

**MINUTES**

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

**JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC  
SAFETY**

**Call to Order:** By **CHAIRMAN TIM CALLAHAN**, on January 6, 2005 at  
8:00 A.M., in Room 317-A Capitol.

**ROLL CALL**

**Members Present:**

Rep. Tim Callahan, Chairman (D)  
Sen. Keith Bales (R)  
Sen. Steven Gallus (D)  
Rep. Cynthia Hiner (D)  
Sen. Trudi Schmidt (D)  
Rep. John E. Witt (R)

**Members Excused:** Rep. Walter McNutt (R)

**Members Absent:** None.

**Staff Present:** Harry Freebourn, Legislative Branch  
Shannon Scow, Committee Secretary  
Shane Sierer, Legislative Branch

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

**Committee Business Summary:**

\*Committee Orientation and Overview  
Hearing & Date Posted: None  
Executive Action: None

Introductions

**{Tape: 1; Side: A; Approx. Time Counter: 0 - 10.6; Comments:  
Introduction of Committee Members and Staff}**

**CHAIRMAN CALLAHAN** welcomed the 2005 Appropriations Subcommittee on Corrections and Public Safety. The orientation meeting will begin with introductions.

**Shane Sierer** is from Oklahoma, his wife is from Three Forks. For eleven years he was controller of a large non-profit that deals with disabilities. Mr. Sierer has been here four and a half months with Legislative Fiscal Division. He is also staffing Appropriations Subcommittee on Natural Resource.

**REP. JOHN WITT** Represents HD 28 from Carter, Montana. He is sharing time with the Subcommittee on Long Range Planning, as well as vice-chair of the Appropriations Committee.

**Shannon Scow** is from Helena, Montana. Ms. Scow went to school at Colgate University. Shannon is beginning education for a teaching certification in the fall.

**Harry Freebourn** has been with the Legislative Fiscal Division (LFD) for about a year. Prior to the LFD he spent 21 years at Montana Power Company with regulated utilities as an accountant, financial analyst, and auditor. Mr. Freebourn's highest position was as assistant treasurer with Montana Power. Most of his career has been with non-utility business, including non-regulated power of coal, oil and gas. Mr. Freebourn has worked most in budget and financial analysis.

**CHAIRMAN CALLAHAN** represents HD 21 in Great Falls, Montana. This is his third term on Appropriations and on this committee. This is CHAIRMAN CALLAHAN'S first year as chairman.

**SEN. TRUDY SCHMIDT** represents SD 21 in Great Falls, Montana. This is her fifth term in the legislature. Three have been in the House of Representatives, and this is her second in the Senate. This is SEN. SCHMIDT'S second term on this subcommittee.

**REP. CINDY HINER** is serving her first legislative term. REP. HINER is a registered nurse, employed by the Department of Corrections. She is director of nurses at Montana State Prison.

**SEN. KEITH BALES** is from Southeastern, Montana. SEN. BALES has served in the House of Representatives one session, and is

currently serving his second session in the Senate. This is SEN. BALES second term on this committee.

**SEN. STEVE GALLUS** is from Butte, Montana and has been on the House Judiciary Committee for six years. SEN. GALLUS has served on the Corrections Advisory Council, and is Chairman of the Montana Intelligence Committee. He is interested in public safety and crime and punishment. He is looking forward to learning more about budget and finance.

**BRENT DOIG, OBPP REPRESENTATIVE** has been on the budget committee for three years. This is his second time on this committee. Mr. Doig has worked at the Department of Environmental Quality, and the Department of Transportation. Mr. Doig has worked for 10 years on budgeting. He is a Carroll College graduate.

**REP. WITT** clarified that both he and REP. MCNUTT have dual subcommittee assignments, but one will try to be here at all times.

**CHAIRMAN CALLAHAN** asked for any concerns or questions before beginning, and none were voiced.

### Schedule Overview

*{Tape: 1; Side: A; Approx. Time Counter: 10.6 - 20; Comments: Committee schedule overview}*

**Mr. Freebourn** stated that Mr. Sierer, Mr. Doig and himself are all on two committees but will be here during the designated meeting times. Mr. Freebourn is in charge of Public Service Commission (PSC), Montana Board of Crime Control (MBCC), Department of Corrections and Department of Justice. Mr. Sierer is in charge of Department of Labor and Industry as well as Military Affairs.

Today is a brief orientation of this subcommittee, beginning with the schedule of meeting and hearings. Although some tours are listed on the schedule, other visits are possible, the forensics lab for instance, if the committee decides it necessary.

### EXHIBIT (jch04a01)

**Mr. Freebourn** scheduled hearings start tomorrow, with the PSC testimony from 8-10 A.M. Wayne Budt from the PSC will be here and Commissioner Jergenson will be here to address the committee. Executive Action on the PSC will be first thing Monday morning, January 10th. At 10 A.M. on Monday MBCC testimony will begin,

with Executive Action taken on Tuesday. A tour with Warden Mahoney at the Montana State Prison, and the WATCH program is scheduled for Wednesday.

***{Tape: 1; Side: A; Approx. Time Counter: 20 - 25; Comments: Discussion of Montana State Prison tour and other tour possibilities.}***

With a voice call, interested members were REP. HINER and SEN. BALES. Tentative parties were SEN. WITT and SEN. GALLUS. SEN. SCHMIDT cannot attend. CHAIRMAN CALLAHAN read dress requirements for the trip. Committee members were informed that attendance needs to be known in advance because the tour will be put on hold if there is not enough interest. Other parties are already asking for more floor time and would be happy to fill in on the scheduled tour date.

**SEN. SCHMIDT** stated there are more facilities not on the schedule, such as the women's prison and Missoula Crime Lab. Committee members agreed that they will need to look at tour possibilities and reevaluate their schedule.

***{Tape: 1; Side: A; Approx. Time Counter: 25 - 29.5; Comments: Schedule Overview}***

On Thursday, January 13th Mr. Slater will be here to give an overview of the Department of Corrections as well as Public Testimony on Central Services and Board of Pardons. On Friday there will be the hearing on Community Corrections followed by a tour of Helena's prerelease center. The prerelease center is requesting a lot of money for expansion of the center and added probation and parol officers. Monday January 17th and Tuesday 18th will be spent on secure facilities because they are requesting a \$26 million increase, which is the largest requested increase. Warden Mahoney and representatives from the women's prison will speak on state-owned facilities. Also we will hear about planned expansion and options. The last day of Department of Corrections hearings will be youth services on Wednesday, January 19th.

***{Tape: 1; Side: B; Approx. Time Counter: 0 - 10.6; Comments: Schedule continued}***

**Mr. Sierer** explained the Labor and Industry schedule, which begins on January 21st. Issues that will be covered are the Employment Security Account as well as the Job Service Center and training. A more detailed, revised schedule is will be given at a later date.

**Mr. Freebourn** will take over with the Department of Justice on January 27th. The Law Enforcement Academy will be covered and the Attorney General will give an overview of the department of justice. January 28th will begin the hearings on individual programs within the Department of Justice. On Monday, January 31st representatives from the Forensics Science Division in Missoula will be here, speaking about Team 261 Project. Team 261 is their new technology project for the motor vehicle division. Gambling Control Division has in a large budget request for a new control and auditing reporting system, and will speak that same day. Tuesday will be the County Attorney Payroll Testimony. February 2nd will be the final Department of Justice hearing with a payroll issue brought forth by the Highway Patrol. February 3rd is the scheduled Executive Action for the Department of Justice.

**Mr. Sierer** will head up Military Affairs from February 7th through 9th. He is waiting for official word of General Moseley's reappointment and will be able to move forward with hearing details at that point. There is a possibility for a tour of the Air Force Base in Great Falls during this time.

#### Tour Discussion

*{Tape: 1; Side: B; Approx. Time Counter: 10.6 - 25; Comments: Discussion of tours}*

Facilities for tours are still under committee discussion. Committee members are concerned that time allotted for scheduled tours are not currently feasible. Facilities currently on schedule are for the Montana State Prison and Helena's Prerelease Center, which is one of four prerelease centers throughout the state. Facilities that are of interest that are not on the schedule are the state crime lab and the National Guard. **SEN. GALLUS** noted that Saturdays are good days for tours due to fewer committee and floor commitments.

**Mr. Freebourn** stated that the schedule is not set in stone. He just needs sufficient prior notice to reorganize the schedule and obtain funding approval.

**REP. WITT** likes the crime lab idea, as well as **SEN. SCHMIDT**. **Mr. Freebourn** added that Shelby is a long way, but they are asking for significant funding. **SEN. BALES** suggested a tour of both Deer Lodge and Shelby as a means for comparison. **SEN. GARRUS** agreed in adjoining a trip that includes the crime lab in the morning, the Missoula Prerelease Center and the prisons the same day. **CHAIRMAN CALLAHAN** clarified that in order for any of this

to happen some time needs to be cleared or the tours moved to Saturdays. **SEN. WITT** believes it is important to tour Shelby.

Committee members discussed the benefits of comparing a regional and a private facility. **Mr. Freebourn** clarified the prison set-up, making the distinction between regional, county, private and federal prisons. The state-owned adult male facility is in Deer Lodge, and the adult female facility in Billings. Regional prisons are in Shelby, Missoula, Glendive, and Great Falls. Great Falls and Missoula are managed, owned and run by the county and rented out on a per diem basis. Missoula is a regional prison but has been converted to a processing facility. Prisoners there have been sentenced to the Department of Corrections. These prisoners are sent to the holding facility in Missoula and are processed within a 90-day period. This facility is always full with over 300 beds. This facility is under Mike Ferriter in the Department of Corrections rather than the warden. Shelby is the only privately owned facility, under Corrections Corporation of America. All of these facilities are predicted to be running at their operational capacity.

**SEN. GALLUS** asked the committee to coordinate tour dates with the Senate floor because there is not a possibility for a proxy vote.

**Mr. Freebourn** confirmed that it was okay to cancel the Montana State Prison tour with the possibility of rescheduling.

**CHAIRMAN CHALLAHAN** persuaded committee members to think about the priorities in terms of tours and we will revisit the matter at a later date.

*{Tape: 1; Side: B; Approx. Time Counter: 24.8 - 29.5; Comments: Working of the Subcommittee Orientation}*

[EXHIBIT\(jch04a02\)](#)

#### SUBCOMMITTEE ORIENTATION

**Mr. Freebourn** explained the workings of the subcommittee, beginning with budget presentation procedure (Exhibit 1, Page 1.)

Following the budget presentation is executive action, where committee makes the decision on individual decision packages (DP's). (Exhibit 1, Page 1)

**SEN. GALLUS** asked for clarification on whether the whole package is considered or if line items are discussed during the Executive Action. **Mr. Doig** clarified that extra language can be put into

individual DP's to specify how much is appropriated, a restricted or one-time only appropriation, etc.

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 6.6; Comments: Bed count discussion}***

**Mr. Freebourn** highlighted many prisons that are full, as well as emphasized that much discussion will center around Shelby.

**CHAIRMAN CALLAHAN** asked for clarification on the definition of "full," since there are currently two separate operations in play, both state and county beds that are counted separately. **Mr. Freebourn** emphasized the need to make sure the committee is on the same page, because there is a disparity between what is "full" according to the facility and "full" according to the state. The numbers reported in the budget analysis are according to the state. **SEN. SCHMIDT** expanded on the issue, saying in some prisons there are federal, state and county prisoners all in one. The county is reporting 150 beds, but in fact there are 350 total. **SEN. GALLUS** added that Shelby Crossroads facility was forbidden to house federal prisoners until last year.

***{Tape: 2; Side: A; Approx. Time Counter: 6.6 - 10.8; Comments: Line item changes in decision packages.}***

**SEN. GALLUS** asked at what point of the executive process do we line item a decision package, such as the purchase of the Shelby prison. **Mr. Freebourn** answered that it is a continuation issue, and that it is not discussed until the full picture has been given and alternatives given. **SEN. SCHMIDT** emphasized that we would take a vote on Decision Package (DP) 16 as a whole.

**CHAIRMAN CALLAHAN** said we will see the issue of bedding again in Department of Justice, because the Highway Patrol pays to house prisoners in county and city jails while they await trial.

***{Tape: 2; Side: A; Approx. Time Counter: 10.8 - 15.0; Comments: return to workings of the subcommittee}***

**Mr. Freebourn** explained that a quorum is four committee members, and proxy votes are left with a party member to vote for them. Motions do not need a second.

The Legislative Fiscal Division (LFD) Budget Analysis for Corrections and Public Safety is found as Section D in Book 4 on the budget analysis. Each section has an agency proposed budget, and agency description, agency highlights, a funding table, biennium budget comparison, and a discussion of supplemental fund

requests. The Department of Justice and Department of Corrections both have supplemental requests that we will hear. Also included is agency issues. The DP's are either present law or new proposals. LFD comments and issues are included in this section.

***{Tape: 2; Side: A; Approx. Time Counter: 15 - 18.3; Comments: Full Time Equivalent (FTE)/Personal Services}***

**Mr. Freebourn** requested that if the DP is changed that the committee designate the specific FTE, rather than a lump sum. **SEN. GALLUS** asked how the committee is to know how many FTE's are involved in which bureau. **Mr. Freebourn** and **Mr. Doig** responded that we can identify any specific position or agency.

***{Tape: 2; Side: A; Approx. Time Counter: 18.3 - 24.2; Comments: Base Budget and New Proposals}***

**Mr. Freebourn** specified that each agency has a base budget. The decision package is added onto this base. The committee should look at the total amount, base plus the incremental increases, and judge upon the total. Exhibit 1, Page 3 was referred to as an explanation of Present law adjustment, statewide adjustments and new proposals.

**Mr. Doig** pointed out that if an agency is asking for a new person it is a new mandate and new law, even if they argue it is present law.

***{Tape: 2; Side: A; Approx. Time Counter: 24.2 - 29.5; Comments: Appropriations power}***

**Mr. Freebourn** stated that only the legislature is given the power to apply appropriations. **Mr. Freebourn** referred to Exhibit 1, Page 3 for explanation of special cases where the executive branch may approve budget amendments. **Mr Freebourn** emphasized there is a distinct difference between money and appropriations. Money obtained by agencies often comes through tax or a fee, however this money cannot be spent without an appropriation. For example, The Law Enforcement Academy has a \$1.3 million appropriation, but they were not able to collect as much money as they were appropriated. The committee is given the authority to spend any money taken in through taxes, fees and grants.

Proprietary funds that are used for laundry, etc. need approval as well (Exhibit 1, Page 4). Definition of House Bill (HB) language often used; one-time-only, restricted, biennial appropriations and contingency language were referred to on

Exhibit 1, Page 4. **Mr. Freebourn** cautioned against many restrictions because agencies can be overly restricted from performing their day to day functions. Biennial appropriations allow an agency to spend the money either FY06 or FY07

**CHAIRMAN CALLAHAN** asked how a biennial appropriation affects the base budget of an agency. If all of a biennial appropriation is spent the first year, and that is the year from which the base is set; then the agency could conceivably get double their requested amount.

*{Tape: 2; Side: B; Approx. Time Counter: 0 - 5.3; Comments: Base Budget and Contingency Language}*

**Mr. Doig** said that the fiscal division watches to make sure the base where the agency started stays fixed.

**Mr. Freebourn** asked the committee to be careful with contingency language, which, for example allows no action on a decision package until another bill passes.

**CHAIRMAN CALLAHAN** pointed out that the committee may not have time to wait until the bill passes the house floor to make their decision.

**CHAIRMAN CALLAHAN** asked for any more questions or discussions. None were raised.

**ADJOURNMENT**

Adjournment: 9:35 A.M.

---

REP. TIM CALLAHAN, Chairman

---

SHANNON SCOW, Secretary

TC/SS

Additional Exhibits:

**EXHIBIT ([jch04aad0.PDF](#))**