.

{Tape: 2; Side: B; Approx. Time Counter: 4.9 - 11.5}

CHAIRMAN SINRUD asked whether this database would be centralized in Helena, and whether updates would be done from the central office. **Mr. Oppedahl** affirmed both questions, and noted that would depend upon funding for a central database.

CHAIRMAN SINRUD asked if they had a complete budget, or whether the budget process was to ask for funding each year. **Mr. Oppedahl** replied they have presented a complete budget proposal.

CHAIRMAN SINRUD asked what procedure was being followed in getting district courts on-board. **Mr. Oppedahl** said that the clerks of district court were not part of the state assumption. He felt they were interested in collaboration, and said that they are part of the Commission on Technology. They understand the general direction the court is going. He said that it is

difficult for a state court administrator to go into a county-elected official's office and mandate that something must be done. He commented that they are being very cooperative with the piloting in Missoula.

SEN. LAIBLE asked if the proposal being brought forward is to implement the entire "FullCourt" system, and asked whether it will be completed during the biennium. He also asked if there would be any cost to the district courts for implementation.

Mr. Oppedahl said that they have asked for \$2.2 million in fiscal 2006, and \$2.6 million in 2007. That covers the minimum on-going maintenance, and assumes that the \$1.4 million of one-time-only money will pay for the district court "FullCourt" program application license and continued maintenance. The status is that they have to finish the old JCMS project by September 2005 with their current funding. They will shift those resources into the "FullCourt" Program with district courts during the 2007 biennium.

Harry Freebourn, explained to the committee that the issues they are primarily dealing with are district courts and courts of limited jurisdiction; some are related to the supreme court. He emphasized that other IT issues may come up with the Judiciary. He asked Jim Oppedahl if he wanted to offer any more information.

Mr. Oppedahl noted that there are no modern case management systems in the supreme court. The supreme court's docket is in word perfect, and runs on macros created in 1989. They have used \$600,000 in federal dollars to purchase a supreme court docket system that will allow automation to access and provide statistics. There is also a bonding proposal that has funds for the supreme court.

{Time: 2; Side: B; Approx. Time Counter: 11.5 - 24}

REP. SINRUD asked if there was an entire IT plan and a cost for that. **Jim Oppedahl** stated that they have a strategic plan, but it needs to be updated. **REP. SINRUD** said that he would also like to see an overall management plan. **SEN. LAIBLE** noted that it would be helpful to look at a master plan.

{Time: 2; Side: B; Approx. Time Counter: 24 - 30}

REP. SESSO asked that the relationship to the CIO and that office's oversight be included in the information Mr. Oppedahl is compiling. **REP. SESSO** asked that the CIO be present at their next discussion, to verify their support of these investments.

Mr. Oppedahl answered that while the legislature exempts the Judiciary from the State's overall IT process, since they work together, they should not be exempted. **Mr. Oppedahl** stated that

he would have a time line for the completion of all the IT issues, including costs, ready by Monday.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 5.1}

Mr. Oppedahl discussed the last two pages of his presentation on supreme court operations. He encouraged the use of the Interactive Video Network, and gave an example of the time and cost savings for Warm Springs patients who were required to go to court in Butte for pre-treatment hearings. The County of Silver Bow was paying \$400-\$600 for ambulance transport, as well.

SEN. LAIBLE asked what the criteria is for where the interactive video networks are placed. **Jim Oppedahl** stated that, in theory, they will be in all 56 counties. He noted that, at first, they will be placed where they will be used the most. **Mr. Oppedahl** noted that the funds for the video conferencing program have come from federal grants. **SEN. LAIBLE** said that it is cost-effective. **Mr. Oppedahl** said that a study can be done to show the cost effectiveness to local governments.

{Tape: 3; Side: A; Approx. Time Counter: 5.1 - 15.7}

Mr. Oppedahl gave a brief explanation of the hand-out: "Minnesota Court Staff Workload and Assessment."

[EXHIBIT \(jgh16a06\)](#)

Water Court Page A-47

Bruce Lobal, Chief Water Judge of the Montana Court, handed out two maps: "Administration of Water Court Decrees," and "Montana General Adjudication."

[EXHIBIT \(jgh16a07\)](#)

[EXHIBIT \(jgh16a08\)](#)

Judge Lobal gave a brief history of the Water Court and State Water Rights to the committee. He stated that State Water Rights must be used in order to keep them intact, but that the Federal Government has the ability to withdraw an unquantified amount of water from the public domain for a federal purpose. They don't have a use-it-or-lose-it restriction. Reserve Water Rights are a federal water right first recognized by the United States Supreme Court in the 1980's. Usually, Reserve Water Rights have a priority date preceding most senior water users in Montana, because the reservations were created before more of the homesteaders came. He said that it is very unusual for Montana to have jurisdiction over federal and tribal water rights. He commented that Montana State Court has jurisdiction over federal lands, because of a law passed by the U.S. Congress in 1952.

He said that the Department of Natural Resources (DNRC) is currently working their way through all of the hydro-water basins and have to examine all of the claims for potential problems. If a problem can't be fixed, DNRC puts an "issue remark" on the claim abstract for the water right; this refers to a potential problem with the water right. There are eight volumes of claim abstracts.

{Tape: 3; Side: A; Approx. Time Counter: 15.7 - 30}

The Water Court operates throughout the state, and they have a lot of telephone conference calls. He gave a brief explanation of the number of people on the Water Court: there are eleven people in Bozeman; six are Water Masters, four are clerical. There is one chief water judge and four division water judges (they are also active district judges). He said that they have issued seven federal-based reserve water right decrees, and fifty-six state-based water right decrees.

Judge Lobal gave a brief explanation of House Bill 22 to the committee. **SEN. LARSON** asked what the best case scenario would be for trying to resolve the water rights issue if HB 22 passed. **Bruce Lobal** stated that HB 22 anticipates that there will be enough staff to finish the examination of claims in ten years. There will be a period of time after that to absolve the objections to the claims that are out there.

Mr. Freebourn asked to clarify the number of FTE involved. He noted that there are a total of eleven FTE. The four District Court Judges mentioned are funded through district court operations; they are not part of the water court's funding. He asked Judge Lobal if he was comfortable with the 15-year estimate on HB 22 for the decrees. **Judge Lobal** said that if DNRC gets the claims examined, they can get the decrees out in 15 years.

Judge Lobal said that they cannot continue to go on at this pace, and get the adjudication done in a reasonable period of time. He stated that there are two options if HB 22 does not pass. The state will have to say it was an experiment that didn't work; or, they could try to soft land it, and direct the available resources to one specific area. If HB 22 does not pass, they should move to either the Yellowstone River drainage, the Milk River drainage, or the Clark Fork drainage and work on those areas, one at a time. He said that the Flathead Reservation is in a difficult position, because under Supreme Court decisions issued, the DNRC cannot process applications for water rights within the reservation.

REP. TAYLOR asked how many of the 85 hydrological basins have more water appropriated than actually exists. **Judge Lobal** was not sure. He noted that in most of the large basins, there is more water on the books than there is water in the stream.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 10}

REP. TAYLOR questioned that if there is more water adjudicated than exists, every person will go back to court to get the water that they paid for, because someone else is taking it. **Judge Lobal** said that is the way it works. When there is a shortage of water, they can go to the district court and request more water. The water commissioner will adjust head gates up and down the stream, to stop people from taking more than their share.

One of the purposes of the Water Court is to adjudicate water rights so that the information is available to district courts to enforce their decrees. The "Montana General Adjudication" map handed out earlier shows the water sources that will be enforced by this summer.

Mr. Freebourn explained the Water Court's Budget for FY 2006 on Page A-46. He stated that their base budget is \$672,956 and they have 11 FTE. He stated that they are asking for Present Law Adjustments of \$94,243 in FY 2006, and Present Law Adjustments of \$93,364 in FY 2007. He said that the entire budget for the biennium is \$1.5 million. He stated that if House Bill 22 passes, then this budget will increase, and the fiscal impact of this budget would be approximately \$874,105. That is an increase of \$106,914 over the budget request.

Judge Lobal said that he had different figures. He shows a minimum of \$220,651 per year; and if HB 22 passes, this figure will be \$416,619 per year. He said that the reason he calculated that was because of a chart that the Environmental Quality Council (EQC) staff prepared called "Montana Water Adjudication Revenue Necessary for Completion by 2020."

EXHIBIT (jgh16a09)

One of the costs requested during the EQC proceeding was how many staff are necessary to complete the job within the next 15 years, if the adjudication was sped up. He concluded that they will need 3.5 more staff, for a cost increase of \$220,651 per year. The other thing that the EQC was concerned about was leaving issue remarks on the water rights, and not resolving them. He said that if the water court were to deal with each of the issue remarks, that would also take about 3.5 more staff. He then referred to the chart, (exhibit 9), and stated that for "on

motion costs" they only allocated \$196,039; and when \$220,651 and \$196,039 are added, the total is \$416,000.

Harry Freebourn stated that there is an LFD issue on Page A-47. The source of funding for this program is interest from the resource indemnity trust. That trust is capped at \$100,000,000, and the interest rate on this balance fluctuates. This source of funding is limited, and is also shared with other entities. He said that they periodically check this source to make sure it is adequate.

State Law Library Page A-38

Judy Meadows, Librarian, State Law Library, stated that many of their books have been replaced with electronically licensed materials, because they are easier to use and manage. She said that their web site is heavily used, and the staff spends about half its time on digital information; either in digitizing print sources, arranging them on their web site, or assisting others in searches. She also gave a brief overview of "State Law Library Report to the Legislature, January 2005." **Ms. Meadows** explained the kinds of resources that she has, and how she is available to the public. She also explained that not only lawyers or judges use the law library, but many state workers and private citizens, as well. She noted that the general public needs instruction in how to locate and use things like wills, the 1895 Montana Code (original land laws), federal sentencing guidelines, and legal issues. She said that they either answer these questions or refer them to other agencies. They also do photocopying, E-mailing, and faxing.

EXHIBIT (jgh16a10)

{Tape: 3; Side: B; Approx. Time Counter: 10 - 31}

Ms. Meadows said that they are happy with their funding, but they do face several challenges. One is the increasing number of litigants that come in. She said that they have to give help without giving legal advice, and many don't understand the legal process and what words should be used. The second challenge is that the cost of legal materials is going up. She said that she shifts funds and cancels subscriptions to pay for books. The book budget is spent on items that are not available on the internet and they are not free. These items have to be updated every year, or they are not longer reliable and safe to use.

REP. TAYLOR asked what the average salary is for the 7.5 FTE.

Ms. Meadows said that the lowest paid employee gets \$7 per hour, and the highest paid get \$63,000 per year.

SEN. LAIBLE asked if less people are physically visiting the library. **Ms. Meadows** said there are two other law libraries in the state: the one at the law school in Missoula serves only their faculty and students, and there is a private library in Billings.

SEN. LAIBLE asked if appellate defenders usually do their research on line. **Miss Meadows** affirmed, and said that the library negotiates with LEXIS (a legal research database) to get the price down on electronic licenses. They control the LEXIS subscriptions for all publically employed attorneys in the state.

SEN. LAIBLE noted that maybe that the reason why there is only one major law library is because people don't come in. **Miss Meadows** said that she thinks it is because they can't afford to have more than one law library. Law libraries are very expensive. She said that they have a 1-800 phone number available at the public library, and they have a button on their web site to answer questions people may have, and it is used a lot.

There were no further questions, and **CHAIRMAN SINRUD** closed the hearing.

{Tape: 4; Side: A; Approx. Time Counter: 0 - 12.6}

ADJOURNMENT

Adjournment: 11:27 A.M.

REP. JOHN SINRUD, Chairman

LINDA KEIM, Secretary

JS/LK

Additional Exhibits:

EXHIBIT ([jgh16aad0.PDF](#))