



## LEGISLATIVE FINANCE COMMITTEE

### 61<sup>st</sup> Montana Legislature

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

#### SENATE MEMBERS

KEITH BALES  
STEVE GALLUS  
DAVE LEWIS  
RICK RIPLEY  
DAVID WANZENRIED  
CAROL WILLIAMS

#### HOUSE MEMBERS

WILLIAM GLASER  
CYNTHIA HINER  
GALEN HOLLENBAUGH  
LLEW JONES  
JON SESSO  
JANNA TAYLOR

CLAYTON SCHENCK, Lead Staff  
DIANE MCDUFFIE, Secretary

# 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.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

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.

Thursday, September 24, 2009

#### COMMITTEE MEMBERS PRESENT

SEN. KEITH BALES  
SEN. STEVE GALLUS  
SEN. DAVE LEWIS  
SEN. RICK RIPLEY  
SEN. DAVID WANZENRIED  
SEN. CAROL WILLIAMS

REP. WILLIAM GLASER  
REP. CYNTHIA HINER  
REP. GALEN HOLLENBAUGH  
REP. LLEW JONES  
REP. JON SESSO  
REP. JANNA TAYLOR

## STAFF PRESENT

CLAYTON SCHENCK, Lead Staff  
DIANE MCDUFFIE, Secretary

## VISITORS

Visitors' list, Attachment #1.

## CALL TO ORDER AND ROLL CALL

00:00:02      **Representative Llew Jones**, Chair called the 209th meeting of the Legislative Finance Committee (LFC) to order at 1:00 p.m. on Thursday, September 24, 2009. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana. The secretary noted the roll. (Attachment #2)

## APPROVAL OF MINUTES FOR JUNE 15, 2009 LFC MEETING

00:01:32      **MOTION: Senator Wanzenried** moved the minutes of the June 15, 2009 meeting be approved as submitted. **VOTE:** Motion carried.

## GENERAL FUND STATUS REPORT

00:02:17      Terry Johnson, Principal Fiscal Analyst, Legislative Fiscal Division (LFD) presented a written report on General Fund Status: Fiscal 2009 Actual/2011 Biennium Projected and a power point presentation. (Exhibits 1 and 1a) Mr. Johnson explained that this report provides a comparison between budgeted data as developed by the 60th and 61st Legislature and what actually occurred in FY 2009. It also provides aggregate information on revenue estimates and collections, disbursements and reversions, and an updated fund balance statement for the 2011biennium.

The preliminary general fund account unreserved, undesignated balance for FY 2009 was \$392.0 million, or \$22.8 million above the level anticipated by the 61st Legislature. General fund disbursements were \$99.6 million less than authorized by the legislature. Since total reversions budgeted by the legislature were \$47.9 million, "unanticipated" reversions were \$51.7 million. Of this amount, 20.5 million is authorized to be re-established to be expended in FY 2010 and/or 2011. The 2011 biennium ending general fund balance is projected to be \$287.4 million before any revisions are made for revised revenue trends observed in FY 2009 that may impact 2011 biennium revenue collections. This balance is based on no supplemental appropriations for fiscal 2011, but does include \$16.5 million for emergency

appropriations. Mr. Johnson responded to questions from various committee members.

00:37:18 David Ewer, Director, Office of Budget and Program Planning, (OBPP) said he is optimistic that the state will have revenue growth and it will be needed to fund base.

**PROPERTY TAX REAPPRAISAL**

00:40:12 Terry Johnson, Principal Fiscal Analyst, LFD provided a memo on Property Tax Reappraisal. (Exhibit 2) Mr. Johnson said that the mitigation parameters contained in HB 658 were based on a "snapshot" of property tax values prior to the adjournment of the 61st Legislature. At the September Revenue and Transportation Interim Committee, the Department of Revenue presented information addressing an updated "snapshot" that illustrates the changes in property values due to reappraisal. The most recently released values have increased from the estimates used during the session for all classes except residential property. State property tax revenues will increase by \$0.5 million in FY 2010 and \$1.0 million FY 2011 for a biennial increase of \$1.5 million due to the change in values. The mitigation strategy contained in HB 658 no longer maintains the same amount of revenue neutrality at the state level.

00:50:21 Jim Standaert, Senior Fiscal Analyst, LFD provided a handout showing an Example of How the Legislature Mitigated Commercial Property Taxes and an Example of Taxable Values for a Business under Various Scenarios. (Exhibit 2a) He explained the difference between no mitigation and HB 658 mitigation. He also discussed three different scenarios and responded to questions from the committee.

**UPDATE: 2009 FIRE SEASON**

01:12:28 Taryn Purdy, Principal Fiscal Analyst, LFD presented a report on 2009 Fire Season. (Exhibit 3) Ms. Purdy reported that estimated FY 2010 state fire costs are just under \$4.0 million. These estimates include current costs and also reimbursements from the federal government.

**CIO REPORT ON REVIEW OF MITA/PROPOSED ACTION**

01:16:13 Dick Clark, Chief Information Officer, Department of Administration provided a report on MITA Review and discussed the pertinent statutes with comments and problems not addressed in statute. (Exhibit 4)

02:10:38 **Representatives Hollenbaugh and Glaser** will work with LFD staff and Mr. Clark on recommendations for the full committee.

**INFORMATION TECHNOLOGY MANAGEMENT UPDATE**

02:15:20 Mr. DeWitt and Mr. Clark briefly discussed the CIO report. (Exhibit 5). The department granted two exception requests. One to the Department of Justice to the policy of logging on and off computer resources and a temporary exception to the State Auditor's Office to the ePass approved product standard. Mr. Clark reported there are two projects in yellow status; MERLIN and State of Montana Data Centers.

02:05:54 **BREAK**

**UPDATE - STATE EMPLOYEE GROUP HEALTH PLAN**

02:38:16 Lois Steinbeck, Senior Fiscal Analyst, presented a report on State Employee Group Health Plan. (Exhibit 6) The purpose of this report is to provide an update about several state employee group health plan issues, summarizes the issue of premium subsidies to retirees who opt to continue participation in the state health plan and outlines steps for the LFC work plan item to review policy issues related to retiree subsidies and potentially the level of health plan reserves. Ms. Steinbeck explained that over the last three years, plan performance ranged from a loss of \$3.3 million in 2008 to an increase in plan reserves of \$5.2 million. The plan experienced higher costs than anticipated in 2009. In an effort to control costs and maintain services several changes are being implemented in 2010.

02:57:15 Connie Welsh, Administrator, Health Care and Benefits Division, Department of Administration, said their actuarial recommends being at 300 percent of the authorized control level. The reserves are about 180 percent of the target range. She said they anticipate being at 205 percent as December 31, 2009. In terms of dollars the reserves are about \$46.0 million.

**PUBLIC COMMENT**

02:54:31 John McEwen, member of the Board of Association of Montana Retired Public Employees, testified that for many years he put in his time and took advantage of the health plan with the understanding he was an equal part of a group. The employees and retirees need to be treated equal and not to single out retirees. The employees and retirees on the plan represent nearly \$1.0 billion in total compensation and there needs to be some oversight of the state

health plan.

02:57:11 Russell Wrigg, member of the Board of Association of Montana Retired Public Employees expressed concern with the double increase in insurance rates. He said the sentiments you will hear from retirees is they expected to be treated equally.

03:12:46 Ms. Welsh stated the loss ratio has varied over time. In previous years it has been below the 150 percent. Part of the challenge is to keep the relationship between the employees and the retirees on par so the employees are not disproportionately subsidizing the retirees and the retirees are not disproportionately being charged against the employees. The rates this year increase in overall costs, prescription drug and hospital were the primary drivers. Premium increases to employees and retirees were necessary to cover these costs. The reason for the 162 percent loss ratio is over the last 3 to 4 years the state hadn't been charging as much to retirees. When the additional cost increase came in the goal was to make sure the retirees and employees picked up their portion this year.

**SUBCOMMITTEE REPORT: PERFORMANCE MEASUREMENT**

03:18:53 **Sen. Wanzenried** briefly discussed the LFC Performance Measurement Subcommittee memo, Appendix D, (Representative Morgan's Recommendations), and LFD Staff Recommendations. (Exhibits 7, 7a, 7b) The subcommittee met September 24, 2009 to finalize its recommendations on the performance measurement process. The subcommittee discussed several questions related to the performance measurement process and recommended narrowing the focus of the process, use the workgroup process developed during the 2009 interim, and to develop additional tools and uniform processes to be used by the 2011 Legislature to utilize performance goals and measurements in budget decisions. Also included in the committee notebooks under Tab 6 is a memo regarding a meeting with Budget Director Ewer. (Exhibit 7c)

03:29:31 **Sen. Gallus** said one of the benefits of performance measures is the ability to recognize redundancies and inefficiencies in state government.

03:30:26 **Rep. Sesso** said he has been an advocate for the new and expanding programs and the ones that are not new are tied to additional dollars from the American Recovery and Reinvestment Act (ARRA).

03:51:46       **MOTION: Senator Wanzenried** moved the LFC adopt the subcommittee recommendations on performance measures including but not limited to staff recommendations (which include new and existing programs, ARRA and HB 676), proposal made by Representative Morgan, other priorities that might be identified by other members of the legislature, the executive branch, and the public. **VOTE:** Motion carried.

September 25, 2009

**COMMITTEE MEMBERS PRESENT**

SEN. KEITH BALES  
SEN. STEVE GALLUS  
SEN. DAVE LEWIS  
SEN. RICK RIPLEY  
SEN. DAVID WANZENRIED  
SEN. CAROL WILLIAMS

REP. WILLIAM GLASER  
REP. CYNTHIA HINER  
REP. GALEN HOLLENBAUGH  
REP. LLEW JONES  
REP. JON SESSO  
REP. JANNA TAYLOR

**STAFF PRESENT**

CLAYTON SCHENCK, LFA  
DIANE MCDUFFIE, Committee Secretary

**ATTACHMENTS**

Visitors' list, Attachment #3  
Roll Call, Attachment #4

**CALL TO ORDER AND ROLL CALL**

00:00:01       The 209th meeting of the Legislative Finance Committee (LFC) reconvened on Friday September 25, 2009, and was called to order at 8:00 a.m. by **Representative Llew Jones Chair**. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana. The secretary noted the roll. (Attachment #4)

00:00:09       **Chairman Jones** appointed the following workgroups for performance measurement:  
Section A - Rep. Taylor and Rep. Sesso  
Section B - Sen. Wanzenried and Sen. Lewis

Section C - Rep. Hollenbaugh and Sen. Ripley  
Section D - Sen. Gallus and Sen. Bales  
Section E - Rep. Glaser and Rep. Hiner

**UPDATE: FEDERAL HEALTH CARE REFORM**

00:01:46 **Chairman Jones** introduced Joy Johnson Wilson who joined the committee via conference call. Ms. Wilson is the Health Policy Director, National Conference of State Legislators (NCSL). As Federal Affairs Counsel, she assists with overall government relations, administrative, and public affairs activities in the NCSL Washington Office. As Director of Health Policy, she designs and implements the lobbying strategy for the conference on health care issues.

00:04:39 Ms. Wilson discussed the Federal Health Reform Update (Exhibit 8) and responded to questions from the committee.

01:13:21 Lois Steinbeck provided a handout on Senate Finance Committee Releases Health Proposal Impact. (Exhibit 9) Ms. Steinbeck said a series of charts published by the Senate Finance Committee regarding the impact of the Baucus Proposal on state Medicaid and CHIP programs was released yesterday. The estimates were published without supporting data. These estimates should be viewed with caution because details of the Senate Finance Committee bill are not final.

**UPDATE: DPHHS WORK PLAN TO EVALUATE BUDGET REDUCTIONS**

01:17:50 Anna Whitting Sorrell, Director, DPHHS briefly discussed the 2013 Biennium Budget Reduction Work Plan. (Exhibit 10) Ms. Sorrell said the department is studying the overall effect of the appropriations decisions, which have the potential to result in spending reductions of \$57 million general fund. The goal of the 18-month study is to balance expectations for services and programs with the resources to provide them in compliance with laws and regulations. The reductions include one-time-only designation of \$22 million general fund for Medicaid structural balance. Other reductions include an across-the-board 2 percent cut, \$2.5 million agency-wide cut, a one-time-only provider rate and direct care wage increase of \$19.3 million general fund in HB 645, and other one-time-only appropriations.

01:37:27 **Senator Wanzenried** said his understanding of the bill is that the department will have to submit a budget that reflects a \$22.0 million reduction in the base, which will affect services

and the next legislature will be looking at some very difficult decisions.

01:44:00 **Chairman Jones** asked the director to discuss the reorganization of DPHHS. Ms. Sorrell said previously about half the divisions reported directly to the director which was not an efficient way to get the business of the department done. The department now has four branches with a strong management team looking at efficiencies.

01:51:04 Lois Steinbeck, Senior Fiscal Analyst, LFD discussed the letter to Rep. Clark from John Chappius dated January 13, 2003. (Exhibit 11) The letter summarizes actual budget reductions and program expenditure mitigation affecting the Department in the 2002/2003 biennium. Several programs in the Department experienced large increases in expenditures due to caseload growth and in utilization of services. The list is provided so that the LFC members can review the types of changes that were made historically. Ms. Steinbeck said it is not clear when the specific reductions the department is looking at will be presented to the committee. We would definitely know the list of reductions that would be included in the executive budget in November but that is usually to late. She suggested the LFC direct staff to work with the department to provide a decision matrix that lists the elements the committee would consider in evaluating specific reductions.

01:55:56 **BREAK**

02:13:50 **Rep. Hollenbaugh** reported that the recruitment subcommittee had hoped to have a candidate for the full committee to consider for the LFA position. However, a change in the State Job Service website caused an issue in the initial hiring process. The LFA position was reopened and the subcommittee has six applicants to interview, which will take place on October 13 and 14. The subcommittee will have a candidate for the full committee at the December meeting.

**PUBLIC COMMENT**

02:18:20 John Wilkinson provided testimony on wrap-around services (Exhibit 12) Mr. Wilkinson said in FY07 and FY08 \$63 million were expended on youth placed in psychiatric residential treatment facilities (PRTF) and therapeutic youth group home (TYGH) in Montana. Montana can transform some of the most costly PRTFs and TYGHs to an intensive short-term intervention through "true" wraparound services. Montana has the opportunity to plan, develop, and implement wraparound "pilot programs". Development and implementation

of a "pilot project" plan requires a strong partnership between DPHHS, the legislature and providers.

**UPDATE ON HEALTHY MONTANA KIDS (HMK)**

02:24:50 The department provided a packet of information containing HMK Plan Outreach Activities, HMK information cards, current Medicaid and CHIP eligibility information, eligibility changes, and 2009 income eligibility guidelines. (Exhibit 13)

Anna Whitting Sorrell, Director, DPHHS said the initial stage of the program has been implemented. The effective date is October 1, 2009 and the department plans to have children enrolled on that day. About 50,000 Montana children already are covered by Medicaid, another 20,000 participate in CHIP. With the additional 29,000 enrolled in HMK, almost 100,000 Montana children will have insurance coverage.

Mary Dalton briefly discussed the Medicaid and CHIP eligibility information. She reported that over 50,000 HMK information cards were sent out to school principals in response to the HMK letter. Approximately 1100 applications have been sent, phone calls in the last two weeks are up 200 to 500 over the base line of 500 to 800. Applications received in September are up 50 to 60 per day.

**SUB. REPORT: LEGISLATIVE TRACKING OF FEDERAL STIMULUS FUNDS (ARRA)**

02:47:10 **Senator Williams** said the subcommittee had a meeting in July and discussed how the budget (OBPP) office is handling the required reporting and offered suggestions to make the web site more accessible. The subcommittee also discussed a work plan proposal prepared by Barbara Smith, Fiscal Analyst, LFD. **Senator Williams** said the subcommittee had mixed feelings regarding oversight and asked the committee for direction.

02:54:00 **Rep. Taylor** said most constituents are not aware of all the stimulus money coming to the state and what is in HB 645. She said it's important that the oversight not be limited to just HB 645.

02:56:35 **Senator Lewis** said he would like to know the affect of these dollars coming through various avenues on the economy. He would like to see data that would indicate the real impact on the average citizen of the state.

- 02:58:14 **Rep. Sesso** said his sense of oversight on HB 645 is about what dollars are coming to the state from the federal government. He said he is not in favor of tracking federal dollars coming into federal agencies. Money that comes from a federal agency to the state for distribution is what the committee is responsible for and should focus on that. He would limit the scope to the dollars that come into the state coffers.
- 03:02:29 **Chairman Jones** recommended the subcommittee provide direct oversight of state dollars and perhaps staff could report on other federal dollars.
- 03:04:05 **MOTION: Senator Williams** moved to continue to follow the money in HB 645 and have staff provide a report on the other federal dollars going to federal agencies. **VOTE:** Motion carried.

**DEPARTMENT OF REVENUE - PROPERTY TAX REAPPRAISAL**

- 03:14:38 Dan Bucks, Director, Department of Revenue, (DOR) said appraisal decisions for residential, commercial, agriculture, and forest land are made by appraisers in the local offices and that is why Scott Williams, Regional Manager for the Flathead area joined the meeting via conference call.
- 03:16:09 **Rep. Taylor** said the EPTAP (Extended Property Tax Assistance Program) has been raised to \$75,000 but the staff at the DOR in Polson have been telling people that if they earn less than \$25,000 there is no EPTAP. Also, the EPTAP form won't be ready until the protest period is over. Some people might want to know if the EPTAP will help them before they decide to protest.
- 03:17:40 Director Bucks said there is an informal review process for those who have concerns about their appraisal. Once the informal review is done tax payers have another 30 days to protest. The EPTAP applications will be mailed in early October to those tax payers whose property the department has identified as being eligible for the EPTAP based upon the market value increase criteria of 24 percent or more over 6 years and a tax increase of more than \$250.00.
- 03:26:00 **Sen. Lewis** said he has had complaints regarding irrigated land in Meagher County, commercial property on the north side of Helena, and property around Canyon Ferry and Hauser Lake. He said he didn't realize tax payers had 30 days to protest after the review process and perhaps a press release to let people know would be useful. Mr. Bucks said the

process is explained on the assessment notice and the department website.

03:38:11 **Sen. Bales** asked if the informal review process will have an impact on vacant commercial land values. Mr. Bucks said if the commercial property is 100 percent land it will have more of an effect of the land prices than a small piece of land with a shop. The legislature focused attention on homeowners, farmers, and ranchers. The subcommittee on reappraisal only spent one hour on commercial property. He said he does not know if the informal reviews will lead to more or less adjustments.

03:52:13 **Chairman Jones** asked if all commercial appraisals are done by comparable or are some income based. Mr. Bucks said could be either or a combination. The income method is typically used for improvements and in general brought the values down. Land is driven by comparable sales.

03:55:28 **LUNCH**

#### **PUBLIC COMMENT**

05:11:50 **Rep. Sesso** provided a letter for the record from Rep. Mary Caferro on behalf of WEEL (Working for Equality and Economic Liberation) regarding Healthy Montana Kids. (Exhibit 14)

#### **BUDGET AMENDMENTS/PRIVATE FUNDS REPORT**

05:14:25 Greg DeWitt, Senior Fiscal Analyst, LFD presented the Budget Amendments report (Exhibit 15). Mr. DeWitt said that as of September 23, 2009, the LFD received notification of 87 budget amendments. Each amendment, along with a brief explanation is summarized in the attached table. Staff has reviewed the amendments and has raised no concerns.

05:17:22 **Rep. Sesso** asked if there is a way to identify which of these are associated with a program outlined in ARRA. Mr. Dewitt said that none of the budget amendments in this report are associated with ARRA.

#### **OPERATING PLAN CHANGES AND PROGRAM TRANSFERS**

05:18:26 Taryn Purdy, Principal Fiscal Analyst, LFD presented the Operating Plan Changes and Program Transfers. (Exhibit 16 & 16a) Ms. Purdy explained that the Office of Budget and Program Planning submitted 6 operating plan changes for review. LFD staff has reviewed the proposed changes and does not raise any issues. Also, since the last meeting of the LFC, the OBPP approved as time sensitive 24 operating plan changes and 4 program transfers.

### **REQUIRED REPORTS**

05:20:16 Jon Moe, Fiscal Specialist, LFD presented the Required Reports. (Exhibit 17) Mr. Moe explained that the report in Tab 8 has been revised since the mail out. The only change is an additional report item #1 and a revision to item #6. These reports are provided to the committee simply for information purposes unless there is an issue identified by staff.

### **LONG RANGE BUILDING AND INFORMATION TECHNOLOGY PROJECTS**

05:21:48 Jon Moe, Fiscal Specialist, LFD presented the Long-range Building and Information Technology Projects Status report. (Exhibit 18) The purpose of this report is to inform members of the legislature and other interested parties of the progress, or status of each of the state capital projects. The reports are designed to be easily updated by state agency personnel. The reports are not meant to be fully comprehensive on each project, but intended to provide a general update of the progress. Both reports are organized to provide the contact name and number of the administering state division.

### **PROGRAM TRANSFERS**

05:24:40 Taryn Purdy, Principal Fiscal Analyst, LFD presented a memo from Kris Wilkinson on Montana Historical Society FTE Program Transfers (Exhibit 19) The purpose of this report is to inform the committee that during FY 2008, the base year for the 2011 biennial budget, the Montana Historical Society modified or transferred among programs almost 30 percent of the positions within the agency. The transfers and modifications increased personal service costs to the general fund above what the legislature budgeted in the 2009 biennium. Also in FY 2010, the base year for the Montana Historical Society transferred 1.0 FTE and \$47,747 of general fund supporting the position from the Research Program to the Publications Program. This change increases general fund support for a program that the legislature approved as supported mainly through proprietary funds by 48.5 percent.

### **LFC/LFD INTERIM WORK PLAN: UPDATE**

05:26:45 Clayton Schenck, LFA, LFD presented the approved 2011 Biennium Work Plan. (Exhibit 20) This report summarizes the approved LFC and LFD interim work plan for the 2011 biennium. It is as approved by the LFC in June 2009 and is a working document, subject to review and revision by the LFC at each meeting during the 2011 biennium interim. The major studies adopted by the LFC are:

- Monitoring of federal (ARRA) stimulus funding
- Performance Measurement

- Monitoring and expanded reporting of state revenues

SJR 9 Student Loan Study was deferred to the September meeting for consideration.

The work plan does not take into consideration any special sessions or other extraordinary commitments. If such events occur, it will directly impact the ability of staff to accomplish assigned projects, and the LFC would be asked to re-prioritize projects..

### **SJ 9 (STUDY STUDENT LOAN SYSTEM) DISCUSSION**

05:28:47 Pam Joehler, Senior Fiscal Analyst, LFD presented a memo on SJ 9- Student Loan Study. (Exhibit 21) Ms. Joehler reported that the U.S. House of Representatives passed H.R. 3221, the Student Aid and Fiscal Responsibility Act of 2009, which eliminates the FFELP student loan program leaving the Federal Direct Loan Program as the sole federal program for issuing student loans. If Congress passes a bill similar to H.R. 3221, the LFC may want to analyze the impact of this legislation on educational services and student financial assistance in Montana.

05:32:08 **Sen. Wanzenried** reminded the committee he introduced this bill at the request of the LFC in response to student loan related issues that surfaced in Montana in 2007-08. The committee heard a report a year ago about what had happened with the bond market, particularly the inability of MHESAC to market about \$1 billion worth of bonds and those bonds are still not sold. One of the issues raised is whether or not there is any liability to the State of Montana. Another issue is that the members of the Board of Regents serve as members of MHESAC and the Student Assistance Foundation.

05:36:00 Pat Schlauch, from the Student Assistance Foundation (SAF) and Montana Higher Education Student Assistance Corporation (MHESAC) said there is a carve-out in the house bill that would allow them to be selected to service the federal direct student loan program starting next school year. SAF and MHESAC are proponents of the study bill and are willing to work with the committee to provide whatever information is needed.

05:40:07 **Sen. Lewis** asked if the legislation passes would the old MHESAC and SAF program disappear and become an agent of federal government. Mr. Schlauch said MHESAC would be in a wind-down mode. Bond holders and bonds that funded the student loans are guaranteed by the Department of Education. MHESAC has a couple of options. They

could continue to collect money on student loans that would pay bond holders or they could liquidate. SAF could continue to service student loans for MHESAC but also out-of-state guarantors.

05:41:40 **Sen. Williams** asked if the state is not liable who is and would it be prudent for this committee and the legislature to explore that issue. Mr. Schlauch said he is not sure, it might be the broker that sold the bonds. He said it might be wise to follow-up with Jim Stipich, CEO of SAF.

05:43:41 **Chairman Jones** said there seems to be two areas that the committee expressed interest in; bond liability and student loan availability in the state. Staff indicated that resources are somewhat limited.

05:44:53 Pam Joehler, Senior Fiscal Analyst, LFD clarified that student financial assistance in Montana is the issue not student loan availability. As far as staff resources, she said she would be available to do whatever the committee recommends.

05:45:43 **Rep. Glaser** suggested monitoring the situation until the next meeting.

05:49:55 **MOTION: Sen. Wanzenried** moved the committee examine the potential liability of the state; governance of SAF and MHESAC with cross membership with the Board of Regents; and the availability of student financial assistance.

05:53:00 **Sen. Lewis** commented that the committee may not want to conduct a study that determines whether we are liable or not. We should take the position we are not liable. We could ask staff to give a report on what is happening in other states.

05:54:16 **AMENDED MOTION: Sen. Wanzenried** amended the motion to include a study of liability issues in other states; governance of SAF and MHESAC; and the availability of student financial assistance. **VOTE:** Motion carried unanimously.

05:56:10 Clayton Schenck, LFA recommended the committee provide a contact person for staff in view of the federal legislation. **Sen. Wanzenried** volunteered to be the contact person.

#### **COMMITTEE BUSINESS**

05:57:48 Clayton Schenck, LFA presented the items under committee business. (Exhibit 22)

LFD Cost Reports FYE 2009 and FY 2010

No action was required by the committee on this item.

Authority for Transfers from Retirement Reserve Fund

05:59:50 **MOTION:** **Sen. Williams** moved the Legislative Finance Committee approve the processing of all program transfers to the Legislative Fiscal Division during the 2011 biennium that meet the eligibility and director approval requirements of the retirement reserve account. **VOTE:** Motion carried.

**NEXT MEETING**

06:01:47 Mr. Schenck discussed the proposed meeting dates for the 2011 biennium. No action was required by the committee on this item. The next meeting of the LFC will be Thursday and Friday, December 3 and 4, 2009.

06:02:15 **Sen. Wanzenried** brought to the committee's attention that upon adjournment of the legislative session, the LFD is assigned the responsibility of issuing a report summarizing activity and legislative intent. This committee needs to take some oversight in that report so staff is not on the hook for any questions that arise. This committee is in fact the entity charged with that responsibility under statute. He would like the management committee to explore how that can happen in a meaningful way. Because the committee is not only delegating authority but neglecting responsibility by having staff interpret legislative intent. Historically staff has done a great job but perhaps parts of the report should be delegated to the committee for review before being printed.

06:04:22 Clayton Schenck, LFA said the report **Sen. Wanzenried** is referring to would be the June Legislative Fiscal Report, which reflects the actions of the legislature. The primary reason statute states that it has legislative intent is because it provides more detail than what's included in HB 2. Mr. Schenck said he could prepare a report for the advisory committee for the December meeting explaining the statute, the process used by the LFD, and provide a proposal for how to include the committee.

**ADJOURNMENT**

06:05:56 Meeting adjourned at 2:10 p.m.

Representative Jones, Chairman

Diane McDuffie, Committee Secretary

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