

WILDLAND FIRE SUPPRESSION FUNDING METHODOLOGY: HJR 42

A Report Prepared for the

Legislative Finance Committee

by
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PURPOSE AND SCOPE

The 2001 legislature passed House Joint Resolution 42. This resolution directs legislative staff to study alternatives for funding the Department of Natural Resources and Conservation's overall fire management program including the costs related to wildfire suppression. This study was determined to have an importance level warranting assignment and was ultimately assigned to the Environmental Quality Council (EQC). A primary purpose of the report is to examine funding alternatives. Consequently, the EQC has deferred those issues to the Legislative Finance Committee (LFC).

The purpose of this report is to provide an overview of the fire funding process and its impacts on the Department of Natural Resources and Conservation (DNRC). More specifically, the report will discuss alternatives to the current funding methodology.

CONCERN – FIRE FUNDING

The legislature does not provide an appropriation to DNRC for fire suppression costs. Instead, fire costs are paid temporarily from the Forestry Division's general fund appropriation and through the statutory emergency appropriation if an emergency or disaster is declared. DNRC is then reimbursed and all other bills, except those paid from the Governor's emergency fund, are funded through a supplemental appropriation.¹ Although the legislature chooses not to appropriate general fund authority specifically for wildland fire suppression costs outside of the Governor's emergency fund, it has demonstrated its commitment to pay for all fire suppression costs through supplemental appropriation. While this process functions, it is problematic in a couple of ways.

- 1) If the state does not have a severe fire season in the first year of the biennium, the process works well. The department will probably not have to move excessive amounts of authority from the second year of the biennium to fund fire costs in the first year. In addition, the supplemental appropriation bill in the next legislative session will make the agency whole again before funding becomes problematic. However, when a severe fire season occurs in the first year of the biennium, DNRC is faced with the burden of trying to find sources of authority to fund wildland fire suppression costs while trying to maintain current operations.
- 2) The lack of spending authority potentially puts the legislature in the position of calling a special session if internal authority, emergency funding, FEMA, and borrowing are not sufficient to cover suppression costs until the next legislative session.

¹ Therefore, any costs of fires are a reduction to the projected ending general fund balance.

FISCAL 2002 – AN EXAMPLE OF THE PROBLEM

The current fire season illustrates some of the complexity and difficulty associated with the current funding methodology. In fiscal 2002, DNRC is faced with trying to find authority to cover un-funded fire expenses. Since July 1, 2001 the department has accumulated \$15.5 million worth of fire costs. To pay \$2.0 million of the costs, the department must shuffle general fund authority between programs and fiscal years.

In June, the department will seek another supplemental appropriation of \$3.8 million. Since the department will not have any more general fund authority available to use for fire suppression costs, the department will seek to utilize language in HB2 that states that state special authority in the Forestry Division can be used for fire suppression. If the department is able to utilize this authority, they may not have the cash to spend. If this is the case, the department would be in a situation where they may need a loan to pay the bills. LFD staff will report to the LFC during its June meeting to discuss the supplemental appropriation request associated with the \$3.8 million.

Beginning July 1, 2002, the department must begin to look for authority to pay for suppression costs in fiscal 2003. The department has a limited amount of authority to use to pay fire costs until the next legislative session. Available sources include \$4.0 million from the Forestry Division's general fund appropriation, \$2.0 million from other sources within DNRC, and approximately \$4.0 million from the Governor's emergency fund. If fire costs exceed this total of \$10.0 million, the legislature could be faced with a special session to provide general fund authority to the department to pay fire costs. Department sources indicate that if the current drought conditions continue, the potential exists for another difficult fire season.

If the upcoming fire season is particularly difficult and a Governor's emergency and a FEMA declaration is made, the potential exists to receive some federal suppression funding from FEMA. Because a FEMA fire suppression grant is designed to be an assistance program, a cost share platform is in place where the suppression grant covers 70 percent of eligible costs, and the state must cover 30 percent of eligible costs. Even though the state relied upon FEMA funding in the 2001 fire season, most of the eligible costs were paid by FEMA and many of Montana's typical cost share expenses were waived. Therefore, even if the state did qualify for FEMA funding, it is unlikely that typical cost share expenses would be waived by FEMA. Thus, a brisk fire season would likely exceed the department's capability to pay and the legislature would be faced with a particularly difficult situation that may include a special session.

POTENTIAL SOLUTIONS

There are a number of alternatives that will produce the result of funding fire suppression costs while minimizing the problems associated with the current method. The Legislative

Finance Committee may want to reconsider the following options when examining how fire suppression costs are funded in Montana:

- 1) **HB2 Appropriation.** The legislature could appropriate an amount for fire suppression costs through a HB2 appropriation. Although the legislature could appropriate an amount for each year in the biennium based upon past fire season costs, a biennial appropriation would provide agency flexibility in particularly difficult fire seasons. Table 1 shows a five-year moving average of fire suppression costs in Montana. The average is calculated by starting with seven years worth of suppression cost data. The high and low years are removed and the remaining five years are averaged. As Table 1 shows, the five-year average for wildland fire suppression in Montana is approximately \$7.3 million. In any given fiscal year, the legislature might expect wildland fire suppression to cost \$7.3 million. Thus, a biennial appropriation for fire suppression would be \$14.6 million.

Table 1 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION Five Year Average Fire Suppression Cost High and Low Years Removed -- 1998 and 2001		
Fiscal Year End	Total Cost (Less Budgeted Costs)	7-year Rank
1996	\$1,162,931	6
1997	6,223,425	4
1999	8,300,217	3
2000	5,205,549	5
2002*	<u>15,539,196</u>	2
5 - YEAR AVERAGE FIRE COSTS		<u>\$7,286,264</u>
* Includes DNRC Estimates		

In this case, the HB2 fire suppression appropriation would be above the normal Forestry Division general fund appropriation. Because of the uncertain nature of fires, costs above the appropriation could be funded through the supplemental appropriation process. Like other HB2 appropriations, the legislature could restrict spending to fire suppression costs only and exempt it from carry-over provisions.

- 2) A) **Governor's Emergency Fund.** As the Governor's emergency fund statute (10-3-312 MCA) points out, a declaration of disaster or emergency by the Governor provides access to the \$12 million biennial appropriation for

emergencies. Further, the declaration of a disaster or emergency is significant because of the level of responsibility and authority delegated to the Governor. The authority delegated allows, under certain circumstances, to suspend the provision of regulatory statutes and administrative rules prescribing the conduct of state government, to direct evacuations, and to control access to emergency areas. The authority delegated by the legislature allows the state the flexibility to respond to emergencies in a timely and effective manner.

However, a fire season may not develop into an emergency or a disaster situation yet costs continue to accumulate. If a situation develops where there are large fire bills without a Governor's declaration of disaster or emergency, the department does not have access to emergency fund spending authority. Further, without access to emergency funding, the department must look within current operations to find spending authority to pay fire bills as they come due.

The legislature could amend the \$12.0 million biennial statutory appropriation available for emergencies to allow DNRC to use a portion specifically for fire suppression costs. The legislature may wish to establish pre-determined conditions under which \$8.0 million could be made available without a Governor's declaration of disaster or emergency. However, restrictions could be used to limit spending on this funding. This would give DNRC some flexibility to fund particularly difficult fire seasons. Suppression costs above the additional funding could be secured through the supplemental appropriation process.

For example, rather than making \$12.0 million available for any emergency or disaster declared by the Governor, the statute could be amended to provide an \$4.0 million biennial appropriation for general emergencies under a declaration of disaster or emergency and an \$8.0 million biennial appropriation available specifically for fire suppression without a declaration.

B) Another option might involve increasing the Governor's emergency fund to something above the current \$12.0 million. An increase in available emergency funding might reduce the number of supplemental appropriations requested. Regardless of the amount of the emergency and its ability to assist with costs during emergencies and disasters, it can fall short as a budgeting tool. Currently, the emergency fund is not used in the calculation of the ending fund balance of the general fund. Thus, if a catastrophic emergency or disaster occurred, the initially assumed ending balance in the general fund would have to take into account that a much larger amount of money might be expended.

- 3) Montana Wildfire Mobilization Fund. The legislature could establish and fund a "Montana Wildfire Mobilization Fund." The legislature could develop a trust that, once fully funded, the proceeds from which could be used to fund fire suppression costs. Funding could be provided from a number of sources. Some examples might include: 1) charging a fire suppression fee to entities and individuals utilizing public land to derive income; 2) sharp increases in

suppression charges to those who choose to build homes in wildland/urban interface areas; 3) taxes imposed on all taxpayers in Montana; 4) a percentage of total insurance premiums for all homeowners policies written for Montana real property; 5) or any combination of these.

FIRE ODYSSEY 2001

According to DNRC, the fire program is examined in depth once every 10 years. The purpose of this detailed examination is to develop a 10-year strategic action plan. Working groups gathered together recently in a one week long working session with stakeholders to discuss ideas and develop plans. Topic areas included: 1) Implementation of solutions; 2) Public expectations of the Fire and Aviation Program; 3) DNRC fire mission; 4) DNRC's role in all-risk incident management; 5) Funding and staffing to meet the fire mission; and 6) Interagency relations.

The Funding and Staffing work group discussed potential options for fire funding. According to the department, these options are being examined to help meet some objectives of HJR 42 and will be presented to the Environmental Quality Council during its next meeting. Prior to the 2003 legislature, the department intends to evaluate the following proposed funding sources as to feasibility, equitability, and efficiency. The following ideas were developed from the Fire Odyssey sessions and the department will continue to explore their potential for implementation:

1. Establish a suppression fund to pay for suppression costs. Options could include a trust fund with interest used to pay the annual bills, or a "split fund" with some income dollars going towards building the trust and the rest going towards paying the annual bills. The following are some ideas for revenue sources to fund a trust:
 - a. A fee (direct or prerequisite) assessed recreationists through conservation, fishing, hunting, off road vehicle licenses, or recreation use licenses.
 - b. A fee per million board feet of lumber harvested on state and private lands.
 - c. A statewide "Fire Lottery."
 - d. An assessment on state Trust Lands for their protection.
 - e. A fee on all licenses and leases on state Trust Lands.
 - f. A portion of the existing Bed Tax.
 - g. Establish a (partially?) bond-funded account using the state's bonding authority.
 - h. Explore issuing catastrophe bonds via the capital market to cover suppression costs in exceptional years.
 - i. Utilize any payments from billable fires to help support the fund rather than returning to the general fund.
 - j. An assessment on Non Forest Zone lands.²

² Defined as agriculture or pastureland ½ mile away from a forest stand. Thus, most broad valley zones greater than one mile would contain some non-forest zone land.

- k. Assessments on power and railroad rights-of-way.
- l. A \$1.00 license plate fee.
- m. General fund.
- n. A license fee for fireworks vendors.

Assuming a 7 percent rate of return, it would take a trust of roughly \$104 million to generate the \$7.3 million per fiscal year that represents average suppression costs. According to the Department of Justice, Title and Registration Bureau, there were 1,135,491 vehicles licensed for highway use in fiscal 2001. If the legislature were to charge a fire suppression fee of \$5.00 for each licensed vehicle, it would take approximately 12 years to build a trust large enough to generate \$7.3 million per year. Similarly, a fire suppression fee of \$10.00 would build the trust in just over 6 years. In either case, the fee would not last indefinitely and after the trust has been built, fire suppression costs up to \$7.3 million would be paid with state special revenue.

- 2. Request a separate administration budget to alleviate pressure on the Forestry Division budget, and examine alternatives for potential revenue sources for this request.
- 3. Recommend that DNRC undertake an analysis of the whole fire program (pre-suppression, suppression, training, prevention, etc.) to include the value at risk based on an assessed property valuation, or some other easily determined value. The goal is to utilize the information to defend existing levels of operation, or justify an expansion request.
- 4. Develop an assessment structure based on values protected or on costs of suppression.

CONCLUSION

Although the legislature has committed to pay fire bills, the current method of funding fire suppression costs could be described as cumbersome. In conjunction with HJR 42, legislative staff has been asked to conduct a study of DNRC's fire program, sources of funding, and alternatives for funding. The outcome of this study could have long-term impacts to funding wildland fires in Montana. Since the funding portion has been deferred to the LFC, the LFC may wish to consider the following regarding the role of staff in developing long-term solutions to fire funding problems:

- 1) Direct staff to work with the department to examine a specific funding alternative as specified by the LFC, determine the feasibility of implementation, and report back to the LFC with alternatives for decision making.
- 2) Direct staff to examine changes to current funding methods and report feasibility to the LFC. An example might be to look at changing

characteristics of fire suppression funding using the Governor's emergency fund.

- 3) Endorse a HB2 appropriation for fire suppression.
- 4) Take no action. Staff would be instructed to continue providing the LFC with fire cost updates. However, alternative-funding options would not be explored or pursued.

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