



# Legislative Finance Committee

## 56<sup>th</sup> Montana Legislature

Room 108, State Capitol, ? P.O. Box 201711 ? Helena, MT 59620-1711 ? (406) 444-2986 ? FAX (406) 444-3036

### SENATE MEMBERS

GREG JERGESON, CHAIRMAN  
ARNIE MOHL, SECRETARY  
THOMAS A. "TOM" BECK  
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EVE FRANKLIN  
CHARLES "CHUCK" SWYSGOOD

### HOUSE MEMBERS

LILA TAYLOR, VICE CHAIRMAN  
MATT McCANN  
BOB RANEY  
JOE TROPILA  
JOHN WITT  
TOM ZOOK

## MINUTES

October 2 & 3, 2000  
Hearing Room 102, State Capitol  
Helena, Montana

### **ROLL CALL FOR OCTOBER 2, 2000**

Sen. Greg Jergeson  
Sen. Chuck Swysgood  
Sen. Tom Beck  
Sen. Chris Christiaens, Excused  
Sen. Eve Franklin, Excused  
Sen. Arnie Mohl  
Rep. Lila Taylor  
Rep. Matt McCann  
Rep. Bob Raney, Excused  
Rep. Joe Tropila  
Rep. John Witt, Excused  
Rep. Tom Zook  
Clayton Schenck, Legislative Fiscal Analyst  
Cindy Campbell, Committee Secretary

### **Call to Order** (Tape 1A-010)

The 176th meeting of the Legislative Finance Committee (LFC) was called to order at 1:05 p.m. by Senator Greg Jergeson, Chair, on Monday, October 2, 2000. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana.

### **1. Approval of Minutes for June 8 & 9, 2000** (Tape 7A-275)

**Representative Tropila** moved the minutes of the June 8 & 9, 2000, meeting be approved as presented. Because a quorum was not present on October 2, 2000, the minutes were not voted on until October 3, 2000. **Representative Taylor** noted a revision in the minutes. **Representative**

**Tropila** revised his motion to approve the minutes as revised. **VOTE:** The motion carried unanimously.

## **2. Fire Suppression Costs – 2001 Biennium Estimate** (Tape 1A-015)

Gary Hamel, Associate Fiscal Analyst, presented a report on the fire suppression costs. (Exhibit 1) His report included information on funding sources, Department of Natural Resources and Conservation's (DNRC) financial position, and the estimated 2001 supplemental. Mr. Hamel talked about LFD concerns regarding the current fire suppression funding policy and provided several options for the LFC to consider. He then responded to questions from the committee members.

Mick Robinson, Governor's office, provided comments on behalf of the Office of Budget and Program Planning (OBPP). He told the committee that DNRC has so far received 100% reimbursement for costs submitted to FEMA and they are currently working with the federal government on further reimbursement. They are also working with the Western Governor's Association on this issue. DNRC will not know the entire costs for fire suppression until very late in the upcoming session and therefore will have to estimate costs for their budget.

Comments on behalf of DNRC were provided by Director Bud Clinch. He stated that out of 5,000 individual fires starts, only 50 developed into major complex fires, and out of 536 fires under DNRC jurisdiction, only 25 exceeded 10 acres. He distributed copies of a spreadsheet with DNRC draft fire supplemental calculations FY00/01 (Exhibit 1A), which provided actual and estimated fire costs, as well as reimbursable costs. Sue Clark, Bureau Chief for the Forestry Division of DNRC, explained the spreadsheet and answered questions from LFC members. Tim Murphy, DNRC's fire chief, also presented comments to the LFC on the Firewise Program.

Adjutant General John Pendergast from Department of Military Affairs addressed the LFC, expressing his support for DNRC and the other agencies involved in the fire suppression efforts. He stated that Montana was the only state in the nation to have National Guard members assisting in the fire fighting efforts.

### **3. New Director for Legislative Services Division** (Tape 1B-249)

Senator Beck introduced Lois Menzies, recently hired to fill the position of Director for Legislative Services. Bob Person will be working with Ms. Menzies during the transition period and will retire in December.

### **4. General Fund Budget Projects: 2003 Biennium (Big Picture Report)** (Tape 1B-289)

Clayton Schenck, LFD Director, presented the General Fund Budget Projections for the 2003 Biennium, more commonly known as the Big Picture Report. (Exhibit 2) He explained to the committee that the governor has not yet completed his budget so the numbers in the report do not reflect his current budget. Mr. Schenck also addressed some of the recent media comments.

Mick Robinson provided comments on behalf of OBPP. He told the LFC members that the three items affecting the budget which were unknown at the end of the special session in May are: 1) fire costs for DNRC; 2) Department of Public Health and Human Services (DPHHS) supplemental; and 3) various agency budgets which are affected by the fire costs. Mr. Robinson stated that a balanced budget would be tight, but it will be “reasonable and responsible.”

### **5. Highways Special Revenue Account: Working Capital Update** (Tape 1A-455)

A report on the Highways Special Revenue Account (HSRA): Working Capital Update was presented by Greg DeWitt, Senior Fiscal Analyst. (Exhibit 3) He provided a brief summary of HB 540 and HB 4 and explained the impacts with and without HB 540. (HB 540 will be on the November ballot for electoral vote.) Mr. DeWitt then presented recommendations on options for consideration by the LFC.

Jim Curry, Department of Transportation (DOT), addressed the LFC and told members that the special session had a tremendous impact on HSRA with \$6 million a year additional funding now being diverted from the fund. He stated that it took several months to determine the impact and now DOT is looking at options to compensate for this loss of funding. Mr. Curry informed the committee that DOT is not the only entity funded from HSRA and that all entities being funded from this account should share the burden of the diverted funds. He talked about the recommendations from the Motor Fuel Advisory Council, a board appointed by the Governor to

study HB 540. LFC members asked numerous questions and discussed various options. Mr. Curry told the committee DOT would not go below \$10 million on their biennial budget. **Senator Jergeson** asked Mr. Curry to calculate some exact figures on what DOT needs to meet the \$10 million.

**6. Followup to June Report on Metal Mines Performance Bonds/State Liability** (Tape 3A-325)

Rusty Harper, Deputy State Auditor, appeared before the committee to report on his review of the insurance statutes. (Exhibit 4) At the June LFC meeting, members asked that the state auditor's office review the insurance statutes to ensure that the state's interests are protected upon incapacity of a surety due to bankruptcy, default, or revocation of its license. Mr. Harper reported to the LFC that Chapter 26 of the Insurance Code (Title 33) is about suretyship and provides virtually no protection against bankruptcy or default by a company. There is no guaranty association as there is for life and health companies or property and casualty companies. However, he reported that in Montana, there has been only one bankruptcy of a surety company in the last 15 years. Mr. Harper concluded his report with five recommendations concerning surety company bankruptcy protection, which are listed on page 2 of Exhibit 4. He responded to various questions from the LFC members.

Gary Hamel presented his report, "Section 82-4-360, MCA, Metal Mine Reclamation, Is it clear enough to carry out legislative intent?" (Exhibit 4A) The report provided a written review of the statute and more specifically, a description of what this statute accomplishes. It also identified some situations the statute does not address. In conclusion, Mr. Hamel reported that miners can continue to operate even if they violate mining and environmental laws as long as they continue to show a good faith effort toward their reclamation requirements – or pay the department for reclamation costs plus penalty and interest. He stated that if this is the intent of the legislature, no statutory change is needed and the law is functioning properly. However, if the legislature would like to address some of the areas the statute does not, statutory changes are needed. Mr. Hamel answered questions from the committee members.

LFC members also had questions regarding issues with Department of Environmental Quality (DEQ), which were answered by Curt Chisholm from DEQ. At this time Mr. Chisholm explained the draft legislation which they would submit to the upcoming legislature for approval. (Exhibit 4B) **Senator Jergeson** asked Mr. Chisholm to bring copies of the draft legislation to the committee on Tuesday.

On Tuesday, October 3, Roger Lloyd distributed copies DEQ's draft legislation (Exhibit 4B) and his analysis of the draft legislation and whether or not it follows LFC recommendations (Exhibit 4C). On page two of his analysis, Mr. Lloyd offered four options for LFC action. Mr. Chisholm answered questions from committee members in regard to the draft legislation. **Senator Jergeson** commented that this draft proposal is a work in progress and DEQ will have additional language for review at the November meeting, at which time the LFC will take action.

#### **7. 2003 Biennium Budget Development: Status** (Tape 3B-063)

Taryn Purdy, Principal Fiscal Analyst, reported on the status of the 2003 biennium budget development. She told the committee things are proceeding on schedule with OBPP and LFD. DPHHS is the one agency, which has not submitted its budget to OBPP. Ms. Purdy reported there are no major issues at this point. However, she stated there is a definite need for vigilance with regard to the accuracy of the base because of concerns about whether expenditures were properly coded. In response to a question by **Representative McCann** regarding the status of agencies reducing their budgets by 15 percent, which was a requirement passed by the last legislature, Ms. Purdy told him she didn't have current information at this time, but would research this and provide this information at the meeting the next day.

#### **8. Legislative Fiscal Training – Curriculum/Plan** (Tape 3B-110)

The curriculum/plan for legislative fiscal training, which is one of the items on the LFD work plan, was presented by Taryn Purdy. (Exhibit 5) She outlined the plan and asked for input from the LFC members.

**9. LFD Work Plan: Update** (Tape 3B-301)

Clayton Schenck briefed the LFC on the status of the LFD work plan. (Exhibit 6) Members of the committee complimented the LFD staff for the large number of projects they have successfully completed.

**10. Committee Business** (Tape 3B-475)

Clayton Schenck presented the items under committee business. (Exhibit 7)

**Senator Jergeson** relayed a request from Chuck Johnson, reporter for Lee Newspapers, that the LFD do an objective analysis of the budget impacts of the various proposals coming from the two primary candidates for Governor. The LFC Management Advisory Committee discussed this request and decided against it.

The LFC members discussed the next meeting date, which needs to coincide with the party caucuses. **Senator Beck** reported that the House of Representatives will caucus on Friday, November 17, and the Senate will caucus on the morning of November 18. Therefore, the LFC decided to meet on Thursday, November 16, 2000.

During the meeting on Tuesday, October 3, 2000, Mr. Schenck presented the LFD 2003 Biennium Budget Request for approval by the LFC. **MOTION: Senator Swysgood** moved the LFC approve the LFD 2003 Biennium Budget Request. **VOTE:** Motion carried unanimously.

**Recess**

The LFC recessed at 6:05 p.m.

**TUESDAY, OCTOBER 3, 2000**

**ROLL CALL FOR OCTOBER 3, 2000**

Sen. Greg Jergeson  
Sen. Tom Beck  
Sen. Chris Christiaens  
Sen. Eve Franklin

Sen. Arnie Mohl, Excused  
Sen. Chuck Swysgood  
Rep. Lila Taylor  
Rep. Matt McCann  
Rep. Bob Raney, Excused  
Rep. Joe Tropila  
Rep. John Witt, Excused  
Rep. Tom Zook  
Clayton Schenck, Legislative Fiscal Analyst  
Cindy Campbell, Committee Secretary

**Call to Order** (Tape 4A-423)

The 176<sup>th</sup> meeting of the Legislative Finance Committee (LFC) reconvened on Wednesday, October 3, 2000, and was called to order at 8:10 a.m. by **Senator Greg Jergeson**, Chair, in Hearing Room 102 of the State Capitol.

**11. Final Report: Subcommittee on SB 378** (Tape 4A-000)

Lorene Thorson, Senior Fiscal Analyst, presented the recommendations from the Subcommittee on SB 378 on statutory appropriations and dedicated revenues. (Exhibit 8)

Mike Batista, Administrator for the Division of Criminal Investigation, Department of Justice (DOJ), provided comments on Account 02143 Drug Forfeitures-State. He distributed two handouts: 1) a July 18, 2000, letter from DOJ, Division of Criminal Investigation, to Senator Christiaens, responding to questions from the subcommittee (Exhibit 8A); and 2) a one page explanation of the state drug forfeiture account, which provides a background summary and a list of the uses of the account (Exhibit 8B).

Mark Simonich, Director of DEQ, provided comments on the following accounts: 1) Account 02162 Environmental Quality Protection; and 2) Account 02451 Reclamation Hardrock. He answered questions from various LFC members.

Kathy Fabiano addressed the LFC on behalf of the Office of Public Instruction (OPI) with a request for a statutory appropriation for timber harvest revenue to fund the technology acquisition fund. (Exhibit 8C)

**MOTION:** **Senator Christiaens** moved the LFC reinstate the statutory appropriation for Account 02451 Reclamation Hardrock. **Senator Beck** asked Carol Ferguson, Administrative Officer for the Hard-Rock Mining Impact Board to respond to several questions on this account. **VOTE:** Motion carried unanimously.

**MOTION:** **Senator Christiaens** moved the LFC adopt the subcommittee's recommendation on de-earmarking revenue from penalties on Account 02162 Environmental Quality Protection. Curt Chisholm, DEQ, responded to several questions from **Senator Beck** regarding the use of this account. **ROLL CALL VOTE:** **Senators Jergeson, Christiaens and Franklin** and **Representatives Taylor and Tropila** voted yes. **Senators Beck and Swysgood** and **Representatives McCann and Zook** voted no. The vote was 5 "yes" and 4 "no". **Senator Jergeson** apprised the committee that 7 votes were needed for the motion to carry; therefore, the motion failed and no action was taken.

**MOTION:** **Senator Christiaens** moved the LFC adopt the subcommittee's recommendation on de-earmarking revenue from fines and penalties for Account 02451 Reclamation Hardrock. **VOTE:** Motion carried with **Senator Swysgood** voting no.

Mike Batista and Karen Monroe from DOJ answered questions from various LFC members regarding Account 02143 Drug Forfeitures-State. The LFC took no action on this account.

**MOTION:** **Senator Christiaens** moved the LFC adopt the subcommittee's recommendation on de-earmarking revenue from forfeitures for Account 02495 Training or Enforcement. **VOTE:** Motion carried unanimously.

**MOTION:** **Senator Franklin** moved the LFC include OPI's request for a statutory appropriation for timber harvest revenue in the combined committee bill for all the approved statutory appropriations. **VOTE:** Motion carried unanimously.

**12. Foster Care and Subsidized Adoption** (Tape 4B-220)

Pat Gervais presented a report on foster care and subsidized adoption. (Exhibit 9) Her report included summary information on expenditures, caseloads, cost per client and rate increases, as well as issues to be considered during the 2001 Legislative Session. Mrs. Gervais answered questions from LFC members.

Chuck Hunter, DPHHS, provided a response on the general fund overrun. He told the committee DPHHS is receiving federal funds and as they begin to expend these funds, use of the general fund will decrease. Mr. Hunter distributed a handout which provided various statistics on child welfare in Montana. (Exhibit 9A) He then responded to questions from the LFC members.

**13. Technical Assistance Collaborative (TAC) – Consultant Report** (Tape 4B-475)

Randy Poulsen, Bureau Chief for the Mental Health Services Bureau, DPHHS, introduced consultants Pam Hyde, Project Manager, and Steve Day, Executive Director, from Technical Assistance Collaborative, Inc. (TAC), which is a nonprofit group from Massachusetts hired as a result of the mental health managed care issues. Mr. Poulsen told the committee that these consultants have extensive experience with mental health issues and are conducting an in-depth review of Montana's mental health program.

Ms. Hyde and Mr. Day presented an interim progress report to the committee. (Exhibit 10) Mr. Day provided background information on TAC and told the committee that they had been working on this project since May, 2000. He feels Montana has a very good mental health plan, but for unknown reasons it has not been well implemented. Ms. Hyde outlined their recommendations, which were listed on pages 8 through 11 of Exhibit 10. She told the committee they would finish their review and issue a final report by the end of December. Mr. Day and Ms. Hyde answered questions from LFC members.

#### **14. Final Report/Recommendations: Mental Health Services (HJR 35) Subcommittee**

(Tape 5A-449)

Lois Steinbeck, Senior Fiscal Analyst, presented a short background summary on the development of the Mental Health Services Subcommittee (HRJ 35 Subcommittee) and distributed copies of the subcommittee's final recommendations to the LFC. (Exhibit 11)

**Senator Swysgood**, Subcommittee Chairman, presented the recommendations to the LFC, which in summary were: 1) adopt four bills for consideration by the 2001 legislative session; 2) request that the Public Health and Human Services Joint Appropriation Subcommittee consider several issues related to public mental health services; and 3) request that the Legislative Audit Committee undertake a performance audit of DPHHS internal management processes to ensure compliance with federal criteria in the administration of Medicaid funded programs. **Senator Swysgood** outlined the draft bills as detailed on pages 3 through 8 of Exhibit 11. He then explained the draft bills which are still under consideration by the subcommittee. These were detailed on pages 8 through 10 of Exhibit 11.

**Senator Christiaens** asked about the status of transferring the Xanthopolous Building to Department of Corrections (DOC). **Senator Swysgood** told him that the Land Board will meet on October 16 to consider the transfer, and then he related discussion from the subcommittee on this issue.

**Senator Swysgood**, Lois Steinbeck, Susan Fox, and staff from DPHHS responded to various questions from committee members.

**MOTION: Senator Beck** moved the LFC adopt the four bills for consideration by the 2001 Legislative Session. **VOTE:** Motion carried unanimously.

**MOTION: Representative Zook** moved the LFC adopt the subcommittee's recommendation to request that the Public Health and Human Services Joint Appropriation Subcommittee

consider several issues related to public mental health services. **Vote:** Motion carried unanimously.

**MOTION: Senator Franklin** moved the LFC adopt the subcommittee's recommendation to request that the Legislative Audit Committee undertake a performance audit of DPHHS internal management processes to ensure compliance with federal criteria in the administration of Medicaid funded programs. **Vote:** Motion carried unanimously.

**MOTION: Senator Swysgood** moved the LFC endorse the recommendations from the Mental Health Oversight Advisory Council as listed in Exhibit 11, pages 7 and 8. **VOTE:** Motion carried unanimously.

**MOTION: Senator Beck** moved the LFC approve the subcommittee proceeding with consideration of drafting three more bills as listed on pages 8, 9 and 10 of Exhibit 11. **VOTE:** Motion carried unanimously.

### **15 DPHHS Supplemental – 2001 Biennium** (Tape 6A-161)

Laurie Ekanger, Director for DPHHS, presented information on the DPHHS Supplemental – 2001 Biennium. (Exhibit 12) She also distributed a handout titled, “2000 Poverty Level Guidelines”, which was information requested by Representative McCann. Ms. Ekanger told the committee the request for supplemental funding is for two programs: 1) the Health Policy and Services Division, which runs the primary care Medicaid program and 2) Addictive and Mental Disorders Division, which is responsible for chemical dependency and mental health program. She provided an overview of the two programs and highlighted the budget issues related to the supplemental appropriation.

Nancy Ellery, Administrator for the Health Policy and Services Division, DPHHS, provided information on the Montana Medicaid Program and the annual pharmacy expenditures. She told the LFC that pharmacy costs are the number one increase in Medicaid costs and have increased 100% in the period of time from 1995 to 2003. She reviewed in detail the prescription drug trends for Montana Medicaid, which were included on pages 11 through 14 of Exhibit 12.

Dan Anderson, Administrator for Addictive and Mental Disorders Division, gave a summary background of mental health spending over the last ten years, which was explained on pages 15 through 25 of Exhibit 12.

Lois Steinbeck told the committee she believes the supplemental amount is understated and the estimates are based on optimistic assumptions. She distributed written comments on the supplemental request, which provided background for her conclusions. (Exhibit 12B)

**Senator Swysgood** commented, based on his experience working with the HJR 35 Subcommittee, that he believes the supplemental is probably understated and will not be sufficient to meet DPHHS needs.

#### **16. Information Technology Management Study Final Report** (Tape 7A-003)

Pam Joehler, Senior Fiscal Analyst, presented the final report from the Information Technology Management Study Subcommittee (Exhibit 13) and the draft legislation which resulted from the Subcommittee recommendations (Exhibit 13A). Greg DeWitt, Senior Fiscal Analyst, presented the Unified Computer Budget Summary: Proposed Requirement Change. (Exhibit 13B)

**MOTION: Senator Beck** moved the LFC adopt recommendations from the IT Subcommittee to proceed with the draft legislation. **VOTE:** Motion carried unanimously.

**MOTION: Representative Zook** moved the LFC approve the Unified Computer Budget Summary: Proposed Requirement Change. **VOTE:** Motion carried unanimously.

#### **17. SABHRS Update** (Tape 7A-285))

Greg DeWitt presented an update on SABHRS. (Exhibit 14) **Senator Jergeson** asked if all the problems, which were reported to the LFC earlier, had been resolved. Mr. DeWitt stated that most, if not all, the problems have been resolved and there are no existing major issues.

Dave Ashley, Department of Administration (DOA), presented the executive response. (Exhibit 14A) He outlined budget requests for 2002 and 2003 and then answered questions from LFC members.

**18. Update: Department of Corrections PRO-Files System** (Tape 7B-355)

Lorene Thorson, Senior Fiscal Analyst, presented an update on the Department of Corrections PRO-Files System. (Exhibit 15) Joe Williams, DOC, offered comments and answered questions from the LFC. Dan Schaledo, DOC, gave a computer presentation on the PRO-Files System. (Exhibit 15A)

**19. Budget Amendments Report** (Tape 8A-323)

Clayton Schenck presented the budget amendments report for approval. (Exhibit 16)

**MOTION: Representative Zook** moved the LFC accept the budget amendments as presented.

**VOTE:** Motion carried unanimously.

**20. Required Reports** (Tape 8A-335)

Jon Moe presented Required Reports to the LFC. (Exhibit 17)

**Next LFC Meeting**

The next meeting of the LFC is scheduled for November 16, 2000.

**Adjournment**

**MOTION: Senator Swysgood** moved to adjourn. **VOTE:** Motion carried unanimously.

Meeting adjourned at 4:10 p.m.

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Senator Greg Jergeson, Chairman

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Cindy Campbell, Committee Secretary