



LEGISLATIVE FINANCE COMMITTEE

63rd Montana Legislature

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

SENATE MEMBERS

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RICK RIPLEY
JON SESSO
MITCH TROPILA
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AMY CARLSON, Director

MINUTES LOG

JUNE 5-6, 2014

ROOM 102, STATE CAPITOL BUILDING
HELENA, MONTANA

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

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

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

COMMITTEE MEMBERS PRESENT

SEN. LLEW JONES, Chair
SEN. MARY CAFERRO
SEN. RICK RIPLEY
SEN. JON SESSO
SEN. MITCH TROPILA

REP. DUANE ANKNEY
REP. ROB COOK
REP. KIMBERLY DUDIK
REP. STEVE GIBSON
REP. PAT NOONAN

ABSENT

SEN. EDWARD WALKER
REP. GALEN HOLLENBAUGH, Vice Chair

STAFF PRESENT

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

AGENDA & VISITORS' LIST

Agenda, Attachment #1
Roll call, Attachment #2
Visitors' list, Attachment #3

CALL TO ORDER AND ROLL CALL

00:12:08 **Senator Jones** called the 228th meeting of the Legislative Finance Committee to order at 10:05 a.m. on June 5, 2014. The meeting was held in Hearing Room 102 of the State Capitol, Helena Montana. The secretary took roll. Attachment #2.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

00:12:18 **MOTION: Rep. Ripley** moved to approve the minutes of March 13-14, 2014.
VOTE: Motion passed.

2015 BIENNIUM BUDGET UPDATE

00:13:19 Stephen Forrest, Fiscal Analyst, LFD discussed the general fund balance sheet on page 2 of the 2015 Biennium Budget Update. (Exhibit 1) The updated general fund balance for FY 2014 is \$383.4 million. Ongoing transfers increased by \$1.8 million in FY 2014 and \$1.9 million in FY 2015 due to revised estimates of the Old State Fund liability. Carry forward appropriations increased by \$311,745.

Revenue Analysis

- 00:15:55** Stephanie Morrison, Senior Fiscal Analyst, LFD provided an overview of the year-to-date general fund revenue collections, individual income tax, and corporation income tax. Individual income tax collections are above the anticipated decline contained in the official estimate. Corporation tax collections are \$38.5 million below last year.
- 00:23:02** Nick Brown, Fiscal Analyst, LFD discussed property tax collections and revenue from oil and natural gas production tax. Property tax collections are above FY 2013 year-to-date and are on track to be slightly higher than the SJ 2 estimate. Revenue from oil and natural gas are above the SJ 2 estimate by \$5.6 million.
- 00:24:40** Cynthia Holliman, Fiscal Analyst, LFD gave a brief update on insurance tax revenues. Current tax insurance tax collects are above the estimated due to the buyout of Blue Cross/Blue Shield.
- 00:25:59** Sam Schaefer, Fiscal Analyst, LFD discussed vehicle taxes and fees and video gaming tax. Vehicle taxes and fees are slightly below the estimate in SJ 2. Given historical trends, this indicates that year-end revenue will be about \$3.0 million less that anticipated in SJ 2. Revenue from video gambling tax is also slightly below the SJ 2 estimate.

Expenditure Analysis

00:29:12 Rob Miller, Fiscal Analyst, LFD discussed appropriations for the Office of Public Instruction. The anticipated shortfall remains is now estimated at \$2.5 million. Because all general fund appropriations for the Local Education Program are

biennial appropriations, the agency will not have a shortfall in the current fiscal year. However, should the shortfall not remedy itself in the first quarter of FY 2015, the agency might request a supplemental appropriation in the 2015 Legislative Session.

00:30:29 Greg DeWitt, Senior Fiscal Analyst, LFD provided an update on appropriations for the Department of Corrections. The HB 2 general fund expenditures are at 84% of budget. Expenditures for county jail holds and juvenile placement funds are over-expended. The Department of Justice has expended all but \$1,552.00 of the \$1.0 million general fund appropriation for the water lawsuit against Wyoming over the Tongue River water issues.

Committee Discussion

00:32:32 Rep. Gibson

00:36:43 Rep. Noonan

00:37:45 Rep. Dudik

00:43:03 Sen. Caferro

00:49:35 Rep. Ripley

00:58:12 Rep. Caferro

01:01:38 Rep. Dudik

01:04:35 Rep. Gibson

01:07:45 Kris Wilkinson, Senior Fiscal Analyst, LFD provided an updated on the Office of the Commissioner of Higher Education. The recent budget issues related to unanticipated changes in enrollment and non-state funding sources are anticipated to be resolved and are unlikely to directly impact the state budget.

01:08:39 Roger Lloyd, Senior Fiscal Analyst, discussed the Department of Livestock audit. It was determined that the department in FY 2012 and FY 2013 spent cash associated with deferred revenue from brand re-record fees to fund current year operations. The department has indicated a general fund supplemental of \$800,000 may be requested to replenish the fund.

Committee Discussion

01:13:14 Sen. Ripley questioned Director Mackay regarding the miscalculation of per capital fees, dispersing funds without an appropriation, and a supplemental request. Sen. Ripley asked for a total accounting of what revenue came into the per capita and what went to the lab.

01:23:05 Sen. Tropila commented that the per capita statute is clear and the Legislative Auditor has deemed that the collection of the per capital fees in the Department of Livestock is against statute. He also told the committee that in a 2005 audit, the department was told not to use the deferred revenue. Sen. Tropila asked that the LFC be updated on the reaction to the audit and supplemental from the Board of Livestock.

- 01:26:07 Kris Wilkinson, Senior Fiscal Analyst, LFD discussed SB 410 statutory appropriations and provided a table on Appropriations by Program and Fiscal Year. (Exhibit 1a)
- 01:28:43 Rep. Gibson asked Director Batista and Director Opper to discuss how they will be spending the SB 410 appropriation.

MEDICAID MONITORING REPORT

- 01:35:24 Lois Steinbeck, Senior Fiscal Analyst, LFD presented and discussed the Medicaid Monitoring Report. (Exhibit 2) DPHHS continues to project that expenditures for Medicaid services will exceed appropriations. The most recent estimate shows \$10.6 million general fund.
- 01:37:17 Amy Sassano, Deputy Budget Director, Office of Budget and Program Planning, testified on behalf of the budget office regarding SB 410. Ms. Sassano said beyond the allocations already made, the budget office has not made any commitments.
- 01:41:30 Scot Conrady, Analyst, LFD discussed the change in Developmental Disability Services (DDS). At the March LFC meeting staff reported a \$1.5 million shortfall specifically because of Children's Mental Health. The department was able to find excess funding through HB 267 and moved \$1.5 million into children's mental health.
- 01:54:05 Sen. Sesso questioned how dollars spent can be assessed when enrollment data is not current, and are the medicaid enrollment increases an indication that expenditures will be significantly higher than projected.
- 02:05:41 Sen. Caferro asked if there was a decision package to fund the required changes by ACA. and how the department plans to stay within the budget approved for Medicaid. Ms. Mathews said the funds were included in the bills to expand Medicaid. She said that options to stay within the budget are to cut provider rates, the number of people eligible, and the number of services. Sen. Caferro stated for the record that there are other areas to cut that don't impact provider services or people.

LUNCH RECESS

2017 BIENNIUM OUTLOOK FOR THE GENERAL FUND BUDGET

- 03:21:33 Amy Carlson, Director, LFD presented and discussed the 2017 Biennium Outlook for the General Fund Budget. (Exhibit 3) The report provides the current outlook for ongoing general fund revenues and expenditures to project the general fund structural balance the legislature will have available for the 2017 biennium.

Committee Discussion

03:25:36 Senator Tropila
03:30:00 Rep. Dudik
03:45:58 Senator Sesso
03:52:31 Sen. Tropila
03:54:56 Sen. Jones

04:15:03 Stephanie Morrison, Senior Fiscal Analyst, LFD discussed revenues for the upcoming biennium. The outlook for the 2017 biennium general fund is a decline of 1.3% in FY 2014, followed by increases of 2.8% in FY 2015, 4.7% in FY 2016 and 5.6% in FY 2017.

Committee Discussion

04:37:00 Senator Sesso
04:41:38 Senator Tropila
04:44:35 Senator Jones

04:52:48 Taryn Purdy, Principal Fiscal Analyst, LFD presented the projected expenditures for the 2017 biennium. Expenditures are comprised of HB 2, statutory appropriations, non-budgeted transfers and other appropriations. General fund present law expenditures are projected to total \$4.4 billion.

04:15:55 Amy Carlson, Director, LFD discussed the other budget pressures on page 20 of the report (Exhibit 3) There are some areas where, although they are not present law, the legislature may be under pressure to fund for various reasons.

04:22:26 Nick Brown, Analyst, LFD discussed the pressures associated with property reappraisal and oil and gas revenue to K-12 districts.

04:33:56 Amy Carlson, Director, LFD discussed the quality schools facilities program. The current appropriations for the program funded in the 2015 biennium with the school facility and technology account exceed the anticipated account revenues in the 2017 biennium.

MEDICAID MODEL UPDATE

04:43:08 Cynthia Hollimon, Fiscal Analyst, LFD provided an update on the Medicaid Model. (Exhibit 4) Thorough research identified a Medicaid model for the state of Alaska that could be used as the base for Montana's model. Work on the model is focusing on analyzing different economic variables.

Committee Discussion

04:51:51 Sen. Sesso
04:54:59 Rep. Gibson
05:03:03 Sen. Tropila

TANF SUBCOMMITTEE REPORT

05:04:21 Rep. Cook provided an update on the TANF subcommittee meeting. The intent of the subcommittee is to evaluate some of the programs funded with TANF to

ensure that projects funded with TANF block grant funds are complementary, integrated, and designed to strategically achieve the overarching purpose for the funds.

BUDGET RULE REVIEW

- 05:23:55 Julie Johnson, Attorney, Legislative Services Division presented a memo on the Use of Restrictive and Conditional Language in House Bill 2 to Effectuate Intent. (Exhibit 5) The memo addresses key legal concepts regarding the use of conditional and restrictive language in HB 2 in order to effectuate intent and to provide some examples of what should work and what has not worked in the past.
- 05:32:19 Barbara Smith, Operations Manager, LFD provided an Overview of Budget Recommendations. (Exhibit 6) This report includes two tables that summarize recommendations, one related to budget issues that benefit from consistent application, and the other is related to current budget issues. The LFC will receive an update in September allowing for adoption of the final recommendations at the December 2014 meeting.

LOCAL GOVERNMENT PROJECT UPDATE

- 05:37:12 Joe Triem, Fiscal Project Manager, LFD gave a brief overview on what LFD staff has done so far in regard to this project. The objective of this project is to provide research and material sufficient to be used as a framework for any legislator desiring to draft impact legislation. He provided an example of impact legislation 20-9-517, MCA - State school oil and natural gas impact account. (Exhibit 7)
- 05:45:57 Cathy Duncan, Senior Fiscal Analyst, LFD presented the Local Government Economic Impacts Defined report. (Exhibit 8) This report provides the definition and indicator measures as a starting point for the work of the LFC in providing a framework for a local government economic impact measures and funding proposals. Ms. Duncan provide a handout on Local Government Measurement Criteria Collected by State Government. (Exhibit 8a)
- 05:58:10 Joe Triem, Fiscal Project Manager, LFD provided a report on K-12 School Economic Impacts Defined. (Exhibit 9) The report provides a definition for an economically impacted K-12 school and provision of a list of criteria (indicators) that could be incorporated into the definition. He also provided a chart on K-12 Economic Impact Measurement Criteria Collected by State Government. (Exhibit 9a)

PUBLIC COMMENT

- 06:21:11 Rose Huges, Executive Director Montana Health Care Assn.
- 06:30:16 Harold Blattie, (Exhibit 10)
- 06:38:57 Kirk Miller, School Administrators
- 06:43:12 Alec Hansen, Montana Cities of Leagues and Towns (Exhibit 11, 11a, and 11b)
- 06:50:05 Nanette Gilbertson, Big Brothers Big Sisters (Exhibit 12)

06:55:39 Mr. Blattie reported an error on his handout. (Exhibit 10). The population for McCone and Madison has been reversed. He will provide a corrected copy tomorrow.

COMMITTEE BUSINESS

06:56:49 Amy Carlson, Director discussed moving the November meeting to early December prior to the week of training. At that time, staff would have the Governor's budget, and the RTIC revenue estimates.

07:49:46 Without objection from the committee, the November meeting will be scheduled in early December.

07:00:48 Amy Carlson, Director, gave a brief update on the budget. The only decision package for the fiscal division budget are session costs.

07:01:42 Stephanie Morrison, Senior Fiscal Analyst, LFD provided additional charts on the top seven sources and individual income streams. (Exhibits 13 & 13a)

07:04:12 Julie Johnson, Attorney, LSD report on the pension litigation. A trial is set for February and March.

RECESS

07:04:40 The committee will reconvene Friday at 8:00 a.m.

FRIDAY JUNE 6, 2014

COMMITTEE MEMBERS PRESENT

SEN. LLEW JONES, Chair
SEN. MARY CAFERRO
SEN. RICK RIPLEY
SEN. JON SESSO
SEN. MITCH TROPILA
SEN. EDWARD WALKER

REP. DUANE ANKNEY
REP. ROB COOK
REP. KIMBERLY DUDIK
REP. STEVE GIBSON
REP. PAT NOONAN

ABSENT

SEN. EDWARD WALKER
REP. GALEN HOLLENBAUGH, Vice Chair

00:00:53 The 228th meeting of the Legislative Finance Committee reconvened at 8:05 a.m. on Friday, June 6, 2014. The meeting was held in Hearing Room 102 of the State Capitol, Helena Montana. The secretary took roll.

REQUIRED REPORTS

- 00:09:23 Taryn Purdy, Principal Fiscal Analyst, LFD presented the Required Reports. (Exhibit 14) The report provides an overview of required reports including, issues identified by staff, concerns identified by staff and other highlights.
- 00:11:24 Kris Wilkinson, Senior Fiscal Analyst, LFD presented the Budget Amendment Report. (Exhibit 15) Staff has reviewed the amendments and has raised no concerns with any amendment meeting statutory criteria. However, staff believes there may be some inconsistencies in how these are reviewed. The law states that if a budget amendment is to be certified it has to be for additional services. Staff is recommending an in-depth review.

Committee Discussion

- 00:13:11 Rep. Cook
00:16:05 Sen. Tropila
00:25:12 Rep. Cook
00:30:02 Rep. Gibson
00:32:52 Rep. Noonan
00:33:31 Sen. Caferro

INFORMATION TECHNOLOGY

- 00:39:06 Scot Conrady, Fiscal Analyst, LFD briefed the committee on the IT agenda items to be presented. (Exhibit 16) Mr. Conrady also provided a copy of the memo written to Xerox and the letter to the Department of Administration from the MMIS Subcommittee. (Exhibits 16a and 16b)
- 00:41:34 Ron Baldwin, State Chief Information Officer, Department of Administration discussed the CIO Policy Changes. (Exhibit 17) At this time, there are no policy changes to report.
- 00:43:42 Richard Opper, Director, DPHHS, discussed the issue of unauthorized access of an agency computer server. At this time, no knowledge that any information was used inappropriately, or even accessed. DPHHS has notified affected clients and established a Help Line for individuals to contact with any questions.

MMIS Discussion

- 00:50:37 Sen. Caferro Chair, MMIS Subcommittee introduced the committee members: Senator Ripley, Rep. Cook and Rep. Noonan and herself. The subcommittee was appointed to provide oversight and monitor process of the re-planning. The subcommittee sent a letter (Exhibit 16b) to Ron Baldwin, State CIO expressing deep concern and frustration regarding the status of current and future renegotiations of the work plan and contract amendment. The subcommittee also sent a memo (Exhibit 16a) to RG Conlee, Xerox to provide answers to the many questions regarding staffing of the project.
- 00:58:36 Ron Baldwin addressed the letter from the MMIS subcommittee and provided a chart on MMIS Expenditures and MMIS DDI Schedule of Liquidated Damage Accruals. (Exhibits 18 and 18a)

Committee Discussion

01:04:27 Sen. Ripley
01:08:18 Rep. Noonan
01:18:21 Sen. Ripley
01:23:57 Sen. Caferro
01:29:30 Sen. Sesso
01:36:12 Rep. Gibson
01:38:02 Sen. Tropila
01:40:23 Sen. Caferro
01:53:20 Sen. Tropila
01:53:55 Sen. Ripley
01:55:43 Sen. Sesso
01:58:52 Rep. Ankney
02:00:26 Rep. Noonan

02:02:48 **MOTION:** Sen. Ripley moved that if a signed work plan is not agreed to by the next MMIS meeting (19th) and the first deliverable met on schedule, the LFC will discuss at the September meeting to; a) send a letter recommending that the committee does not have a comfort level continuing in this contract; and b) the LFC may make a recommendation to the body of the whole that all funding be discontinued. **VOTE:** Motion passed unanimous. Rep. Dudik, and Rep. Hollenbaugh voted yes by proxy.

02:05:44 Sen. Tropila commented for the record that Xerox should be fired and no more dollars should be appropriated for this project.

IT Project Portfolio Discussion

Also included in the committee notebooks were the following supplemental reports:

- Office of Public Instruction (Exhibit 19)
- Agricultural Licensing System (Exhibit 19a)
- Montana Public Safety Communications Project (Exhibit 19b)
- Healthcare Facility Licensing Database (Exhibit 19c)
- Medicaid Management Information System (Exhibit 19d)
- Vocational Rehabilitation and Blind Case Management System (Exhibit 19e)
- Statewide Automated Child Welfare Information System (Exhibit 19f)

02:07:16 Stuart Fuller, Department of DPHHS responded to questions from Senator Sesso regarding the Statewide Automated Child Welfare Information System (SACWIS).

02:12:31 Scot Conrady, Fiscal Analyst, LFD presented the IT Project Cost and Development Tracking spreadsheet. (Exhibit 20) The spreadsheet shows the change in estimated cost beginning with the original estimate. The blue highlights the projects that have changed since the last LFC meeting.

02:17:09 Ron Baldwin, State CIO, responded to Sen. Sesso's question regarding the added expenses for the Merlin Project. Mr. Baldwin also gave an update on the Remediation Information Management System (RIMS) and the \$1.0 million

amendment to fund IT pilot projects. Mr. Baldwin also read the commendation to the Department of Labor and Industry for the completion of the Status, Tax Accounting, Auditing and Rating system (STARS) project.

IBARS Update

02:24:51 Barbara Smith, Operations Manager, LFD gave a brief update on MBARS/IBARS project. Six staff members participated in five days of testing on the system in publications, personal services, and general budget posting. Some issues were found and recorded with the contractor.

HJ 17 PAY PLAN

02:50:26 Kris Wilkinson, Senior fiscal Analyst, LFD introduced the panel participants that will discuss if and how employee performance affects the salary of employees under the pay plan.

PANEL DISCUSSION

02:51:32 Rick Duane, Montana State Fund

02:54:37 Rende MacKay, Department of Labor and Industry

02:58:44 Kila Shepherd Dept. of Corrections

03:02:00 Peggy MacEwen, Dept. of Environmental Quality

03:22:33 Kris Wilkinson, Senior Fiscal Analyst, LFD presented the HJR 17 Funding Pay Increases In FY 2013 report. (Exhibit 21) The purpose of this report is to provide the legislature with information on the mechanisms used to fund various pay increases in the 2013 biennium.

03:34:09 Angus Maciver, Legislative Audit Division, gave an update on the request from the LFC for a performance audit on pay plans. The Audit Division worked with the LFD to isolate elements of the pay plan issue that would be more amenable to a performance audit. The focus was specifically on the process for how adjustments in employees pay occur in different agencies. This issue is in the prioritization process.

03:39:35 Kris Wilkinson, Senior Fiscal Analyst, LFD presented the HJR 17 Summary of Legislative Options. (Exhibit 22) The purpose of this report is to summarize the legislative options outlined for the LFC to consider.

03:44:02 Rep. Gibson discussed his intention for draft legislation to address pay plan inconsistency, lack of oversight, dollar amount to fund those below market, entry level market ranges, and correct language in HB 13 regarding survey's in other states.

03:48:50 Ms. Wilkinson summarized the four areas the draft legislation would address; 1) broadband pay plan inconsistencies; 2) funding positions 75% or 80% below market; 3) entry level inconsistencies; and 4) strike the language regarding survey's in other states.

03:55:47 **MOTION:** Rep. Gibson moved LFD staff begin the process of drafting legislation to address inconsistencies in broadband pay plan, funding positions 75% to 80% below market, entry level inconsistencies and strike the language regarding survey's in other states. **VOTE:** Motion pass. Rep. Dudik, Rep. Hollenbaugh voted yes by proxy.

PUBLIC COMMENT

03:57:44 Larry Neilsen
03:57:48 Daniel Kenney
04:01:57 Quintan Nyman

PENSIONS

04:02:57 Sheri Scurr, Research Analyst, LSD provided an update on the activities of the State Administrative Veteran's Affairs committee regarding pensions. The committee voted to draft for consideration LCsa03 to provide for adjustable contribution rates in the public Employees' Retirement System similar to the adjustable rates provided for in TRS under HB 377 from the 2013 Session. (Exhibit 23) The Committee also requested a fiscal analysis for the bill.

COMMITTEE BUSINESS

04:15:53 Amy Carlson introduced new staff member Micaela Kurth who will be the analyst for the University System. She congratulated Susie Lindsay on her promotion to Fiscal Analyst I.

04:18:22 Lois Steinbeck, Senior Fiscal Analyst, LFD on behalf of staff congratulated Taryn Purdy on her upcoming retirement.

04:20:31 Sen. Jones on behalf of the committee thanked Taryn Purdy for her many years with the LFD and Senate Finance and Claims Committee.

04:21:53 Sen. Ripley requested additional information on budget amendment 737. He said it does not meet the criteria of providing additional services.

04:23:43 Rep. Noonan clarified for the Motion on MMIS that a signed and fully amended contract, not just a work plan be completed by the 19th.

04:26:45 Amy Carlson, Director, summarized the following items for the September meeting:

- Budget rules
- Analysis of Budget amendments statute
- Update on use of SB 410
- TANF and MMIS updates
- Fiscal year end analysis
- Update on provider rates
- Send response from Xerox to full LFC
- Draft legislation on pay plan issues
- Full accounting of expenditures for the Department of Livestock

ADJOURNMENT

04:28:55 With no further business before the committee, Chairman Jones adjourned the meeting at 12:30 p.m. The next meeting of the Legislative Finance Committee will be September 25-26, 2014.

Senator Llew Jones, Chairman

Diane McDuffie, Committee Secretary