



LEGISLATIVE FINANCE COMMITTEE

60TH Montana Legislature

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

SENATE MEMBERS

TRUDI SCHMIDT--Chair
KEITH BALES
JOHN BRUEGGEMAN
JOHN COBB
DAVID WANZENRIED
CAROL WILLIAMS

HOUSE MEMBERS

RICK RIPLEY--Vice Chair
RON ERICKSON
CYNTHIA HINER
DAVE KASTEN
JON SESSO
JANNA TAYLOR

MINUTES

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

Tuesday, December 11, 2007

COMMITTEE MEMBERS PRESENT

SEN. TRUDI SCHMIDT, Chair
REP. RICK RIPLEY, Vice Chair

SEN. KEITH BALES
SEN. JOHN BRUEGGEMAN
SEN. JOHN COBB
SEN. DAVID WANZENRIED
SEN. CAROL WILLIAMS

REP. RON ERICKSON
REP. CYNTHIA HINER
REP. DAVE KASTEN
REP. JON SESSO
REP. JANNA TAYLOR

STAFF PRESENT

Clayton Schenck, Legislative Fiscal Analyst
Diane McDuffie, Committee Secretary

ATTACHMENTS

Visitors' list, Attachment #1
Roll Call, Attachment #2

00:00:01 **CALL TO ORDER AND ROLL CALL**

Senator Trudi Schmidt, Chair, called the 202nd meeting of the Legislative Finance Committee (LFC) to order at 9:00 a.m. on Tuesday, December 11, 2007. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana. The secretary noted the roll. (Attachment #1)

00:00:25 **APPROVAL OF MINUTES FOR OCTOBER 9 & 10, 2007**

MOTION: Senator Wanzenried moved the minutes for October 9 & 10, 2007 be approved. **Rep. Taylor** noted that she was present at the October meeting, and Rep. Sesso was not. **VOTE:** Motion passed with the noted correction.

00:02:54 **PERFORMANCE MEASUREMENT: OVERVIEW**

Kris Wilkinson, Fiscal Analyst, Legislative Fiscal Division, (LFD) presented a report on Performance Measurement - Best Practice To Ensure State Agency Accountability, Economy, Efficiency And Effectiveness. (Exhibit 1) This report outlines current Montana budgeting practices for performance measurement as outlined in statute and examines how Montana efforts compare with those in other states. Ms. Wilkinson explained that in Montana, budgetary statutes require:

- ▶ State agencies to include a balanced financial plan including a statement of the agency mission and the goals and objectives for each program of the agency
- ▶ Goals and objectives to have sufficient specific information and quantifiable information to enable the legislature to formulate appropriations policy
- ▶ Goals and objectives that allow a determination, at a future date, on whether the agency has succeeded in attaining its goals and objectives

These requirements are part of program budgeting, which is the methodology currently used by the state of Montana for budgeting state agency appropriations. Ms. Wilkinson also provided a handout titled Government Performance Project, 2005. (Exhibit 1a) Included in this report was a measurement on how states utilized performance measurements in their budgeting process. According to the report, Montana's "Goals and Objectives" program is problematic. There is no statewide strategic plan; individual agencies are left to develop plans of their own.

00:17:17 **DATA ACCESS/QUALITY ISSUES**

Clayton Schenck, LFA explained that performance measurement is a widespread state government practice and in most states has become an institutionalized process. Montana has been slow to get on board, but has come a long way with the commitment of the executive and the LFC. During the 2007 session, over 800 goals and initiatives were submitted with the Governor's budget. 176 of those were approved for monitoring. For most of the items, the committee received basic summary information rather than quantifiable data. In addition, the executive removed target dates, amounts, and percentages from the performance measures.

Mr. Schenck provided a handout on the Performance Measurement Statutory Cite (Exhibit 2), which has been in place for several years. 17-7-11(3)(c) states that agencies must provide goals and objectives and include sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and ultimately at some future date, determine whether the agency has succeeded in attaining its goals and objectives based on quantifiable data.

00:40:25 **WORKGROUP PROCEDURAL GUIDANCE**

Barbara Smith, Fiscal Analyst, LFD provided a handout to provide guidance on how to use the information provided in the performance notebook. (Exhibit 3) Under LFD Narrative on the form submitted by staff will be the executive changes if there were any, an LFD assessment, appropriation issues, and options. The workgroups will hear information by agencies starting with goals, followed by the initiatives. Included in the performance notebook is the information provided to staff from the Office of Budget and Program Planning that matches the document staff submitted. An overview of workgroup actions will be presented tomorrow.

David Ewer, Budget Director, Office of Budget and Program Planning (OBPP) explained that 140 general themes have been submitted to the committee as a work in progress. In some cases, specifics have been substituted for more general statements. Mr. Ewer said he thinks the administration has done a good job of articulating very specific objectives. The executive is eager to hear the committee review and respond to the themes. Mr. Ewer said they will provide the data that shows the outcomes as requested by the committee.

01:06:05 **RECESS FULL COMMITTEE**

Performance Measurement Workgroups convene as follows:

- ▶ General Government - Room 317a
- ▶ Public Health and Human services - Room 172
- ▶ Natural Resources - Room 317b
- ▶ Corrections and Public Safety - Room 137
- ▶ Education - Room 152

04:43:24 **MEETING RECONVENED**

The meeting of the Legislative Finance Committee reconvened at 1:00 p.m. in room 102 of the State Capitol, Helena, Montana.

04:43:37 **GENERAL FUND UPDATE: FY 2008 REVENUE COLLECTIONS**

Terry Johnson, Principal Fiscal Analyst, LFD provided a report and presented a power point presentation on General Fund Revenue Update: Fiscal 2008. (Exhibits 4 & 4a) The purpose of this report is to provide the committee with current information on general fund revenue collections through November 2007. This report is organized into three main sections. The first section discusses the fiscal 2008 general fund revenue collections including a discussion of selected general fund revenue sources. The second section addresses key economic trends that help understand or explain why selected revenue sources fluctuate from legislative estimates. The third section discusses major fiscal issues that have the potential of impacting the general fund balance.

Mr. Johnson explained that based on data through the end of November 2007, total general fund revenue collections for FY 2008 have the potential to exceed HJ 2 revenue estimates. Current trends portray an optimistic outlook for FY 2008, but a thorough analysis of the underlying economic conditions is imperative. The housing downturn, high energy and other commodity prices, and the eroding consumer sentiment are all factors that may affect future revenue collections. Without this information, erroneous conclusions could easily be assumed that may lead to inappropriate fiscal policy during the next legislative session.

Rep. Erickson asked if an analysis could be done on whether the decrease in corporation tax is from Montana based corporations or the major corporations and who is receiving the tax refunds. Mr. Johnson said there is three years of historical data and year to date information that can be analyzed to determine if the decrease is Montana generated.

Senator Bales asked if the record high prices on wheat had an affect on the increase in individual income tax. Mr. Johnson explained that data for calendar year 2006 shows farm income went up but in the negative direction. It was about -\$125 million in FY 2005 and grew to -\$176 million in FY 2006 That number is somewhat misleading because it reflects net farm income and does not capture the effect that agriculture has on the other industries.

05:30:59 **STIP INVESTMENT CONCERNS**

Terry Johnson provided a handout on Short-Term Investment Pool (STIP) Investment Policy Statement. (Exhibit 5) This document provides policies that govern the investment activities of the Montana Board of Investments (MBOI) with regard to the management of the STIP. These policies are adopted by, and can be changed only by a majority of Board members at a publicly-noticed meeting. The Board of Investments oversees the STIP and the staff is assigned to administer the functions of the pool. The participants are primarily state agencies and local governments. Mr. Johnson reported that approximately 18 percent of STIP is general fund, 56 percent for all other state agency accounts, and local governments about 25 percent. Out of that pool there is about \$550.0 million is invested in Structured Investment Vehicles (SIV). About \$90.0 million is invested

in Axon which has entered into a default state.

Carroll South, Executive Director, Montana Board of Investments, Department of Commerce provided a report on Short Term Investment Pool (STIP) Investments/Withdrawals. (Exhibit 6) Mr. South reported that the STIP investments on June 30, 2007 totaled \$2.8 billion with 479 individual accounts participating throughout the fiscal year, including 193 local government accounts. The pool distributed \$124 million in income to state and local government agencies for Fiscal Year 2007.

Within the past two weeks local governments have withdrawn \$425.0 million, deposited \$66.0 million for a net reduction in local government funds of \$359.0 million. The overall size of the STIP has decreased from \$2.5 billion to \$2.1 billion. The Axon investment is currently being restructured by a committee of senior creditors owning more than 80.0 percent of the total \$8.3 billion issue. All the underlying assets backing the investments are still in place. The Board, as one of the senior creditors, is monitoring the progress of the restructuring.

Rep. Kasten asked if there is anything in the law that states only a portion can be withdrawn. Mr. South said no, the law states on demand.

Rep. Erickson asked, as legislators should they change the law so only a certain percentage can be withdrawn. Mr. South said depending on what happens in the next 2 to 3 months; some protection for state agencies may need to be considered.

Senator Cobb asked if Orion is in the same position as Axon. Mr. South said Orion is not in the same situation. They will be in a restructure mode without selling the underlying assets and that he will have more information after the conference call scheduled for tomorrow.

Senator Cobb asked if the investment policy statement has to be changed if the maturity date is extended. Mr. South said at the February board meeting several changes will be recommended and that will be addressed as well.

Senator Williams asked if there is any information about banks urging agencies to move their money from STIP to the banks. Mr. South said they have heard from some STIP participants that some banks are offering a good deal.

06:24:25 **SEN. COBB LAWSUIT ON FISCAL POLICY TRIGGER/TAX CREDITS**

Terry Johnson, Principal Fiscal Analyst, LFD reported to the committee that this lawsuit was filed on November 1, 2007 and the State has 40 days to respond. The Revenue and Transportation heard a report on this issue last week and decided not to take any action at this time. **Senator Cobb** responded that the State filed their response either yesterday or today and the committee should receive a copy tomorrow.

06:29:20

WORKER'S COMPENSATION : OLD FUND ANALYSIS

Kris Wilkinson, Fiscal Analyst, LFD relayed to the committee that the Montana Supreme Court dismissed without prejudice the Saterlee case. This item was on the "Watch List" from Mr. Johnson's General Fund Revenue report.

Ms. Wilkinson presented a report on Workers' Compensation: Old Fund Analysis. (Exhibit 7) The purpose of this report is to provide both the workgroup and the LFC with background information on the Old Fund and the projected unfunded liability. Increases in medical loss costs and adverse court rulings have resulted in increases to the Old Fund Liabilities. As of June 30, 2007, the Old Fund is estimated to be at \$32.6 million. Current statute requires that general fund be transferred to pay claims when all available assets are depleted. It is currently estimated that the Old Fund will require general fund transfers to pay claims beginning in 2012. Actuarial estimates project Old Fund claim payments until 2045. The estimates include consideration of the age of claimants and the type of claims.

06:56:23 Laurence Hubbard, President, CEO, Montana State Fund, commented that the MSF had an opportunity to provide input and help track transactions for Ms. Wilkinson's report and feel it is an accurate representation of cash flows.

06:57:04

STATE FUND SUBCOMMITTEE STUDY PROPOSAL

Kris Wilkinson, Fiscal Analyst, LFD provided a report on State Fund Subcommittee Study Proposal. (Exhibit 8) At the October 9th meeting of the LFC, members expressed concern over the high premium rates being charged for worker's compensation insurance as compared to other states, as well as other concerns regarding MSF management related to budget impacts. A subcommittee was formed to examine increasing legislative oversight of the State Compensation Insurance Fund and workers' compensation insurance related to budget impacts. To assist in establishing a scope for the LFC subcommittee study, the purpose of this report is to provide background information on a number of areas relating to workers' compensation and the MSF. Ms. Wilkinson's report includes findings and recommendations on the Workers' Compensation Study Project established by the Department of Labor and Industry, the Labor Management Advisory Council on Workers' Compensation, and workgroup options for consideration of increased legislation and oversight.

Laurence Hubbard, President, Montana State Fund, responded the MSF is here to support whatever process the committee deems appropriate and to provide as much information as possible. Mr. Hubbard said that MSF staff worked diligently with Ms. Wilkinson to try to resolve some of the differences in the 2008 Budget Analysis report and received a revised report from Ms. Wilkinson on December 6th. Some differences still remain in terms of recommendations. Mr. Hubbard said that if the committee has specific issues relating to operations of MSF he would be happy to address them.

Senator Wanzenried asked if the MSF agrees with the findings in Ms. Wilkinson's report, State

Fund Subcommittee Study Proposal. Mr. Hubbard said they have no disagreements with the report.

Senator Wanzenried asked if MSF has an internal process to review the issues that are being addressed by the Labor Management Advisory Council. Mr. Hubbard said its not prudent for them to be positional with regard to the level of benefits that the legislature deems appropriate under the Workers' Compensation system. The quality assurance programs ensure claims examiners use best practices in case management and pay appropriate benefits.

Senator Wanzenried asked Mr. Hubbard if it is his position that MSF is doing everything possible to address these issues. Mr. Hubbard said they are open to improvements in their process. Recommendations would not be rejected.

Rep. Ripley asked Mr. Hubbard what the MSF is doing to address the findings in the Workers' Compensation Study Project. Mr. Hubbard said that MSF has specific initiatives for improving work place safety. MSF had improved and reduced accident frequency including reducing temporary total disability to under 30 weeks. **Rep. Ripley** asked Mr. Hubbard to provide a brief written synopsis of how MSF is addressing these issues.

Senator Bales asked what percentage of MSF is government entities. Mr. Hubbard said that MSF has all state agencies, which is approximately 15 million, and a number of city and county entities.

Senator Bales asked if the study found any differences between MSF and private carriers in any of the categories. Mr. Hubbard said the study did not distinguish between individual carriers.

07:43:17 **SOLVENCY OF THE PETROLEUM TANK COMPENSATION FUND**

Senator Wanzenried explained that the Environmental Quality Council met in September and discussed difficulties with the fund. The purpose of Ms. Smith's report is to provide information on the use of the fund and the potential long-term solvency of the fund.

Barbara Smith, Fiscal Analyst, LFD provided a report on the Solvency of the Petroleum Tank Compensation Fund. (Exhibit 9) This report provides background information, historical revenue and expenditures, and short and long term solvency of the fund. Ms. Smith explained that the petroleum tank compensation fund revenues are flat and administrative expenses are stable. However, claims fluctuate based on the number of work plans submitted to and approved by the board. The board has made recent policy changes to slow the obligation of funds which will aid in short-term solvency. Long-term solvency is at risk unless managerial or statutory changes are made to balance revenues and expenses.

Sandi Olsen, Department of Environmental Quality reported that the department is experiencing an increase in the number of historic tanks being found. The reason being under ground storage tanks have been around since the 1920s but regulation of underground storage tanks didn't go into place until the 1980s. Also, as property transfers take place, owners and buyers want to be aware of the environmental risk and research property history. Ms. Olsen said the number of releases has decreased to approximately 40 to 50 per year. She also provided a Simplified Prioritization Table.

(Exhibit 10)

Wednesday, December 12, 2007

COMMITTEE MEMBERS PRESENT

SEN. TRUDI SCHMIDT, Chair
REP. RICK RIPLEY, Vice Chair

SEN. KEITH BALES
SEN. JOHN BRUEGGEMAN
SEN. JOHN COBB
SEN. DAVID WANZENRIED
SEN. CAROL WILLIAMS

REP. RON ERICKSON
REP. CYNTHIA HINER
REP. DAVE KASTEN
REP. JON SESSO
REP. JANNA TAYLOR

STAFF PRESENT

Clayton Schenck, Legislative Fiscal Analyst
Diane McDuffie, Committee Secretary

00:00:04 **CALL TO ORDER**

The 202nd meeting of the Legislative Finance Committee (LFC) reconvened on Wednesday, December 12, 2007, and was called to order at 8:00 a.m. by **Senator Trudi Schmidt**, Chair, in Hearing Room 102 of the State Capitol, Helena, Montana.

00:00:24 **PUBLIC COMMENT**

Ronna Alexander, representative of the Petroleum Marketers Convenience Store Association testified that the Fund is struggling financially. The rate of work plans being approved by the Department of Environmental Quality (DEQ) and the cost associated will out-race the available revenues. The Board has requested that DEQ begin prioritizing the work plan process. Ms. Alexander pointed out that the board does not approve the work plans as stated in Ms. Smith's report on page 3.

00:11:34 **OTHER REPORTS**

Greg Dewitt, Senior Fiscal Analyst, LFD presented the Budget Amendments report. (Exhibit 11) As of December 10, 2007, the LFD received notification of 33 certified budget amendments. Staff has reviewed the amendments and raises no concerns.

Taryn Purdy, Principle Fiscal Analyst, LFD presented the Operating Plan Changes and Program Transfers. (Exhibit 12) Ms. Purdy explained that the Office of Budget and Program Planning submitted 3 operating plan changes for review. LFD staff has reviewed the proposed changes and does not raise any issues with either the Department of Commerce or the Department of Public Health and Human Services submissions. However, staff has significant concern with the proposed operating plan change for the Department of Environmental Quality.

Barbara Smith, Fiscal Analyst II, LFD presented a memo on the Department of Environmental Quality, Operating Budget Change. (Exhibit 13) The Department of Environmental Quality is requesting to move \$500,000 from operating costs to capital outlay to purchase parcels of land to initiate two reclamation plans under the Abandoned Mine Lands program. The primary issues regarding the proposed land transactions include: 1) the purchase price is over twice the appraised value; and 2) this land transaction is not subject to review of the Board of land Commissioners. The role of the LFC for an operating plan change is to provide comment to the executive regarding the transaction.

Vic Anderson, Bureau Chief, Mine Waste Cleanup, DEQ commented that there is no comparable land for the appraiser to use. The land needed for the reclamation project sits on top of the old Anaconda mine. One of the parcels is estimated to cost \$0.5 million to clean-up. Acquiring the other parcel will cost under \$100,000 to clean-up because the department will own the backfill and the repository location will be part of the land acquired. The plan for this project includes changing the land use to decrease the amount of water that infiltrates from rain, horizontal drilling into the sandstone layers above the mine to intercept hopefully a significant amount of clean water before it gets into the mine, and wall off the discharge to flood the mine so that the water that comes into the mine won't turn into acid. The ultimate goal is to decrease and/or eliminate acid mine drainage in the belt creek.

Jon Moe, Fiscal Specialist, LFD provided a summary of the Required Reports for December 2007. (Exhibit 14) Mr. Moe explained that these reports are provided to the committee simply for information purposes unless there is an issue identified by the staff.

00:29:42 **INFORMATION TECHNOLOGY MANAGEMENT UPDATE**

This report was included in the committee notebooks under Tab 9 but was not formally presented. (Exhibit 15) **Senator Cobb** recommended the next update include the cost of CHIMES.

00:31:31 **FEDERAL MEDICAID MATCH RATE - FY 2009 INCREASE STATE MATCH**

Lois Steinbeck, Senior Fiscal Analyst, LFD provide a brief memo on the Federal Medicaid Match

Rate - FY 2009 General Fund Pressure Point. (Exhibit 16) Ms. Steinbeck reported that the FY 2009 federal Medicaid match rate will be lower than estimated during the 2007 Legislative Session and will raise state general funds costs by about \$2.0 million in FY 2009. The match rate affects services other than Medicaid including the Children's Health Insurance Program and some foster care services. The state Medicaid match rate is based on a formula that compares changes in a state's per capita income to changes in national per capital income. Montana per capital income has performed better than the national per capital income recently, so the state match rate is increasing.

00:33:06 **FIRES SUPPRESSION COSTS FY 2008**

Barbara Smith, Fiscal Analyst II, LFD presented a report on the Fire Suppression Costs FY 2008 (Exhibit 17) Ms. Smith explained that as of November 21, 2007 the state has incurred \$106.1 million in fire suppression costs, of which \$57.3 million is reimbursable by other parties, creating a net cost to the state of \$48.8 million. To date the state has paid \$42.8 million of the estimated \$106.1 million, leaving an unpaid balance of \$63.3 million. Between HB 1 and the Governors' emergency fund, the estimated state share will be covered. However, if some portion of the \$56.3 million owed to the state does not materialize, the burden on the state will increase proportionately.

Rep. Ripley asked why the change from acres burned to cost share agreements and would the state be better off to hire a negotiator. Bob Harrington, Forestry Division, DNRC explained one of the primary drivers for the cost share agreements is the federal agency is unwilling to accept cost share agreements for costs that did not occur on their protection. The agreement also ensures suppression costs are fairly shared by state and local governments. Mr. Harrington stated he disagrees with the some of the conclusions from the OIG audit as well as the implication that the states and local government have not been paying their share of expenses.

Ms. Smith reported that the Fire Suppression Committee has met twice since the last LFC meeting. The committee has approved two sub-committees, one to deal with the growing wildland urban interface and the other to deal with infrastructure issues. The subcommittees will meet January through March and present options for consideration at public hearings across the state in the spring.

BREAK

01:23:25 **PERFORMANCE MEASUREMENT:**

Barbara Smith, Fiscal Analyst II, LFD explained that the workgroups and agency representatives met on December 11th to review the goals and initiatives submitted by the executive. Approximately 12 goals and 5 initiatives were removed from monitoring prior to action on Section B. LFD staff reported great dialogue about the progress of specific projects and if progress is not being made some common themes were; reduced federal funding, grants not coming through, and problems with recruiting. This information will used as a baseline to create the budget analysis for the next session. LFD staff has expressed concern trying to maintain the flow working with two separate documents.

01:28:56 **Section A - Local Government**

Representative Taylor reported that several goals and objectives have been met or no longer need monitoring and have been dropped. **Representative Sesso** added that numeric and quantifiable standards need to be included as a benchmark for evaluating performance.

Section B - Public Health and Human Services

Senator Williams reported that the workgroup worked diligently to obtain performance information and measurement tools. **Senator Cobb** covered many issues he felt important to receive reports on and the agency agreed to provide them at appropriate times. The workgroup will meet again today at 12:00 p.m. to finish. Three reports provided by the administration did not work with the forms provide by LFD staff. The workgroup agreed to use the information in the report but put it in on the LFD form.

Senator Cobb said the workgroup agreed on subcommittee targets. Some goals were dropped and deadlines for updates were changed. If the agency is on target the workgroup does not need to hear a report.

Section C - Natural Resources & Commerce

Representative Ripley said the workgroup moved more toward reporting versus numerical performance measurements. In many cases the agency was on target and monitoring of their goals was dropped.

Representative Erickson brought before each of the various departments the issue that when numbers were provided they were of context but in many cases there wasn't a number to compare to. Of the 35 various goals from Natural Resources, 20 percent were dropped and 11 percent are being held until November. The remaining 3 departments dropped about 40 percent.

Section D - Corrections & Public Safety

Senator Schmidt reported the following number of goals to report back in June:

- ▶ 3 - Labor & Industry
- ▶ 4 - Military Affairs
- ▶ 2 - Board of Crime Control
- ▶ 7 - Corrections
- ▶ 4 - Department of Justice

Section E, K-12 & Higher Education

Senator Wanzenried said the workgroup deferred a lot of oversight to the November meeting. The goals and objectives for the University System and Office of Public Instruction were determined during the legislative session so the agencies were well prepared and knew what was expected. The only concern raised was that the pay structure is not competitive.

01:48:36 **CHAIRMAN HIGHLIGHTS:**

Department of Revenue: \$14 million block funding

Dave Hunter, Deputy Director, Department of Revenue, provided a memo regarding the \$14 million Senate Finance and Claims Amendment. (Exhibit 18) Mr. Hunter explained the first table details the allocation of the \$14 million amendment approved by the Senate Finance and Claims Committee hearing on HB 2 during the May Special Session . This only includes the decision packages that were impacted by the amendment. The department received \$1.0 million less than requested for electronic filing data processing so they have negotiated with the vender and believe they will be able to meet all of the deadlines proposed to the legislature. The department also believes they will meet their deadlines in the reappraisal effort by using contracted services and reallocated FTE. The department added 12 modified FTE in the compliance area that will be one-time only. Compliance, reappraisal and electronic filing are areas that will be monitored in terms of goals and objectives. The department allocated money to the implementation of pay plan 20 and space/building issues. The second table summarizes the Department of Revenue budget through the legislative process for FY 2008.

Rep. Erickson asked Mr. Hunter to discuss the impact of paper filing versus electronic because Congress has yet to act on the alternative minium tax. Mr. Hunter said the department is potentially facing the "perfect storm". Any action on the AMT will affect the federal tax forms which have already been mailed out. Mr. Hunter said a meeting has been scheduled to discuss alternatives for processing. This tax processing season may be shortened from almost three months to about six weeks.

In response to a questions from **Rep. Ripley** regarding the additional 40.25 FTE, Mr. Hunter explained that there were 60.5 FTE in the decision packages. The HAC amendment removed 37.25 FTE and SF&C restored 5 FTE. The department added an additional 12 FTE. Of the 40.25 FTE, 28 are part of the base and 12 are modified.

Rep. Taylor asked if any additional modified FTE were hired to implement the \$400 tax refund. Mr. Hunter said 8.75 were hired as one-time only, temporary and not part of the base.

02:08:51 **Office of Public Defender: Cost Containment**

Pat Gervais, Senior Fiscal Analyst, LFD presented the Performance Measurement Report for the Office of Public Defender (OPD) relating to the goal of cost containment measures. (Exhibit 19) The report lists 3 cost containment measures the OPD has implemented.

Randy Hood, Chief Public Defender, OPD explained that after funding was received from the last legislative session, OPD implemented four cost containment procedures. Budgets were developed in each region and certain costs were identified that could be done in a more cost effective manner. About every three months, the Administrative Director, and Chief Public Defender meet with the managers in each region and track where they are within their budget. The second cost containment measure is review of all attorney bills each month to ensure the attorneys are charging what the Public Defender Commission has determined will be paid. The third measure is a preapproval process attorneys have to follow if they want to hire an investigator, expert witness, etc., The fourth cost containment measure is a mental health protocol that defines what type of testing, interviewing,

and investigation, will be done for each type of mental health evaluation used.

Senator Schmidt asked which regions were over budget. Ms. Hood said that mental health costs were an issue in Great Falls and contractor cost were an issue in Kalispell, Havre, and Missoula.

02:29:16 **Department of Corrections: Population Cost Management**

Pat Gervais, Senior Fiscal Analyst, LFD presented a memo on Department of Corrections - Population Cost Management. (Exhibit 20) Ms. Gervais reported that since the October LFC meeting the department has finalized its first quarter population projection and while higher than the draft projection discussed at that meeting the projected population remains lower than the level budgeted for the 2009 biennium. This lower than budgeted population combined with revised timing of the opening of about 116 sex offender treatment beds suggests that there is a likelihood that the department may be in a position to revert a portion of its 2009 general fund appropriation.

Gary Hamel, Administrator, Health Planning & Information Services, Department of Corrections (DOC) provided a chart on Adult Population Projections. (Exhibit 21) This chart shows the projected prison population for male prison beds, female prison beds, male jail hold, female jail hold, alternatives to secure placement, prerelease/transitional living, intensive supervision/day programs, and probation and parole. It should be noted that the secure prison populations are projected to grow at a slower pace than community corrections alternates to secure care. The total projected population for FY 2008 is 13,217 and increase of 771 from the pervious year. Growth rates are based on average growth rates for the last four years.

In response to a question from **Rep. Erickson** regarding the meth program, Pam Bunke, Administrator, Adult Community Corrections, DOC reported that comments from offenders at the Elkhorn treatment center have been that this program is different because of the length of time and the time devoted to the treatment process to work on addictions. The longer term treatment and the STEP down program will assist offenders back into the communities.

Senator Cobb asked if program measures and objectives been developed. Ms. Bunke stated that the department has contracted with University of Montana to assist in developing goals and objectives for both Nexus and Elkhorn facilities. **Senator Cobb** also asked if the money appropriated for medication for mental health was being spent. Ms. Bunke reported that those programs are up and running but they are still searching for contracts with mental health providers for the evaluation process.

Senator Bales asked how many people within the system are eligible and will be going into the meth treatment program. Ms. Bunke said that she did not have specific information available at this time. But unfortunately, the population numbers with substance abuse issues is really high in Montana.

02:1105 **Program Reviews:**

Office of Economic Development

Pam Haxby Cote, Senior Economic Development Specialist, Office of Economic Development provided the following handouts:

- ▶ Report to the Interim Legislative Finance Committee (Exhibit 22)
- ▶ Montana Business & Technology (Exhibit 22a)
- ▶ Montana Energy Development Opportunities (Exhibit 22b)
- ▶ You should Be Here (Exhibit 22c)

Ms. Cote explained that the Office of Economic Development works directly with local development organizations, certified regional development corporations, and tribes toward the retention, recruitment, and expansion of businesses. They help structure deals making maximum beneficial use of state programs and resources. In the process, they also focus on workforce development, infrastructure development, technology development and permitting/regulatory issues. Additional areas of activity include economic development finance and tools, information tools, sector development, and cluster support.

Office of Indian Affairs

Jennifer Perez Cole, Coordinator, Office of Indian Affairs, provided the Tribal Relations Report 2007 (Exhibit 23) This report provides detailed information regarding the accomplishments of the Office of Indian Affairs. Ms. Cole explained that the Office of Indian Affairs serves the tribal-state relationship as a liaison in government-to-government relations with the purpose of promoting economic development, environmental protection, education, support for social services, and enduring good will. The duties of the coordinator are to provide state governmental services to Indian people on and off their reservations.

Office of Public Instruction: All Day Kindergarten

Linda McCulloch, State Superintendent, Office of Public Instruction, provided a memo on Full-Time Kindergarten Progress Report. (Exhibit 23) Ms. McCulloch report that in FY 2008, Full-Time Kindergarten met the participation rates anticipated by the 2007 Legislature. Going into the 2007 session, the OPI estimated 80 percent of Montana Kindergarten students would be enrolled in Full-Time Kindergarten in the 2007-2008 school year. Based on enrollment counts reported to OPI in October 2007, 70 percent of Kindergarten students are enrolled in a full-time program.

DPHHS: State Hospital

Lois Steinbeck, Senior Fiscal Analyst, LFD provided an update on the Montana State Hospital. (Exhibit 24) This memo highlights recent challenges at the Montana State Hospital (MSH). Ms. Steinbeck reported that the MSH has a licensed capacity of 189 beds and a physical capacity of 209. In the last two years, the MSH population has exceeded the licensed capacity. In addition to a high census, MSH has had difficulty recruiting and retaining nursing staff. One of the most serious potential financial consequences could be the loss of Medicare and Medicaid certification, which would result in loss of reimbursement from those two programs.

Joan Miles, Director, Department of Health and Human Services stated she is in agreement with Ms. Steinbeck's report. She expressed concern regarding the safety of patients in unlicensed beds and not having the proper number of staff to care for them.

Rep. Erickson asked if there is a solution to the nursing shortage. Ms. Miles said the department is looking at ways to remain competitive with pay in the Deer Lodge valley and with private markets. They are also looking at ways to recruit and retain nurses.

Rep. Hiner asked if other variables have been identified that may be impacting the vacancy rate. Ms. Miles said the level of the census is a clear problem. The work is hard when there are far more people on the campus than should be. It's a safety issue and job stress which makes it difficult to retain employees. The MSH has a very wide open front door and no mechanisms to close the door.

04:05:20 **PUBLIC COMMENT**

Kathy McGowan testified on behalf of the community mental health centers. Ms. McGowan commented that a significant number of people that go to the MSH are uninsured and don't have funding to pay for services in the community. If a patient is ready to be discharged but can't pay for services in the community the MSH may be reluctant to discharge them. Staffing problems also delays discharge. The community mental health centers and the Addictive and Mental Disorders Division (AMDD) met to discuss many of the issues in Ms. Steinbeck's report and how the community mental health centers could be more actively involved in helping with discharge planning.

04:11:39 **LUNCH**

05:15:59 **Subcommittee Report: Study of Budget and Appropriations Process, State of Montana**

Senator Wanzenried provided an update on the subcommittee's progress on the Study of Budget and Appropriations. This subcommittee has met three times to discuss the five issues determined by the subcommittee at the October meeting. The primary focus is examination of the institution of the budget and appropriations process and if there are to be any changes to the process they need to be in place prior to session. The subcommittee will also be reviewing the revenue estimating process.

Clayton Schenck, LFA reported that at the last meeting the subcommittee discussed statutory appropriations and general fund transfers. The subcommittee voted to have staff examine these and develop a procedure whereby the LFC would bring the major issues to session. Staff will also be reviewing budget and appropriations statues, ways to budget for Statewide Present Law Adjustments, and alternatives for personal services.

05:25:45 **LRP Working Group Update:**

Cathy Duncan, Fiscal Analyst, LFD provided an update on the Long Range Planning (LRP) workgroup meeting of December 11th. The working group entertained a discussion with personnel from the Department of Commerce TSEP program and Department of Natural Resources Renewable Resource Grant & Loan programs. The discussion focused primarily on the impact of program changes in the 2009 biennium. The working group briefly reviewed Long-Range status reports that staff and division personnel have developed as a tool to provide the legislature information on the progress of long range building projects and long range IT projects. The working group also heard a report on the LRBP project, the remote IT or enterprise system services center (ESSC), proposed to be constructed in eastern Montana. A conference call will be scheduled in the near future to discuss topics to be covered at the next meeting.

05:31:15 **TREASURE STATE ENDOWMENT PROGRAM (TSEP)**

Cathy Duncan, Fiscal Analyst, LFD provided a handout on TSEP Conditions included in HB 512. (Exhibit 26) These are conditions that must be met before the program can receive their grant. Ms. Duncan presented a report on Treasure State Endowment Program - The Impact of Program Changes in the 2009 Biennium. (Exhibit 25a) The purpose of this report is to inform the LFC about the changes that occurred in the TSEP program with the passage of HB 512 and provide options for LFC consideration.

Ms. Duncan explained that the TSEP provides grants to local governments to assist in the cost of water/wastewater projects. In the 2007 Legislative Session several significant changes were made to the TSEP program that have manifested into a level of contention for the program. HB 512 changed the way the TSEP grants are administered in the 2009 biennium by eliminating the prioritized ranking system and conditioning grant awards on the local government's ability to meet all TSEP conditions by the end of the 2009 biennium. Also, language in HB 512 indicates that if any project seeking TSEP funding in the 2009 biennium is unable to document that all other funding is firmly committed before the end of the 2009 biennium, the local government will be required to reapply for funding in the 2011 biennium.

Another issue covered in the 2009 Biennium Fiscal Report is that if enough projects are able to meet TSEP conditions such that loans will need to be taken to fund the grants, then the program will be required to pay debt service. Payments for debt service will come from the endowment interest earnings. As a result, the number of grants that can be funded in future biennia will be reduced.

Also included in Tab 14 is a document titled Comments on Funding Packages of TSEP Projects with Potential Problems prepared by the Department of Commerce. (Exhibit 26b)

Jim Edgcomb, Manager, TSEP, DOC provided the following handouts:

- ▶ Status of Start-up Conditions of 2009 Biennium TSEP Projects (Exhibit 27)
- ▶ Options for LFC Consideration - Department of Commerce's Response (Exhibit 27a)
- ▶ Discussion Paper on Start-Up Conditions Contained in the TSEP Funding Bill. (Exhibit 27b)

Mr. Edgcomb reported that TSEP is on track with projects. 34 contracts have been initiated and 28 of those have been signed obligating over \$16.3 million with 6 out for signature. 11 projects have received a notice to proceed. He also briefly discussed the department's response to the options for LFC consideration. Mr. Edgcomb said that without the deadline TSEP would be obtaining loans beyond the biennium and it would be difficult to determine earnings that would be available for any biennium. Also, reductions in the scope of work that does not materially alter the intent of the project are allowed in order to provide reasonable flexibility, so long as significant components critical to the original ranking score are not eliminated from the project. The department thinks that the firm commitment of other project funds is critical and should be retained as is. Proposed changes to the TSEP application guidelines have been sent to the members of the Long Range Planning Subcommittee and comments will be accepted until December 20th.

06:25:41 **STATUS REPORTS ON OTHER INTERIM STUDY COMMITTEES**

Jim Standaert, Senior Fiscal Analyst, LFD provided a memo on SJR 31 and HB 488. (Exhibit 28) Mr. Standaert reported on two studies the Revenue and Transportation Interim Committee (RTIC) has been charged with, SJR 31 and HB 488. Two subcommittees have been formed to work on these proposals. SJR 31 requests an examination of the viability of the use of property taxes to fund education, an examination of statewide school equalization property tax district, and the use of a statewide sales tax to fund education. To date the RTIC has heard presentations on demographics and economic trends, Statewide school equalization district, School Funding Education, and school funding models. HB 488 requests the RTIC examine the impact of reappraisal on state and local tax liabilities across the state, as well as an examination of various legislation that could be proposed to the legislature to mitigate the impacts of reappraisal on tax liability. The DOR may have preliminary data available in mid-fall. The committee will study mitigation efforts in other states as well as previous mitigation efforts in Montana.

06:36:56 **ADMINISTRATIVE**

Clayton Schenck, LFA, presented the items under committee business. (Exhibit 29) He discussed the LFD Project Management - Interim Studies. This document outlines specifically the interim studies the committee is undertaking. It also includes details regarding management oversight, lead analyst, staff assigned, and subcommittee/workgroup members.

Senator Wanzenried asked given the changes made in performance measures activity of the workgroups, will that ease the workload for staff. Mr. Schenck said staff assumed there would be a larger reduction in the numbers but as a result of the way the executive responded, there weren't many measurable objectives submitted to reduce the number. Workload is not an issue for staff but the issue of two forms needs to be resolved.

Senator Wanzenried asked what the product will be at the end of the process and how that will be integrated into the appropriations process. Mr. Schenck said a report of these performance measures and possibly others, will carry forward into the budget analysis and subcommittees will see what transpired in the workgroups.

Senator Wanzenried asked for clarification on targets of the workgroup as opposed to targets of the executive. **Senator Cobb** said the workgroup for Human Services agreed to let the executive report on their broad themes. However, the workgroup will be reviewing the goals and objectives from session written by the department.

Mr. Schenck also provided the Legislative Fiscal Division Cost Report Fiscal 2008 - at 11/30/07. There were no items that required any action by the committee.

07:09:32 **COMMITTEE BUSINESS**

The DEQ operating plan change is requesting a transfer of funds to purchase land at a significantly more than fair market value. The transaction raises the issue of whether it is reasonable to pay twice

the fair market value of the land for reclamation purposes. The role of the LFC for an operating plan change is to provide comment to the executive regarding the transaction.

MOTION: Senator Cobb moved to write a letter to the Governor urging that the purchase price of the 88 acres be renegotiated to reflect fair market value, and provide the substantial and appropriation documentation to justify a purchase price above the appraised value. **VOTE:** Motion passed.

Senator Schmidt, Chair appointed a workgroup to examine the solvency and operation of the Petroleum Tank Compensation Fund. Members are Rep. Ripley and Rep. Hiner. A letter has been sent to the Chairman of the Environmental Quality Council inviting two members to participate in the workgroup.

Without objection from the committee a letter will be sent to Janet Kelly, Director, Department of Administration requesting the department provide to this committee a list of accounts in the state special revenue fund created or modified to establish a new account since July 1, 2002.

07:19:58 **NEXT LFC MEETING**

The next meeting of the LFC will be held March 6th and 7th, 2008. The committee requested updates on fire suppression, Dept. of Corrections, Office of Public Defender, Department of Revenue and the Montana State Hospital. **Rep. Sesso** asked that the energy savings initiative be an agenda item for the next meeting.

07:24:00 **ADJOURNMENT**

Meeting adjourned at 3:25 p.m.

Senator Trudi Schmidt, Chair

Diane McDuffie, Committee Secretary
