



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.

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.

JUNE 5, 2008

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. JON SESSO
REP. JANNA TAYLOR

COMMITTEE MEMBERS ABSENT

REP. DAVE KASTEN

STAFF PRESENT

Clayton Schenck, LFA
Diane McDuffie, Committee Secretary

VISITORS

Visitors' list, Attachment #1.

Proxy for Rep. Kasten, Attachment #2.

00:09:09 CALL TO ORDER AND ROLL CALL

Senator Trudi Schmidt, Chair, called the 204th meeting of the Legislative Finance Committee to order at 8:10 a.m. on Thursday, June 5, 2008. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana. The secretary noted the roll. (Attachment 3)

00:10:20 APPROVAL OF MINUTES FOR MARCH 6 & 7, 2008 LFC MEETING

MOTION: Senator Cobb moved the minutes for March 6 and 7, 2008 meeting be approved as submitted.

VOTE: Motion passed.

00:11:13 PERFORMANCE MEASUREMENT: WORK GROUP PROCEDURAL GUIDANCE

Barbara Smith, Fiscal Analyst, LFD provided a report on Work Group Procedural Guidance. (Exhibit 1) The purpose of this report is to describe the process for the upcoming performance measurement workgroups and provide leading questions for the discussion. Prior to the meeting, staff will prioritize the reports by agency. LFD staff will introduce each goal or initiative, summarize the agency response, and provide the LFD position. Workgroup members will need to determine whether to accept or edit the LFD ranking and determine whether another report should be heard in October.

00:16:48 RECESS FULL COMMITTEE

Performance Measurement Workgroups convene as follows:

- General Government Room - Room 405
- Public Health & Human Services - Room 422
- Natural Resources - Room 455
- Corrections and Public Safety - Room 102
- Education - Room 470

00:17:58 MEETING RECONVENED

The meeting of the Legislative Finance Committee (LFC) reconvened at 1:10 p.m. in Hearing Room 102 of the State Capitol, Helena, Montana.

00:18:00 STATUS OF SCHOOL FUNDING LAWSUIT

Greg Petesch, Director Legal Services, Legislative Services Division, provided a copy of the Scheduling Order - Show Cause Proceedings. (Exhibit 2) Mr. Petesch explained that on May 5, 2008, Judge Sherlock issued an order granting Plaintiff's Motion for An Order to Show Cause. A Hearing has been scheduled for September 22, 2008. Judge Sherlock said that the Plaintiff's would have the burden of showing that the system was still unconstitutional.

Jim Standaert, Senior Fiscal Analyst, LFD said that the Attorney General's office will have to respond by Monday, to an interrogatory request from the Plaintiff's regarding whether the State has determined the cost of a basic system of free quality elementary and secondary schools. Mr. Standaert discussed the chart on the Impact of Legislative and Executive Actions on K-12 State Costs and Maximum Budget Since FY 2005 - In

FY 2009. (Exhibit 3) This chart shows what the legislature and the executive has done since FY 2005.

00:25:53 **ACQUIRING OFFICE SPACE FOR STATE AGENCIES: STATUTORY OPTIONS**

Greg DeWitt, Senior Fiscal Analyst, LFD provided a report on Acquiring Office Space for State Agencies - Statutory Options. (Exhibit 4) Mr. DeWitt explained that at the March 2008 meeting, the LFC heard a report that raised concerns with the processes used to acquire space to house state agency personnel. The LFC directed staff to work with other legislative committees and staff to develop legislative options for requirements that would establish a more formalized structure to evaluate owning against leasing space for state personnel. A menu of legislative decisions is provided that is modeled after actions of the State of Washington has taken to address similar issues. Key elements of the Washington legislation are:

- development and implementation of a life-cycle cost model required to be used for evaluating space options
- development of a pre-design process for space requests
- formalized facility inventories, planning, and reporting; and
- restrictions on leasing terms

Janet Kelly, Director, Department of Administration (DofA), said if Montana were to adopt legislation similar to Washington, and considering the ratio of current workload between the State of Washington and the State of Montana, the department estimated 2 additional staff would be needed in the Office of Budget and Program Planning and an additional 3 FTE in the DofA leasing office. Cost per FTE was estimated at \$60,000, which would be \$480,000 for the biennium.

00:35:34 **Rep. Sesso** asked if the department is doing an analysis of how to manage the cost of office space more effectively. Director Kelly said that the department reviews leases and the cost associated with the square footage but does not conduct a thorough analysis.

00:43:43 **Rep. Erickson** asked if there are problems other than cost of staff to pass legislation similar to Washington. Director Kelly said a thorough analysis has not been done. There may be a better less expensive way to initiate some changes. The department has changed the leasing and reviewing process of all state leases. Several more people now have to review the terms and conditions before signing.

00:48:40 **Senator Bales** asked what program or plan does the department have in place to evaluate the difference between purchase and lease. Director Kelly said the current process is if the leasing officer has information for a proposed new state office building the request would go through the budget office for consideration as part of the Governor's budget. Often times space needs of agencies are more immediate so the leasing officer doesn't have the luxury of waiting for a decision on whether or not it would be in the states best interest to build a building and finds the most cost effective space that is available to meet the needs of the agency. The department does not get involved in a thorough analysis of lease versus buy for every space request.

01:08:49 **UPDATE ON MT HISTORICAL SOCIETY SITE SELECTION**

This report was included in the notebooks but not formally presented.(Exhibit 5)

01:09:30 **SPENDING NON-GENERAL FUND MONEY FIRST - STATUTE ISSUES**

Lois Steinbeck, Senior Fiscal Analyst, LFD presented a report on Spending Non-General Fund Money First.

(Exhibit 6) Ms. Steinbeck explained that Montana statute includes a provision that directs agencies to spend nongeneral fund money first, whenever other funds are available to be spent before a state general fund appropriation. Another section of statute that provides authority for a supplemental appropriation, also suggests that expenditures be made from other available sources before pursuing a general fund supplemental appropriation transfer. LFD staff has, over the years, interpreted and applied these two statutes as requiring an agency to offset general fund costs with all other available funds whenever possible. A recent review by Legislative Services Division legal staff concluded that the statutes apply much more narrowly than the LFD interpretation and application. The first issue is to clarify legislative policy regarding spending other available funding sources. The second issue is to clarify the meaning of the term "income" as used in the statute dealing with supplemental transfer appropriations. If the LFC wishes to define "income" it would require a statutory change. If the legislature desires that general fund costs be offset whenever possible and that all available nongeneral fund appropriations and money throughout an agency be used to do so, amendments to statute would be needed.

01:28:59 David Ewer, Director, Budget Of Office and Program Planning, commented that he thinks the law as written gives appropriate flexibility.

01:34:58 **BREAK**

01:36:00 **RAINY DAY FUND: PROPOSAL AND OPTIONS FOR A COMMITTEE BILL**

Jon Moe, Fiscal Specialist, LFD presented a report on the Rainy Day Fund --Revisited (Exhibit 7) Mr. Moe explained Montana is one of only a few states that do not have a "rainy day fund" to provide some stability to the revenue and budgeting processes. The Legislative Fiscal Division has consistently suggested that it would be prudent to have such a fund in place. In recent sessions, legislation to establish a rainy day fund has been introduced by a variety of legislators but each legislature has been unable to pass a bill. For the last two sessions, the LFC has supported the concept in one form or another.

01:48:14 **MOTION: Sen. Brueggeman** moved Option A, which is to develop a committee bill similar to SB 137 to fund a rainy day account. **VOTE:** Motion passed.

01:51:44 **PROGRAM REVIEWS**

These reports were included in the notebooks but not formally presented. Montana State Hospital Update June 2008 (Exhibit 8) and Department of Corrections - Population Forecast and Budget Status (Exhibit 9)

01:55:41 **UPDATE ON K-12 FACILITY CONDITION AND NEEDS ASSESSMENT AND ENERGY AUDITS**

This report was included in the notebooks but not formally presented. (Exhibit 10)

01:57:20 **STATUS REPORTS ON OTHER INTERIM STUDY COMMITTEES**

Jim Standaert, Senior Fiscal Analyst, LFD presented a report on SJR 31 and HB 488 Subcommittees of the Revenue and Transportation Interim Committee (RTIC). (Exhibit 11) Mr. Standaert explained that SJR 31 requests an examination of the future viability of the use of property taxes to fund education, an examination of equalization through a statewide school equalization district that would levy taxes against specific classes of property, and an inquiry into the use of a statewide sales tax and use tax to provide education funding that would include property tax relief in a permanent manner. The subcommittee has heard reports on Key Trends in Growth and Change in Montana by Dr. Swanson with the O'Connor Center for the Rocky Mountain West at the University of Montana, in which demographic data concerning the ageing of Montana was presented as well as likely impacts on spending and tax receipts in Montana. A slide show is available on the RTIC website.

The HB 488 subcommittee was set up to examine the impacts of property reappraisal and to examine ways to mitigate its impacts. Property in class 3 (agricultural land), class 4 (residential and commercial) and class 10 (timberland) will be assigned new reappraised values on January 1, 2009. The property tax bills associated with these new values will come due in November 2009 and May 2010. The 2009 legislative session will therefore have time to examine the impacts and to propose mitigation legislation. Data regarding the reappraisal values will not be available until Fall 2008.

02:12:18 **INFORMATION TECHNOLOGY MANAGEMENT UPDATE**

Dick Clark Chief Information Officer, Department of Administration, presented the CIO Report and IT Portfolio. (Exhibit 12) Mr. Clark reported that projects are overall in good standing. Projects flagged red indicate some level of risk. Additional detailed information can be found on individual Project Summary Reports.

02:20:38 **OTHER REPORTS**

Greg DeWitt, Senior Fiscal Analyst, LFA presented the Budget Amendments. (Exhibit 13). Mr. DeWitt reported that the LFD has received notification of 34 certified budget amendments since the March 2008 LFC meeting. Staff has reviewed the amendments and raises no concerns.

02:23:26 **OPERATING PLAN CHANGES**

Taryn Purdy, Principal Fiscal Analyst, LFD presented the Operating Plan Changes and Program Transfers. (Exhibit 14, 14a, 14b) Ms. Purdy explained that the Office of Budget and Program Planning (OBPP) submitted 15 operating plan changes and 6 program transfers for review. LFD staff has reviewed the proposed changes and does not raise any issues. Also, the OBPP approved as time sensitive 4 operating plan changes and program transfers. (Exhibit 15) Staff has reviewed these and raises no concerns.

02:25:50 **REQUIRED REPORTS**

Jon Moe, Fiscal Specialist, LFD presented the Required Reports for June 2008. (Exhibit 16) Mr. Moe explained that these reports are provided to the committee simply for information purposes unless there is an issue identified by the staff.

02:29:28 **GRAYING OF MONTANA**

Lois Steinbeck, Senior Fiscal Analyst, LFD presented a report on Graying of Montana. (Exhibit 17) Ms. Steinbeck explained that in Montana, 65 and over population will go from 125,000 in 2002 to about 270,000 by 2030, which will mean that one in every four Montanans will be 65 or older. Montana is one of the few states expected to have the highest number of seniors. The workgroup instructed staff to begin compiling an inventory of services and unique approaches nationally to support an aging population an if time allows, cataloguing the services available in Montana. In October, the LFC will hear reports about the aging services funded from the \$3.7 million general fund added by the legislature. The LFC Chair Senator Schmidt and RTIC Chair Senator Peterson agreed to appoint a joint subcommittee to prepare a bill draft for an interim study of the impacts on state revenues and services due to an aging population and other demographics.

02:37:08 **Senator Williams** said a bill draft to study the "Graying of Montana' has been submitted in conjunction with RTIC as a joint committee bill.

02:37:43 **Senator Bales** said the joint subcommittee held a telephone conference call on Wednesday, June 4 to discuss the criteria to be included in the study bill. The consensus of the committee was that this is an important issue and the committee needs to move forward. The committee

voted to look at a bill draft request. Another meeting is scheduled for July 9th.

02:49:00 **ELECTRONIC RECORDS INFORMATION MANAGEMENT (eRIM)**

Dick Clark, CIO, explained that eRIM is a joint effort with the Secretary of State regarding the Montana electronics records initiative. Patti Borsberry, Deputy, Secretary of State, Records and Information Management provided a draft copy of the Montana Electronic Records Initiative Strategic Plan 2008-2016. (Exhibit 18) Ms. Borsberry explained that government entities are facing the challenges and expectations of managing electronic records. Under the direction of Secretary Johnson and State CIO Clark, collaborative stake holders are addressing an enterprise approach to managing public records and overall content. The strategic plan is aimed at accomplishing the critical facets of electronic records and information management. Montana's records management standards, policies, procedures, and guidelines require a fresh face that addresses eRIM based on the foundation that official public records are taken care of based on their value or their content that supports official business. Records and information business processes need to be identified so the aforementioned standards and best practices can be applied to them via technological. In order to accomplish success agencies and employees need the support of executive management, legislative actions in funding, along with compliance benchmarks. Balancing right to know and right to privacy is at the forefront of the strategic plan, along with security, access and preservation.

02:55:56 **Senator Cobb** asked Mr. Clark about performance measures for each year. Mr. Clark said at the next organizational meeting action items will be added under each area. and determine from that what is feasible in 2009.

Pat Gervais, Senior Fiscal Analyst provided a news release from the Billings Gazette stating that Judge rules in favor of Hardin Jail. (Exhibit 19) Ms. Gervais explained that Judge Sherlock overturned the Attorney General's opinion that indicated that the facility in Hardin could not house out of state or federal inmates. This will clear the way for the facility in Hardin to accept inmates from other states without approval from the Department of Corrections..

03:04:10 **WORK GROUP REPORT: FWP CAPITAL PROJECT APPROPRIATIONS STATUS**

This report was included in the notebooks but not formally presented. (Exhibit 20)

03:05:04 **WORK GROUP REPORT: STUDY OF LFD PRODUCTS AND SERVICES**

Clayton Schenck, LFA provided a brief update on the study of LFD Products and Services. Mr. Schenck said the work group focused on ways to streamline the Budget Analysis and Volume I to publish a document the legislature can use more efficiently. A more detailed report will be available at the October meeting.

03:07:06 **LRBP and LRITP CAPITAL PROJECTS STATUS REPORTS** (Exhibit 21)

This report was included in the notebooks but not formally presented.

03:12:26 **Senator Schmidt**, Chairman appointed Rep. Sesso, Ripley, Taylor, and Sen. Williams to work with LFD staff on Performance Measures terminology for categorizing status reports.

Friday, June 6, 2008

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. JON SESSO
REP. JANNA TAYLOR

COMMITTEE MEMBERS ABSENT

REP. DAVE KASTEN

STAFF PRESENT

Clayton Schenck, LFA
Diane McDuffie, Committee Secretary

00:00:42 **CALL TO ORDER**

The 204th meeting of the Legislative Finance Committee (LFC) reconvened on Friday June 6, 2008, 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. The secretary noted the roll. (Attachment #4)

00:01:33 **STUDENT LOAN AVAILABILITY IN MONTANA AND THE IMPACT OF BOND MARKET PROBLEMS**

Alan Peura, Fiscal Analyst II, LFD presented a report on Student Loan Availability in Montana and the Impact of Bond Market Problems: An Update on the Montana Higher Education Student Assistance Corporation (MHESAC) and the Student Assistance Foundation (SAF) (Exhibit 22) Mr. Peura explained that LFC members requested a report on student loans in Montana with specific emphasis on the ongoing difficulties that the MHESAC is having relative to their auction-rate bonds that are used to finance much of the overall student loan market in Montana.

During February through mid-April 2008, MHESAC bond holders have not been able to sell more than \$1.25 billion of auction-rate bonds. When these bonds do not sell on the auction market, the interest rate that MHESAC must pay on the bonds increases, which has an impact on the overall expenditure level of the organization. These difficulties in the bond market raised concern by the legislature and the executive relative to the optimal level of state oversight of operations, including the amount of debt, and whether this debt load could have a negative impact on State of Montana bond ratings. Questions raised at the October 2007 Board of Regents meeting resulted in the appointment of a Regents' Student Loan Taskforce to evaluate Montana student loan industry relationships. The taskforce was charged to make recommendations to the regents regarding 1) MHESAC governance and accountability issues relative to MHESAC bond activity; 2) a process for monitoring and making policy adjustments relative to changes in student loan programs and financing issues at the federal level; and 3) improvements in communications between the regents, the Montana executive and legislative branches, and the SAF and MHESAC boards of directors. Congress and Administrative officials are looking at the options that exist to ensure sufficient funding for the federal student loan program, including an infusion of federal funding to private lenders, letting the future loan volume

migrate to the federal direct student loan program, revisiting federal legislation, and the idea of using secondary loan market "lender-of-last-resort provisions". Mr. Peura also provided a letter from Margaret Spellings, Secretary of Education; and a letter from Scott Seacat, Legislative Audit Division. (Exhibits 22a & 22b)

00:34:14 David Ewer, Director, Office of Budget and Program Planning said the administration remains unsatisfied with the oversight over the MHESAC and SAF and supports a bill to open their meetings and require legislative audits. He also said that both the executive and legislative branches need to be more involved overseeing the student loan agencies because of the potential financial and reputational risk the state could face.

00:41:04 Jim Stipcich, President, Student Assistance Foundation discussed a handout containing background information on SAF. (Exhibit 22c) Mr. Stipcich clarified that he does not have a contract with MHESAC. The management contract is between MHESAC and SAF and he is a lead spokesman for MHESAC under the contract. He reported that MHESAC has secured funding for Montana student loans for academic year 2008-2009. The Secretary of Education has also announced a plan for liquidity for 2008-09. However, many of the large lenders in this program have continued their position of not being willing to provide loans to community colleges and high default schools despite the existence of the liquidity plan.

00:50:02 Fred Flanders, Chairman, Board of MHESAC, introduced Royal Johnson, Bill Thomas, and Mark Semmons, members of MHESAC Board. He also discussed a handout containing background information on MHESAC. (Exhibit 22d) Mr. Flanders reported that the markets have been disrupted and MHESAC has the issue of failed market auction bonds. Mr. Flanders said they are optimistic that at some point the market will stabilize. MHESAC presently holds more than \$1.4 billion in student loans and these loans are guaranteed to the extent of about 97 percent of principle and interest. MHESAC is working to refund or refinance its auction bonds.

00:59:07 Jim Bell, Chairman, Board of SAF, introduced members of SAF board, Royal Johnson, Ed Jasmin, Russ Ritter, and Mick Robinson. Mr. Bell explained that SAF is a private Montana non-profit corporation. They are not an affiliate corporation of MHESAC but does manage their activities. SAF is a national business and currently services about 308,000 loans. Turbulent conditions in the student loan industry and financial markets have affected a number of SAF's servicing clients. The resulting decrease in new loan servicing volume prompted SAF to implement right-sizing strategies, including reducing operating costs, decreasing staff through attrition, and recently, layoffs.

01:07:23 **Senator Wanzenried** referred to SAF's June 2004 development plan that states "over the next ten years SAF expects to be managing a loan portfolio totaling \$3 to \$5 billion" and asked if that level of debt is intended to be for Montana students. Mr. Stipcich said SAF is servicing \$3.8 billion worth of student loans. SAF does not own those loans nor does SAF issue debt for those loans. Approximately \$1.5 billion is Montana loans. **Senator Wanzenried** also asked if the Board of Regents (BOR) was aware of the amount of loan servicing for out-of-state students. Mr. Stipcich said SAF provides reports to the BOR on a periodic basis since 2000.

Mark Semmons, MHESAC commented that six of the seven members of the BOR serve on the boards of SAF and MHESAC and it would be difficult to imagine the BOR was not fully informed and involved in the strategy and decision making to expand into the national market.

01:21:51 **Senator Wanzenried** said the underwriting statement for a bond issue in 2006 used the

Montana Guaranteed Student Loan Program (MGSLP) to guarantee bonds and asked what is the level of risk being placed on this program. Mr. Semmons said the MGSLP is the lead guarantor in Montana but they do not guarantee bonds.

Bruce Marks, Director, MGSLP said MGSLP guarantees individual student loans, they do not guarantee any bond activity. There is no additional fiscal liability for guaranteeing individual student loans that resulted from that bonding activity. Mr. Marks said when the individual loans come from MHESAC or other participating lender, MGSLP offers a federal guarantee on an individual loan basis.

Cathy Swift, Chief Legal Counsel, Montana University System, said she provided a response to a letter from Director Ewer, dated June 5, 2008, regarding the language in question in the bond offering from 2005 and 2006 which states "Over 90% of the Financed Eligible Loans acquired and to be acquired from the proceeds of the Prior Bonds and the Series 2006 bonds are expected to guaranteed by the Board of Regents." Ms. Swift replied that the regents guarantee the loans, not bonds, pursuant to state and federal law. The official statement states that these are not obligations of the State of Montana or the Board of Regents (BOR). The BOR through the MGSLP guarantees the underlying student loan.

01:32:19 **Rep. Erickson** asked for a direct response to long term concerns for the health of state credit and the use of volume cap to acquire Montana student loans. Mr. Stipcich said it is clearly stated in their offering documents that their bonds are not state bonds, there are no state dollars related to their program and there are no state assurances related to the bonds. Mr. Stipcich said they are interested in working with the State and other issuers of volume cap to determine how to allocate the resource and federal representatives also need to be involved in those discussions.

01:41:325 **Senator Cobb** commented to Mr. Stipcich that it appears that they are "using hope as a business model" and asked him what solutions do they have, how long can they last if the auction rates don't come back and what will happen if they go under. Mr. Stipcich said that the bonds and the rates they are incurring have reduced to a level where they are positively cash flowing and have been since late March. Mr. Stipcich said the bonds are pledged to a trust and the loans would be owned by bondholders. Students would pay back their loans to the trust. If the payments on the bonds defaulted then the trustee would take over management of the trust.

01:47:14 **Senator Williams** asked Mr. Stipcich what has been done to provide access to their financial records to the public or legislature. Mr. Stipcich said they have a long standing practice of sharing financial information with members of the executive branch. They have also formally implemented a process to provide all audits to the Legislative Auditor.

01:48:46 **Senator Williams** asked if MHESAC and SAF would work to help draft acceptable legislation. Mr. Stipcich said the boards of the two agencies hadn't discussed the matter, but he expects they would be willing to talk.

02:15:01 **BREAK**

Clayton Schenck, LFA advised the committee of the retirement of Scott Seacat, Legislative Auditor, LAD and the resignation of Mike Allen, Fiscal Information Specialist for the LFD. Mr. Allen has taken a position with Legislative Services Division as a Systems Analyst. Mr. Schenck also presented Terry Johnson, Principal Fiscal Analyst with a longevity pin for 35 years working for the State of Montana.

02:35:32 **PUBLIC COMMENT**

Claudia Clifford, Advocacy Director, AARP, testified in support of the study on "Graying of Montana". Ms. Clifford recommended the study include an inventory of what services are available in our state for the aging population and look at "older worker" issues as the Social Security system encourages folks to work longer and not retire in their mid fifties or early sixties.

INTERIM STUDIES

02:38:19 PETROLEUM TANK RELEASE FUND SUBCOMMITTEE

Rep. Ripley provided a summary of the subcommittee's work. (Exhibit 23) The subcommittee is asking LFC and EQC to review this work and provide direction as to how to proceed. Based on testimony before the subcommittee and information gathered during the meetings, the subcommittee found that improving the solvency of the Fund is a complex intersection of three main issues: 1) revenue generation; 2) private insurance; and 3) extent of cleanups.

02:50:10 SUBCOMMITTEE REPORT: STUDY OF BUDGET AND APPROPRIATIONS PROCESS

Clayton Schenck, LFA explained that the subcommittee reviewed reports on Budget and Appropriations Statutes Review, Statewide Present Law Adjustments, and A Review of the Process for Handling Global Fiscal Issues Relative to the Budget Process. (Exhibits 24, 25 and 26)

Pam Joehler, Senior Fiscal Analyst provided a summary of the Budget and Appropriations Statute Review Report. (Exhibit 24a) The summary outlines the recommendations of the subcommittee regarding housekeeping statutes, policy clarification and budget issues.

02:57:58 **MOTION: Senator Wanzenried** moved to approve all housekeeping changes as presented in Appendix A (Exhibit 24) and prepare draft legislation. **VOTE:** Motion passed.

03:00:24 **MOTION: Senator Wanzenried** moved to request draft legislation to separate the revenue streams to the oil, gas, and coal natural resource account, and earmark the coal tax for the Coal Board program and local impact grants. **VOTE:** Motion passed

03:01:34 **MOTION: Senator Wanzenried** moved to request the Long Range Building Subcommittee of the LFC work with stakeholders to develop a definition of capital project that will acceptably limit the types of projects that can be designated as "capital projects", conform to GAAP, and meet the needs of the LRBP and the legislature; and report to the October 2008 LFC meeting. **VOTE:** Motion passed.

03:02:58 **MOTION: Senator Wanzenried** moved to request draft legislation to amend the statutory definition of enterprise funds subject to appropriation and then refer to the statutory definition in other sections of MCA. **VOTE:** Motion passed.

03:04:33 **MOTION: Senator Wanzenried** moved that the LFD draft a letter on behalf of the LFC to the Montana Department of Transportation specifically requesting the department respond to the noncompliance issue at the October 2008 LFC meeting. **VOTE:** Motion passed.

03:14:18 **MOTION: Senator Wanzenried** moved to request draft legislation appropriating \$20 million of bond proceeds to the Montana Department of Commerce for the purposes specified in 17-5-820, and wait until October to decide how future biennia appropriation authority for the bond proceeds should be established. **VOTE:** Motion passed.

03:16:33 **MOTION: Senator Bales** moved to request draft legislation to delete section 17-5-820. **VOTE:** Motion passed.

03:21:02 **MOTION: Senator Wanzenried** moved to request the LFA to review the statutes in Appendix D (Exhibit 24) and determine those to be included in the draft 2011 biennium work plan presented to the LFC next interim. **VOTE:** Motion passed.

Greg DeWitt, Senior Fiscal Analyst discussed the Statewide Present Law Adjustments for Inflation/Deflation and Fixed Costs report and provided options for the committee. (Exhibit 25)

03:25:26 **MOTION: Senator Wanzenried** moved to include in the committee recommendations to the 61st Legislature for dealing with global fiscal issues that appropriations subcommittees not approve decision packages of internal service funded proprietary programs unless quantifiable rate impact information is provided. **VOTE:** Motion passed.

Jon Moe, Fiscal Specialist discussed A Review of the Process For Handling Global Fiscal Issues Relative to the Budget Process report. (Exhibit 26) The purpose of this report is to remind members of the importance of consistency and equity in the deliberation of most, if not all, agency budgets, and to determine the best way of establishing guidelines for the legislative budget process that will best serve the needs of the legislature for an orderly and logical deliberation. No action is required by the committee at this time.

Clayton Schenck, LFA reported that the subcommittee also took action to recommend a change in statute with regard to operating plan transfers. The subcommittee voted to request draft legislation to increase the minimum operating plan change of \$25,000 to \$75,000.

03:37:12 **MOTION: Senator Wanzenried** moved to request draft legislation to increase the limit to \$75,000 as a threshold for operating plan changes before they come before the LFC. **VOTE:** Motion passed.

03:38:08 **STATUTORY APPROPRIATIONS AND GENERAL FUND TRANSFERS BILL DRAFTS**

Roger Lloyd, Senior Fiscal Analyst, LFD provided a memo for Approval of Preliminary Bill Drafts, which describes briefly the two bill drafts and also some suggested motions for approval. (Exhibit 27) Mr. Lloyd explained that the bill drafts are preliminary and may change once the legal staff has updated the MCA for contingency language in July. Also, in eliminating the permanent general fund transfers, the committee's intent was not to short the programs, but to replace the lost revenue from the general fund with general fund appropriations in HB 2. In the motion to approve LC 65, this intent should be stated. In addition, the general fund transfer to be eliminated is to the Morrill Act Land Grant . There are some obligations that the legislature has in dealing with this land grant and Jeremy Gersovitz, Staff Attorney, Legislative Services Division (LSD) will discuss this issue. Also, Pat Gervais, LFD, and Skip Culver, Department of Justice (DOJ) will discuss adding an elimination of one of DOJ's statutory appropriations.

LC 65 is a bill draft dealing with general fund transfers and LC 66 eliminates and consolidates statutory appropriations. (Exhibits 27a & 27b)

Pat Gervais, Senior Fiscal Analyst, LFD explained that Montana Highway Patrol Officers have part of their salary funded through HB 2 and part of their salary funded through a statutory appropriation. The Office of Budget and Program Planning (OBPP), the Department of Justice, and the Legislative Fiscal Division staff agreed that during the interim to look at this issue and find a solution. The parties have agreed to eliminate the statutory appropriation portion. The source of funds for the Highway Patrol Officers salary increases would still be in play.

Skip Culver, Administrator, Department of Justice said this is a simple solution that will work and will bring all the staff of the Montana Highway Patrol into HB 2.

03:48:20 LUNCH

05:31:17 MEETING RECONVENED

Jeremy Gersovitz Attorney, Legislative Services Division provided a memo on conformity with state and federal constitutions of LC 66's elimination of certain statutory appropriations, specifically pertaining to the appropriation for the administration of the Morrill Land Grant Act trust. (Exhibit 28) Mr. Gersovitz explained that HB 19 provided for a statutory appropriation for the administration of MLGA land. LC 66 removes the Legislature's statutory obligation to fund the administration of MLGA land and leaves a statutory vacuum. The legal obligation on the part of the state to fund MLGA land administration exists whether statutorily recognized or not. Montana, as trustee, has an irrevocable duty to manage the trust estate for the benefit of the beneficiaries.

05:45:49 **MOTION: Rep. Sesso** moved to approve bill draft LC 65 and instruct LFD staff, at the appropriate time, to draft an amendment to HB 2 with restricted line item general fund appropriation to replace the lost revenue from general fund. Any non-substantive changes made by legal staff are approved. **VOTE:** Motion passed

05:52:01 **MOTION: Sen. Cobb** moved to approve bill draft LC 66 and any non-substantive changes made by legal staff are approved.

05:55:00 Senator Brueggman offered a substitute motion to adopt the draft as written but with the exclusion of 61-3-415, the "Chrome for Kids" license plates.

06:02:10 **AMENDED MOTION: Sen. Cobb** moved to approve bill draft LC 66 with the exception of 61-3-415 and add the elimination of 44-1-504 (appropriation for highway patrol salaries) and any non-substantive changes made by legal staff are approved. **VOTE:** Motion passed

06:05:33 **Rep. Sesso** expressed concern that there has not been enough public opportunity to comment on the elimination of these programs. If the appropriations are not being used he would like to hear from the agencies that are expecting the appropriation.

06:07:53 **Senator Wanzenried** suggested posting the bill drafts on the LFC website for public comment.

Without objection from the committee, LC 65 and LC 66 will be posted to the LFC website for public comment and will be revisited at the October meeting.

06:08:41 WORK GROUP REPORT: STATE FUND STUDY

Kris Wilkinson, Fiscal Analyst, LFD presented a memo on Montana State Fund/Workers' Compensation Insurance Subcommittee Meeting. (Exhibit 29) Ms. Wilkinson reported that the members met on June 5, 2008 to hear several reports and presentations in relation to both the Montana State Fund and the workers' compensation insurance system. Ms. Wilkinson said in the report discussing oversight provided for the MSF by the Legislative Audit Committee (LAD) examines the procedures followed by both the LAD and Secretary of State (SOS), and it would appear the legislative oversight provided by the Legislative Audit Committee is sufficient to allow an assessment whether the financial statements of MSF are fairly presented, and that the rates are not considered excessive, inadequate, or unfairly discriminatory. In addition, the report on Montana State Fund Premium Assessments outlines the various premium modification factors used to determine premiums overall and the differences between the premiums assessed private employers and those assessed to state agencies.

06:14:20 **MOTION: Rep. Erickson** moved to request a bill draft requesting the Legislative Audit Division provide a performance audit of the MSF. The frequency and area of category of

the audit would be determined by LAD and LFD staff. **VOTE:** Motion passed.

06:16:53 **PERFORMANCE MEASUREMENT**

Barbara Smith, Fiscal Analyst, LFD provided a brief summary on the number of reports that have been heard and have been asked to return. In December there was a total of 169 reports. Through this process 67 have been dismissed, leaving 102 to be heard in October.

06:19:16 **SECTION A**

Rep. Sesso reported that the Office of Public Defender was lagging in evaluating the performance of the attorneys. Among the unexpected difficulties, the OPD has experienced a lack of input from clients. The OPD has made progress implementing processes and completing performance appraisals, however, they will be unable to complete these task by the target date. The department of transportation seemed more challenging. The DOT goals will be combined into one that discussed the theme common to them all. The Department of Administration has made significant progress in implementing a centralized state workers' compensation cost containment program. The challenge facing the program will be to obtain timely data from the State Fund to estimate costs and savings for the initiative.

06:25:11 **SECTION B**

Sen. Williams reported that most programs are on track. There were some groups put in a category of needing an update. Some items in technical services requires more information that the department will provide at a later date.

06:29:46 **SECTION C**

Rep. Erickson reported that the New Worker Training Program, the Tribal Economic Development Grant Program and the Regional Investigator Program all are doing well. The Department of Natural Resources has developed a draft plan for the restoration coordinator and the pilot project should be selected soon. The Department of Environmental Quality report on the Public Water Supply program brought forth an issue regarding ability of the department to conduct compliance reviews of public water supplies. The department is concerned about their ability to complete the reviews for this fiscal year. **Rep. Ripley** added that several of the appropriations and expenses were not provided in a timely manner, which resulted in time spent reviewing the information. Had it been received prior to the meeting, they would not have received the critical rating.

06:34:02 **SECTION D**

Sen. Schmidt reported that the workgroup dropped from further reporting 13 items and request that agencies report in October on nine items. A number of items that were on-track were dismissed from further reporting. The work group requested updates in October on the Department of Justice (2 items), and the Department of Corrections (4 items).

06:38:11 **SECTION E**

Sen. Wanzenried reported the workgroup reviewed the Montana University System initiative on Transferability and Student Data. The transferability of credits will be reduced to "common course numbering" whereby all MUS courses are to be run through this process so that transferable courses will share the same name and number. It is projected that by June 30, 2011 all MUS courses will have been run through the process and will appear as part of the web-based transferability matrix. This initiative will be reviewed again in October for continuing process, with the primary measure to monitor being the number of courses that are moving through the process. The workgroup also reviewed the Board of Public Education program

goal to set standards for a quality education as defined by law. One of the measurements selected to measure this goal is 100 percent of schools would be in compliance with all content and performance standards by the BOPE March meeting each year. In March 2007 8 percent of schools were in advice status and 8 percent were in deficiency status. The program goal will be reviewed again in October.

06:45:02 **Sen. Williams** reported on the workgroup that met June 5 to discuss the language to be used in the future regarding performance measurement. The workgroup agreed to use the terms "on track", "progress report needed", and "no further review". Members of the workgroup are Rep. Ripley, Rep. Sesso, and Sen. Williams.

06:51:15 **COMMITTEE BUSINESS**

06:52:26 **MOTION: Sen. Cobb** moved to request a bill draft based on the staff recommendations as shown in Appendix A to the Acquiring Office for State Agencies (Exhibit 4) report and have the chairman appoint a work group to work with LFD staff, other legislative committees and their staff, and the executive to provide recommended amendments to the bill draft for discussion at the October LFC meeting. **VOTE:** Motion passed. **Rep. Sesso, Rep. Taylor,** and **Sen. Wanzenried** were appointed to the work group.

06:59:05 **MOTION: Sen. Cobb** moved to request a bill draft to augment Option A to the Spending Nongeneral Fund Money First - Statutes Have Limited Application (Exhibit 6) report by allowing the legislature to "exempt" certain nongeneral fund appropriations from consideration to offset general fund by specifically designating those nongeneral fund appropriations in the general appropriations act. **Sen. Cobb** withdrew the motion. This issue will be discussed again at the October LFC meeting.

07:11:34 **MOTION: Sen. Bales** moved to support a request for a bill draft for the Graying of Montana with the RTIC. **VOTE:** Motion passed.

07:13:59 **MOTION: Sen. Cobb** requested an update at the October meeting from MHESAC and a copy of their recommendations that were given to the Board of Regents. **VOTE:** Motion passed.

07:21:06 **MOTION: Sen. Wanzenried** moved to request a subcommittee be appointed to prepare a bill draft study of MHESAC and SAF for discussion at the October LFC meeting. **VOTE:** Motion passed. **Sen. Cobb** and **Sen. Wanzenried** were appointed to the subcommittee.

Clayton Schenck, LFA presented the remaining items under committee business. (Exhibit 30) Mr. Schenck explained that the new pay plan has a built in "unfunded mandate" and the cost of implementing the pay adjustment is \$120,000. Options for funding the pay adjustments include; seek funding from the other two branch divisions, seek a supplemental appropriation, or seek funding in the LFD 2011 biennium budget request.

07:32:03 **MOTION: Sen. Williams** moved that **Chairman Schmidt** be delegated to approve an appropriations transfer from another legislative division if funds are available and are approved by the transferring approving by the transferring authority (Legislative Council or Legislative Audit Committee). **VOTE:** Motion passed.

Mr. Schenck also discussed the LFD Cost Report and the LFD 2011 Biennium Preliminary Budget Considerations. Mr. Schenck explained as approving authority for the LFD budget, the LFC will be asked to adopt the budget request at the October meeting. The proposed 2011 biennium budget present law request will likely be over 10 percent above the 2009 appropriation. New proposals being considered are permanent

funding for Merit Pay Plan adjustments, funding for LFC subcommittees, and contracted services for succession planning and systems documentation.

07:44:22 **NEXT MEETING**

The next meeting of the Legislative Finance Committee will be October 9 and 10, 2008.

07:45:36 **Chairman Schmidt** reported on the meeting requested by the Legislative Council with the LFC and LAC Presiding and Vic Presiding Officers. The committee's had a lunch meeting on June 6 and will be meeting again in September to address any issues regarding the legislature, legislative branch structure and management.

07:50:02 **ADJOURNMENT**

Meeting adjourned 3:50 pm

Senator Trudi Schmidt, Chair

Diane McDuffie, Committee Secretary
